

NO. 21 - 892

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

CANDICE LUE,
Pro Se Plaintiff - Appellant,

v.

JPMORGAN CHASE & CO., a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual,
Defendants - Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 19 CV 9784
Judge Katherine Polk Failla

BRIEF OF APPELLANT CANDICE LUE

Candice Lue, Pro Se


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PRELIMINARY STATEMENT

“Here, one of the largest newspapers in the world since Abraham Lincoln was engaged in the private practice of law, is claiming protections from an upstart competitor armed with a cell phone and a web site.... [Absolute privilege] grant[s] protection to a Goliath against a David” - Project Veritas v. New York Times - Index No. 63921/2020 - New York State, Westchester County, Supreme Court.

The District Court’s March 23, 2021 Ruling granting multi-billion dollar Defendants, JPMorgan Chase & Co., et al (“Goliath/the Goliath/the Defendants”) absolute privilege protection and dismissing my Defamation/False and Fraudulent Acts and Conduct lawsuit against them is profoundly erroneous. The District Court erred in its said Ruling because its Opinion & Order is rife with **false claims, ambiguities, innuendos and omissions.**

What the District Court failed to understand is that this lawsuit is predicated by the crime of perjury and the false and fraudulent acts and conduct of JPMorgan Chase & Co., et al - *“Perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven.... This was an action to recover damages because of the false and fraudulent acts and conduct of Morgan” - Morgan v. Graham, 228 F.2d 625 (10th Cir. 1956).* In addition, the challenged statements in my Defamation claim are not subject to absolute privilege protection because **on its face**, the statements are **not** defamatory to my character and as such do not merit the

absolute privilege protection defense¹. In conjunction, pursuant to the immunity exceptions for absolute privilege protection, the Defendants do not have one scintilla of evidence upon which to base pertinency because the challenged statements that were made in Declarations **under penalty of perjury** by the Defendants are **100% false** - *“Upon our review of the papers and documentary evidence submitted by the parties, we discern “not one scintilla of evidence present upon which to base the possible pertinency of [the] defendant's statement[s]”. Therefore, the challenged statements are not subject to an absolute privilege” - Gugliotta v. Wilson, 168 A.D.3d 817, 819 (2d Dept. 2019).*

Additionally, even if the statements were to be in any way “pertinent”, they are **misrepresented** material facts that were **fraudulently** presented to the Court by the Defendants. JPMorgan Chase & Co., et al knowingly, purposefully and intentionally misrepresented important material facts in their Declarations and pursuant to the immunity exception for absolute privilege protection which states: *“to qualify for the privilege, a statement must be ‘material and pertinent to the questions involved’” - Brown v. Maxwell, 929 F.3d 41, 53 (2d Cir. 2019)*, there is a clear difference between **“material”** and **“misrepresented material”**.

In light of the foregoing, the Goliath does not meet the basic criteria for the immunity exceptions required for them to be granted absolute privilege protection from me, a poor, Black, female, pro se Plaintiff.

¹ See more in my subsequent arguments.

As it relates to my Third Cause of Action – “False and Fraudulent Acts and Conduct”, the District Court **ERRED** in its ruling that: *“Plaintiff is alleging a reputational injury caused by purportedly false and defamatory statements made in the Lue I litigation. Accordingly, the Court construes this cause of action to sound in defamation”*.

The District Court’s Ruling is erroneous because “action and conduct” do **not** constitute libel and/or slander and as such cannot “*sound in defamation*”. Also, just as on pages 40 - 41 below, JPMorgan Chase & Co., et al’s fraudulent **acts and conduct** were clearly spelt out in detail on pages 10 – 11 in “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (District Court Docket “DCD” # 30/Appendix page “App.” 136A – 137A) and pages 5 – 6 in “*Plaintiff’s Brief for February 18, 2020 “Pre-Motion Conference Concerning Defendants’ Anticipated Motion to Dismiss*” (DCD # 22/App. 45A – 46A). In addition, the authority I used as my standard of review for my Third Cause of Action is *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) – (“*This was an action to recover damages because of the false and fraudulent acts and conduct of Morgan*”) which has **nothing** to do with defamation but 100% has to do with the false and fraudulent acts and conduct JPMorgan Chase & Co., et al committed to compromise the authorities of the District and Appeals Courts and to influence the outcome of my Employment Racial Discrimination and Retaliation lawsuit (“*Lue I*”) against them.

In light of the aforesaid, I respectfully ask that this Court vacate the District Court's Judgment and remand the case for Discovery proceedings.

INTRODUCTION

As JPMorgan Chase & Co., et al noted in their Motion to Dismiss and the District Court reiterated in its Opinion and Order, I filed the above-captioned lawsuit 8 days after the Supreme Court denied my Certiorari on October 15, 2019 in my Employment Racial Discrimination and Retaliation lawsuit “*Lue P*” (Lue v. JPMorgan Chase & Co., et al - 1:16-CV-03207). But why did I file this lawsuit on October 23, 2019, **eight days** after the Supreme Court denied my Certiorari? The answer is, because of the Statute of Limitation to file a Defamation lawsuit in the State of New York.

There is a reason why my first mention of “**November 2, 2018**” is in bold in my Amended Complaint (see Am. Compl ¶ 17). It is because that was the day JPMorgan Chase & Co., et al filed their “Brief for Defendants-Appellees” and supporting **Declarations pursuant to 28 U. S. C. § 1746** (“Supplemental Appendix”) in the Second Circuit Court of Appeals. My Defamation Claim is **SOLELY** based on the false statements the Defendants made under penalty of perjury in their said Declarations pursuant to 28 U. S. C. § 1746 (**the predicate for my Defamation claim**) and with a one year Statute of Limitation to file a Defamation lawsuit in the state of New York, I had to file my defamation lawsuit by November 1, 2019.

Being cognizant of both the legal and personal challenges to have concurrent lawsuits² and the New York State one year Statute of Limitation, I filed the above-captioned civil action on October 23, 2019, TEN (10) days before the said Statute of Limitation ended thus, the “*8 days after the Supreme Court denied my Certiorari*”. Also, I do not understand why the Supreme Court denying my Certiorari is such a big deal with the Defendants and the District Court when, even for me as a legal amateur, it is basic knowledge that the Supreme Court takes less than 1% of cases it is asked to hear.

During my afore-stated Employment Racial Discrimination and Retaliation lawsuit proceeding, it was clear as day that: 1) Defendants JPMorgan Chase & Co., et al had committed the crime of perjury as well as false and fraudulent acts and conduct to compromise the authority of the Court and 2) by way of the District Court ignoring my adamant reports of these crimes that the District Court had become corrupted.

With all the LIES stated in the Defendants’ Declarations pursuant to 28 U. S. C. § 1746³ supporting their Motion for Summary Judgment in “*Lue I*”, when my reports of the Defendants’ CRIMES of perjury and obstruction of justice were consistently ignored by both the District and Appeals Courts, I researched and found legal facts that “*perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven*” - *Morgan v. Graham*, 228 F.2d 625, 627, 628

² I would have filed this lawsuit by November 1, 2019 however, regardless of a ruling by the Supreme Court.

³ A CRIME pursuant to 18 U.S. Code §§ 1621 & 1623 which up to today ALL the Courts have refused to address.

(10th Cir. 1956). Because I have proofs which I provided (DCD # 24/App. 50A – 122A)/would be able to provide, I filed the predicated torts of “Defamation” and “False and Fraudulent Acts and Conduct” against JPMorgan Chase & Co., et al in the United States District Court for the Southern District of New York, County of New York on October 23, 2019 and a subsequent Amended Complaint on October 30, 2019. By then, it was **two days** before the Statute of Limitation to file a defamation lawsuit in the state of New York ran out.

Statement of Subject Matter and Appellate Jurisdiction

The District Court possessed subject matter jurisdiction pursuant to 28 U.S.C. § 1331. This Court has appellate jurisdiction pursuant to 28 U.S.C. § 1291. The District Court entered its final Order granting the Defendants' Motion to Dismiss on March 23, 2021 (App. 10A – 29A & 30A). I, pro se Plaintiff, Candice Lue filed a timely Notice of Appeal on April 6, 2021 (App. 31A – 32A).

STATEMENT OF THE ISSUES

1. Whether absolute privilege protection should have been granted to Goliath JPMorgan Chase & Co., et al when immunity exceptions to this privilege require that the challenged statements be “pertinent and material” and Goliath JPMorgan Chase & Co., et al cannot provide one scintilla of evidence to show pertinence and there is a clear difference between “material” and “misrepresented material”.
2. Whether the District Court erred in its Ruling due to the false claims, ambiguities, innuendoes and omissions in its Opinion and Order.
3. Whether the District Court should have denied Plaintiff “Leave to Amend” when there are clearly ambiguities associated with the Ruling in the case.
4. Whether the District Court erred in its Ruling when it construed my Third Cause of Action - “False and Fraudulent Acts and Conduct to “*sound in defamation*” when “acts and conduct” do not constitute libel and/or slander and the authority used in support of this Cause of Action, *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) – “*This was an action to recover damages because of the false and fraudulent acts and conduct of Morgan*” has nothing to do with defamation but 100% has to do with Defendant(s) who committed false and fraudulent acts and conduct to compromise the authority of the Court and to influence the outcome of a lawsuit (my Employment Racial Discrimination and Retaliation lawsuit - *Lue v. JPMorgan Chase & Co., et al* - 1:16-CV-03207).

STATEMENT OF THE CASE

On October 23, 2019, I, pro se Plaintiff, Candice Lue filed the above-captioned civil action in the United States District Court for the Southern District of New York, County of New York with a subsequent Amended Complaint filed on October 30, 2019 against JPMorgan Chase & Co., et al.

On November 13, 2019, the District Court set a date for February 18, 2020 for an “initial pre-trial conference” at 10:00 AM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla which was signed off by the said judge.

On November 14, 2019, the Defendants’ attorney, Anshel Kaplan filed a letter addressed to Judge Katherine Polk Failla informing the District Court of “defective service” of Summons. Citing absolute privilege protection, he also requested a pre-motion conference concerning the Defendants’ anticipated Motion to dismiss my Defamation/False and Fraudulent Acts and Conduct lawsuit against them.

In response to the Defendants attorney’s pre-motion conference request letter, on **November 22, 2019**⁴, I, pro se Plaintiff, Candice Lue filed with the District Court: *“Response to Defendants’ Attorney Anshel Kaplan’s Letter Motion [for conference (pre-motion) in anticipation of Defendants’ Motion to Dismiss]”* (DCD # 10/App.

⁴ In **bold** because this filing was **omitted** from the District Court’s Opinion and Order and because of the **false claim/innuendo** in the said Opinion and Order which states: “*In a last-ditch effort to avoid dismissal, Plaintiff argues that the privilege does not apply here*” (see page 11). My argument was consistent from November 22, 2019 **ONE WEEK** after the Defendants SHAMELESSLY filed their absolute privilege protection defense.

33A – 40A) where I refuted the Defendants’ false statements of “defective service” of Summons and challenged their absolute privilege protection defense including the fact that absolute privilege protection should not be extended to JPMorgan Chase & Co., et al because the District and Appeals Courts in “*Lue I*” neglected their duty to uphold the rule of law by consistently ignoring my reports and evidence of the CRIMES of perjury and obstruction of justice and the false and fraudulent acts and conduct committed by the said Defendants. After my said Response was entered on the docket, later on the same day in a letter to the District Court, the Defendants’ attorney recanted his “defective service” argument.

On the same day, November 22, 2019, the District Court granted the Defendants’ application for a pre-motion conference stating that: “*The initial pretrial conference, currently scheduled for February 18, 2020, at 10:00 a.m. in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York[.] shall serve as a pre-motion conference concerning Defendants' anticipated motion to dismiss.*”

In advance of the pre-motion conference set for February 18, 2020 and in support of the argument in my “*Response to Defendants’ Attorney Anshel Kaplan’s Letter Motion [for conference (pre-motion) in anticipation of Defendants’ Motion to Dismiss]*” (DCD # 10/App. 33A – 40A) challenging Goliath’s absolute privilege protection defense, I, pro se Plaintiff, Candice Lue filed a Brief - “*Plaintiff’s Brief For February 18, 2020 “Pre-Motion Conference Concerning Defendants’*

Anticipated Motion To Dismiss” which was entered on the District Court’s docket on February 7, 2020 as entry # 22 (App. 41A – 49A).

In support of my previously filed Amended Complaint, on February 18, 2020, the day of the pre-motion conference, I filed evidence in the form of Exhibits - *“Plaintiff’s Exhibits”* which was entered on the District Court’s docket as entry # 24 (App. 50A – 122A).

With that said, in response to the District Court’s statement on page 5 of the Opinion and Order which states: *“On February 18, 2020, the day of the pre-motion conference and nearly four months after filing the Amended Complaint, Plaintiff filed a document that she styled as exhibits to the Amended Complaint. (the “Complaint Exhibits” (Dkt. #24))”*, let me explain why I filed the exhibits *“nearly four months after filing the Amended Complaint”*.

Being a legal amateur and finding out after filing my prior lawsuit *“Lue P”* that sending the evidence with the Complaint was premature, I should have waited for Discovery??, I was a bit hesitant/confused as to when I should submit the Exhibits for my Defamation/False and Fraudulent Acts and Conduct lawsuit. However, after careful consideration, I decided that because the February 18, 2020 conference was a pre-motion conference **concerning the Defendants’ anticipated motion to dismiss**, it would be in my best interest to produce some evidence to support my Amended Complaint and my *“Plaintiff’s Brief For February 18, 2020 “Pre-Motion Conference Concerning Defendants’ Anticipated Motion To Dismiss”*.

I made this decision about one week prior to the pre-motion conference and with not enough time to send my evidence through the mail, on February 18, 2020, the day of the pre-motion conference, I took my evidence in the form of Exhibits with me and filed them in person in the Pro Se Intake Unit (DCD # 24/App. 50A – 122A). Again, I do not understand why filing the Exhibits on February 18, 2020 would be a big deal with the District Court that they had to elaborate in the Opinion and Order that it was filed “*nearly four months after filing the Amended Complaint*” considering the lawsuit was still in its **very** preliminary stage.

On March 20, 2020, the Defendants filed their “Motion to Dismiss” and “Exhibits” for which the latter have nothing to do with and/or nothing to disprove my Defamation/False and Fraudulent Acts and Conduct Claims against them. In their said Motion, the Goliath shamelessly pleaded for absolute privilege protection.

On April 23, 2020, I, pro se Plaintiff, Candice Lue filed my Opposition to the Defendants’ motion to dismiss as well as additional evidence in the form of Exhibits which directly relates to and supports the argument in my “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (DCD #s 30 & 31/App. 123A – 146A & App. 147A – 168A).

On December 2, 2020, Goliath’s attorney sent a letter addressed to Judge Katherine Polk Failla (DCD # 33) with an Exhibit (DCD # 34) dubbed “Supplemental Authority” in support of their shameless plea for absolute privilege protection - *[Absolute privilege] grant[s] protection to a Goliath against a David*” - Project

Veritas v. New York Times. I, pro se Plaintiff, Candice Lue filed a Response to that plea on December 9, 2020 (DCD # 35/App. 169A – 171A) and, in response to the Defendants’ “Exhibit” (DCD # 34) which was a recent Ruling in a Defamation lawsuit, I detailed all the reasons why the said supplemental authority is without merit.

On March 23, 2021, the District Court issued an Opinion and Order which is rife with false claims, ambiguities, innuendos and omissions erroneously granting the Defendants’ “Motion to Dismiss”.

On April 6, 2021, I, pro se Plaintiff, Candice Lue filed a timely Notice of Appeal.

STATEMENT OF FACTS

The District Court erred in granting Goliath absolute privilege protection from me, a poor, Black, female, pro se Plaintiff because Goliath cannot provide one scintilla of evidence upon which to base pertinency for the LIES they knowingly, purposefully and intentionally stated **under penalty of perjury**, a CRIME pursuant to 18 U.S. Code § 1621, to defame my character and because they **misrepresented material facts**, a CRIME pursuant to 18 U.S. Code § 1623, and there is a CLEAR difference between “material” and “misrepresented material”. With that said, the Goliath does not meet the immunity exceptions for absolute privilege and as such the challenged statements are not subject to that protection.

The District Court also erred in construing that my Third Cause of Action - False and Fraudulent Acts and Conduct “*sounds in defamation*” as actions and conduct do **not** constitute libel and/or slander and as such cannot be in any way construed as defamation. In conjunction, in my “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (DCD # 30/App. 123A – 146A) and “*Plaintiff’s Brief for February 18, 2020 “Pre-Motion Conference Concerning Defendants’ Anticipated Motion to Dismiss*” (DCD # 22/ App. 41A – 49A), I clearly articulated the Defendants’ fraudulent **actions and conduct**. The said actions and conduct that compromised the authority of the District and Appeals Courts and influenced the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them. Taken from my said filings, anyone of reasonable mind would

construe statements such as the following to be actions and conduct **not** libel and/or slander:

- Fraudulently using Fidelia Shillingford, a Black employee, as a conduit and a cover for Employment Racial Discrimination.
- Fraudulently using Baruch Horowitz, my White predecessor as an employee who was solely assigned the racially discriminatory “Tasks” and who had to first request permission in order to use JPMorgan Chase’s “work from home” employment benefit.
- Fraudulently using my November 6, 2014 hire letter.

Additionally, the District Court erred in granting Goliath absolute privilege protection from me, poor, Black, female, pro se Plaintiff, Candice Lue because if the District and Appeals Courts had not become so corrupted by Goliath that they neglected their duty, the said Defendants’ crimes of perjury, misrepresentation of material facts and obstruction of justice and their false and fraudulent acts and conduct would have been addressed in “*Lue I*” and there would not have been a need for this lawsuit. Furthermore, the Defendants were well aware of the District and Appeals Courts’ profoundly erroneous statements in their “*Lue I*” Rulings in their Memorandum Opinion and Order and Summary Order and Judgment, respectively; but said nothing because their criminal and fraudulent acts and conduct were intentional and pre-meditated. Consequently, absolute privilege protection should not

have been granted to Goliath as granting them this privilege constitutes a mockery and reflects overt bias of the U.S. judicial system.

My Defamation Claim against Goliath which comprises of Actual Malice, Libel, Defamation Per Se and Defamation by Implication is based **SOLELY** on the false statements the said Defendants made **under penalty of perjury** in their Declarations pursuant to 28 U. S. C. § 1746 “*Perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven*” - *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) which makes my Tort of Defamation legitimate as I have the proofs. However, what causes the said Defendants’ absolute privilege protection defense to be without merit is that they cannot provide **one scintilla** of evidence to back up, for instance, the LIES Black Defendant, Fidelia Shillingford, stated **under penalty of perjury** in their quest to make me, Plaintiff, Candice Lue out to be a lying, vindictive, troublesome, uncongenial, elitist person and a less desirable/undesirable employee. Case in point, if Goliath cannot provide **one scintilla** of evidence to show that between September 2014 and November 4, 2014⁵ Black Defendant, Fidelia Shillingford, initiated and executed the hiring process for the Reporting Analyst position and/or was the “hiring manager” for the said position prior to me, the Black candidate, being selected for the job and/or that it was **solely** Black Defendant, Fidelia Shillingford’s decision to fire me on January 6,

⁵ My official hire date for the Reporting Analyst position was November 6, 2014.

2016⁶, then any such LYING challenged statement from Black Defendant, Fidelia Shillingford, cannot be pertinent and is **immaterial** to this lawsuit and as such, is not subject to absolute privilege protection.

Another of **several** cases in point are the LIES Defendant Baruch Horowitz stated in his Declaration. Again, if the Goliath, multi-billion dollar Defendants, JPMorgan Chase & Co., et al cannot provide **one scintilla** of evidence to back up Defendant, Baruch Horowitz's LIES which made me, Plaintiff, Candice Lue out to be a lying, elitist, vindictive, uncongenial, a less desirable/undesirable and troublesome Black employee who refused to do the **discriminatory** Tasks that "were done by him, my predecessor"⁷ *"a Caucasian male and a Senior Associate (a higher rank than Lue's role of Analyst)"* then any such LYING challenged statement from Defendant, Baruch Horowitz, cannot be pertinent and is **immaterial** to this lawsuit and as such, is not subject to absolute privilege protection.

Goliath does not have one scintilla of evidence upon which to base pertinency and there is a clear difference between "material" and "misrepresented material" thus the request they made to Judge Katherine Polk Failla (which was granted) to shield themselves from/evade Discovery was: *"While that motion is pending, your Honor, we would respectfully request a stay of discovery until the decision's rendered on that*

⁶ "Fraudulently using Fidelia Shillingford, a Black employee, as a conduit and a cover for Employment Racial Discrimination."

⁷ First off, I had three (3) non-Black predecessors none of whom was assigned the discriminatory tasks. However, JPMorgan Chase & Co., et al are pretending two of them do not exist (Baruch Horowitz, Thomas Monaco and Kenneth Ng - another example of JPMorgan Chase & Co., et al's False and Fraudulent Act and Conduct - "spoliation of evidence").

motion.” – Page 9, line 2 of Oral Argument Transcript - February 18, 2020 (App. 172A). In contrast, I, pro se Plaintiff, Candice Lue, am able to provide material, pertinent and incontrovertible evidence to prove my Defamation Claims.

In light of the foregoing, this case should be remanded for Discovery proceedings as it is clear that my lawsuit consists of legitimate causes of action.

SUMMARY OF ARGUMENT

JPMorgan Chase & Co., et al's **shameless** use of absolute privilege protection as their "one-trick pony" legal defense is without merit.

As it relates to absolute privilege protection, none of the challenged statements I quoted in my "First Cause of Action" in my Amended Complaint as false statements the said Defendants made **under penalty of perjury** in their Declarations pursuant to 28 U. S. C. § 1746 ("Supplemental Appendix") that they filed in support of their "Brief for Defendants-Appellees" in the Second Circuit Court of Appeals on November 2, 2018, **on its face/as stated**, is defamatory to my character⁸. It is **only** when these said statements are opined and/or interpreted by anyone/society that they become extremely defamatory to my character as they portray me to be a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee.

Absolute privilege protects actual statements made which are defamatory **on its face/as stated** during the course of a judicial proceeding. There is no law to show that absolute privilege protects statements made during a judicial proceeding that are **not** defamatory **on its face/as stated** but are only defamatory **outside** of the judicial proceeding when opined and/or interpreted by anyone/society.

Secondly, the District Court's Opinion and Order failed to address the **very touchy** subject that there was **GROSS** negligence/neglect of duty by both the District

⁸ "If a person is offering testimony as a witness in Court, and gives damaging testimony about **someone else -- such as that the person lied or cheated** -- those statements will be protected from civil liability for defamation." Credit to AllLaw.com

and Appeals Courts in my Employment Racial Discrimination and Retaliation lawsuit “*Lue I*” - (Lue v. JPMorgan Chase & Co., et al - 1:16-CV-03207).

The District and Appeals Courts in “*Lue I*” consistently ignored my reports and evidence of the Defendants’ crimes of perjury, obstruction of justice and false and fraudulent acts and conduct which influenced the outcome of my said lawsuit. The said Appeals Court also ignored the evidence I provided to show that the District Court judge, Judge Alison J. Nathan, struck from the docket (DCD # 31/App. 156A – 158A) **ALL** my evidence that proved that the Defendants were committing those said crimes.

Clear evidence was presented in this Defamation/False and Fraudulent Acts and Conduct lawsuit to show that the authorities of the District and Appeals Courts in “*Lue I*” were compromised. Consequently, and for the **integrity** of the Courts, absolute privilege protection should not be/have been extended to the Defendants who have and/or trying to presumptuously and obviously abuse this privilege.

Thirdly, the challenged statements are not subject to absolute privilege because pursuant to the immunity exceptions for absolute privilege protection, the Defendants do not have one scintilla of evidence upon which to base pertinency. “*Upon our review of the papers and documentary evidence submitted by the parties, we discern "not one scintilla of evidence present upon which to base the possible pertinency of [the] defendant's statement[s]". Therefore, the challenged statements are not subject to an absolute privilege*” - *Gugliotta v. Wilson*, 168 A.D.3d 817, 819 (2d Dept. 2019).

In addition, even if the statements are seen in any way “pertinent”, they are knowingly, purposefully and intentionally MISREPRESENTED material facts⁹ that were presented to the Courts by the Defendants and there is a clear difference between “**material**” and “**misrepresented material**” - “*to qualify for the privilege, a statement must be ‘material and pertinent to the questions involved’*” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019). With that said, even with their Goliath status, the Defendants should **not** have been/be rewarded with the protection of absolute privilege, they should be punished pursuant to 18 U.S. Code § 1623.

And lastly, the District Court erred in its ruling as it relates to my Third Cause of Action – “False and Fraudulent Acts and Conduct”, where it states that: “....*the Court construes this cause of action to sound in defamation*”.

The District Court’s Ruling is erroneous because “acts and conduct” do **not** constitute libel and/or slander so this Cause of Action cannot “*sound in defamation*”. Also, the authority I used for my Third Cause of Action is *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) – “*This was an action to recover damages because of the **false and fraudulent acts and conduct** of Morgan*”. *Morgan v. Graham* was not a defamation lawsuit and has nothing to do with defamation but 100% has to do with

⁹ “Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any **false material declaration** or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both.” - 18 U.S. Code § 1623

Morgan's false and fraudulent acts and conduct that compromised the authority of the Court and influenced the outcome of the lawsuit - In my case, my Employment Racial Discrimination and Retaliation lawsuit (Lue v. JPMorgan Chase & Co., et al - 1:16-CV-03207).

In light of the foregoing, the District Court's Ruling should be reversed and this case remanded for proper assessment and Discovery proceedings as it is clear that my lawsuit consists of legitimate causes of action.

ARGUMENT

1. THE DEFENDANTS DO NOT MEET THE CRITERIA REQUIRED TO BE PROTECTED BY “ABSOLUTE PRIVILEGE”.

On its face/as stated, the challenged statements are not defamatory and as such are not eligible for absolute privilege protection. Secondly, there are immunity exceptions to the absolute privilege protection that the Defendants cannot and have not satisfied as they cannot provide one piece of factual material to show pertinency and there is a clear difference between “material” and “misrepresented material”. Thirdly, there is clear evidence of neglect of duty by the District and Appeals Courts as well as evidence that the authorities of the said Courts were compromised which influenced the outcome of my Employment Racial Discrimination and Retaliation lawsuit (Lue v. JPMorgan Chase & Co., et al - 1:16-CV-03207).

In light of the aforesaid, absolute privilege protection should not be/have been extended to the Defendants.

A. Standards of Review

1. *“Upon our review of the papers and documentary evidence submitted by the parties, we discern "not one scintilla of evidence present upon which to base the possible pertinency of [the] defendant's statement[s]". Therefore, the challenged statements are not subject to an absolute privilege” - Gugliotta v. Wilson, 168 A.D.3d 817, 819 (2d Dept. 2019)*

2. “....to qualify for the privilege, a statement must be ‘material and pertinent to the questions involved’” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019)

3. “Neglect of duty is the omission to perform a duty. Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect is willful, through malice, ignorance or oversight, when such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare, it is gross.” - *State, Ex Rel. Hardie v. Coleman*, 155 So. 129, 115 Fla. 119 (Fla. 1934).

B. The Tort of Defamation Is Solely Predicated by Perjury As On Its Face, As It Relates to the Defendants’ “Absolute Privilege” Protection Defense, the Challenged Statements Are Not Defamatory.

My Defamation Claim is **SOLELY** based on the false statements the Defendants made **under penalty of perjury** in their Declarations pursuant to 28 U. S. C. § 1746 which, on its face as it relates to absolute privilege protection are not defamatory but when opined and/or interpreted by anyone/society, who are/were not a party to the judicial proceeding, will be extremely defamatory to my character.

No where during the course of my Employment Racial Discrimination and Retaliation lawsuit “*Lue I*” judicial proceedings did the Defendants explicitly state that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and

a less desirable/undesirable employee and no where in my Amended Complaint did I state that the Defendants explicitly described me as any of the such either. Absolute privilege protects actual statements made which are defamatory **on its face/as stated** during the course of a judicial proceeding. Absolute privilege does not protect statements made during a judicial proceeding that are **not** defamatory **on its face/as stated** but only when opined and/or interpreted by parties **outside** of the judicial proceeding defame one's character due to anyone's/society's opinion and/or interpretation of the said statements which is anyone's/society's absolute civil right. Case in point – Baruch Horowitz's Declaration – statement #s 2, 6 & 7 (DCD # 31/App. 154A – 155A) which state: *"I am a Caucasian male".... "Sexton and then Khavin directed me to prepare materials for the monthly CRG meeting, including printing, organizing, sorting, collating, and stapling. I did so...."..... "I periodically worked from home. Prior to doing so, however, I contacted my group supervisor at the time for permission."* **On its face/as stated**, these false statements (6 & 7) made **under penalty of perjury** by Defendant, Baruch Horowitz (**talking about himself**)¹⁰ are not defamatory to my character but when opined and/or interpreted by anyone/society, make **me, Plaintiff, Candice Lue**, out to be an elitist, vindictive and troublesome Black employee who refused to do the Tasks that were done by "my

¹⁰ "If a person is offering testimony as a witness in Court, and gives damaging testimony about **SOMEONE ELSE** -- **such as that the person lied or cheated** -- those statements will be protected from civil liability for defamation." Credit to AllLaw.com

predecessor”, “*a Caucasian male*”, thus defaming my reputation and character and making me a less desirable and/or undesirable employee.

With that said, Goliath’s absolute privilege protection defense as it relates to my Defamation Claim is without merit because absolute privilege is extended solely to actual defamatory statements made by parties during a judicial proceeding, not to anyone’s/society’s opinion and/or interpretation of the said statements **outside** of the judicial proceeding. If Goliath had explicitly stated in their Declarations that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee then those defamatory statements would be protected from civil liability for defamation (see footnote “10”) but for the challenged statements, absolute privilege is not warranted and absolute privilege does not protect Goliath from anyone’s/society’s opinion and/or interpretation of their perjurious statements.

C. Absolute Privilege Should Not Be Extended to the Defendants Due to the Courts’ Neglect of Duty.

In my Employment Racial Discrimination and Retaliation lawsuit “*Lue I*”, the District and Appeals Courts neglected their duty to uphold the rule of law by consistently ignoring my reports and evidence of the CRIMES of perjury and obstruction of justice and the false and fraudulent acts and conduct committed by JPMorgan Chase & Co., et al. These reports and evidence were provided via several Motions I filed with the District Court and cited 18 USC §§ 4, 1505 and 1621 (16-

CV-03207), a Writ of Mandamus (17 – 2751) I filed with the Appeals Court and documents I resubmitted to the Appeals Court (18–CV-01248) which were most relevant to my Appeal pursuant to Rule 10(b)(2) of the Federal Rules of Appellate Procedure which had all the evidence to show that JPMorgan Chase & Co., et al committed the crimes of perjury and obstruction of justice.

Also, without a valid explanation (which I requested multiple times via the said Motions I filed with the District Court but was ignored by Judge Alison J. Nathan), the District Court struck from the docket (DCD # 31/App. 156A – 158A) **ALL** my eight (8) Affidavits and almost 500 pages of corroborating evidence in the form of Exhibits as well as my Subpoena request for documents in response to the Defendants’ perjurious Declarations pursuant to 28 U. S. C. § 1746, which provided all the proofs that the said Defendants, JPMorgan Chase & Co., et al, were committing pre-meditated fraud against me, Plaintiff, Candice Lue and upon the Court.

In conjunction, in the less than two pages of my four and less than a ¼ page (double-spaced) statement that I was allowed to read at the April 18, 2019 Second Circuit Court of Appeals oral argument, I described the Defendants’ Motion for Summary Judgment as being “**CRIMINAL and PERJURIOUS**” **five (5)** times, cited 18 USC §§ 4, 1505 and 1621, stated the Defendants **LIED** under Penalty of Perjury and even so, the Appeals Court ignored my report of JPMorgan Chase & Co., et al’s **intentional, criminal, false and fraudulent acts and conduct**.

Then, as if the afore-stated miscarriage of justice by the Courts was not bad enough, the said District and Appeals Courts then went on to **repeat and affirm as facts**¹¹, all the **LIES** JPMorgan Chase & Co., et al made **under penalty of perjury** - Going as far as to state: “*The undisputed facts, which are “all” supported by citations to evidence in the record, warrant a grant of summary judgment to Defendants on all counts, and the dismissal of Plaintiff’s claims*”. If there truly is “*evidence in the record*” as Judge Alison J. Nathan claimed in her Opinion and Order, why is Goliath now **DISGRACEFULLY** pleading absolute privilege protection when to win a defamation lawsuit all a defendant needs to do is to provide such evidence? “[E]very court has supervisory power....” to ensure they “*are not used to gratify private spite or promote public scandal*” or “*serve as reservoirs of libelous statements....*” – *Nixon v. Warner Communications, Inc., et al*, 435 U.S. 589, 98 S.Ct. 1306 (1978). “*This supervisory function is not only within a district court’s power, but also among its responsibilities.*” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019).

In light of the foregoing, if the District and Appeals Courts in “*Lue I*” had not become so corrupted that they neglected their duty, Goliath’s criminal, overt, conspiratorial, false and fraudulent acts and conduct would have been addressed then.

¹¹ Which includes Judge Alison J. Nathan’s statements in her Memorandum Opinion and Order that: “[Plaintiff’s] *White predecessor was exclusively responsible for the same Tasks and had to obtain the same permissions to work from home. Shillingford, who is Black, made the decision to both hire and fire Plaintiff..... Overall, the evidence [the Defendants’ PERJURIOUS Declarations] is “so overwhelmingly tilted in one direction that any contrary finding would constitute clear error.... The undisputed facts, which are “all” supported by citations to evidence in the record, warrant a grant of summary judgment to Defendants on all counts, and the dismissal of Plaintiff’s claims.” And the Appeals Court’s statement in their Summary Order and Judgment that: “Indeed, the district court also considered that Lue’s white predecessor received the same assignments as Lue and was subject to the same requirements to work from home; the same person made both the decision to hire Lue and the decision to fire her.”*

Consequently, and for the **integrity** of the Court, absolute privilege protection should not be/have been extended to the Defendants.

D. The Challenged Statements Are Not Subject to Absolute Privilege Protection Because The Defendants Have No Evidence of Pertinency And There Is A Clear Difference Between “Material” and “Misrepresented Material”.

Statements that are manufactured out of thin air for which not one scintilla of evidence can be produced to support them cannot be subject to absolute privilege protection and as such cannot be considered “*material and pertinent to the questions involved*” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019). Furthermore, Goliath knowingly, purposefully, intentionally and conspiratorially misrepresented important material facts in statements they made in their Declarations pursuant to 28 U.S.C. § 1746, a CRIME pursuant to 18 U.S. Code § 1623.

E. False And Fraudulent Acts and Conduct Are Not Protected By Absolute Privilege.

Goliath specifically desired to injure me, Plaintiff, Candice Lue and was well aware that injury to me was certain or substantially certain to result from their conspiratorial, criminal, false and fraudulent acts and conduct and despite this knowledge, still proceeded. “....*the complaint alleges facts showing that the employer: (1) specifically desired to injure the employee; or (2) knew that injury to an employee was certain or substantially certain to result from the employer's act*

and despite this knowledge, still proceeded. Van Fossen v. Babcock & Wilcox Co., supra; Pariseau v. Wedge Products, Inc., supra; and Kunkler v. Goodyear Tire & Rubber Co., supra, construed.” (Mitchell v. Lawson Milk Co., 40 Ohio St. 3d 190, 532 N.E.2d 753 (Ohio 1988)).

Goliath’s said conspiratorial, criminal, false and fraudulent acts and conduct have/will cause me severe harm and injury as articulated in “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion To Dismiss*” (item “4” on pages 16 – 20 - DCD # 30/App. 142A – 146A) and as such, a recovery is warranted - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (¶ 29).

2. THE DISTRICT COURT’S OPINION AND ORDER IS RIFE WITH FALSE CLAIMS, AMBIGUITIES, INNUENDOES AND OMISSIONS.

The District Court erred in its Ruling because its profoundly erroneous Opinion and Order is rife with false claims, ambiguities, innuendoes and omissions.

In addition, page 2 of the said Opinion and Order states: “... *the Court relates those facts from Lue I that are relevant to resolving the instant motion to dismiss*” **but to date**, the Defendants have not produced one scintilla of evidence to prove those “*facts*” besides the **LIES** they stated in their Declarations pursuant to 28 U. S. C. § 1746 (PERJURY - A CRIME) – Bearing in mind that the Defendants’ said PERJURY is the predicate for this lawsuit.

Also, the District Court ERRED on relying on those said unproven “*facts*” to dismiss my Defamation/False and Fraudulent Acts and Conduct lawsuit because they

are **outside** of the pleadings. In conjunction, the District Court's false claims, ambiguities, innuendoes and omissions are based on those said unproven "*facts*" which are **outside** of the pleadings, are **not** an integral part of my Complaint, my Complaint **does not** rely heavily upon their terms and effect, my Complaint **did not** make a clear, definite and substantial reference to them and as a matter of fact, in some cases, my Complaint **did not even once mention** them as pointed out below.

In light of the aforesaid, this Court should vacate the District Court's Judgment and remand the case for proper assessment and Discovery proceedings.

A. Standards of Review

1. *"We find that the district court erred in relying on facts outside the pleadings to dismiss the complaint. We further conclude that Palin's Proposed Amended Complaint plausibly states a claim for defamation and may proceed to full discovery."* - *Palin v. New York Times* - No. 17-3801 (2d Cir. 2019)
2. *"A document is integral to the complaint "where the complaint relies heavily upon its terms and effect" – Chambers v. Time Warner, Inc. 282 F. 3d 147, 153 (2d Cir 2002) - Goel v. Bunge, Ltd., 820 F.3d 554, 559 (2d Cir. 2016)*
3. *"For a document to be incorporated by reference, the complaint must make a "clear, definite, and substantial reference to it." N.Y. Dist. Council of Carpenters Pension Fund v. Forde, 939 F. Supp. 2d 268, 277 (S.D.N.Y. 2013).*

4. *“Mere discussion or limited quotation of a document in a complaint” does not qualify as incorporation.” DeMasi v. Benefico, 567 F. Supp. 2d 449, 453 Case 7:18-cv-00494-NSR Document 43 Filed 08/27/19 Page 2 of 41 3 (S.D.N.Y. 2008)*
5. *“A district court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence.” Highmark Inc. v. All-care Health Mgmt. Sys., Inc., 134 S. Ct. 1744, 1748 n.2 (2014).*
6. *“Ambiguities should be resolved in favor of allowing amendments unless and until it appears that the privilege to amend will be abused” - [In re Forfeiture of One 1973 Mercedes Benz Motor Vehicle, 423 So. 2d 535, 537 (Fla. Dist. Ct. App. 4th Dist. 1982)]*
7. *“An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge’s honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired.” - CANON (2A)*

B. The District Court’s False Claims, Ambiguities, Innuendoes and Omissions

On page 2 of the District Court’s Opinion and Order it states: *“Plaintiff now alleges that Defendants here made defamatory statements about her in Lue I. (See generally Am. Compl.).”* This is FALSE/AMBIGUOUS and/or disingenuous at best

as based on the nature of my Complaint, the **only** document from “*Lue I*” with the “*terms and effect*” to constitute perjury, the predicate for my Defamation/False and Fraudulent Acts and Conduct lawsuit, is the Defendants’ “Supplemental Appendix”.

In my Defamation Claims, I, Plaintiff, Candice Lue asserted in my pleadings that the Defendants LIED under penalty of perjury in their **Declarations pursuant to 28 U. S. C. § 1746 (“Supplemental Appendix”)** and that perjury is the predicate for my Defamation tort¹² (see pages 2 and 3 of “*Response to Defendants’ Attorney Anshel Kaplan’s Letter Motion for conference (pre-motion) in anticipation of Defendants’ Motion to Dismiss*” which I filed with the District Court on **November 22, 2019** (DCD # 10/App. 34A – 35A). I also clearly stated in my “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (DCD # 30/App. 123A – 146A) and “*Plaintiff’s Brief for February 18, 2020 “Pre-Motion Conference Concerning Defendants’ Anticipated Motion to Dismiss*” (DCD # 22/App. 41A – 49A) that the Defendants’ absolute privilege defense is without merit because, **on its face/as stated**, the statements in the Defendants’ **Declarations** are not defamatory and as such do not warrant the absolute privilege defense as well as that the statements do not qualify for absolute privilege protection because the Defendants do not have one scintilla of evidence to prove pertinency and there is a clear

¹² In this lawsuit, Perjury is and can **ONLY** be associated with the Defendants’ Declarations pursuant to 28 U. S. C. § 1746, not every document in “*Lue I*”.

difference between “material” and “**misrepresented material**”. The District Court however, OMITTED to reference the latter in its Opinion and Order.

Page 2 of the District Court’s Opinion and Order also states that “*the crux of Plaintiff’s complaint stem[med] from her supervisor’s assignment to her of various tasks she found demeaning or humiliating*”. This is FALSE.

First off, **NO WHERE** in any of my lawsuits against JPMorgan Chase, “*Lue I*” and/or *Lue II*, did I say that my BLACK supervisor, Fidelia Shillingford assigned me “*various tasks [I] found demeaning or humiliating*”. I said that my skip level manager, Defendant Alex Khavin, who is WHITE and who is a RACIST assigned me such tasks. Secondly, the “*the crux of Plaintiff’s complaint stem[med] from*” the **LIES** the Defendants stated **under penalty of perjury** in their Declarations which again is the predicate for my lawsuit against them. Thirdly, this statement in the District Court’s Opinion and Order is false as **NO WHERE** in my Defamation/False and Fraudulent Acts and Conduct lawsuit against Goliath did I make any reference to “*supervisor assigning me ‘various tasks I found demeaning or humiliating’*”. I described the said “*various tasks*” as “***racially stereotypical and discriminatory***” and this description is only found under the heading “FACTS” (which also includes facts such as: “*I, pro se Plaintiff, Candice Lue is a former employee of Defendant JPMorgan Chase & Co*” - Am. Compl. ¶¶ 12 & 13) and/or in referencing one of the Defendant’s **LIES under penalty of perjury**. There was no substantial reference of the sort in my Claims. This INNUENDO was **100%** concocted by the District Court.

Another FALSE/AMBIGUOUS statement on page 2 of the District Court's Opinion and Order is: *"Starting in May 2015, Plaintiff raised complaints regarding this purportedly discriminatory treatment to Shillingford"*.

My Amended Complaint "*Lue I*" (page 2 ¶ 2) clearly states *"The first time it became fully apparent to me that I was being racially discriminated against by way of disparate treatment by Khavin was on January 21, 2015. On January 26, 2015, I officially raised this issue of racial discrimination against me to my then direct manager, Fidelia Shillingford"*.

The District Court then continued onto page 3 with: *"On July 30, 2015, Shillingford and a representative from Human Resources conducted Plaintiff's mid-year performance review, put Plaintiff on a performance improvement plan, and "informed [Plaintiff] that she was expected to perform all tasks assigned to her and to improve her communication style." Id. at *4. Plaintiff refused to sign the performance improvement plan, and over the next three months, additionally refused to perform a number of work-related tasks."*

First off, the **ONLY** tasks I refused to perform were the **racially stereotypical and discriminatory tasks** that were solely assigned to me, "the Black one". These tasks were **not** "*work-related*" but were **Black-related**. Secondly, this has absolutely **NOTHING** to do with my Defamation/False and Fraudulent Acts and Conduct lawsuit. Why? Because **I did not even once mention** anything of the sort that the Defendants **defamed my character by** putting me on a performance improvement

plan, a document I did **not** once mention in my pleadings, and/or by assigning me discriminatory tasks that were **not** work-related. There were **never** such references because my Complaint is **not** based on those claims!

While conjuring these claims, what the District Court **omitted** to state in its Opinion and Order however, is that in my Employment Racial Discrimination and Retaliation lawsuit “*Lue I*”, I referred extensively to the “*performance improvement plan*” because it formed the basis of my RETALIATION Claim. “*Retaliatory and pretextual performance improvement plan*” was mentioned **NINETEEN** times in my Amended Complaint and **TWENTY-TWO** times in my “Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment” of “*Lue I*” and the said “*performance improvement plan*” was described as “*fallacious, retaliatory and pretextual*” - bearing in mind that this Defamation/False and Fraudulent Acts and Conduct lawsuit against Goliath is predicated by the **LIES** the said Defendants stated **under penalty of perjury** in their Declarations pursuant to 28 U. S. C. § 1746 (a crime!). If they can barefacedly commit such a CRIME, what would **not** make them come up with a fallacious, retaliatory and pretextual “*performance improvement plan*”?

On a separate note, if this “*performance improvement plan*” INNUENDO was meant by the District Court and/or Goliath to further defame my character, I have solid and overwhelming proofs that the **ONLY** time in my 35 years of life that my

achievements/performance had ever come under such scrutiny, it was those months that I worked in one of Goliath's most **RACIST** departments.

In footnote number 3 on page 7 of the District Court's Opinion and Order, it states: *"Additionally, although the Court has considered the Complaint Exhibits in resolving the pending motion to dismiss, it notes that — after a careful review — the Court has determined that they are not relevant to any [of] the issues raised by the instant motion"*. This statement is FALSE/AMBIGUOUS and/or an OMISSION because as it relates to *"the Court has determined that they are not relevant to any [of] the issues raised by the instant motion"*, that is because the Exhibits provided for *"the instant motion"* are **not** the *"Complaint Exhibits"* (DCD # 24/App. 50A – 122A) but the *"Plaintiff's Exhibits in Opposition to Defendants' Motion to Dismiss"* (DCD # 31/App. 147A – 168A) filed with my *"Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss"* (DCD # 30/App. 123A – 146A) on April 23, 2020. This is also a clear OMISSION by the District Court as the said Court failed to reference any of the evidence from my *"Complaint Exhibits"* **THAT EXPOSES GOLIATH'S LIES UNDER PENALTY OF PERJURY** but instead continues to claim that the said **LIES** are "facts".

In footnote number 5 on page 9 of the District Court's Opinion and Order it states: *"To the extent Plaintiff asserts a claim for perjury, premised on the allegation that Defendants perjured themselves in Lue I, the Court notes that there is generally no private cause of action for perjury under New York law."* This is a clear

INNUENDO as nowhere in my lawsuit did I assert “*a claim for perjury*”. My lawsuit clearly states that my Claims are **predicated by** the crime of perjury not that my claim is for perjury.

Also, in footnote number 5 on page 9, as it relates to my Third Cause of Action – “False and Fraudulent Acts and Conduct”, the Opinion and Order states: “*Plaintiff is alleging a reputational injury caused by purportedly false and defamatory statements made in the Lue I litigation. Accordingly, the Court construes this cause of action to sound in defamation*”. This is a FALSE/AMBIGUOUS claim by the District Court.

First off, acts and conduct do **not** constitute libel and/or slander, the basis of a defamation claim. And, as such, I, Plaintiff, Candice Lue could not be “*alleging a reputational injury caused by purportedly false and defamatory statements made in the Lue I litigation*” as it relates to **acts and conduct**. Also, the authority I used for my Third Cause of Action is *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) – “*This was an action to recover damages because of the **false and fraudulent acts and conduct** of Morgan*” which has **nothing** to do with defamation but 100% has to do with how Morgan committed false and fraudulent acts and conduct to compromise the authority of the Court and to influence the outcome of the lawsuit. The same acts and conduct the Defendants in this, my Defamation/False and Fraudulent Acts and Conduct lawsuit, committed in “*Lue I*”.

I also clearly spelt out the Defendants' false and fraudulent acts **as in actions** and conduct **as in behavior**¹³ most of which started with the word "*fraudulently*" as follows:

- Fraudulent use of Declarations pursuant to 28 U. S. C. § 1746, spoliation of evidence, common law conspiracy;
- Fraudulently using Fidelia Shillingford, a Black employee, as a conduit and a cover for Employment Racial Discrimination;
- Fraudulently using Baruch Horowitz, my White predecessor as an employee who was solely assigned the racially discriminatory "Tasks" and who had to first request permission in order to use JPMorgan Chase's "work from home" employment benefit;
- Fraudulently using my November 6, 2014 hire letter;
- Fraudulently using current non-Black employees as ploys to pretend to execute the racially discriminatory "Tasks";
- Fraudulently using Defendant Alex Khavin's newly employed manager, Philippe Quix to cover her, Alex Khavin's racial discrimination;
- Fraudulently using a snippet from Defendant, Chris Liasis' comments on my 2013 mid year performance review to defame my character;

¹³ Libel is a written statement and slander is a spoken statement.

- Fraudulently having my White predecessor's manager, Defendant Kimberly Dauber lie in a declaration that Baruch Horowitz was solely assigned the discriminatory "Tasks";
- JPMorgan Chase & Co.'s Human Resources legal representatives unlawfully "*pre-planning*" and "*discussing*" my termination from the company after the company was served with my Charge of Employment Racial Discrimination and Retaliation by the Equal Employment Opportunity Commission (EEOC), etc.

On page 11 of the District Court's Opinion and Order, the District Court states that: "*Plaintiff not only admits that this material was contained in Defendants' filings before the Second Circuit, but argues that it is defamatory because it was "published" in the course of that judicial proceeding. (See Am. Compl. ¶ 20). Accordingly, the statements at issue here were material and pertinent to the judicial proceedings in Lue I.*" This statement by the District Court is AMBIGUOUS because "*The statements at issue here*" **cannot** be "*material and pertinent*" because they are **100% false** and as such the Defendants cannot provide one scintilla of evidence to prove pertinency - *Gugliotta v. Wilson*, 168 A.D.3d 817, 819 (2d Dept. 2019). Also, the Defendants **misrepresented** important material facts in the said statements they made in their Declarations pursuant to 28 U.S.C. § 1746 and there is a clear difference between "material" and "misrepresented material". Thus, Goliath's **shameful** plea for absolute privilege protection must be denied – Bearing in mind

that, “[E]very court has supervisory power....” to ensure they “are not used to gratify private spite or promote public scandal” or “serve as reservoirs of libelous statements....” – *Nixon v. Warner Communications, Inc., et al*, 435 U.S. 589, 98 S.Ct. 1306 (1978).

Also on page 11 of the Opinion and Order, the District Court states: “*In a last-ditch effort to avoid dismissal, Plaintiff argues that the privilege does not apply here — even though she concedes that the purportedly defamatory statements were made in a judicial proceeding — because Defendants’ statements only indirectly, rather than explicitly, called her a ‘vindictive, lying, uncongenial and elitist person[,] and a less desirable/undesirable employee.’*”

First, this statement/INNUENDO by the District Court is FALSE because for one, my argument that “*the privilege does not apply here*” was **not** a “*last-ditch effort to avoid dismissal*”. This has been my consistent argument since November 22, 2019 which is **one week** from the time the Defendants **shamelessly** filed their absolute privilege protection defense. See my “*Response to Defendants’ Attorney Anshel Kaplan’s Letter Motion [for conference (pre-motion) in anticipation of Defendants’ Motion to Dismiss]*” (DCD # 10/App. 33A – 40A).

Secondly, I did not say anything about the Defendants’ statements “*only indirectly*” called me anything defamatory. My use of “*explicitly*” in my statement that: “*No where during the course of my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207 and 18–CV-01248) judicial proceedings did the*

Defendants explicitly state that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee and nowhere in my Amended Complaint did I state that the Defendants explicitly described me as any of the such either.” (Pages 3 – 4 of “*Plaintiff's Memorandum of Law In Opposition To Defendants' Motion To Dismiss*” (DCD #30/App. 129A – 130A) was just an expansion of my explanation as to why **on its face/as stated**, the Defendants’ statements are not defamatory and as such **do not** warrant absolute privilege protection. The said statements are only defamatory when opined and/or interpreted by people who are/were **not** a party to the judicial proceeding and absolute privilege protection does not extend to that scenario so the Defendants’ use of absolute privilege protection as their “one trick pony” defense is without merit.

Thirdly, this statement is a clear OMISSION on the District Court’s part because the said Court, whether intentionally or otherwise, failed to mention that I, Plaintiff, Candice Lue, presented not one, but **four** arguments/reasons as to why Goliath’s absolute privilege protection defense is without merit. The four headings of my arguments/reasons (see pages 3 – 10 of “*Plaintiff's Memorandum of Law In Opposition To Defendants' Motion To Dismiss*” (DCD # 30/App. 129A – 136A) are as follows:

1. The Tort of Defamation Is Solely Predicated by Perjury As On Its Face, As It Relates to the “Absolute Privilege” Defense, the Challenged Statements Are Not Defamatory.

2. Absolute Privilege Should Not Be Extended to the Defendants Due to the Courts' Neglect of Duty.
3. The Challenged Statements Are Not Subjected to "Absolute Privilege" Because The Defendants Have No Evidence of Pertinency/[There is a clear difference between "material" and "misrepresented material"].
4. Common Law Conspiracy Is Not Protected by "Absolute Privilege".

NO WHERE in the District Court's Opinion and Order did it address my other three arguments/reasons (or at least the second and the third) as it relates to Goliath's absolute privilege protection "one trick pony" defense.... crickets.... crickets....

On page 13 of the Opinion and Order, the District Court claims that: "*Plaintiff alleges that certain comments about her work performance from her 2013 mid-year review are defamatory. (See Am. Compl. ¶ 23)*". This statement is FALSE as **NO WHERE** in **any** of my pleadings did I allege such. What I said, is that Goliath maliciously and fraudulently **used a snippet** from Defendant, Chris Liasis' comments on my 2013 mid year performance review to make me out to be a less desirable/undesirable employee (see more on pages 48 – 51 below). Also see (DCD # 24/App. 55A – 57A).

Furthermore, negative comments in my performance review were **NEVER** the basis of my Defamation Claims. My Defamation Claims are **SOLELY** based on the false statements the Defendants made under penalty of perjury in their Declarations. Thus, the District Court's statement that: "*Plaintiff is unable to meet the first and second elements of a defamation claim as to these comments because "[u]nder New*

York law, the evaluation of an employee's performance, even an unsatisfactory evaluation, is a matter of opinion that cannot be objectively categorized as true or false and cannot be actionable" is irrelevant because the District Court's said claim is FALSE.

On page 15 of the District Court's Opinion and Order it states: "*....there is no indication that Defendants were negligent in publishing or disseminating the purportedly defamatory statements here. On the contrary, Defendants made an effort to check the accuracy of the allegations, including by taking the testimony of four relevant parties and conducting thorough investigations into Plaintiff's allegations.*" PLEASE TELL ME THAT THIS IS A JOKE!

Are we all aware that the "*relevant parties*" the District Court is talking about are among Defendants Alex Khavin, Fidelia Shillingford, Kimberly Dauber, Baruch Horowitz, Chris Liasis and Michelle Sullivan who **ALL** committed the **CRIME OF PERJURY** in their said "*testimony[ies]*"? - Bearing in mind that the said Defendants' **PERJURY** is the predicate for my Defamation/False and Fraudulent Acts and Conduct lawsuit. With that said, what reasonable American would think that "*conducting thorough investigations into Plaintiff's allegations*" would be a credible claim of the District Court? And, if the District Court's said statement was to be true, why is Goliath pleading for absolute privilege protection and evading Discovery where they would have to produce the proof?

Page 16 of the District Court’s Opinion and Order states that: “*Plaintiff fails to allege special damages with the requisite degree of specificity to sustain her defamation claim. She identifies neither an actual loss of income nor specific failures in obtaining prospective employment.*” This statement is FALSE.

In item “4” on Pages 16 – 20 (**FIVE PAGES**) of “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion To Dismiss*” (see DCD #30/App. 142A – 146A) under the heading: “***I Have Suffered And Continue To Suffer Severe Harm And Loss Mentally, Physically, Emotionally And Financially***”, I described “*with the requisite degree of specificity*” all the “*special damages*” I sustained in my Defamation Claims. On page 17 of the said document for example, I talked about how after multiple searches, applications and interviews for a permanent job became futile, I took a three (3) month temporary assignment with **no** benefits and at a lower salary (evidence available to produce during Discovery) with a company and ended up working as a temporary contractor with the said company for almost THREE (3) YEARS with no benefits and at a lower income. As, even though my background and work experience were in demand per the amount of jobs that were being advertised, I could not get a permanent job anywhere with salary and benefits comparable to what I earned at JPMorgan Chase because of the negative information that JPMorgan Chase & Co., et al put out to the public on me which were affirmed by the District Court and reaffirmed by the Appeals Court as “***facts***”.

I talked about the unusual/unique circumstance under which I was able to get my current job and how I constantly worry (every day without fail) about what if I were to lose it due to no fault of my own? Will I be able to find a company that, even if they are desperate to find talents like me, would be willing to hire me?

I poured my heart out in writing about this topic and that is why the District Court claiming that: *“She identifies neither an actual loss of income nor specific failures in obtaining prospective employment”* is very heart wrenching and hurtful.

On pages 16-17 of the District Court’s Opinion and Order the Court states that: *“Construing Plaintiff’s pleadings liberally, the Court understands Plaintiff to point to two types of statements that harmed her professional reputation: (i) negative comments in her performance reviews, and (ii) comments about Plaintiff’s job duties and relationships with her coworkers. (See Am. Compl. ¶¶ 22-28). In point of fact, neither argument saves Plaintiff’s defamation claim.”*

This statement by the District Court is categorically FALSE/AMBIGUOUS. As, even as a legal amateur, I am aware that *“a matter of opinion”* cannot be actionable and as such *“negative comments in her performance reviews”* could **not** be the basis of my Defamation Claims. This is evidenced in the **FIRST** paragraph in my *“Response To Defendants’ Attorney Anshel Kaplan’s Letter To Judge Katherine Polk Failla”* (“DCD” # 35/App. 169A) filed on December 9, 2020 where I stated: *“The clear difference in the lawsuits Lue v. JPMorgan Chase & Co., et al and Gill v. Dougherty is that the statements made in the former by Defendants, JPMorgan Chase*

& Co., et al were blatant LIES made under penalty of perjury which were affirmed by the District Court and reaffirmed by the Appeals Court as facts¹⁴ and the statements made in the latter, Gill v. Dougherty, No. 2019-05940, 2020 WL 6750782 (2d Dept. Nov. 18, 2020) were statements made based on the Defendant's opinion, "and not facts" – Making the District Court's "negative comments in her performance reviews" FALSE claim even more outrageous.

As for: *"(ii) comments about Plaintiff's job duties and relationships with her coworkers"* - This is another INNUENDO by the District Court as 1) I do not have the slightest idea as to what *"and relationships with her coworkers"* is supposed to mean and 2) **NO WHERE** in any of my pleadings did I include anything of the sorts as the basis of my Defamation Claims as even as a legal amateur I know that such is irrelevant in a defamation lawsuit.

In continuation of my response on page 44 above and in response to the District Court's statement on page 17 of the Opinion and Order which states: *"These statements may imply that Plaintiff's communication style did not meet Defendants' expectations. But this is insufficient because any statement evincing a "general dissatisfaction with job performance do[es] not qualify as defamation per se"*, I just want to once and for all set the record straight about the *"communication style"* comment in my 2013 mid-year performance review but first, let me reiterate that **NO**

¹⁴ See pages 7, 15, 17 and 18 of *"Plaintiff's Memorandum of Law In Opposition To Defendants' Motion to Dismiss"* (Docket # 30/Apps. 133A, 141A, 143A & 144A).

WHERE in my Defamation Claims did I even suggest that “*the crux*” of my Defamation Claims has to do with anything that was written in a performance review.

Goliath **picked out a (ONE) snippet** (like what dishonest people do in the news media) of a comment made in my 2013 performance review by Defendant, Chris Liasis, who is a racist and who (and I will humbly stand corrected if Mr. Liasis can prove otherwise), as a JPMorgan Chase WHITE **EXECUTIVE DIRECTOR**, DOES NOT HAVE A COLLEGE DEGREE¹⁵ but as I said about Chris Liasis on page 94 of my Amended Complaint in my Employment Racial Discrimination & Retaliation lawsuit (Lue v. JPMorgan Chase & Co., et al - 1:16-CV-03207): “*Liasis is a person who tried to portray himself as if he was a British statesman. Everyday he dressed in a suit and if he was not wearing a suit, he dressed “scholarly” in a shirt with an “Oxford” cardigan. He called big words just to call big words.*”

Why is that information relevant? Because it had become apparent that Defendant Chris Liasis, in his quest to seem “scholarly”, would write and/or say words that were not in line with what he really means to say and based on the evidence I provided in DCD # 24/App. 55A – 57A, that was exactly how that snippet happened.

However, in Goliath’s quest to defame my character by insinuating the Black stereotype “Black people have poor communication skills/poor manners”, they

¹⁵ I hate to do this but after the Defendants, the previous District Court, the previous Second Circuit Court and now the current District Court use this deceptive snippet against me, I have no choice.

knowingly, intentionally and maliciously used the “*communication style requires continued refinement*” snippet from the said 2013 performance review knowing that it was out of context **of the truth** to make me out to be a less desirable/undesirable employee.

Chris Liasis’ comment about my “*communication style*” was **not** meant to be about the usual and stereotypical “Black people have poor communication skills/poor manners” as Goliath wanted to portray me. As a matter of fact, Chris Liasis, who is a racist considered me to be “*too professional*” for a Black employee (DCD # 24/App. 56A) and as such, as DCD # 24/App. 55A – 57A will also show, his “*communication style*” comment was about the **THOROUGHNESS** of the way I communicated via email. Or, as my former manager, Defendant Michelle Sullivan, who knocked heads with Chris Liasis, said in my 2014 performance review: “*Another key development point for Candice is tailoring her **communication style** for her audience. She should try to move away from detailed explanation of investigation and steps performed (although good when training team members¹⁶) when providing updates and feedback*” - (DCD # 24/App. 57A).

Goliath was AWARE of this fact yet still **knowingly, intentionally and maliciously** published with malice this misleading SNIPPET in their quest to make me, Plaintiff, Candice Lue out to be a less desirable/undesirable employee and/or at a

¹⁶ I am always willing to share my FULL knowledge of my work with my co-workers. Something that is not common in the “corporate world”.

minimum acted and published with a reckless disregard for the truth. My Defamation Claims have **nothing** to do with the District Court's Ruling: "*general dissatisfaction with job performance do[es] not qualify as defamation per se*".

I find it ironic that in the Opinion and Order, the District Court kept referring to the Defendants' false statements in "*Lue I*" and their PERJURIOUS Declarations, which are the predicate for this Defamation/False and Fraudulent Acts and Conduct lawsuit, as "*factual*". Yet, the said Court is barring the case from proceeding to Discovery where it will show that there is nothing "*factual*" about Goliath's challenged statements and that Goliath does not have one scintilla of evidence to back up their LIES.... Lies such as Baruch Horowitz, "*a Caucasian male and a Senior Associate (a higher rank than Lue's role of Analyst)*" was exclusively responsible for the discriminatory Tasks that were solely assigned to me, Plaintiff, Candice Lue, the only Black analyst on the team and that just like me, the Black one, Caucasian Baruch Horowitz had to obtain permission to work from home. See the District Court's Opinion and Order "*factual*" claims below:

- Page 2 – "*the Court relates **those facts** from Lue I that are relevant to resolving the instant motion to dismiss.*"
- Pages 3 – 4 – "*Plaintiff's Amended Complaint lists a slew of **specific factual allegations contained in Defendant's submissions to the Second Circuit.***"
- Pages 17 – 18 – "*....they are simply **factual** disagreements that the parties briefed and argued in Lue I.*"

- Page18 – “*While Plaintiff points to evidence that she claims refutes the **factual claims Defendants advanced in Lue I.... “....refer to the **factual** circumstances surrounding Plaintiff’s termination”.***

I cannot help but think that the Defendants must be rolling over dying with laughter either at the stupidity/lack of integrity of the Courts or at how they are able to get away with their **conspiratorial, criminal, false and fraudulent acts and conduct**.

In light of the foregoing and for the **integrity** of the Southern District Court of New York and the U.S. Judicial system as a whole, this Court should vacate the District Court’s erroneous Ruling and remand the case for a proper assessment and Discovery proceeding.

False Claims

Goliath’s **shameful** absolute privilege protection defense is without merit and the District Court should not be coming up with FALSE claims against me, a poor, Black, female, pro se Plaintiff to conceal Goliath’s **DISGRACEFUL** “one trick pony” absolute privilege protection defense.

If JPMorgan Chase & Co., et al did not LIE in their Declarations pursuant to 28 U. S. C. § 1746 (A CRIME) in their quest to make me, Plaintiff, Candice Lue, out to be a vindictive, lying, troublesome, uncongenial and elitist person and a less desirable/undesirable employee then they should come up with the EVIDENCE to

show that and not try to hide behind absolute privilege protection. Likewise, the District Court should not be coming up with FALSE statements that even as a legal amateur I know do not fit the bill of a defamation lawsuit to discredit my Defamation/False and Fraudulent Acts and Conduct lawsuit against Goliath JPMorgan Chase & Co., et al. That is why this Court should remand the case for proper assessment and Discovery proceedings as it is clear that my lawsuit consists of legitimate causes of action and the “failure to state a claim” Ruling by the District Court is profoundly erroneous.

Ambiguities

The District Court’s Opinion and Order does not reflect and is not a correct assessment of the pleadings in my Defamation/False and Fraudulent Acts and Conduct lawsuit.

ACTUAL fraudulent acts and conduct that were committed by the Defendants and were clearly listed as such in the pleadings **cannot** be construed as “*sound in defamation*” as there is **nothing** speculative about what is stated (see pages 40 - 41 above). And, claims by the District Court such as: “*the crux of Plaintiff’s complaint stem[med] from her supervisor’s assignment to her of various tasks she found demeaning or humiliating*” and talking points such as “*On July 30, 2015, Shillingford and a representative from Human Resources conducted Plaintiff’s mid-year performance review, put Plaintiff on a performance improvement plan.... Plaintiff*

refused to sign the performance improvement plan, and over the next three months, additionally refused to perform a number of work-related tasks” are pure **insinuations/innuendoes** by the District Court as **NO WHERE** in my pleadings did I make such reference or in any way suggest that such claims/talking points formed “*the crux*” of my Defamation Claims because even as a legal amateur, I knew that such a claim/talking point cannot be the basis/“*crux*” of a Defamation lawsuit.

However, what I referenced **FIFTEEN** times in my Amended Complaint and **TWENTY FOUR** times in my “Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss” as “*the crux of Plaintiff’s complaint*” are the LIES stated **under penalty of perjury** in the Defendants’ Declarations pursuant to 28 U. S. C. § 1746 that the said Defendants knowingly published with malice in their quest to make me out to be a vindictive, lying, troublesome, uncongenial and elitist person and a less desirable/undesirable employee and/or at a minimum acted and published with a reckless disregard for the truth. - “*Perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven*” - *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956) thus my Defamation tort.

In conjunction, “*to qualify for the [absolute] privilege, a statement must be ‘material and pertinent to the questions involved’*” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019). There is a clear difference between “material” and “misrepresented material”. The Defendants’ Declarations pursuant to 28 U. S. C. § 1746 contain **misrepresented** material facts that were fraudulently presented to the

District and Appeals Courts and for which the said Defendants cannot provide one scintilla of evidence to show pertinence - *Gugliotta v. Wilson*, 168 A.D.3d 817, 819 (2d Dept. 2019).

In light of the foregoing, there are clear ambiguities in the District Court's Opinion and Order as it relates to "*the crux of Plaintiff's complaint*", etc. and as such, this Court should vacate the District Court's Ruling and remand for a proper assessment of the case.

Innuendoes

The District Court conjuring claims that were **farthest from my mind** when I filed this Defamation/False and Fraudulent Acts and Conduct lawsuit against Goliath JPMorgan Chase & Co., et al and claims that even as a legal amateur I knew cannot and could not be valid claims for a Defamation tort is nothing short of insinuation. The District Court's **innuendoes** include claims such as "*the crux of Plaintiff's complaint....*" and talking points having to do with a fallacious, pretextual and retaliatory "performance improvement plan" which was **NEVER** once mentioned and/or referenced in any of my pleadings. Anyone of reasonable mind knows that for the **integrity** of the U.S. judicial system, a District Court should not be partial to the point of conjuring its own claims in a lawsuit.

In light of the foregoing, this Court should vacate the District Court's Ruling and remand the case for a fair and proper assessment and for Discovery proceedings.

Omissions

How ironic, shocking, flabbergasting (I am at a loss for words) it is that the District Court would **omit** to address in its Opinion and Order important pleadings I filed and significant arguments I made in my Defamation/False and Fraudulent Acts and Conduct lawsuit but instead included arguments in the said Opinion and Order that I **NEVER** mentioned and/or even referenced in my Claims because they were **NEVER** the basis of my said lawsuit. For this reason, anyone of reasonable mind or even basic common sense would know that the District Court ERRED in its Opinion and Order.

In light of the foregoing, this Court should vacate the District Court's Ruling and remand the case for proper assessment and Discovery proceedings.

3. LEAVE TO AMEND IS DENIED

The District Court should not have denied me, pro se Plaintiff, Candice Lue, "Leave to Amend" as based on the foregoing, it would be clear to anyone of reasonable mind that the District Court's assessment of my Defamation/False and Fraudulent Acts and Conduct lawsuit, per the said Court's Opinion and Order, is profoundly flawed as the District Court, whether intentionally or otherwise, misconstrued my argument and/or outrightly made up its own argument. Since from the District Court's Opinion and Order and my argument in this Appellant Brief, there are obvious ambiguities surrounding the arguments in my lawsuit due to the

said Court's false claims, ambiguities, innuendoes and omissions, I should at least be given the opportunity to amend my complaint to ensure a fair and proper assessment of my Claims.

A. Standard of Review

“Ambiguities should be resolved in favor of allowing amendments unless and until it appears that the privilege to amend will be abused” - [In re Forfeiture of One 1973 Mercedes Benz Motor Vehicle, 423 So. 2d 535, 537 (Fla. Dist. Ct. App. 4th Dist. 1982)]

CONCLUSION

In light of the foregoing, it is clear that the District Court's Ruling granting the Defendants' motion to dismiss is profoundly erroneous as the said Court's Opinion and Order is rife with false claims, ambiguities, innuendoes and omissions. I respectfully ask that this Court vacate the District Court's Judgment and remand the case for proper assessment and Discovery proceedings.

Respectfully Submitted,

July 6, 2021

CANDICE LUE

Signature

[REDACTED]

Address

[REDACTED]

City, State, Zip Code

CERTIFICATION OF COMPLIANCE

I certify that the foregoing Appellant Brief contains 13,129 words excluding the parts of the Brief exempted by Federal Rules of Appellate Procedure 32(f) which is above the type-volume limitation of Rule 32(a)(7)(B)(i) but is within the 14,000 word limit pursuant to Local Rule 32.1(a)(4)(A). This Appellant Brief complies with the typeface requirements of Federal Rules of Appellate Procedure 32(5)(A) and the type style requirements of Federal Rules of Appellate Procedure 32(6) because it has been prepared in a proportionally spaced typeface using Word in 14-point Times New Roman typeface.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Appellant's Brief and accompanying Appellant's Appendix were served on the Defendants' (Appellees') attorney on record on July 6, 2021 in the manner indicated below:

Mr. Robert Whitman
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(Service via United States Postal Service Priority Mail)

Candice Lue
Pro Se Appellant

NO. 21 - 892

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

CANDICE LUE,
Pro Se Plaintiff - Appellant,

v.

JPMORGAN CHASE & CO., a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual,
Defendants - Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 19 CV 9784
Judge Katherine Polk Failla

APPENDIX OF APPELLANT CANDICE LUE

Candice Lue, Pro Se

§

Email: Info@CandiceLue.com

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CLOSED,APPEAL,ECF,PRO-SE

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-09784-KPF

Lue v. JPMorgan Chase & Co. et al
Assigned to: Judge Katherine Polk Failla
Cause: 28:13321b Diversity-Libel, Assault, Slander

Date Filed: 10/23/2019
Date Terminated: 03/24/2021
Jury Demand: Plaintiff
Nature of Suit: 320 Assault Libel &
Slander
Jurisdiction: Diversity

Plaintiff

Candice Lue
an individual

represented by **Candice Lue**

PRO SE

V.

Defendant

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2A

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an individual; inclusive

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Robert S. Whitman
(See above for address)
ATTORNEY TO BE NOTICED

3A

Date Filed	#	Docket Text
10/23/2019	<u>1</u>	COMPLAINT against Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Filing Fee \$400.00, Receipt Number 465401246837) Document filed by Candice Lue. (sac) (Entered: 10/25/2019)
10/23/2019	<u>2</u>	CIVIL COVER SHEET filed. (sac) (Entered: 10/25/2019)
10/23/2019	<u>3</u>	NOTICE OF PRO SE APPEARANCE by Candice Lue. (sac) (Entered: 10/25/2019)
10/23/2019		Case Designated ECF. (sac) (Entered: 10/25/2019)
10/23/2019		Magistrate Judge Stewart D. Aaron is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (sac) (Entered: 10/25/2019)
10/23/2019		SUMMONS ISSUED as to Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (sac) (Entered: 10/25/2019)
10/30/2019	<u>4</u>	AMENDED COMPLAINT FOR DEFAMATION; COMMONLAW CONSPIRACY; FALSE & FRAUDULENT ACTS & CONDUCT; ACTUAL MALICE; LIBEL; DEFAMATION PER SE; DEFAMATION BY IMPLICATION, re: amending <u>1</u> Complaint against Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan with JURY DEMAND. Document filed by Candice Lue. Related document: <u>1</u> Complaint.(sc) (Entered: 10/31/2019)
11/01/2019	<u>5</u>	AFFIRMATION OF SERVICE of Summons and Complaint. Service was accepted by Robert Whitman, Esq. and Anshel Kaplan, Esq. at Seyfarth Shaw LLP. Document filed by Candice Lue. (sc) (Entered: 11/04/2019)
11/13/2019	<u>7</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 2/18/2020 at 10:00 AM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla. The Clerk of Court is directed to mail a copy of this Order to Plaintiff. (Signed by Judge Katherine Polk Failla on 11/13/2019) (va) Transmission to Docket Assistant Clerk for processing. Modified on 11/14/2019 (va). (Entered: 11/13/2019)
11/14/2019		Mailed a copy of <u>7</u> Order for Initial Pretrial Conference, to Candice Lue 4122 Bel Vista Court Lodi, NJ 07644. (aea) (Entered: 11/14/2019)
11/14/2019	<u>8</u>	LETTER MOTION for Conference (<i>Pre-Motion</i>) in anticipation of Defendants' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) addressed to Judge Katherine Polk Failla from Anshel Joel Kaplan dated November 14, 2019. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan.(Kaplan,

		Anshel) (Entered: 11/14/2019)
11/14/2019	<u>9</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by JPMorgan Chase & Co..(Kaplan, Anshel) (Entered: 11/14/2019)
11/22/2019	<u>10</u>	RESPONSE TO DEFENDANTS' ATTORNEY ANSHEL KAPLAN'S LETTER MOTION-(DOCKET #8), re: <u>8</u> LETTER MOTION for Conference (<i>Pre-Motion</i>) in anticipation of Defendants' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) addressed to Judge Katherine Polk Failla from Anshel Joel Kaplan dated November 14, 2019. Document filed by Candice Lue. (sc) (Entered: 11/22/2019)
11/22/2019	<u>11</u>	CERTIFICATE OF SERVICE of Letter Motion (ECF No. 8) served on Candice Lue on November 14, 2019. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Kaplan, Anshel) (Entered: 11/22/2019)
11/22/2019	<u>12</u>	LETTER REPLY to Response to Motion addressed to Judge Katherine Polk Failla from Anshel Joel Kaplan dated November 22, 2019 re: <u>8</u> LETTER MOTION for Conference (<i>Pre-Motion</i>) in anticipation of Defendants' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) addressed to Judge Katherine Polk Failla from Anshel Joel Kaplan dated November 14, 2019. . Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Kaplan, Anshel) (Entered: 11/22/2019)
11/22/2019	<u>13</u>	NOTICE OF APPEARANCE by Anshel Joel Kaplan on behalf of Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Kaplan, Anshel) (Entered: 11/22/2019)
11/22/2019	<u>14</u>	NOTICE OF APPEARANCE by Robert S. Whitman on behalf of Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Whitman, Robert) (Entered: 11/22/2019)
11/22/2019	<u>15</u>	CERTIFICATE OF SERVICE of Letter (ECF No. 12), Notice of Appearance of Anshel Joel Kaplan (ECF No. 13) and Notice of Appearance of Robert S. Whitman (ECF No. 14) served on Candice Lue on November 22, 2019. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Kaplan, Anshel) (Entered: 11/22/2019)
11/22/2019	<u>16</u>	ORDER granting <u>8</u> Letter Motion for Conference. Application GRANTED. The initial pretrial conference, currently scheduled for February 18, 2020, at 10:00 a.m. in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. shall serve as a pre-motion conference concerning Defendants' anticipated motion to dismiss. (Pre-Motion Conference set for 2/18/2020 at 10:00 AM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla.) (Signed by Judge Katherine Polk Failla on 11/22/2019) Copies Mailed By Chambers. (rro) (Entered: 11/22/2019)

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		11/22/2019)
11/25/2019		Mailed a copy of <u>16</u> Order on Motion for Conference, to Candice Liu, 4122 Bel Vista Court, Lodi, New Jersey 07644. (tn) (Entered: 11/25/2019)
11/27/2019	<u>17</u>	LETTER addressed to Judge Katherine Polk Failla from C. Lue, dated 11/23/19 re: MOTION TO DENY DEFENDANTS' ATTORNEY ANSHEL KAPLAN'S REQUEST FOR A "PRE-MOTION" CONFERENCE DATED 11/16/19 GOT LOST IN THE MAIL. Document filed by Candice Lue.(sc) (Entered: 12/02/2019)
12/03/2019	<u>18</u>	MEMO ENDORSEMENT on re: <u>17</u> Letter, filed by Candice Lue. ENDORSEMENT: Plaintiff's application to cancel the pre-motion conference concerning Defendants' anticipated motion to dismiss and to require Defendants to file an answer to Plaintiff's amended complaint is DENIED. Pursuant to Federal Rule of Civil Procedure 12, Defendants need not file an answer to the amended complaint before filing a motion to dismiss that complaint. Plaintiff is advised that, should the Court permit Defendants to file a motion to dismiss, the Court will not rule on that motion without permitting Plaintiff an opportunity to oppose it. (Signed by Judge Katherine Polk Failla on 12/3/2019) Copies Mailed By Chambers. (rro) (Entered: 12/03/2019)
12/03/2019		Mailed a copy of <u>18</u> Memo Endorsement, to Candice Liu, 4122 Bel Vista Court, Lodi, New Jersey 07644. (tn) (Entered: 12/03/2019)
12/09/2019		***DELETED DOCUMENT. Deleted document number <u>19</u> Amended Complaint. The document was incorrectly filed in this case. (sc) (Entered: 12/11/2019)
12/09/2019	<u>19</u>	MOTION FOR JUDGE KATHERINE POLK FAILA TO DENY DEFENDANTS' ATTORNEY ANSHEL KAPLAN'S REQUEST FOR A PRE-MOTION CONFERENCE. Document filed by Candice Lue.(sc) Modified on 12/11/2019 (sc). (Entered: 12/11/2019)
12/16/2019	<u>20</u>	LETTER addressed to Judge Katherine Polk Failla from C. Lue, dated 12/10/19 re: I, PLAINTIFF CANDACE LUE, DID NOT FILE A SECOND AMENDED COMPLAINT ON 12/4/19 WITH THE COURT -(DOCKET #19). Document filed by Candice Lue.(sc) (Entered: 12/17/2019)
12/18/2019	<u>21</u>	MEMO ENDORSEMENT on <u>20</u> LETTER terminating <u>19</u> Motion to Deny request for Pre-Motion Conference. ENDORSEMENT: Plaintiff is hereby advised that a second amended complaint was mistakenly filed on the docket of this case on December 4, 2019. That document has since been deleted from the docket. The Court understands that no second amended complaint has been filed, and Plaintiff's Amended Complaint, filed on October 30, 2019 (Dkt. #4) remains the operative pleading. The Court also notes that a pre-motion conference concerning Defendants' anticipated motion to dismiss has been scheduled for February 18, 2020, at 10:00 a.m. in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. The clerk of court is directed to terminate the motion pending at docket entry 19. (Signed by Judge Katherine Polk Failla on 12/18/2019) Copies Mailed By

		Chambers. (mro) (Entered: 12/18/2019)
12/18/2019		Set/Reset Hearings: Pre-Motion Conference set for 2/18/2020 at 10:00 AM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla. (mro) (Entered: 12/18/2019)
12/19/2019		Mailed a copy of <u>21</u> Order on Motion for Miscellaneous Relief, to Candice Liu, 4122 Bel Vista Court, Lodi, New Jersey 07644. (tn) (Entered: 12/19/2019)
02/07/2020	<u>22</u>	BRIEF FOR: 2/18/20 "PRE-MOTION CONFERENCE CONCERNING DEFENDANTS' ANTICIPATED MOTION TO DISMISS"(DOCKET #16). Document filed by Candice Lue.(sc) Modified on 2/11/2020 (sc). (Entered: 02/11/2020)
02/10/2020	<u>23</u>	LETTER addressed to Judge Katherine Polk Failla from C. Lue, dated 2/5/20 re: RESPONSE TO JUDGE KATHERINE POLK FAILLA'S ORDER OF 11/13/19 FOR THE 2/18/20 PRE-MOTION/INITIAL PRE-TRIAL CONFERENCE -(DOCKET #16). Document filed by Candice Lue.(sc) (Entered: 02/11/2020)
02/18/2020	<u>24</u>	PLAINTIFF'S EXHIBITS(to Pleading), re: <u>4</u> Amended Complaint. Document filed by Candice Lue.(sc) (Entered: 02/19/2020)
02/18/2020		Minute Entry for proceedings held before Judge Katherine Polk Failla: Initial Pretrial/Pre-motion Conference held on 2/18/2020. Plaintiff present with mother Edith Booth. Attorneys Anshel Joel Kaplan and Robert S. Whitman representing Defendants present. Motion to dismiss due by 3/20/2020; Opposition due by 5/1/2020; Reply due by 5/15/2020. Discovery is stayed pending resolution of the motion to dismiss. Defendants are to order a copy of today's transcript. (See transcript). (Court Reporter Raquel Robles) (tn) (Entered: 02/19/2020)
03/02/2020	<u>25</u>	CERTIFICATE OF SERVICE of Transcript of the February 18, 2020 Oral Argument served on Candice Lue on March 2, 2020. Service was made by First Class Mail. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan..(Kaplan, Anshel) (Entered: 03/02/2020)
03/11/2020	<u>26</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 2/18/2020 before Judge Katherine Polk Failla. Court Reporter/Transcriber: Raquel Robles, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/1/2020. Redacted Transcript Deadline set for 4/13/2020. Release of Transcript Restriction set for 6/9/2020..(McGuirk, Kelly) (Entered: 03/11/2020)
03/11/2020	<u>27</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 2/18/2020 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent

		to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days....(McGuirk, Kelly) (Entered: 03/11/2020)
03/20/2020	<u>28</u>	MOTION to Dismiss . Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan..(Kaplan, Anshel) (Entered: 03/20/2020)
03/20/2020	<u>29</u>	MEMORANDUM OF LAW in Support re: <u>28</u> MOTION to Dismiss . . Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Appendix).(Kaplan, Anshel) (Entered: 03/20/2020)
04/23/2020	<u>30</u>	PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS (DOCKET #'S 28 & 29). Document filed by Candice Lue. (mro) (Entered: 04/23/2020)
04/23/2020	<u>31</u>	PLAINTIFF'S EXHIBITS IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS (DOCKET #'S 28 & 29). Document filed by Candice Lue..(mro) (Entered: 04/23/2020)
05/15/2020	<u>32</u>	REPLY MEMORANDUM OF LAW in Support re: <u>28</u> MOTION to Dismiss . . Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan.. (Kaplan, Anshel) (Entered: 05/15/2020)
12/02/2020	<u>33</u>	LETTER addressed to Judge Katherine Polk Failla from Anshel Joel Kaplan dated December 2, 2020 re: Supplemental Authority and in further support for arguments made in Defendants' Motion to Dismiss (Dkt No. 29). Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan..(Kaplan, Anshel) (Entered: 12/02/2020)
12/02/2020	<u>34</u>	NOTICE of Exhibit / Exhibit A re: <u>33</u> Letter,. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Fidelia Shillingford, Michelle Sullivan..(Kaplan, Anshel) (Entered: 12/02/2020)
12/09/2020	<u>35</u>	RESPONSE TO DEFENDANTS' ATTORNEY ANSHEL KAPLAN'S LETTER TO JUDGE KATHERINE POLK FAILLA, re: <u>33</u> Letter. Document filed by Candice Lue. (sc) (Entered: 12/09/2020)
03/23/2021	<u>36</u>	OPINION AND ORDER re: <u>28</u> MOTION to Dismiss . filed by Baruch Horowitz, Kimberly Dauber, Fidelia Shillingford, JPMorgan Chase & Co., Chris Liasis, Alex Khavin, Michelle Sullivan. Defendants' motion to dismiss is GRANTED with prejudice. The Clerk of Court is directed to terminate all pending motions, adjourn all remaining dates, and close this case. The Clerk of Court is directed to mail a copy of this Opinion to Plaintiff. SO ORDERED. (Signed by Judge Katherine Polk Failla on 3/23/21) (yv) Transmission to Docket Assistant Clerk for processing. Transmission to Orders and Judgments Clerk for processing. (Entered: 03/23/2021)

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03/23/2021		Mailed a copy of <u>36</u> Memorandum & Opinion to Candice Lue at 4122 Bel Vista Court, Lodi, NJ 07644. (kh) (Entered: 03/23/2021)
03/24/2021	<u>37</u>	CLERK'S JUDGMENT re: <u>36</u> Memorandum & Opinion. in favor of JPMorgan Chase & Co., Alex Khavin, Baruch Horowitz, Chris Liasis, Fidelia Shillingford, Kimberly Dauber, Michelle Sullivan against Candice Lue. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated March 23, 2021, Defendants motion to dismiss is GRANTED with prejudice; accordingly, this case is closed. (Signed by Clerk of Court Ruby Krajick on 3/24/2021) (Attachments: # <u>1</u> Notice of Right to Appeal) (dt) (Entered: 03/24/2021)
03/24/2021		Terminate Transcript Deadlines (dt) (Entered: 03/24/2021)
03/24/2021		Mailed a copy of <u>37</u> Clerk's Judgment, Notice of Appeal Forms Attached, to Candice Lue 4122 Bel Vista Court Lodi, NJ 07644. (vba) (Entered: 03/24/2021)
04/05/2021	<u>38</u>	LETTER from Candice Lue, dated 12/4/20 re: I hereby consent to receiving electronic service to email address, info@CandiceLue.com. Document filed by Candice Lue.(sc) (Entered: 04/06/2021)
04/05/2021	<u>39</u>	PRO SE MEMORANDUM dated 4/5/21 re: CHANGE OF ADDRESS for Candice Lue. New Address: P.O. Box 178, Great Meadows, New Jersey, 07838-0178. (sc) (Entered: 04/06/2021)
04/06/2021	<u>40</u>	NOTICE OF APPEAL from <u>37</u> Clerk's Judgment, <u>36</u> Memorandum & Opinion. Document filed by Candice Lue. Form D-P is due within 14 days to the Court of Appeals, Second Circuit. (tp) (Entered: 04/07/2021)
04/06/2021		Appeal Fee Due: for <u>40</u> Notice of Appeal. Appeal fee due by 4/20/2021. (tp) (Entered: 04/07/2021)
04/07/2021		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>40</u> Notice of Appeal. (tp) (Entered: 04/07/2021)
04/07/2021		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>40</u> Notice of Appeal filed by Candice Lue were transmitted to the U.S. Court of Appeals. (tp) (Entered: 04/07/2021)
04/16/2021		USCA Appeal Fees received \$ 505.00 receipt number 465401277547 on 4/12/2021 re: <u>40</u> Notice of Appeal filed by Candice Lue. (tp) (Entered: 04/16/2021)

PACER Service Center			
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Billable Pages:	7	Cost:	0.70

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Exempt flag:	Exempt	Exempt reason:	Always
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CANDICE LUE,

Plaintiff,

-v.-

JPMORGAN CHASE & CO.; ALEX KHAVIN;
FIDELIA SHILLINGFORD; KIMBERLY DAUBER;
BARUCH HOROWITZ; CHRIS LIASIS; and
MICHELLE SULLIVAN,

Defendants.

19 Civ. 9784 (KPF)

OPINION AND ORDER

KATHERINE POLK FAILLA, District Judge:

Plaintiff Candice Lue, proceeding *pro se*, brings this suit against JP Morgan Chase & Co. (“Chase”), as well as Chase employees Alex Khavin, Fidelity Shillingford, Kimberly Dauber, Baruch Horowitz, Chris Liasis, and Michelle Sullivan (together with Chase, “Defendants”), alleging multiple claims of defamation. Defendants now move to dismiss Plaintiff’s amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons stated below, the Court grants Defendants’ motion in full.

BACKGROUND¹

A. Factual Background

This lawsuit is not the first between these parties. On April 29, 2016, Plaintiff, proceeding *pro se*, sued Defendant Chase and several of its employees,

¹ The facts in this Opinion are drawn from Plaintiff’s Amended Complaint (“Am. Compl.” (Dkt. #4)), the well-pleaded allegations of which are taken as true for purposes of this motion. The transcript of the February 18, 2020 conference is referred to as “Hr’g Tr.” (Dkt. #26).

For convenience, the Court refers to Plaintiff’s Letter Brief in Opposition to the Motion to Dismiss, submitted in advance of the February 18, 2020 conference, as “Pl. Br.” (Dkt.

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including Khavin, Shillingford, Liasis, and Sullivan, who are also named as defendants in this suit. See *Lue v. JPMorgan Chase & Co.*, No. 16 Civ. 3207 (AJN), 2018 WL 1583295 (S.D.N.Y. Mar. 27, 2018) (“*Lue I*”). In *Lue I*, Plaintiff alleged various forms of racially-motivated discrimination, harassment, and retaliation and stemming from her employment at Chase. *Id.* at *1-4. Plaintiff now alleges that Defendants here made defamatory statements about her in *Lue I*. (See generally Am. Compl.). As such, the Court relates those facts from *Lue I* that are relevant to resolving the instant motion to dismiss.

Plaintiff is a Black woman who was formerly employed by Chase as an analyst. (Am. Compl. ¶ 13). In *Lue I*, Plaintiff pleaded ten causes of action, but “the crux of Plaintiff’s complaint stem[med] from her supervisor’s assignment to her of various tasks she found demeaning or humiliating, and which she believed reflected her status as the ‘only Black Analyst’ in the Counterparty Risk Group, the team within Chase on which she served.” *Lue I*, 2018 WL 1583295, at *2 (citation omitted). Starting in May 2015, Plaintiff raised complaints regarding this purportedly discriminatory treatment to Shillingford, her supervisor, and to Chase’s Human Resources Department. *Id.* at *3. After an investigation into Plaintiff’s concerns, Chase “concluded that Plaintiff’s allegations were unfounded[.]” *Id.* On July 30, 2015, Shillingford and a representative from Human Resources conducted Plaintiff’s mid-year

#22); Defendants’ Memorandum of Law in Support of Their Motion to Dismiss as “Def. Br.” (Dkt. #29); Plaintiff’s Memorandum of Law in Opposition to the Motion as “Pl. Opp.” (Dkt. #30); and Defendants’ Reply Memorandum of Law in Support of Their Motion as “Def. Reply” (Dkt. #32).

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performance review, put Plaintiff on a performance improvement plan, and “informed [Plaintiff] that she was expected to perform all tasks assigned to her and to improve her communication style.” *Id.* at *4. Plaintiff refused to sign the performance improvement plan, and over the next three months, additionally refused to perform a number of work-related tasks. *Id.* She was ultimately terminated from Chase on January 6, 2016. *Id.*

By Opinion and Order entered March 27, 2018, Judge Nathan granted summary judgment in favor of the *Lue I* defendants on all counts and dismissed Plaintiff’s claims. *See Lue I*, 2018 WL 1583295, at *11. On April 24, 2019, the Second Circuit affirmed Judge Nathan’s decision, *see Lue v. JPMorgan Chase & Co.*, 768 F. App’x 7 (2d Cir. 2019) (summary order), and on October 15, 2019, the Supreme Court denied *certiorari*, *see* 140 S. Ct. 388 (2019).

Plaintiff’s claims in the instant litigation arise out of purportedly defamatory statements made during the course the *Lue I* litigation, particularly its appeal. Although Plaintiff’s theory of liability is not exactly clear, the Court understands Plaintiff to be contending that Defendants made false statements in their submissions to the Second Circuit in the course of Plaintiff’s appeal in *Lue I*. (*See* Am. Compl. ¶¶ 22-29). Plaintiff proffers that these “false, misleading, libelous, perjurious[,] and disparaging statements” “defamed [her] character” and “maliciously and mendaciously made [her] out to be a vindictive, lying, troublesome, uncongenial and elitist person[,] and a less desirable/undesirable employee.” (*Id.* at ¶ 17). Plaintiff’s Amended Complaint

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lists a slew of specific factual allegations contained in Defendant's submissions to the Second Circuit that, in Plaintiff's estimation, are actionable as defamation, including that:

- i. Chase stated that Plaintiff "reported to Michelle Sullivan while [Plaintiff] was in the Commodities Operations Department," which "false and misleading statement" "ma[de Plaintiff] out to be a liar";
- ii. Chase cited to "defamatory snippets of comments" from Plaintiff's 2013 mid-year performance review, which snippets were taken out of context and "intentionally and strategically placed ... to defame [her] character";
- iii. Chase made "malicious, false, misleading, barefaced[,] and defamatory lies," by stating that "a White man with a higher job title than Plaintiff" has been assigned and performed the same tasks as Plaintiff, suggesting that the assignment of the tasks to Plaintiff was unrelated to race;
- iv. Chase stated that "Shillingford ... made both the decision to hire Plaintiff and the decision to fire her," which Plaintiff claims is false because, among other reasons, "Shillingford was not even invited to any of the meetings where ... Chase's HR legal representatives were pre-planning and discussing [Plaintiff's] termination"; and
- v. Shillingford and Horowitz testified falsely that "other analysts and associates did have to ask for and obtain permission before working from home," which false testimony made Plaintiff out to be a liar.

(*Id.* at ¶¶ 22-28 (internal quotation marks and citations omitted)). These allegedly false and defamatory statements — and other similar allegations contained in the Amended Complaint — form the basis of the multiple causes of action that Plaintiff raises in this suit.

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B. Procedural Background

Plaintiff initiated this suit on October 23, 2019, eight days after the Supreme Court denied *certiorari* in *Lue I.* (Dkt. #1). *See also* 140 S. Ct. 388 (2019). On October 30, 2019, Plaintiff filed an Amended Complaint, which is the operative pleading in this action. (Dkt. #4).² In response to Plaintiff's Amended Complaint, by letter dated November 14, 2019, Defendants requested a pre-motion conference seeking to pursue a motion to dismiss. (Dkt. #8). The Court granted Defendants' request and scheduled a conference to address Defendants' anticipated motion. (Dkt. #16). Plaintiff filed a document in advance of the pre-motion conference, which document was styled as a brief and docketed on February 7, 2020. (*See* Dkt. #22). On February 18, 2020, the day of the pre-motion conference and nearly four months after filing the Amended Complaint, Plaintiff filed a document that she styled as exhibits to the Amended Complaint. (the "Complaint Exhibits" (Dkt. #24)).

On the record on February 18, 2020, the Court discussed with Plaintiff her understanding of the factual predicates for her case and the legal bases for her claims against Defendants. (*See generally* Hr'g Tr.). The Court set a briefing schedule for Defendants' anticipated motion to dismiss (*id.* at 17:14-18:5), and accepted Plaintiff's pre-conference letter brief as a supplementary filing in opposition to the anticipated motion to dismiss (*id.* at 16:5-14). The

² On December 4, 2019, a second amended complaint was mistakenly docketed in this case, which document was later deleted. By letter dated December 10, 2019, Plaintiff confirmed to the Court that she did not intend to file a second amended complaint, and that the Amended Complaint remained the operative pleading in this case. (Dkt. #20).

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Court deferred ruling on whether it would consider the Complaint Exhibits in resolving the instant motion, but explained that its “practice tends to be, in *pro se* cases, to consider as much information as [it is] given, so that would likely be the [Amended Complaint], the briefing, and these exhibits [*i.e.*, the Complaint Exhibits] as well.” (*Id.* at 17:2-9). At the conference, the Court also stayed discovery pending resolution of the instant motion. (*Id.* at 19:10-11).

Thereafter, Defendants filed their motion to dismiss and supporting papers on March 20, 2020 (Dkt. #28-29); Plaintiff filed her opposition papers on April 23, 2020 (Dkt. #30-31); and Defendants filed their reply papers on May 15, 2020 (Dkt. #32). Defendants filed a notice of supplemental authority on December 2, 2020 (Dkt. #33-34), to which Plaintiff filed a response on December 9, 2020 (Dkt. #35).

DISCUSSION

A. Applicable Law

Under Rule 12(b)(6), a defendant is permitted to move that the plaintiff’s action be dismissed for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). When considering a motion to dismiss under Rule 12(b)(6), a court must “draw all reasonable inferences in Plaintiff’s favor, ‘assume all well-pleaded factual allegations to be true, and determine whether they plausibly give rise to an entitlement to relief.’” *Faber v. Metro. Life Ins. Co.*, 648 F.3d 98, 104 (2d Cir. 2011) (quoting *Selevan v. N.Y. Thruway Auth.*, 584 F.3d 82, 88 (2d Cir. 2009)); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff is entitled to relief if she alleges “enough facts to state a claim to

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relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *see also In re Elevator Antitrust Litig.*, 502 F.3d 47, 50 (2d Cir. 2007) (“While *Twombly* does not require heightened fact pleading of specifics, it does require enough facts to ‘nudge [plaintiff’s] claims across the line from conceivable to plausible.’” (quoting *Twombly*, 550 U.S. at 570)).

A court adjudicating a motion to dismiss under Rule 12(b)(6) “may review only a narrow universe of materials.” *Goel v. Bunge, Ltd.*, 820 F.3d 554, 559 (2d Cir. 2016). This narrow universe includes “facts stated on the face of the complaint, ... documents appended to the complaint or incorporated in the complaint by reference, and ... matters of which judicial notice may be taken,” as well as documents that can properly be considered “integral” to the complaint. *Id.* Here, the Court the Court takes judicial notice of the filings in *Lue I*. *See Int’l Star Class Yacht Racing Ass’n v. Tommy Hilfiger U.S.A., Inc.*, 146 F.3d 66, 70 (2d Cir. 1998) (explaining that court “may take judicial notice of a document filed in another court”).³

“[C]ourts must construe *pro se* pleadings broadly, and interpret them ‘to raise the strongest arguments that they suggest.’” *Cruz v. Gomez*, 202 F.3d 593, 597 (2d Cir. 2000) (quoting *Graham v. Henderson*, 89 F.3d 75, 79 (2d Cir. 1996)); *cf.* Fed. R. Civ. P. 8(e) (“Pleadings must be construed so as to do justice.”). “However inartfully pleaded, a *pro se* complaint may not be dismissed under Rule 12(b)(6) unless it appears beyond doubt that the plaintiff

³ Additionally, although the Court has considered the Complaint Exhibits in resolving the pending motion to dismiss, it notes that — after a careful review — the Court has determined that they are not relevant to any the issues raised by the instant motion.

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can prove no set of facts in support of her claim which would entitle her to relief.” *Legeno v. Corcoran Grp.*, 308 F. App’x 495, 496 (2d Cir. 2009) (summary order) (internal quotation marks and alterations omitted) (quoting *Posr v. Ct. Officer Shield No. 207*, 180 F.3d 409, 413 (2d Cir. 1999)). With that said, to survive a Rule 12(b)(6) motion to dismiss, a *pro se* plaintiff’s factual allegations must at least “be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. Indeed, the court is not bound to accept “conclusory allegations or legal conclusions masquerading as factual conclusions.” *Rolon v. Henneman*, 517 F.3d 140, 149 (2d Cir. 2008) (internal quotation marks omitted) (quoting *Smith v. Local 819 I.B.T. Pension Plan*, 291 F.3d 236, 240 (2d Cir. 2002)); *see also Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009). Moreover, “[w]here a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of entitlement to relief.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 557).

B. Analysis⁴

Plaintiff raises seven causes of action in the First Amended Complaint:

(i) defamation; (ii) common law conspiracy; (iii) false and fraudulent acts and

⁴ Because subject matter jurisdiction in this case is based upon diversity of citizenship (see Am. Compl. ¶ 1), the Court applies the choice of law rules of the forum state, *see Klaxon Co. v. Stentor Elec. Mfg. Co.*, 313 U.S. 487, 496 (1941). New York choice of law rules mandate application of the substantive law of the state with the most significant relationship to the legal issue. *See, e.g., Skaff v. Progress Int’l, LLC*, No. 12 Civ. 9045 (KPF), 2014 WL 5454825, at *8 (S.D.N.Y. Oct. 28, 2014) (quoting *Intercontinental Plan., Ltd. v. Daystrom, Inc.*, 24 N.Y.2d 372, 382 (1969)). Defendants’ briefing indicates their belief that New York law applies in this case. (See Def. Br. 4). The Court agrees. The instant suit alleges defamation with respect to prior litigation in federal court in New York between the same parties — many of which are located in New York — and as

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conduct; (iv) actual malice; (v) libel; (vi) defamation *per se*; and (vii) defamation by implication. (See generally Am. Compl.). Claims one, three, four, five, six, and seven are all various forms of defamation, and the Court addresses them together as such.⁵ Defendants argue that Plaintiff's claims are barred by New York's absolute privilege for statements made in the course of judicial proceedings, and that in any event, Plaintiff fails to state a claim for relief. The Court agrees with Defendants on both counts and therefore dismisses the Amended Complaint in its entirety.⁶

1. Plaintiff's Claims Are Barred by Privilege

New York recognizes an absolute privilege for oral or written communications made in the course of judicial proceedings. *Kelly v. Albarino*, 485 F.3d 664, 665 (2d Cir. 2007) (per curiam) (citing *Hemmens v. Nelson*, 138 N.Y. 517, 523 (1893)). "The absolute privilege applicable to the statements of

such, the complained-of conduct and harm occurred in New York. Accordingly, the Court will apply New York law to Plaintiff's state law claims.

⁵ Plaintiff pleads a claim for "false and fraudulent acts and conduct." (See Am. Compl. ¶¶ 34-37). However, a closer inspection of Plaintiff's allegations with respect to this claim demonstrates that Plaintiff is alleging a reputational injury caused by purportedly false and defamatory statements made in the *Lue I* litigation. Accordingly, the Court construes this cause of action to sound in defamation. To the extent Plaintiff asserts a claim for perjury, premised on the allegation that Defendants perjured themselves in *Lue I*, the Court notes that there is generally no private cause of action for perjury under New York law. See, e.g., *Newin Corp. v. Hartford Accident & Indem. Co.*, 37 N.Y.2d 211, 217 (1975).

⁶ Plaintiff alleges that Defendants' conduct "constitute[s] a conspiracy at common law." (See Am. Compl. ¶¶ 30-33). Under New York law, "[t]o state a claim for civil conspiracy, 'the plaintiff must allege a [i] cognizable tort, coupled with [ii] an agreement between the conspirators regarding the tort, and [iii] an overt action in furtherance of the agreement.'" *ExpertConnect, LLC v. Fowler*, No. 18 Civ. 4828 (LGS), 2019 WL 3004161, at *8 (S.D.N.Y. July 10, 2019) (quoting *Faulkner v. Yonkers*, 963 N.Y.S. 2d 340, 341 (2d Dep't 2013)). Because Plaintiff has failed to state a claim for defamation or any other tort — as discussed below — Plaintiff fails to establish the first element of a civil conspiracy claim and thus her conspiracy claim must be dismissed.

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participants in judicial proceedings is not lost by the presence of actual malice.” *Id.* (citing *Sheridan v. Crisona*, 14 N.Y.2d 108, 112 (1964)). This absolute privilege attaches to every step of a judicial proceeding, and to statements made by witnesses, as well as judges, parties, and attorneys. *See Weitz v. Wagner*, No. 07 Civ. 1106 (ERK) (ETB), 2008 WL 5605669, at *7 (E.D.N.Y. July 24, 2008).

The judicial proceedings privilege prohibits defamation claims arising out of statements made in litigation “if, by any view or under any circumstances, it may be considered pertinent to the litigation.” *Tagliaferri v. Szulik*, No. 15 Civ. 2685 (LGS), 2015 WL 5918204, at *3 (S.D.N.Y. Oct. 9, 2015) (quoting *Martirano v. Frost*, 25 N.Y.2d 505, 507 (1969)). “The test of pertinency is extremely broad,’ and the privilege ‘embraces anything that may possibly or plausibly be relevant or pertinent, with the barest rationality, divorced from any palpable or pragmatic degree of probability.” *Morgan Art Found. Ltd. v. McKenzie*, No. 18 Civ. 4438 (AT), 2019 WL 2725625, at *16 (S.D.N.Y. July 1, 2019) (quoting *O’Brien v. Alexander*, 898 F. Supp. 162, 171 (S.D.N.Y. 1995)); *see also Flomenhaft v. Finkelstein*, 8 N.Y.S.3d 161, 164-65 (1st Dep’t 2015) (“[T]he test to determine whether a statement is pertinent to litigation is extremely liberal such that the offending statement, to be actionable, must have been outrageously out of context.” (internal quotation marks and citations omitted)).

New York’s judicial proceedings privilege seeks to protect the public interest in encouraging participants in litigation to “speak with that free and open mind which the administration of justice demands.” *D’Annunzio v.*

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Ayken, Inc., 876 F. Supp. 2d 211, 217 (E.D.N.Y. 2012) (quoting *Youmans v. Smith*, 153 N.Y. 214, 223 (1897)); *see also Martirano*, 25 N.Y.2d at 508-09. To allow statements made in judicial proceedings to be a basis for a defamation action “would be an impediment to justice, because it would hamper the search for truth, and prevent making inquiries with that freedom and boldness which the welfare of society requires.” *Youmans*, 153 N.Y. at 220.

Each purportedly defamatory statement that Plaintiff cites in her Amended Complaint was made in the course of judicial proceedings before the Second Circuit. (*Compare, e.g.*, Am. Compl. ¶¶ 22-29, with *Lue v. JPMorgan Chase & Co.*, No. 18-1248, Dkt. #66 (2d Cir. Nov. 2, 2018)). Plaintiff not only admits that this material was contained in Defendants’ filings before the Second Circuit, but argues that it is defamatory *because* it was “published” in the course of that judicial proceeding. (*See* Am. Compl. ¶ 20). Accordingly, the statements at issue here were material and pertinent to the judicial proceedings in *Lue I*. Indeed, they were critical to Defendants’ defense to Plaintiff’s suit in *Lue I*. Thus, the statements are absolutely privileged and cannot form the basis for a defamation claim.

In a last-ditch effort to avoid dismissal, Plaintiff argues that the privilege does not apply here — even though she concedes that the purportedly defamatory statements were made in a judicial proceeding — because Defendants’ statements only indirectly, rather than explicitly, called her a “vindictive, lying, uncongenial and elitist person[,] and a less desirable/undesirable employee.” (Pl. Br. 1-2). But this is a distinction

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without a difference. The judicial proceedings privilege applies as long as the purportedly defamatory statements were “pertinent” to prior litigation, and thus it is immaterial whether the putative defamation is indirect or explicit.⁷ Each purportedly actionable statement that Plaintiff cites in her Amended Complaint was central to the litigation in *Lue I* and accordingly Plaintiff’s defamation claims are barred by New York’s absolute privilege.

2. Plaintiff Fails to State a Claim for Defamation

Defendants argue that even if Plaintiff’s claims are not barred by absolute privilege, Plaintiff still fails to state a claim for defamation under New York law. (See Def. Br. 5-8). The Court agrees, and dismisses Plaintiff’s claims on this independent basis.

Plaintiff alleges claims for defamation, actual malice, libel, defamation *per se*, and defamation by implication. As noted above, these claims are various species of defamation.⁸ “Defamation is the injury to one’s reputation either by written expression, which is libel, or by oral expression, which is slander.” *Lan Sang v. Ming Hai*, 951 F. Supp. 2d 504, 517 (S.D.N.Y. 2013)

⁷ Furthermore, as Defendants explain, to accept Plaintiff’s indirect versus direct distinction — *i.e.*, that defamation occurs indirectly every time a party files something that their opponent disputes — would give rise to a defamation claim “each and every time a defendant filed an answer to a complaint that denied the plaintiff’s allegations.” (Def. Br. 6).

⁸ Plaintiff pleads a cause of action for “actual malice.” (Am. Compl. ¶¶ 38-45). However, “actual malice” is not an independent cause of action, but rather is an element that a plaintiff must plead in a defamation action to overcome qualified privilege. See *Vilien v. Dep’t of Educ. of City of N.Y.*, No. 06 Civ. 3491 (BSJ), 2009 WL 857458, at *7-8 (S.D.N.Y. Mar. 31, 2009). Because Plaintiff’s claims are barred by absolute privilege, as explained above, the Court need not address whether Plaintiff has adequately pleaded malice. And in any event, because Plaintiff fails to adequately allege a defamation claim, as discussed below, her defamation claims are dismissed, regardless of whether Defendants acted with malice.

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(quoting *Biro v. Conde Nast*, 883 F. Supp. 2d 441, 458 (S.D.N.Y. 2012)). Under New York law, a plaintiff must show “(i) a defamatory statement of fact, (ii) that is false, (iii) published to a third party, (iv) of and concerning the plaintiff, (v) made with the applicable level of fault on the part of the speaker, (vi) either causing special harm or constituting slander *per se*, and (vii) not protected by privilege.” *Albert v. Loksen*, 239 F.3d 256, 265-66 (2d Cir. 2001) (internal quotation marks and footnote omitted) (citing *Dillon v. City of New York*, 704 N.Y.S.2d 1, 5 (1st Dep’t 1999)). Whether a statement is defamatory is a legal question that may be resolved by a court in the first instance. See *Lan Sang*, 951 F. Supp. 2d at 517. As noted above, the Court has already held that Plaintiff’s defamation claims are barred by absolute privilege. However, in the interest of completeness, the Court addresses the merits of Plaintiff’s claims. Although there is no real dispute that the statements at issue concerned Plaintiff and that they were published, Plaintiff’s defamation claims must be dismissed because she fails to establish the first, second, fifth, and sixth elements of a defamation claim.

The first and second elements require Plaintiff to plead a false statement of fact. In this regard, Plaintiff alleges that certain comments about her work performance from her 2013 mid-year review are defamatory. (See Am. Compl. ¶ 23). Plaintiff is unable to meet the first and second elements of a defamation claim as to these comments because “[u]nder New York law, the evaluation of an employee’s performance, even an unsatisfactory evaluation, is a matter of opinion that cannot be objectively categorized as true or false and cannot be

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actionable.” *Brattis v. Rainbow Advert. Holdings, LLC*, No. 99 Civ. 10144 (NRB) 2000 WL 702921, at *4 (S.D.N.Y. May 31, 2000); *see also Chimarev v. TD Waterhouse Inv. Servs.*, 99 F. App’x 259, 263 (2d Cir. 2004) (summary order) (noting that “an employer has the right ... to assess an employee’s performance on the job,’ so that negative internal assessments cannot support a claim for defamation” (quoting *Williams v. Varig Brazilian Airlines*, 564 N.Y.S.2d 328, 331 (1st Dep’t 1991))). Accordingly, Plaintiff cannot maintain a defamation claim arising out of her performance review. *Accord Brattis*, 2000 WL 702921, at *4.

Turning to the fifth element of a defamation claim, the level of fault a private plaintiff must show to allege defamation depends on whether the statement at issue “is arguably within the sphere of legitimate public concern[.]” *Albert*, 239 F.3d at 269 (quoting *Chapadeau v. Utica Observer-Dispatch, Inc.*, 38 N.Y.2d 196, 199 (1975)). Under New York law, whether a statement involves a “matter of legitimate public concern” has been given a “broad interpretation,” *id.* at 269, but “publications directed only to a limited, private audience are ‘matters of purely private concern[.]’” *Huggins v. Moore*, 94 N.Y.2d 296, 303 (1999) (quoting *Dun & Bradstreet v. Greenmoss Builders, Inc.*, 472 U.S. 749, 759 (1985)). When a private plaintiff sues for defamation in the course of discharge from private employment, courts have found that to be a matter of private concern. *See, e.g., Weldy v. Piedmont Airlines, Inc.*, 985 F.2d 57, 64 (2d Cir. 1993) (holding that the discharge of a non-public employee by a private airline is matter of private concern). Thus, as here, where the statement is a matter of private concern, the plaintiff must allege that the

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defendant was at least negligent. *See Bouveng v. NYG Cap. LLC*, 175 F. Supp. 3d 280, 319 n.23 (S.D.N.Y. 2016). But there is no indication that Defendants were negligent in publishing or disseminating the purportedly defamatory statements here. On the contrary, Defendants made an effort to check the accuracy of the allegations, including by taking the testimony of four relevant parties and conducting thorough investigations into Plaintiff's allegations. *See Lue v. JPMorgan Chase & Co.*, No. 18-1248, Dkt. #66 (2d Cir. Nov. 2, 2018). Thus, Plaintiff fails to satisfy the fifth element of a claim for defamation across all of her claims.

The sixth element of a defamation claim requires Plaintiff to plead special damages or to establish defamation *per se*. *Albert*, 239 F.3d at 266. "Special harm" is the "loss of something having economic or pecuniary value." *Lieberman v. Gelstein*, 80 N.Y.2d 429, 434-35 (1992). Among the bases for defamation *per se* is a statement that "tend[s] to injure the plaintiff in his or her trade, business[,] or profession[.]" *Albert*, 239 F.3d at 271.

To satisfy this element, special damages "must be fully and accurately identified 'with sufficient particularity to identify actual losses[.]'" *Matherson v. Marchello*, 473 N.Y.S.2d 998, 1000-01 (2d Dep't 1984) (quoting *Lincoln First Bank of Rochester v. Siegel*, 400 N.Y.S.2d 627, 633 (4th Dep't 1977)). Plaintiff does not explicitly allege special damages. (*See generally* Am. Compl.). However, construing Plaintiff's claims liberally, Plaintiff alleges that her "career prospects have been drastically reduced" as a consequence of Defendants' statements. (*See* Hr'g Tr. 14:25-15:7; *see also* Pl. Br. 8-9 ("If [Defendants']

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defamatory ... conduct ... [is] not remedied, I will suffer damage for the rest of my life.”)). But even under this liberal reading, Plaintiff fails to allege special damages with the requisite degree of specificity to sustain her defamation claim. She identifies neither an actual loss of income nor specific failures in obtaining prospective employment. *See, e.g., Agnant v. Shakur*, 30 F. Supp. 2d 420, 426 (S.D.N.Y. 1998) (holding that allegation that “plaintiff has been unable to find employment commensurate with his training and experience, and has had his reputation destroyed in the community” is a “general allegation” that “does not satisfy the requirement [to] plead[] special damages”). Indeed, Plaintiff concedes that she has been able to secure employment following the purportedly defamatory statements made in *Lue I.* (Hr’g Tr. 14:21-15:24).

Having failed to allege special damages, Plaintiff also fails to allege defamation *per se*. To be sure, a statement “which tends to disparage a person in the way of his office, profession[,] or trade” is defamatory *per se*. *Davis v. Ross*, 754 F.2d 80, 82 (2d Cir. 1985) (quoting *Nichols v. Item Publishers*, 309 N.Y. 596, 600 (1956)). However, the attack must relate to a “matter of significance and importance” to the plaintiff’s work. *Horne v. Matthews*, No. 97 Civ. 3605 (JSM), 1997 WL 598452, at *2 (S.D.N.Y. Sept. 25, 1997). Construing Plaintiff’s pleadings liberally, the Court understands Plaintiff to point to two types of statements that harmed her professional reputation: (i) negative comments in her performance reviews, and (ii) comments about Plaintiff’s job

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duties and relationships with her coworkers. (See Am. Compl. ¶¶ 22-28). In point of fact, neither argument saves Plaintiff's defamation claim.

First, the comments in the performance reviews and about Plaintiff's relationships with her coworkers do not rise to the level of defamation because they do not "target[] the specific standards of performance relevant to the plaintiff's business and impute conduct that is 'of a kind incompatible with the proper conduct of the business, trade, profession, or office itself.'" *Pure Power Boot Camp, Inc. v. Warrior Fitness Boot Camp, LLC*, 813 F. Supp. 2d 489, 550 (S.D.N.Y. 2011) (quoting *Lieberman*, 80 N.Y.2d at 436). At best, these statements may imply that Plaintiff's communication style did not meet Defendants' expectations. But this is insufficient because any statement evincing a "general dissatisfaction with job performance do[es] not qualify as defamation *per se*." *Accurate Grading Quality Assurance, Inc. v. Khothari*, No. 12 Civ. 9130 (LTS), 2014 WL 5073576, at *14 (S.D.N.Y. Sept. 30, 2014).

Second, Plaintiff alleges that Defendants defamed her professional reputation because their submissions contradict what she alleged in her complaint in *Lue I*, including the identities of her supervisor and hiring manager (Am. Compl. ¶¶ 22, 26-27); the tasks performed by other members of her team (*id.* at ¶¶ 24-25); and the lack of evidence of similarly situated employees who were treated more favorably (*id.* at ¶ 28). Defendants' statements do not, on their face, defame Plaintiff in her business or profession; they are simply factual disagreements that the parties briefed and argued in

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Lue I. Accordingly, there is no claim for defamation, much less defamation *per se*, based on factual disagreements previously adjudicated.

Finally, Plaintiff pleads a cause of action for defamation by implication. (Am. Compl. ¶¶ 55-63). To state a claim for defamation by implication, a complaint must make an “especially rigorous showing’ that [i] the language may be reasonably read to impart the false innuendo, and [ii] the author intends or endorses the inference.” *Biro*, 883 F. Supp. 2d at 466 (quoting *Chapin v. Knight-Ridder, Inc.*, 993 F.2d 1087, 1093 (4th Cir. 1993)). While Plaintiff points to evidence that she claims refutes the factual claims Defendants advanced in *Lue I* (see Am. Compl. ¶ 26), she fails to plausibly allege that Defendants intended to impart false innuendo or intention with respect to Plaintiff. Instead, it is clear that the references to Plaintiff, whether direct or implied, refer to the factual circumstances surrounding Plaintiff’s termination, which circumstances Plaintiff herself does not claim are defamatory. See, e.g., *Kavanagh v. Zwilling*, 578 F. App’x 24, 25 (2d Cir. 2014) (summary order) (affirming dismissal of a defamation by implication claim where the complaint failed to allege that the defendants intended or endorsed the defamatory inference). Accordingly, Plaintiff fails to establish a claim for defamation by implication.

In sum, Plaintiff has failed to state a plausible defamation claim. As such, Plaintiff’s claims for defamation, actual malice, libel, defamation *per se*, and defamation by implication must be dismissed.

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3. Leave to Amend Is Denied

“Rule 15(a)(2) of the Federal Rules of Civil Procedure provides that a court ‘should freely give leave [to amend] when justice so requires.’” *Gorman v. Covidien Sales, LLC*, No. 13 Civ. 6486 (KPF), 2014 WL 7404071, at *2 (S.D.N.Y. Dec. 31, 2014) (quoting Fed. R. Civ. P. 15(a)(2)). Consistent with this liberal amendment policy, “[t]he rule in this Circuit has been to allow a party to amend its pleadings in the absence of a showing by the nonmovant of prejudice or bad faith.” *Id.* (alteration in *Gorman*) (quoting *Block v. First Blood Assocs.*, 988 F.2d 344, 350 (2d Cir. 1993)). Nonetheless, “it remains ‘proper to deny leave to replead where ... amendment would be futile.’” *Id.* (quoting *Hunt v. All. N. Am. Gov’t Income Tr., Inc.*, 159 F.3d 723, 728 (2d Cir. 1998)).⁹ Plaintiff’s claims are barred by New York’s absolute privilege, and thus amendment would be futile. *See Chimarev*, 99 F. App’x at 262-63 (affirming denial of motion to amend due to futility where claim was barred by absolute privilege). Accordingly, the Court finds that leave to amend would be futile and dismisses the Amended Complaint with prejudice.

⁹ Similarly, the Court recognizes that while a *pro se* complaint “should not be dismissed without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated,” *Shomo v. City of New York*, 579 F.3d 176, 183 (2d Cir. 2009) (alterations and citation omitted), leave to replead need not be granted where — as here — it would be “futile,” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000).

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CONCLUSION

For the reasons set forth in this Opinion, Defendants' motion to dismiss is GRANTED with prejudice. The Clerk of Court is directed to terminate all pending motions, adjourn all remaining dates, and close this case. The Clerk of Court is directed to mail a copy of this Opinion to Plaintiff.

SO ORDERED.

Dated: March 23, 2021
New York, New York



KATHERINE POLK FAILLA
United States District Judge

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
CANDICE LUE,

Plaintiff,

-against-

19 **CIVIL** 9784 (KPF)

JUDGMENT

JPMORGAN CHASE & CO.; ALEX KHAVIN;
FIDELIA SHILLINGFORD; KIMBERLY
DAUBER; BARUCH HOROWITZ; CHRIS
LIASIS; and MICHELLE SULLIVAN,

Defendants.

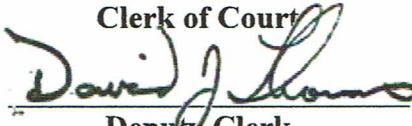
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons
stated in the Court's Opinion and Order dated March 23, 2021, Defendants' motion to dismiss is
GRANTED with prejudice; accordingly, this case is closed.

Dated: New York, New York

March 24, 2021

RUBY J. KRAJICK

BY: 
Clerk of Court
Deputy Clerk

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CANDICE LUE

(List the full name(s) of the plaintiff(s)/petitioner(s).)

19 cv 9784 (KPF)(SDA)

-against-

NOTICE OF APPEAL

JPMORGAN CHASE & CO.
(SEE ATTACHED FOR ADDITIONAL
DEFENDANTS)

(List the full name(s) of the defendant(s)/respondent(s).)

Notice is hereby given that the following parties: CANDICE LUE

(list the names of all parties who are filing an appeal)

in the above-named case appeal to the United States Court of Appeals for the Second Circuit

from the ☒ judgment ☐ order entered on: 3/24/2021
(date that judgment or order was entered on docket)

that: For the reasons stated in the Court's Opinion and
Order dated March 23, 2021, Defendants motion to
dismiss is granted with prejudice; accordingly, this case is closed.
(If the appeal is from an order, provide a brief description above of the decision in the order.)

4/6/2021

Dated

Signature

LUE, CANDICE

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

info@CandiceLue.com

E-mail Address (if available)

* Each party filing the appeal must date and sign the Notice of Appeal and provide his or her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his or her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

Rev. 12/23/13

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CANDICE LUE v. JPMORGAN CHASE & CO, ETAL

PRO SE PLAINTIFF:

CANDICE LUE

19 CV 9784 (KPF)(SDA)

DEFENDANTS:

JPMORGAN CHASE & CO.

ALEX KHAVIN

FIDELIA SHILLINGFORD

KIMBERLY DAUBER

BARUCH HOROWITZ

CHRIS LIASIS

MICHELLE SULLIVAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CANDICE LUE, an individual,

Plaintiff,

V.

JPMORGAN CHASE & CO., a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; and MICHELLE SULLIVAN, an individual; inclusive,

Defendants.

**CIVIL ACTION NO.: 19 CV 9784
(KPF) (SDA)**

RESPONSE TO:

**DEFENDANTS' ATTORNEY ANSHEL
KAPLAN'S LETTER MOTION -
(DOCKET # 8)**

I. ARGUMENT

Contrary to Mr. Kaplan's statement as it regards service of the Summons and Complaint, I, Plaintiff, Candice Lue, am not in violation of Fed. R. Civ. P. 4(c)(2) because as Form AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2) attached shows, I did not effect service myself.

I served the said Summons and Complaint on Messrs. Robert Whitman and Anshel Kaplan out of respect for a request made by JPMorgan Chase's Assistant General Counsel, Penny Domow in March 2016 (see attached) not to serve JPMorgan Chase's current and/or former employees directly as it related to my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207) but to serve her with all court papers for all the said Defendants. Later, I got a letter dated July 14, 2016 (see attached) from Robert Whitman telling me that as JPMorgan Chase & Co., et al's attorney, I am not to send anymore correspondence to Penny Domow at JPMorgan Chase or to any of their current and/or former employees but to send all correspondence to him/Anshel Kaplan alone at Seyfarth, thus the reason for me serving the Summons and Complaint upon Seyfarth.

Also, my Server, Edith Boothe told Dennis Farrell, who identified himself via his Seyfarth Employee ID Badge as the "Managing Clerk" and who demanded that she tell him what she was serving because "all those things go through him", that she was serving "*new stuff*" as he condescendingly and repeatedly told her in front of the two 620 Eighth Avenue security guards sitting at the desk that "*you lost, your appeal was denied*" in display of his knowledge of my lawsuit against JPMorgan Chase & Co., et al. He then confirmed by repeating to/asking her "*new stuff*" and she told him "*yes*" and he accepted the envelope.

With that said, if Seyfarth who I had been dealing with for more than three (3) years as JPMorgan Chase & Co., et al's attorney was not authorized to accept from me service of their Summons and Complaint, etc., then their "Managing Clerk" should not have accepted it. Also, instead of contacting the said Defendants, Mr. Kaplan who is in possession of my home address, my email address and my Advisor's telephone number should not have opened the envelope marked "CONFIDENTIAL" with my return address on it and addressed to "JPMorgan Chase & Co., et al, C/O Messrs. Robert Whitman & Anshel Kaplan" but instead contacted me immediately to let me know that his office is not authorized to accept such service on JPMorgan Chase & Co., et al's behalf. In conjunction, I was in the Pro Se office on October 30, 2019 and could have had the Summons amended at that time and Mr. Kaplan's gripe could have been avoided.

As it relates to Mr. Kaplan's "absolute privilege" defense, the victim of perjury normally does not have a cause of action against the person who committed the perjury but perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven. *Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956).

With that said, the above-referenced action is to recover damages because of the **false and fraudulent acts and conduct of JPMorgan Chase & Co., et al** as detailed in my "First Cause of Action" for which I have solid proofs and which has caused me severe harm and loss through the defamation of my character which is being compounded each and every day. Also, "absolute

privilege" cannot be extended to JPMorgan Chase & Co., et al because the Courts neglected their duty to uphold the rule of law by consistently ignoring my reports and evidence of the CRIME of Perjury and the false and fraudulent acts and conduct committed by the said Defendants via several Motions I filed with the District Court and cited 18 USC §§ 4, 1505 and 1621, a Writ of Mandamus (17 – 2751) I filed with the Appeals Court and documents I resubmitted to the Appeals Court which were most relevant to my Appeal pursuant to Rule 10(B)(2) of the Federal Rules of Appellate Procedure which had all the evidence to show that the Defendants/Declarants committed the crimes of perjury and obstruction of justice. In conjunction, in the less than two pages of my 4 and less than a ¼ page (double-spaced) pre-prepared statement that I was only allowed to read at the April 18, 2019 Second Circuit Court of Appeals oral argument, I described the Defendants' Motion for Summary Judgment as being "CRIMINAL and PERJURIOUS" five (5) times, cited 18 USC §§ 4, 1505 and 1621, stated the Defendants LIED under Penalty of Perjury and even so, the Court ignored the Defendants' **false and fraudulent acts and conduct**.

II. CONCLUSION

In light of the foregoing, this action to recover damages because of the false and fraudulent acts and conduct of JPMorgan Chase & Co., et al for which I have solid proofs and the Courts' blatant neglect of duty¹ which has caused me severe harm and loss through the defamation of my character, should not be dismissed as a matter of law.

DATED: November 18, 2019

Respectfully Submitted,

CANDICE LUE
Pro Se Plaintiff

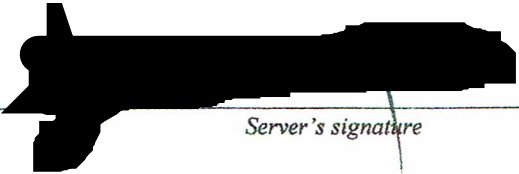
¹ Neglect of duty is the omission to perform a duty. Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. *Hardie v. Coleman*, 115 Fla. 119 (Fla. 1934) - (Credit to USLEGAL.COM)

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Civil Action No. _____


PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*This summons for *(name of individual and title, if any)* JPMORGAN CHASE & CO., ET ALwas received by me on *(date)* 10/24/2019.☐ I personally served the summons on the individual at *(place)* _____on *(date)* _____ ; or☐ I left the summons at the individual's residence or usual place of abode with *(name)* __________, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or☒ I served the summons on *(name of individual)* DENNIS FARRELL - MANAGING CLERK
SEYFARTH SHAW LLP (Attorneys for Defendants), who is
designated by law to accept service of process on behalf of *(name of organization)* _____JPMORGAN CHASE & CO., ET AL on *(date)* 10/24/2019 ; or☐ I returned the summons unexecuted because _____ ; or☐ Other *(specify)*: _____My fees are \$ 0.00 for travel and \$ 0.00 for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: 10/24/2019

Server's signature

Edith Boothe

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Writer's direct phone
(212) 218-5629

Writer's e-mail
rwhitman@seyfarth.com

July 14, 2016

VIA FEDERAL EXPRESS

Candace Lue
[REDACTED]
[REDACTED]

Re: Lue v. JPMorgan Chase & Co., et al.,
No. 16 CV 3207 (AJN) (GWG)

Dear Ms. Lue:

We are in receipt of your letter, dated July 8, 2016, requesting an "official reason with proof" for your termination. Please be advised that we will address any pre-trial discovery issues with the Court at the initial conference scheduled for July 19 at 3:00 PM. A copy of the Order for Conference Pursuant to Rule 16 is enclosed.

* Further, it is not necessary for you to send copies of correspondence or other documents directly to any of the Defendants, including Penny Domow or others at Chase. All documents should be directed to us alone. *

Finally, in order to facilitate communication with you during the course of this matter, please provide us with your email address and telephone number.

Very truly yours,

SEYFARTH SHAW LLP

/s/ Robert S. Whitman

Robert S. Whitman

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From: Domow, Penny P <Penny.P.Domow@jpmorgan.com>
To: 'CandiceLue[REDACTED]' <CandiceLue[REDACTED]>
Subject: Prospective litigation
Date: Wed, Mar 23, 2016 2:27 pm

Please refer service of any complaint regarding your employment with JPMorgan Chase & Co. to me at the below address. This includes service on any JPMorgan employee named by you in such litigation. At this point, kindly communicate with me directly regarding any such litigation and/or any such individual employee.

Thank you.

Penny P. Domow | Assistant General Counsel | JPMorgan Chase & Co. | 4 New York Plaza, 19th Floor, New York, NY 10004 |

Tel: 212-623-1371 | penny.p.domow@jpmorgan.com

This email is confidential and subject to important disclaimers and conditions including on offers for the purchase or sale of securities, accuracy and completeness of information, viruses, confidentiality, legal privilege, and legal entity disclaimers, available at <http://www.jpmorgan.com/pages/disclosures/email>

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From: Domow, Penny P <Penny.P.Domow@jpmorgan.com>
To: 'CandiceLue[REDACTED]' <CandiceLue[REDACTED]>
Subject: RE: Candice Lue - Former Employee
Date: Wed, Mar 23, 2016 3:30 pm

As previously indicated, I will accept service of complaints for the firm and any employee currently and formerly employed with the firm.

Penny P. Domow | Assistant General Counsel | JPMorgan Chase & Co. | 4 New York Plaza, 19th Floor, New York, NY 10004 |

Tel: 212-623-1371 | penny.p.domow@jpmorgan.com

From: CandiceLue[REDACTED] [mailto:CandiceLue[REDACTED]]
Sent: Wednesday, March 23, 2016 3:27 PM
To: Domow, Penny P
Subject: Candice Lue - Former Employee

RE: EEOC Charge No. 520-2015-03588

In response to your email attached, please be advised that the following JPMorgan Chase & Co. employees will be named as **individual** Defendants in a Title VII of the Civil Rights Act of 1964 lawsuit that will be filed in the United States District Court Southern District of New York:

Fidelia Shillingford

Philippe Quix

Thomas Poz

Helen Dubowy

Chris Liasis

Michelle Sullivan

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If JPMorgan Chase & Co. will be providing legal representation to represent the aforesaid employees in court, please provide such attorney's contact information to ensure proper service of legal documents under Rule 5(b) of the Federal Rules of Civil Procedure.

Also, as a FYI, employees/former employees, Alex Khavin and John Vega will be named as individual Defendants in this said lawsuit.

Since this is a time sensitive matter, your immediate attention is required.

Respectfully,

Candice Lue

This email is confidential and subject to important disclaimers and conditions including on offers for the purchase or sale of securities, accuracy and completeness of information, viruses, confidentiality, legal privilege, and legal entity disclaimers, available at <http://www.jpmorgan.com/pages/disclosures/email>

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CANDICE LUE, an individual,

Plaintiff,

V.

JPMORGAN CHASE & CO., a Delaware
Corporation; ALEX KHAVIN, an
individual; FIDELIA SHILLINGFORD,
an individual; KIMBERLY DAUBER, an
individual; BARUCH HOROWITZ, an
individual; CHRIS LIASIS, an individual;
and MICHELLE SULLIVAN, an
individual; inclusive,

Defendants.

CIVIL ACTION NO.: 19 CV 9784
(KPF) (SDA)

PLAINTIFF'S BRIEF FOR:

FEBRUARY 18, 2020 "PRE-MOTION
CONFERENCE CONCERNING
DEFENDANTS' ANTICIPATED MOTION
TO DISMISS" (DOCKET # 16)

I. ARGUMENT

JPMorgan Chase & Co., et al's "absolute privilege" defense is without merit because none of the statements I quoted in my "First Cause of Action" in my Amended Complaint as false statements the said Defendants made **under penalty of perjury** in their "Brief for Defendants-Appellees" and their "Supplemental Appendix (Declarations pursuant to 28 U. S. C. § 1746)" that they filed in the Second Circuit Court of Appeals on November 2, 2018, **on its face as it relates to "absolute privilege" immunity**, is defamatory to my character and as such do not warrant the "absolute privilege" defense for this lawsuit¹.

No where during the course of my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207 and 18-CV-01248) judicial proceedings did the Defendants explicitly state

¹ "If a person is offering testimony as a witness in Court, and gives damaging testimony about someone else -- **such as that the person lied or cheated** -- those statements will be protected from civil liability for defamation." Credit to AllLaw.com

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that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee and no where in my Amended Complaint did I state that the Defendants explicitly described me as any of the such either. "Absolute privilege" protects actual statements made which are defamatory **on its face/as stated** during the course of a judicial proceeding. "Absolute privilege" does not protect statements made during a judicial proceeding that are **not** defamatory **on its face/as stated** but only when opined and/or interpreted defame one's character due to anyone's/society's opinion and/or interpretation of the said statements which is anyone's/society's absolute civil right. Case in point – JPMorgan Chase & Co., et al's statement: *"Except for the first few months of her employment, Lue reported to Michelle Sullivan while she was in the Commodities Operations Department"* (Am. Com. Page 6 - # 22). **On its face/as stated**, this intentional omission of the truth and perjurious statement is not defamatory but it is one of JPMorgan Chase & Co., et al's false and fraudulent acts and conduct **to make me out** to be a **liar** because it contradicts what I stated in paragraph 49 of my Amended Complaint (1:16-CV-03207).

With that said, JPMorgan Chase & Co., et al's "absolute privilege" defense as it relates to the Defamation tort in my Amended Complaint is without merit because "absolute privilege" is based solely on the actual statements made during a judicial proceeding, not on anyone's/society's opinion and/or interpretation of the said statements as would be the case of JPMorgan Chase & Co., et al's statements in my "First Cause of Action". If Defendants, JPMorgan Chase & Co., et al had explicitly stated in their Declarations that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee then those defamatory statements would be protected from civil liability for defamation (see footnote 1) but for their statements made **under penalty of perjury**, "absolute privilege" is not warranted and "absolute privilege" does not protect JPMorgan Chase & Co., et al from anyone's/society's opinion and/or interpretation of their perjurious statements as that is their (anyone's/society's) absolute civil right.

However, while those said statements quoted in my "First Cause of Action" in my Amended Complaint, **on its face/as stated**, are not defamatory and as such do not warrant "absolute privilege", those said statements are LIES made **under penalty of perjury** based on conspiratorial, false and fraudulent acts and conduct by Defendants JPMorgan Chase & Co., et al which have caused me severe harm and loss which is being compounded each and every day because, how they have/will be opined and/or interpreted have/will subject me to hatred, contempt, distrust, ridicule, disgrace and pariah status by anyone who gets access to them, including potential employers.

With that said, as it relates to the **crime of perjury**, the victim of perjury normally does not have a cause of action against the person who committed the perjury but perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven. *Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956).

In this lawsuit, the tort claims that I have brought which are **predicated** by the **crime of perjury** and for which I have solid proofs of their perjurious elements of conspiratorial, false and fraudulent acts and conduct, are the tort claims of Defamation, Common Law Conspiracy, False and Fraudulent Acts and Conduct, Actual Malice, Libel, Defamation Per Se and Defamation by Implication. The tort claims Defamation, Actual Malice, Libel, Defamation Per Se and Defamation by Implication are manifested through anyone's/society's civil right whereby anyone/society has a Right to their own opinion and/or interpretation of the statements made **under penalty of perjury** by JPMorgan Chase & Co., et al which have resulted in the defamation of my character and for which I have proof of the Defendants' Common Law Conspiracy and their False and Fraudulent Acts and Conduct (some of which are listed below) to cause me further damage.

With that said, this lawsuit is an action to recover damages because of the conspiratorial, false and fraudulent acts and conduct of JPMorgan Chase & Co., et al in their quest and benefit to

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influence the outcome of my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit against them as detailed in my Amended Complaint and as listed below.

In light of the foregoing and pursuant and in addition to the following:

- Perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven - *Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956);
- Overt conspiratorial, false and fraudulent acts and conduct committed by JPMorgan Chase & Co., et al have caused me severe harm and loss - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (¶ 29) and *Morgan v. Graham*, 228 F.2d 625 (10th Cir. 1956);
- Pre-meditated fraud against Plaintiff, Candice Lue and upon the Courts;
- Common Law Conspiracy is not protected by "absolute privilege";
- The Courts' neglect of duty - *Hardie v. Coleman*, 115 Fla. 119 (Fla. 1934);
- Spoliation of evidence to influence my Employment Racial Discrimination and Retaliation lawsuit (Am. Com. Page 6 - # 22);
- JPMorgan Chase & Co., et al's and their attorneys' false and fraudulent acts and conduct grossly abused, compromised and corrupted the authorities of the Courts causing me severe harm and loss due to the defamation of my character;
- JPMorgan Chase & Co., et al benefitted from their perjured Declarations;
- I have suffered and continue to suffer severe harm and loss from JPMorgan Chase & Co., et al's perjured Declarations;

I, Plaintiff, Candice Lue have stated valid Claims for this lawsuit to be allowed to proceed to trial as the Defendants' "absolute privilege" defense is without merit and I have the facts to prove that a recovery is warranted - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (¶ 29) for JPMorgan Chase & Co., et al's conspiratorial, false and fraudulent acts and conduct which have/will subject me to hatred, contempt, distrust, ridicule, disgrace and pariah status. To expand on the preceding:

1. **Tort Claims Predicated By Perjury** - While the victim of perjury normally does not have a cause of action against the person who committed the perjury, perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven. *Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956).

➤ With that said, this action is to recover damages because of the conspiratorial, false and fraudulent acts and conduct of JPMorgan Chase & Co., et al for which I have solid proofs.

2. **Overt Conspiratorial, False And Fraudulent Acts And Conduct Committed By JPMorgan Chase & Co., et al which have caused me severe harm and loss** – The following includes a summary of JPMorgan Chase & Co., et al's overt conspiratorial, false and fraudulent acts and conduct as reflected in their November 2, 2018 "Brief for Defendants-Appellees" and "Supplemental Appendix" and in my Amended Complaint - "First Cause of Action" for the sole purpose of intentionally injuring me, Plaintiff, Candice Lue, defaming my character and reputation, compromising the authorities of the Courts and influencing the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them:

➤ Fraudulent use of Declarations pursuant to 28 U. S. C. § 1746, spoliation of evidence, common law conspiracy, fraudulently using Fidelia Shillingford, a Black employee, as a conduit and a cover for their Employment Racial Discrimination, fraudulently using Baruch Horowitz, my White predecessor as an employee who was solely assigned the racially discriminatory "Tasks" and who had to first request permission in order to use JPMorgan Chase's "work from home" employment benefit, fraudulently using my November 6, 2014 hire letter, fraudulently using current non-Black employees as ploys to pretend to execute the racially discriminatory "Tasks", fraudulently using Defendant Alex Khavin's newly employed manager, Philippe Quix to cover her, Alex Khavin's racial discrimination, fraudulently using a snippet from Defendant, Chris Liasis' comments on my 2013 mid year performance review to defame my character, fraudulently having my White predecessor's manager, Defendant Kimberly Dauber lie in a declaration that Baruch Horowitz was solely assigned the discriminatory "Tasks", JPMorgan Chase's Human Resources legal representatives unlawfully "pre-planning" and "discussing" my

termination from the company after my report of employment racial discrimination and retaliation to the Equal Employment Opportunity Commission (EEOC), etc.

3. **Pre-meditated fraud against Plaintiff, Candice Lue and upon the Courts** – All the fraudulent acts and conduct outlined in “2” above were pre-mediated by JPMorgan Chase & Co., et al to fraudulently influence the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them and to compromise the authorities of the Courts.
4. **Common Law Conspiracy is not protected by “absolute privilege”** – “Conspiracy, in common law is an agreement between two or more persons to commit an unlawful act or to accomplish a lawful end by unlawful means.” – Britannica
 - Defendants JPMorgan Chase, Fidelia Shillingford, Alex Khavin, Kimberly Dauber and Baruch Horowitz, acting as individuals, combined, associated, agreed or acted in concert with each other to unlawfully make false statements **under penalty of perjury** to influence the outcome of my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit against them. This conspiracy and pre-conceived plan by JPMorgan Chase, Shillingford, Khavin, Dauber and Horowitz constitute a conspiracy at common law. In addition, their said false statements are not protected by “absolute privilege” as **on its face/as stated**, the said perjurious statements are not defamatory and “absolute privilege” protects actual statements made during the course of a judicial proceeding which are defamatory **on its face/as stated** not statements made that are **not** defamatory **on its face/as stated** but only when opined and/or interpreted defame one’s character due to anyone’s/society’s civil right to form their own opinion and/or make their own interpretation.
5. **The Courts’ Neglect of Duty** – “Neglect of duty is the omission to perform a duty. Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect is willful, through malice, ignorance or oversight, **when such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare, it is gross.** [State ex rel. Hardie v. Coleman, 115 Fla. 119 (Fla. 1934)]” - (Credit to USLEGAL.COM).

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- The Courts neglected their duty to uphold the rule of law by consistently ignoring my reports and evidence of the CRIME of Perjury and the false and fraudulent acts and conduct committed by JPMorgan Chase & Co., et al via several Motions I filed with the District Court and cited 18 USC §§ 4, 1505 and 1621 (1:16-CV-03207), a Writ of Mandamus (17 – 2751) I filed with the Appeals Court and documents I resubmitted to the Appeals Court (18-CV-01248) which were most relevant to my Appeal pursuant to Rule 10(B)(2) of the Federal Rules of Appellate Procedure which had all the evidence to show that JPMorgan Chase & Co., et al committed the crimes of perjury and obstruction of justice. In conjunction, in the less than two pages of my 4 and less than a ¼ page (double-spaced) pre-prepared statement that I was only allowed to read at the April 18, 2019 Second Circuit Court of Appeals oral argument, I described the Defendants' Motion for Summary Judgment as being "CRIMINAL and PERJURIOUS" **five (5)** times, cited 18 USC §§ 4, 1505 and 1621, stated the Defendants LIED under Penalty of Perjury and even so, the Court ignored my report of JPMorgan Chase & Co., et al's **false and fraudulent acts and conduct**.

In light of the afore-stated, if the Courts had not become so corrupted that they neglected their duty, the Defendants' conspiratorial, false and fraudulent acts and conduct would have been addressed and there would not have been a need for this lawsuit.

6. Spoliation of evidence to influence my Employment Racial Discrimination and Retaliation lawsuit (Am. Com. Page 6 - # 22) – Spoliation of evidence is the intentional, reckless, or negligent withholding, hiding, altering, fabricating, or destroying of evidence relevant to a legal proceeding.

- JPMorgan Chase & Co., et al intentionally withheld my December 2012 performance review because of the very favorable comments that my then manager, Defendant Michelle Sullivan wrote about me to avoid me from seeming to be anything but the vindictive, lying, troublesome, uncongenial and elitist person and a less desirable/undesirable employee that they were trying to make me out to be.

7. JPMorgan Chase & Co., et al's and Their Attorneys' False and Fraudulent Acts and Conduct Grossly Abused, Compromised and Corrupted the Authorities of the Courts causing me severe harm and loss due to the defamation of my character.

- With **six (6)** out of eight (8) Declarations pursuant to 28 U. S. C. § 1746 by the Defendants/Declarants in my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207) riddled with statements after statements of LIES, JPMorgan Chase & Co., et al's and their attorneys' false and fraudulent acts and conduct grossly abused, compromised and corrupted the authorities of the District and Appeal Courts and as such, they should not be allowed to get away with it. Such abuse of the said Courts by JPMorgan Chase & Co., et al gives the appearance of Jeffrey Epstein's revealed corruption of the Southern District of Florida Court.

8. JPMorgan Chase & Co., et al Benefitted from Their Perjured Declarations.

- JPMorgan Chase & Co., et al fraudulently and conspiratorially compromised the authorities of the Courts by re-stating and re-publishing perjurious statements in their November 2, 2018 "Brief for Defendants-Appellees" and "Supplemental Appendix" to damage my character and reputation in order to influence and benefit from the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them. JPMorgan Chase & Co., et al also benefitted from their said **false and fraudulent acts and conduct** by maintaining JPMorgan Chase & Co.'s reputation as it relates to its so-called "commitment to diversity and inclusion". The harassers and current and former employees who lied **under penalty of perjury** benefitted by keeping their jobs and/or advancing their careers at JPMorgan Chase as well as by other possible financial means – bearing in mind that not punishing the harassers who were all in supervisory positions is in contravention of Title VII of the Civil Rights Act of 1964 remedial measures pursuant to the EEOC's "*Assurance of Immediate and Appropriate Corrective Action*" enforcement guideline.

9. I Have Suffered and Continue to Suffer Severe Harm and Loss from JPMorgan Chase & Co., et al's Perjured Declarations - JPMorgan Chase & Co., et al's conspiratorial, false and fraudulent acts and conduct have caused me severe harm and loss through the defamation of my character which is being compounded each and every day as follows:

- I am now a pariah to the financial industry which I worked hard throughout my high school and college matriculation to be a part of.
- Their LIES have subjected me to hatred, contempt, distrust, ridicule, disgrace and pariah status by anyone and everyone in the world who accesses them, including

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potential employers as they make me out to be a lying, vindictive, troublesome, uncongenial, elitist person and most of all, a less desirable/undesirable employee.

- Their LIES have/will destroy and/or limit my upward and/or outward career mobility, my ability to compete for more desirable jobs and my ability to be accepted as a welcomed and/or trusted member of society.
- As someone with close international ties and pride, JPMorgan Chase & Co., et al's conspiratorial, false and fraudulent acts and conduct have personally destroyed me and my family as by simply Googling my name, anyone in the world can access the said pre-meditated fraud acts perpetrated against me by JPMorgan Chase & Co., et al through legal websites that republish and peddle them nationally and internationally.
- It is easier for anyone/society to imply and/or to accept that the Courts and the powerful JPMorgan Chase & Co., et al are telling the truth versus me, Plaintiff, Candice Lue, a poor, Black person so the defamation of my character is being compounded each and every day.
- If JPMorgan Chase & Co., et al's defamatory, conspiratorial, false and fraudulent acts and conduct against me, for which I have solid proofs, are not remedied, I will suffer damage for the rest of my life.

II. CONCLUSION

In light of the foregoing, again, I have stated valid Claims for this lawsuit to be allowed to proceed to trial as the Defendants' "absolute privilege" defense is without merit and I have the facts to prove that a recovery is warranted - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (§ 29) for JPMorgan Chase & Co., et al's conspiratorial, false and fraudulent acts and conduct.

DATED: January 31, 2020

Respectfully Submitted,


CANDICE LUE
Pro Se Plaintiff


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CIVIL ACTION NO.: 19 CV 9784 (KPF) (SDA)

CANDICE LUE, an individual,
Plaintiff

v.

JPMORGAN CHASE & CO. a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual; inclusive,

Defendants

PLAINTIFF'S EXHIBITS

19:8 19:9 19:10

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EXHIBIT 1

(2012 Performance Review which JPMorgan Chase & Co., et al are pretending does not exist and which shows Defendant Michelle Sullivan as my manager
– Re: Page 6 - Am. Com.)

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Manager sections of this review are in 'display' status. Employee can view manager's comments or ratings.

Review Information	
Review Status:	Completed
Employee:	Lue, Candice S. m. (R089235)
Manager:	Sullivan, Michelle T. (V337433)
Additional Manager:	N/A
Review Cycle:	01-JAN-2012 -- 31-DEC-2012
Reporting Year:	2012
Job Title:	Client Service Specialist
Tenure Date:	20-AUG-2012

Finalize Year End Performance Review - Signature Section		
User	Signature	Date
Manager	Michelle Sullivan	08-JAN-2013
Employee	Candice Lue	08-JAN-2013

Objective #1	
Objective	Measures/Target Dates
To master the Confirmations process by finding ways to enhance efficiency, accuracy and turnaround time.	With my acquired knowledge in my continued on-the-job training/learning, I will be able to effectively organize my work and my time to bring these enhancements to fruition.
Employee Accomplishments	
I have been on the job for three months and so far I have been pretty much able to hold my own. I am able to fully execute my tasks by taking the initiative to investigate items and asking questions if necessary to get the job done in a competent manner.	
Manager Comments	
Candice is very diligent. She has picked up the confirmation process very quickly and has been a great contributor in the drafting team. She is very focused and completes her work on a timely basis. I expect that as Candice continues to learn the products and becomes more comfortable in the documentation role she will be able to contribute more effectively to creating efficiencies within our process.	

Objective #2	
Objective	Measures/Target Dates
To continue to meticulously review and analyze the trade confirmations for discrepancies that could slow productivity and turnaround time.	Be very conscientious in the execution of my daily tasks and continue to be detail oriented. I will also not hesitate to escalate issues that might need further attention to my manager for her review and assistance if necessary.
Employee Accomplishments	
This mindset has been integral to the efficiency and the productivity of the Confirmations Group.	
Manager Comments	
Candice is a very focused worker and I can always depend on her to action her items on time. She continues to grow as a drafter by asking her colleagues questions and it is evident she is becoming more comfortable with the products. She picked up the novation process very quickly and was very dependable when Tom was out of the office. Although novations can be very time consuming, Candice was able to manage this function along with her other tasks.	

Objective #3

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Objective	Measures/Target Dates
Always try to understand the big picture and to work towards the common goal in the enhancement of the group's operation.	To be intellectually curious by asking questions that would be helpful for me to make a positive and more substantive contribution to the Confirmations process.
Employee Accomplishments	
By expressing interest in the different functions of the group and an attitude to understanding the big picture of the group's goal, I was able to jump in and effectively help with the processing of novations when my co-worker whose main job it is to handle/process novations was on vacation.	
Manager Comments	
Candice has a positive attitude and is a pleasure to work with. She is constantly taking on more responsibilities and helping out the team when needed. She often will do this on her own without having to be prompted by her manager.	

Development Plan
<i>There are no development plan goals for this employee.</i>
Manager's Comments

Career Plan	
Career Goal	Term
<i>There are no career goals for this employee.</i>	
Manager Comments	

Strengths & Opportunities
Employee Strength (Display) -- Lue, Candice (07-DEC-2012)
I have the ability to learn quickly and to communicate with individuals on all levels of the organization. I am also able to effectively prioritize my daily tasks which allows me to meet deadlines while still being able to make my contribution to the success of the team as a whole.
Employee Strength (Display) -- Lue, Candice (07-DEC-2012)
I do not hesitate to tackle challenging tasks for which I have little or no prior training. I use that as an opportunity to learn new functions and to enhance my skills for the betterment of the Confirmations Group and the organization as a whole.
Employee Opportunity (Display) -- Lue, Candice (07-DEC-2012)
As I grow in my role and continue to become acclimated with my functions, I would like to be seen as someone who has the initiative to do whatever it takes to get the job done. I am always looking for greater challenges which would be beneficial to the enhancement of my career at J.P. Morgan.
Manager Strength (Display) -- Sullivan, Michelle (31-DEC-2012)
Candice is very focused and produces quality work on a timely basis.
Manager Opportunity (Display) -- Sullivan, Michelle (31-DEC-2012)
I would like Candice to expand her product and ISDA documentation knowledge this year. This is the next step in progressing in her role as a drafter in commodities. We can identify ways to do this together.

Summary Comments
Employee Year End (Display) -- Lue, Candice (07-DEC-2012)
Overall, I think that I have had a successful three months working in Confirmations. I have been able to competently execute my tasks, not only as an individual but also as a team player and to gain the knowledge necessary to contribute to the realization of the group's goal.
The members of my team have been very helpful and in most cases have been willing to share their knowledge which helps with the betterment of my role as an Energy Confirmations Drafting Analyst.

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Manager Year End (Display) -- Sullivan, Michelle (31-DEC-2012)

Candice has been a great addition to the team. She has picked up the drafting process very quickly and produces quality work. She has great focus and is very detail oriented which can be challenging in the current environment. Candice should continue down this path for 2013 and would benefit further by increasing both her product and ISDA documentation knowledge.

Discussion Tracking

Discussion	Employee Confirm	Manager Confirm
Objectives	N	N
Development/Career Plan	N	N
Jan, Feb, Mar (Quarterly Discussion)	N	N
Apr, May, Jun (Mid Year)	N	N
Jul, Aug, Sep (Quarterly Discussion)	N	N
Oct, Nov, Dec (Year End)	Y (02-JAN-2013)	Y (02-JAN-2013)

Attachments

Filename	Uploaded By	Source	Date
ICAP - TR email - Feedback from Broker.pdf	Lue, Candice	Summary	Thu Oct 25 12:47:25 EDT 2012

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EXHIBIT 2

(Page 5 of my 2013/Page 10 of my 2014 Performance Review; respectively showing that JPMorgan Chase maliciously used Defendant Chris Liasis' "*communication style*" comment to defame my character – Re: Pages 7 & 8 - Am. Com.)

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Employee Opportunity (Display) -- Lue, Candice (30-JUL-2013)

[REDACTED]

Manager

*There are no comments available from the manager(s);
comments may not exist or be in draft status.*

Summary Comments

Employee Mid Year (Display) -- Lue, Candice (18-JUL-2013)

[REDACTED]

[REDACTED]

My communication style is for the most part very thorough but that is because I usually prefer to solve queries as efficiently as possible instead of through constant back and forth emails/phone calls. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Complaints about my emails being too thorough or me escalating priority queries when I am not scheduled to do so or my need to be less professional, do not do much in the enhancement of the Confirmations process as a whole. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Manager Mid Year (Display) -- Sullivan, Michelle (24-JUL-2014)

[REDACTED]

[REDACTED]

[REDACTED] Another key development point for Candice is tailoring her communication style for her audience. She should try to move away from detailed explanation of investigation and steps performed (although good when training team members) when providing updates and feedback [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT 3

(Emails showing that JPMorgan Chase and Co., et al's statement that: "*Baruch Horowitz, a Caucasian male and a Senior Associate (a higher rank than Lue's role of Analyst), was solely responsible for performing the Tasks*" is a LIE and that they cannot produce any email correspondence such as the ones I have produced to prove that just like me, Plaintiff, Candice Lue who is Black, Baruch Horowitz, "*a Caucasian male was solely responsible for performing the Tasks*" – Re: Pages 8, 9 & 10 - Am. Com.)

59A

Lue, Candice

From: Khavin, Alex G
Sent: Monday, December 22, 2014 8:00 AM
To: Lue, Candice
Subject: RE: CRG Extended Team Meeting Documents for Monday December 22

Candice-

Where are the meeting minutes?

Alex Khavin
Executive Director
J.P. Morgan Asset Management
alex.g.khavin@jpmorgan.com
270 Park Avenue, floor 9
Phone: 212-648-0172
Fax: 917-463-0245
Mobile: 917-414-2776

Minutes for the November 2014
Governance Meeting, my first ever
governance meeting in the Counterparty
Risk Group (CRG).

My join date was November 10, 2014.
CL

60A

Lue, Candice

From: Khavin, Alex G
Sent: Tuesday, January 20, 2015 2:18 PM
To: Lue, Candice
Subject: FW: Follow Ups from CRG Extended Team Meeting December 22, 2014
Attachments: AM Counterparty Risk Procedures Document docx 12-14-2014 (2).docx

Candice-

As I had requested, are you collecting all the attachments necessary for the meeting and printing beforehand? We also need to send to Asia a full pack tonight so they have access to it during the meeting.

Alex

Alex Khavin
Executive Director
J.P. Morgan Asset Management
alex.g.khavin@jpmorgan.com
270 Park Avenue, floor 9
Phone: 212-648-0172
Fax: 917-463-0245
Mobile: 917-414-2776

From: Shillingford, Fidelia X
Sent: Monday, February 23, 2015 5:12 PM
To: Ng, Kenneth T
Cc: Dauber, Kimberly S; Nguyen, Fiona N; Lue, Candice
Subject: Governance meeting

61A

Hi Kenny

Given that both Candice and Fiona are out this week; can you pls take minutes. We will resume to as schedule for the following meetings.

Regards

*Fidelia Shillingford | VP, Counterparty Risk Management | J.P. Morgan Asset Management
270 Park Avenue, 9th Floor, New York, NY 10017-2014 | T: 212 648 1810*

Shillingford only instructed the non-Black analyst to do the minutes, nothing about the printing, etc. for the other members' of the team presentation materials.

I am the only teammember Shillingford had ever directed to do those tasks.

CL

62A

Lue, Candice

From: Khavin, Alex G
Sent: Thursday, April 23, 2015 8:26 AM
To: Lue, Candice
Subject: RE: April 2015 Governance Meeting

Thanks - can you please in the future include in the email you send out to everyone with all the attachments?

Best,

Alex

Even when I did not do the minutes, it was still my job to email it to everyone "with all the attachments!"

CZ

Alex Khavin
Executive Director
J.P. Morgan Asset Management
alex.g.khavin@jpmorgan.com
270 Park Avenue, floor 9
Phone: 212-648-0172
Fax: 917-463-0245
Mobile: 917-414-2776

-----Original Message-----

From: Lue, Candice
Sent: Thursday, April 23, 2015 8:25 AM
To: Khavin, Alex G
Subject: RE: April 2015 Governance Meeting

Hi Alex,

Fiona has the follow ups. Attached is the email she sent out from the last meeting.

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | (212) 648 - 0936 | Candice.Lue@jpmorgan.com

-----Original Message-----

From: Khavin, Alex G
Sent: Thursday, April 23, 2015 8:12 AM
To: Lue, Candice
Subject: RE: April 2015 Governance Meeting

Candice, do you have the follow ups from last meeting?

Alex Khavin
Executive Director
J.P. Morgan Asset Management
alex.g.khavin@jpmorgan.com
270 Park Avenue, floor 9
Phone: 212-648-0172

63A

Lue, Candice

From: Shillingford, Fidelia X
Sent: Tuesday, June 23, 2015 1:53 PM
To: Haider, Mohammad Z; Khavin, Alex G; Poz, Thomas I; Kishore, Gaurav; Leung, Joyce L; Gorniak, Hubert; Dauber, Kimberly S; Cheung, Timothy KF; Zambon, M Sol; Vroom, Ryan W; Avetyan, Tatevik; Ng, Kenneth T; Nguyen, Fiona N; Lue, Candice; Gorniak, Hubert
Subject: RE: CRG Governance Meeting 5/28: Follow-ups

All
In preparation for our team meeting; please ensure that you have actioned your 'follow ups' below.

Also, please save all necessary documents in the respective folder: [REDACTED]
[REDACTED] in a printable format. I will print the copies and bring to the meeting on Thursday. Tim, please email your docs to me.

Please ensure that all materials are available in the folder by Wednesday 3pm; otherwise you will have to bring a hard copy to the meeting.

Fiona, given that Candice is out; can you take the meeting minutes. Thanks in advance.

Regards
Fidelia

Shillingford asked the non-Black analyst to take the meeting minutes, "given that Candice is out" but for the printing, etc. of the non-Black team members' presentation materials, Shillingford who is Black and a Vice President had to do those tasks herself. CZ

From: Shillingford, Fidelia X
Sent: Thursday, May 28, 2015 10:57 AM

Lue, Candice

64A

From: Shillingford, Fidelia X
Sent: Monday, July 20, 2015 4:53 PM
To: Lue, Candice
Subject: RE: One-on-One

Discussion and Follow ups:

1. I asked that you include in your tasks for the next two weeks, the responsibility for the Governance meeting which is due this coming Thursday. Please reach out to the team to have them save the relevant documents in the shared drive (see attached email for sample email) and bring copies to the meeting. Also, you are responsible for taking meeting notes. Note, last month I solicited the help of Nikhil in sorting/compiling documents; please work with him if you need assistance.
2. We established that your timeframe for updating the PowerPoint presentation on average is 6hrs (give or take some)
3. You would get back to me on the planned vacation for the remainder of the year by end of the week



RE: CRG
Governance Me...

Regards
Fidelia

-----Original Appointment-----

From: Shillingford, Fidelia X
Sent: Monday, July 20, 2015 9:12 AM

Nikhil was the Summer intern.

For the June 2015 Monthly Governance Meeting, Shillingford who is Black and a VICE PRESIDENT did the printing, etc. of the non-Black team members' presentation materials with the help of the summer intern, Nikhil.

CL

65A

Lue, Candice

From: Shillingford, Fidelia X
Sent: Tuesday, August 25, 2015 11:18 AM
To: Lue, Candice
Cc: Poz, Thomas I
Subject: RE: Monthly CRG Governance Meeting

Hi

Can you pls remind all members to save their documents in the shared folder so that you can print for the meeting?
Note that Asia does not have access to the shared folder so pls save Tim's info and print.

**This was after the EEOC served JPMorgan Chase with the charge of my Employment Racial Discrimination and Retaliation #CZ*

In regards to meeting notes; the responsibility will be divided up among all analysts with each taking turn every month. I will send a schedule in a separate email to all analysts.

Regards
Fidelia

Eileen Kulda is the White administrative assistant who these duties were never assigned to.

Eileen Kulda was not even as much as asked to print for the group, the meeting agenda she sent out.

-----Original Appointment-----

From: Kulda, Eileen **On Behalf Of** Khavin, Alex G

Sent: Tuesday, August 25, 2015 10:25 AM

To: Leung, Joyce L; Avetyan, Tatevik; Vroom, Ryan W; Shillingford, Fidelia X; Dauber, Kimberly S; Poz, Thomas I; Zambon, M Sol; Nguyen, Fiona N; Lue, Candice; Gorniak, Hubert; Dang Ngoc, Ali; Dorfman, Jon

Cc: Kishore, Gaurav; Cheung, Timothy KF; Ng, Kenneth T

Subject: Monthly CRG Governance Meeting

When: Thursday, August 27, 2015 8:30 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: Conference room 9B or see below for dial in number

Agenda:

1. Prior Meeting Follow-ups
2. Dashboard & Broker Reconciliation
3. MIS and Credit Trends Discussion
4. Limits Monitoring
5. Counterparty Exposure Report
6. MMF and Liquidity Trigger Breaches and Key Themes
7. Policies, Procedures and Practices Discussion
8. Any other Business

Audio conferencing details:

Name: Alexandra Khavin

International direct: +1 857 318 0900

US Toll free: 1 888 575 5762 (JPMC)

Chairperson passcode: 68517031 then #

Participant passcode: 15204032 then #

66A

Lue, Candice

From: Shillingford, Fidelia X
Sent: Wednesday, October 21, 2015 11:51 AM
To: Lue, Candice
Subject: Monthly Governance Meeting

Hi Candice

Friendly reminder that our Monthly Governance meeting is scheduled for tomorrow morning; please ensure all materials are ready to go. Liaise with the Officers and Analyst regarding their materials.

Thanks

Regards
Fidelia

Shillingford has never given these directives to any of the non-Black analysts and/or associates on the team.

Nothing "Friendly" about this "reminder!"

CL

67A

Lue, Candice

From: Lue, Candice
Sent: Thursday, July 23, 2015 2:18 PM
To: Vega, John R.
Subject: Job Description: AM - Credit Reporting Risk Analyst
Attachments: RE: Minutes and Documents for Extended Team Meeting

Hello John,

As requested, I have provided a screenshot below from JobConnect of my job description.

Also, I just wanted to respectfully refute the statement that you made where you said that you were told by Fidelia Shillingford and Alex Khavin that Baruch Horowitz, my predecessor who stayed the longest on the job was responsible for the minutes and the printing, etc. of everyone's Governance Meeting presentation materials.

However, before I do that, let me just ask: if this was a regular task for the job that was done by my first predecessor during the 2 years before me joining the team and up to 5 months before my arrival, why wasn't it a part of my job description? Why was it "suddenly scrubbed" from the job description of my second and third predecessors during the 5 months they preceded me?

To refute, please see the email from Kim Dauber attached that states, "Every analyst and/or associate on this team has been the minute taker of our Extended meetings at some time during the last 2 years.... However, Alex would pick a different person each time during our meetings." Please note that Kim did not say that Baruch Horowitz was the minutes taker. Also note that she made no mention of document collecting and printing, etc. because no other analyst and/or associate was demeaned during the 2 years before me joining the team.

My second reason to refute your statement is that at 8:20am on May 28, 2015 when Alex went to pick up something from the printer, a teammate who I will leave unnamed and who was also a teammate of Baruch Horowitz asked her, "So now when we have documents to print, we send it to an analyst (laughs)?" Alex's response: "(laughs) I have to print it for myself."

Funny, it seems as if only Fidelia and Alex have any knowledge of Baruch Horowitz having the responsibility of the taking of the minutes and the printing, etc. of everyone's Governance Meeting presentation materials during his more than 1 year tenure.

68A

Lue, Candice

From: Dauber, Kimberly S
Sent: Wednesday, February 04, 2015 2:03 PM
To: Lue, Candice; Shillingford, Fidelia X
Subject: RE: Minutes and Documents for Extended Team Meeting

Candice -

Every analyst and/or associate on this team has been the minute taker of our Extended meetings at some time during the last 2 years. I don't think this is a function that is specifically written out in job duties because it's an ad-hoc function. However, Alex would pick a different person each time during our meetings. Most recently, it was understood that the reporting analyst would handle it. I'm fine with including additional analysts to assist you with this.

Best regards,

Kimberly Dauber | Vice President | J.P. Morgan Asset Management | 270 Park Ave, 9th Floor, New York, NY 10017 | T: 212-270-1655 | kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Wednesday, February 04, 2015 1:55 PM
To: Shillingford, Fidelia X; Dauber, Kimberly S
Subject: RE: Minutes and Documents for Extended Team Meeting

Hi Fidelia,

Just to reiterate, as previously discussed, I have never considered these tasks to be my responsibility as I had confirmed such in the interview and on the job.

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | ☎ (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

From: Shillingford, Fidelia X
Sent: Wednesday, February 04, 2015 1:38 PM
To: Dauber, Kimberly S
Cc: Lue, Candice
Subject: Minutes and Documents for Extended Team Meeting

Hi Kim
I have discussed with Alex and she is ok with the proposal that we continue to rotate the responsibility of document collection and minutes taking for our monthly governance meeting.
I suggest that we have a schedule so that each analyst is aware of who is responsible for which month. Can you please select at least two analysts who could assist Candice with this responsibility? Once confirmed, I will fill in the appropriate names for Analyst 1 and 2 and circulate.

Thank you.

Analyst	Month
Feb	Candice

69A

Mar	Analyst 1
Apr	Analyst 2
May	Candice
Jun	Analyst 1
Jul	Analyst 2
Aug	Candice
Sep	Analyst 1
Oct	Analyst 2
Nov	Candice
Dec	Analyst 1

Regards

Fidelia Shillingford | VP, Counterparty Risk Management | **J.P. Morgan Asset Management**
270 Park Avenue, 9th Floor, New York, NY 10017-2014 | T: 212 648 1810

EXHIBIT 4

(Proof that JPMorgan Chase & Co. et al's statement that "*another [White] member of the group had to step in and print the materials in Lue's stead*" is false. This [White] member (and on a separate occasion, another non-Black employee) only put the printed materials given to them in order of the Governance Meeting agenda – "collate". Unlike what was demanded of me, the only Black analyst on the team, neither of these non-Black employees was required to do the actual printing, collating, stapling, etc. of all the said materials – Re: Pages 10 & 11 - Am. Com.)

7/A

Lue, Candice

From: Vroom, Ryan W
Sent: Wednesday, September 23, 2015 4:04 PM
To: Nguyen, Fiona N; JPM AM Global CRG
Cc: Dauber, Kimberly S
Subject: RE: Monthly CRG Governance Meeting - Procedures

All,

Please print your materials and provide them to me. I will be collating and bringing tomorrow.

Best,

Ryan W. Vroom, CPA
Associate
J.P. Morgan Asset Management

From: Nguyen, Fiona N
Sent: Wednesday, September 23, 2015 4:00 PM
To: JPM AM Global CRG
Cc: Dauber, Kimberly S
Subject: RE: Monthly CRG Governance Meeting - Procedures

All,

Please see attached CRG's latest Procedures.

Regards,
Fiona

From: Lue, Candice
Sent: Wednesday, September 23, 2015 3:16 PM
To: JPM AM Global CRG
Subject: RE: Monthly CRG Governance Meeting - Exposure Report

Please see attached August 2015 Monthly Exposure Report for tomorrow's meeting. Also, there were no true exceptions to report for the August 2015 Monthly Reconciliation Report.

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | **J.P. Morgan** | 270 Park Avenue, 9th Floor, New York, NY 10017 | ☎ (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

From: Cheung, Timothy KF
Sent: Tuesday, September 22, 2015 10:54 PM
To: JPM AM Global CRG
Subject: Monthly CRG Governance Meeting

72A

Lue, Candice

From: Nguyen, Fiona N
Sent: Wednesday, October 21, 2015 6:19 PM
To: Lue, Candice
Subject: RE: Monthly CRG Governance Meeting

Ok, I'll bring the rest then.

From: Lue, Candice
Sent: Wednesday, October 21, 2015 6:14 PM
To: Nguyen, Fiona N
Subject: RE: Monthly CRG Governance Meeting

Hey Fiona,

Don't worry about it. I'll take care of that for the Exposure and Reconciliation Reports and bring these to the meeting. ☺

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | **J.P. Morgan** | 270 Park Avenue, 9th Floor, New York, NY 10017 | 📞 (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

From: Nguyen, Fiona N
Sent: Wednesday, October 21, 2015 6:09 PM
To: Lue, Candice
Subject: RE: Monthly CRG Governance Meeting

Hey Candice – Can you give me the printout^{*} for collating?

Thanks!

From: Lue, Candice
Sent: Wednesday, October 21, 2015 5:58 PM
To: JPM AM Global CRG
Subject: RE: Monthly CRG Governance Meeting

Please see attached September 2015 Monthly Exposure and Reconciliation Reports for tomorrow's meeting.

<< File: AM Counterparty Risk Exposure Concentration Summary 2015-9 - FINAL.pdf >>
<< File: September 2015 Reconciliation - Exceptions.pdf >>

Best regards,
Candice

73A

EXHIBIT 5

(Proof that Kimberly Dauber, who is White, was slated to be my manager and it was only after the decision that I, the Black candidate, was chosen for the Credit Reporting Risk Analyst position that Khavin switched my manager from Kimberly Dauber to Fidelia Shillingford who is Black – Re: Pages 11, 12 & 13 - Am. Com.)

74A

Thanks for responding Kimberly! Sure, I will be able to meet with you this week. Wednesday or Thursday at 8:30am or 9am would be fine.

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

From: Dauber, Kimberly S
Sent: Monday, October 27, 2014 12:17 PM
To: Lue, Candice
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Hello Candice;

Thank you for your interest in the Credit Reporting Risk Analyst position. I would like to meet with you to discuss the position and your skills in more detail.

I see that you're located in at the Brooklyn office. Would you be available to meet with me sometime this week? Let me know what day / time works best for you.

Best regards,

Kimberly Dauber | Vice President | J.P. Morgan Asset Management | 270 Park Ave, 9th Floor, New York, NY 10017 | T: 212-270-1655 | kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Monday, October 27, 2014 10:11 AM
To: Dauber, Kimberly S
Subject: AM - Credit Reporting Risk Analyst-140084006

Good Morning Kimberly,

I am Candice Lue and I currently work as an Energy Confirmations Drafting Analyst in the Global Commodities Group. I thought I'd touch base with you as I have interest in the captioned position that is being advertized on Job Connect and for which you are named as the hiring manager.

I have already expressed my interest by submitting an application but hoped that you would take a closer look at my resume by me reaching out personally to you. I have attached a copy of my said resume and as you can see, I have a diverse background that would be complementary to the duties that are required for this position.

Please let me know if you will be willing to meet with me to further discuss my abilities and qualifications. However, if that is not necessary at this time, let me take the opportunity to wish you success with your chosen candidate.

Best regards,

Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

75A

Lue, Candice

From: Lue, Candice
Sent: Monday, October 27, 2014 3:02 PM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Thanks Kimberly. I will see you then.

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

From: Dauber, Kimberly S
Sent: Monday, October 27, 2014 2:49 PM
To: Lue, Candice
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Great. Let's meet at 8:30 on Thursday. Can you meet me in the lobby of 270 Park Avenue?

Best regards,

Kimberly Dauber | Vice President | J.P. Morgan Asset Management | 270 Park Ave, 9th Floor, New York, NY 10017 | T: 212-270-1655 | kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Monday, October 27, 2014 12:35 PM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Thanks for responding Kimberly! Sure, I will be able to meet with you this week. Wednesday or Thursday at 8:30am or 9am would be fine.

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

From: Dauber, Kimberly S
Sent: Monday, October 27, 2014 12:17 PM
To: Lue, Candice
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Hello Candice;

76A

Lue, Candice

From: Lue, Candice
Sent: Wednesday, October 29, 2014 9:22 AM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Not a problem. ☺

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

From: Dauber, Kimberly S
Sent: Wednesday, October 29, 2014 9:14 AM
To: Lue, Candice
Subject: Re: AM - Credit Reporting Risk Analyst-140084006

Great! Thanks so much for accommodating my schedule.

Best regards,

Kimberly Dauber, Vice President
J.P. Morgan Asset Management
270 Park Avenue, 9th Floor
New York, NY 10017
Phone: 212-270-1655
Mobile: 201-892-2272
kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Wednesday, October 29, 2014 09:07 AM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Good Morning Kimberly,

Thanks for the heads up. How about Wednesday (today) at 5:30pm?

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

77A

From: Dauber, Kimberly S
Sent: Tuesday, October 28, 2014 9:52 PM
To: Lue, Candice
Subject: Re: AM - Credit Reporting Risk Analyst-140084006

Hi Candice - sorry for the last minute request but I may not be in the office on Thursday. Are you available Wednesday 3-6 or Friday 8-10 or 2-6?

Best regards,

Kimberly Dauber, Vice President
J.P. Morgan Asset Management
270 Park Avenue, 9th Floor
New York, NY 10017
Phone: 212-270-1655
Mobile: 201-892-2272
kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Monday, October 27, 2014 03:01 PM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Thanks Kimberly. I will see you then

Best regards,
Candice

Candice Lue | J.P. Morgan | Corporate & Investment Bank | Global Commodities Group | Tele: (212) 623 - 3774 | Email: Candice.Lue@jpmorgan.com | Hotline: (480) 634 - 9373 | Fax: (917) 464 - 8347

From: Dauber, Kimberly S
Sent: Monday, October 27, 2014 2:49 PM
To: Lue, Candice
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

Great. Let's meet at 8:30 on Thursday. Can you meet me in the lobby of 270 Park Avenue?

Best regards,

Kimberly Dauber | Vice President | J.P. Morgan Asset Management | 270 Park Ave, 9th Floor, New York, NY 10017 | T: 212-270-1655 | kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Monday, October 27, 2014 12:35 PM
To: Dauber, Kimberly S
Subject: RE: AM - Credit Reporting Risk Analyst-140084006

78A

Lue, Candice

Subject: Risk Reporting Analyst Position
Location: Team Room #3 , 270 Park Avenue, 9th Floor

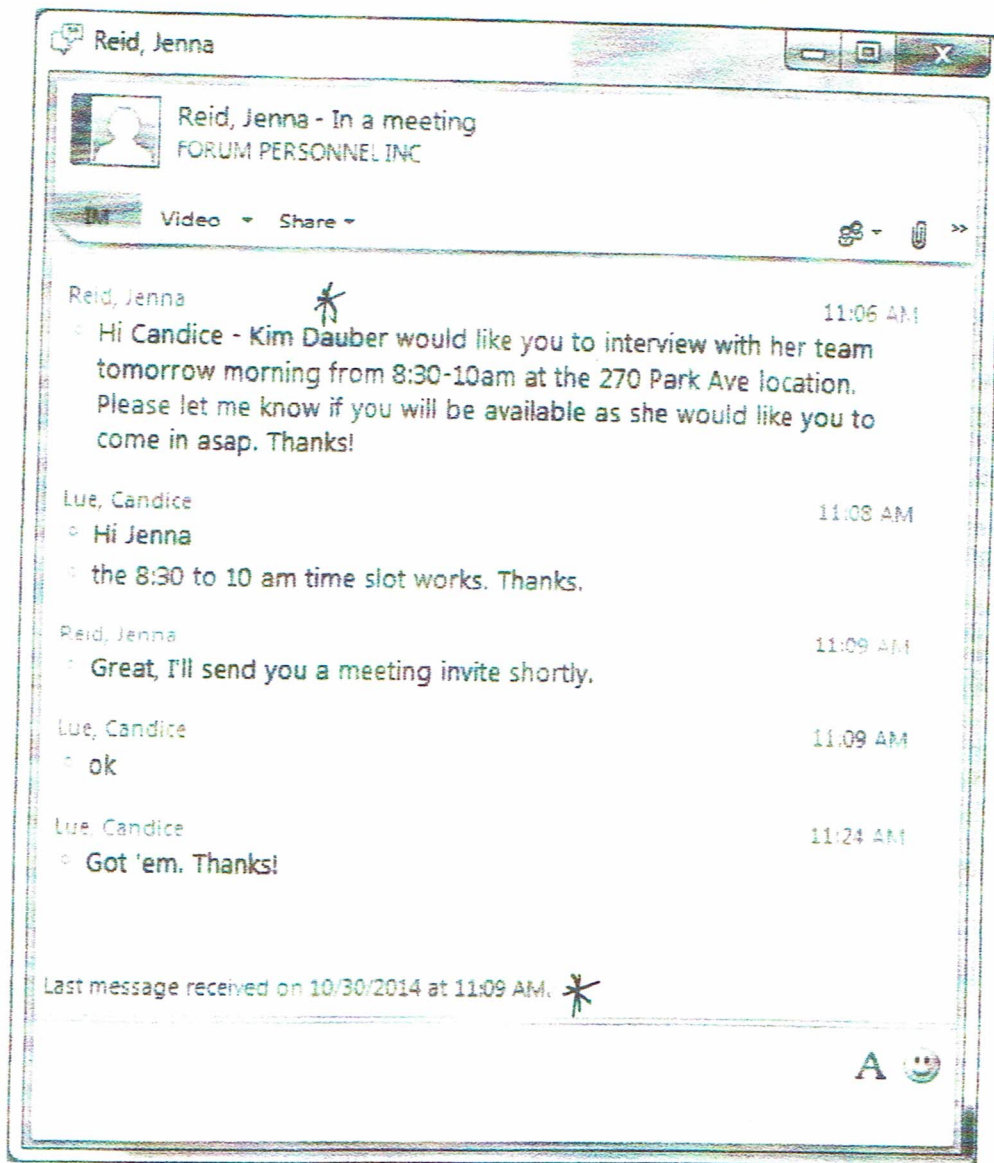
Start: Thu 10/30/2014 5:00 PM
End: Thu 10/30/2014 5:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Dauber, Kimberly S *
Required Attendees: Shillingford, Fidelia X; Lue, Candice

79A



80A

Lue, Candice

Subject: Risk Reporting Analyst
Location: Alex's office, 270 Park Avenue, 9th Floor
Start: Mon 11/3/2014 8:30 AM
End: Mon 11/3/2014 9:00 AM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Dauber, Kimberly S *
Required Attendees: Khavin, Alex G; Lue, Candice

81A

Microsoft Excel

Home Insert Page Layout Formulas Data Review View Security Print

Clipboard Font Alignment Number Styles Cells Editing

H40 AM - Credit Reporting Risk Analyst

	A	B	C	D	E	F	G	H	I
1	JOB	Division	Division Level	Division Level	Division Level	Requestion Number	Requestion Title	Approved (Open)	Date
40	ASSET MANAGEMENT	ASSET MANAGEMENT	AM CENTER	AM MGMT & MGMT SUPPO	RISK	RISK	140084006	AM - Credit Reporting Risk Analyst	8/15/2014

* * *

Microsoft Excel

Home Insert Page Layout Formulas Data Review View Security Print

Clipboard Font Alignment Number Styles Cells Editing

O7843

	J	K	L	M	N	O	P	Q	R	S	T
1	Corporate Title	Corporate Grade	Country Name	State or Province	City	Revenue SLD	Revenue Full	Hiring Manager SLD	Hiring Manager Full	Responsible Person	Responsible Title
40	501	United States	New York	New York	E453821	Rivera, Francisco	F360671	Daubert, Kimberly			

* * *

82A

AM - Credit Reporting Risk Analyst - Full-time
US-NY-New York
Job Posting : Aug 15, 2014 - Job Number: 140084006
Job Status: Active (Accepting Job Submissions)
Submission Status: Final Candidate - Updated: Nov 5, 2014
[View/Edit Submission](#) | [View Email Messages](#) | [Withdraw](#)



Rivera, Francisco Z
In a meeting

Thursday, November 06, 2014



Rivera, Francisco Z hi candice

9:15 AM



Lue, Candice hi Francisco

9:22 AM



Rivera, Francisco Z hi

9:22 AM



Lue, Candice Francisco

9:22 AM



Rivera, Francisco Z do you get over time?

9:22 AM

fyi I work with Alex and Kim etc

I'm in HR

I see you are 401 and am working on an offer for you
my sid e453821

* No mention of working with
Fidelia Shillingford.
CL



Lue, Candice ok

9:23 AM

yes I get overtime

Last message received on 11/6/2014 at 9:48 AM.

*

83A

LOOKING TO LOG IN?

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Job Description

AM - Credit Reporting Risk Analyst-140084006

Description

J.P. Morgan Asset Management is a leading asset manager for individuals, advisors and institutions. Our investment professionals are located around the world, providing strategies that span the full spectrum of asset classes.

As one of the largest asset and wealth managers in the world, with assets under supervision of \$2.1 trillion and assets under management of \$1.4 trillion (as of December 31, 2012), we provide global market insights and a range of investment capabilities that few other firms can match.

J.P.Morgan Asset Management Risk Management is committed to being a world-class leader in risk management, maintaining a system of strong controls, providing guidance and clear direction on key risk principles, proactively managing risks and achieving a consistent balance between our business goals and deployment of capital. AM Risk Management employs people around the world and ensures strong risk management discipline throughout the lines of business within AM. The JPMAM Counterparty Risk Group, with assistance from regional risk personnel, supervises credit risk arising from counterparty activities conducted on behalf of clients.

Job Responsibilities:

The ideal candidate must possess a strong risk and control mindset, be very detailed oriented, have excellent analytical and written/verbal communication skills as well as be able to work under pressure and able to deliver on multiple tight, time sensitive timelines. Specific responsibilities will include:

- Performing on-going monitoring and periodic reviews of the creditworthiness of approved counterparties - *Credit Analysis*.
- Working with large volumes of data to conduct adhoc analyses on counterparties and exposures as needed
- Updating and distributing daily Counterparty reports
- Contributing to team-wide efforts such as risk assessment methodology enhancements, portfolio-wide reviews and preparing management presentations

Qualifications

Qualifications and Skills:

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- Undergraduate degree with 1+ years of relevant work experience - strong academic performance with coursework in economics, statistics, and finance; knowledge of exchange-traded products and derivatives preferred
- Demonstrated fundamental credit analysis skills
- Exceptional analytical skills (naturally inquisitive/intellectually curious)
- Superior attention to detail
- Demonstrated interest in/ knowledge of global financial markets and current regulatory/legislative agendas
- Self-starter with strong project management skills - be able to independently manage multiple tasks and priorities under tight deadlines
- Excellent team player
- Strong PowerPoint/ Excel /MS Office skills

Job Risk**Primary Location** US-NY-New York-270 Park Avenue / 02317**Organization** RISK**Schedule** Full-time**Job Type** Standard**Shift** Day Job**Employee Status** Regular**Recruiter** Francisco Rivera**Hiring Manager** Kimberly Dauber ***Salary Grade / Level** 501[Privacy & Security](#) | [Terms & Conditions](#) | [USA Patriot Act Certification](#) / [Recertification](#) | [Sitemap](#) |[Cookies Policy](#)

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EXHIBIT 6

(JPMorgan Chase document # 000221 - Proof of manager change from Kimberly Dauber, who is White to Shillingford, who is Black on November 5, 2014, two days after I met with Alex Khavin and the day before I was officially offered the job Re: Page - 12 - Am. Com.)

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AM - Credit Reporting Risk Analyst (140084006)

Status
Filled

Recruiter
Rivera, Francisco

Department
AM COUNTER PARTY

Status Details
Filled

Hiring Manager
Shillingford, Fidelia

Primary Location
United States > New York > New York >
270 Park Avenue / 02317

Requisition Type
Professional

Hired Candidates
1 out of 1

Alerts

ACE Candidate Alert

No alert has been set.

Request More Information

The alert will be triggered when a candidate meets the following condition:

A candidate meeting all the required criteria achieves a result of at least 0%.

History

Date	Event	Detail	By
Nov 6, 2014, 10:43:41 PM	Requisition Filled	Filled	Rivera, Francisco (E453821)
Nov 6, 2014, 10:43:20 PM	Employee Hired	Hired "Candice S. M. Lue (5148489)"	Rivera, Francisco (E453821)
Nov 6, 2014, 10:43:06 PM	Last Position Accepted	Last Position Accepted	Rivera, Francisco (E453821)
Nov 5, 2014, 6:07:08 PM	Hiring Manager Modified	Hiring Manager changed to "Fidelia Shillingford "	Rivera, Francisco (E453821)
Oct 15, 2014, 11:29:52 PM	Candidates Matched From this Requisition	Candidates from this requisition were matched to 140094654.	Rivera, Francisco (E453821)
Aug 15, 2014, 9:26:57 PM	Requisition Posted	The requisition has been posted on the following Career sections: Corporate, Syracuse University Veterans Technology Program, Internal.	Rivera, Francisco (E453821)
Aug 15, 2014, 9:26:12 PM	Requisition Saved as Open	Saved as Open	Rivera, Francisco (E453821)
Aug 15, 2014, 9:25:42 PM	Requisition Duplicated	Created from Duplication of "140029763"	Rivera, Francisco (E453821)

Reports

This requisition will not be included in the daily recruiting report.

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EXHIBIT 7

(“No manager gives an employee whose performance is on a downward trend the promotion of “*managerial experience*” and no employee goes to his/her manager to express his/her need for “*managerial experience*” when that employee’s performance is literally going down the tubes to the point where the manager to whom she is expressing her need for “*managerial experience*” sees it fit to put her on a DEVELOPMENT PLAN as a course of action” - Re: Page - 12 - Am. Com.)

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Name	AMOC Member	Bottom Multiple Years?	2014 Rating	2013 Rating	2012 Rating	Officer Title	Action	Action Date	Current Direct Supervisor	2014 TC
[REDACTED]	Di Iorio, Felice	No	M-	M	M	Other	Corrective Action-PIP	3/31/2015	Messick, Bryan Keith	56,000
[REDACTED]	Di Iorio, Felice	No	N	M	O	Other	Corrective Action-PIP	3/31/2015	Adkins, Justin	56,000
[REDACTED]	Di Iorio, Felice	No	M-	O	O	Other	Corrective Action-PIP	12/11/2014	Lu, Patricia S	55,000
[REDACTED]	Di Iorio, Felice	No	M-	M	O	Other	Development Plan	3/31/2015	Handy, Sheila R	55,000
[REDACTED]	Di Iorio, Felice	No	M-	T	O	Other	Development Plan	3/31/2015	Francis, Ashley Rice	55,000
[REDACTED]	Di Iorio, Felice	No	N	T	O	Other	Leave of Absence	3/31/2015	Moum, Francesca Sharkey	55,000
[REDACTED]	Di Iorio, Felice	No	M-	O	O	Other	Role change within AM		Gunn, Megan Anna	55,000
[REDACTED]	Di Iorio, Felice	No	M-	O	O	Other	Development Plan		Venkatadri, Vasuda	51,948
[REDACTED]	Di Iorio, Felice	No	M-	M	M+	Other	Development Plan		Zaborowski, Robert J	51,000
[REDACTED]	Di Iorio, Felice	No	M-	M	M	Other	Talent Reassignment	3/31/2015	Bush, William Prescott	51,000
[REDACTED]	Di Iorio, Felice	No	M-	M+	M	Other	Development Plan	3/31/2015	Trapnell, Judson W.	50,750
[REDACTED]	Di Iorio, Felice	No	M-	M	M	Other	Corrective Action-PIP	3/31/2015	O'Brien, Robert F	50,000
[REDACTED]	Di Iorio, Felice	No	M-	O	O	Other	Development Plan		Venkatadri, Vasuda	49,384
[REDACTED]	Di Iorio, Felice	No	M-	M+	O	Other	Development Plan	3/31/2015	Winters Jr, John Claer	49,000
[REDACTED]	Di Iorio, Felice	No	M-	M	M+	Other	empty		Ebeid, Meghan	47,900
[REDACTED]	Gunselman, Gregg	2 Years	M-	M-	M	VP	Role change within AM	10/26/2015	Chodos, Jason	210,000
[REDACTED]	Gunselman, Gregg	No	M-	M	M	MD	Role change within AM	10/26/2015	Mushnell, Christopher	539,000
[REDACTED]	Gunselman, Gregg	No	M-	M	M	MD	Development Plan	10/26/2015	Malinowski, Kenneth	270,000
[REDACTED]	Gunselman, Gregg	No	M-	M+	M+	VP	Development Plan	10/27/2015	O'Malley, Joseph B	255,736
Shillingford, Fidelia	Gunselman, Gregg	No	M-	M	M+	VP	Development Plan	10/26/2015	Khavin, Alexandra	130,000
[REDACTED]	Gunselman, Gregg	No	M-	O	O	ASSC	Development Plan	10/26/2015	De Lisi, Brian W.	95,000
[REDACTED]	Gunselman, Gregg	No	M-	M	O	ASSC	Corrective Action-PIP	10/26/2015	Herrold, Lindsay Dianne	89,000
Lue, Candice S. m.	Gunselman, Gregg	No	M-	O	O	Other	Corrective Action-Written	10/26/2015	Shillingford, Fidelia	75,000

89A

EXHIBIT 8

(JPMorgan Chase document Nos. 001612, 001630 and 001933 and JPMorgan Chase document No. 000327 – Re: Page 14 - Am. Com.)

90A

From: Knepper, Kathy
To: Dubowy, Helen
Sent: 12/10/2015 9:33:26 PM
Subject: RE: summary

In this email trail, HR legal representatives NOT my manager, Shillingford are discussing my termination. As Helen Dubowy's email time stamped 4:30 PM shows, Shillingford was not even aware of this communication. Proof that my termination was a LEGAL decision made in JPMC's favor. CL

I think we talked about you discussing the term recommendation with the head of AM Risk.

Please keep me posted. Thanks. Kathy

From: Dubowy, Helen
Sent: Thursday, December 10, 2015 4:30 PM
To: Knepper, Kathy
Subject: RE: summary

AM Risk is the department in which Defendant Shillingford and I, Plaintiff, Candice Lue worked. CL

I am just sending this to Nelli Childs (Head of HR for Firmwide risk). I want to get her support for term.

Unless you had a concern I likely would share it with the head of AM risk also (but would not go below that level).

Thank you for the updates. They look good.

91A

From: Vernon, Terri
Sent: 10/6/2015 6:45:33 PM
To: Vernon, Terri ; Knepper, Kathy ; Padilla, Linda ; Dubowy, Helen
Subject: Candice Lue
Location: (888) 575-5762 PC: 67948733#
Start: Fri 10/9/2015 9:00:00 PM
End: Fri 10/9/2015 10:00:00 PM
Show Time As: Tentative

Recurrence: (none)
Meeting Status: Not yet responded

Required Attendees: Knepper, Kathy; Padilla, Linda; Dubowy, Helen

All,
We might not need the full hour, but I was lucky to find it just in case!
This meeting is to discuss next steps with Candice Lue and pre-planning for a possible termination.

Terri Vernon
Vice President, Human Resources Advice Direct
(888) 703-5555 / HR.Advice.Direct@jpmchase.com
Direct: Terri.Vernon@jpmchase.com / (714) 987-4377

These meetings were solely attended by JPMorgan Chase's HR LEGAL Representatives to "pre-plan" my termination. Notably absent is my Black manager, Defendant Fidelia Shillingford.

CL

92A

From: Vernon, Terri
Sent: 10/7/2015 3:44:32 AM
To: Knepper, Kathy ; Padilla, Linda ; Dubowy, Helen
Subject: Candice Lue
Show Time As: Free

Recurrence: (none)
Required Attendees: Knepper, Kathy; Padilla, Linda; Dubowy, Helen

When: Friday, October 09, 2015 8:00 AM-8:30 AM (UTC-08:00) Pacific Time (US & Canada).
Where: (888) 575-5762 PC: 67948733#

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*

All,
Linda wasn't able to make the last appointment I scheduled. Hopefully this will be good for all.
This meeting is to discuss next steps with Candice Lue and pre-planning for a possible termination.

Terri Vernon
Vice President, Human Resources Advice Direct
(888) 703-5555 / HR.Advice.Direct@jpmchase.com
Direct: Terri.Vernon@jpmchase.com / (714) 997-4377

These meetings were solely attended by JPMorgan Chase's HR LEGAL Representatives to "pre-plan" my termination. Notably absent is my Black manager; Defendant Fidelia Shillingford.

CL

93A

Cetoute, Lela

From: Poz, Thomas I
Sent: Wednesday, January 06, 2016 2:13 PM
To: Vernon, Terri; Shillingford, Fidelia X
Cc: Dubowy, Helen
Subject: RE: Information

Terri,

I approve. However, on line four there is an extra "she."

Tom

From: Vernon, Terri
Sent: Wednesday, January 06, 2016 1:56 PM
To: Shillingford, Fidelia X; Poz, Thomas I
Cc: Dubowy, Helen
Subject: Information

Fidelia,

Please review the Request for termination document. There is a section that we need you to complete marked by the XXXXX.

**-Re: Page 14 - Am. Com. cl*

You can also print and hand out the "As you leave guide" and have for her when you communicate.

Please review the RFT form.

Helen, can you please sign?

Tom, can you please review the document and reply with your agreement?

Terri Vernon

Vice President, Human Resources Advice Direct
(888) 703-5555 / HRAdviceDirect@jpmchase.com

Direct: Terri.Vernon@jpmchase.com / (714) 997-4377

94A

EXHIBIT 9

(Proof that “*other analysts and associates did [not] have to ask for and obtain permission before working from home*” and that even when I asked in advance for permission to work from home, I was still denied that privilege and had to take the day off as a **vacation** day – Re: Pages 14 & 15 - Am. Com.)

95A

Lue, Candice

From: Lue, Candice
Sent: Thursday, May 07, 2015 6:20 PM
To: Shillingford, Fidelia X
Cc: Khavin, Alex G
Subject: RE: WFH

Hi Fidelia,

Pursuant to our telephone conversation, with regards to the email below, please be advised that I sent it out because this is what I see everyone else in the group doing, including two other analysts that did it this said week.

However, since I'm treated at a lower/different standard from everyone else, as directed by you and Alex, I will send you an email letting you know about my situation, asking you for permission to work from home and you will communicate accordingly to the group.

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | (212) 648 - 0936 | Candice.Lue@jpmorgan.com

-----Original Message-----

From: Lue, Candice
Sent: Thursday, May 07, 2015 5:58 AM
To: JPM AM Global CRG
Subject: WFH

Hi Team,

Due to a family emergency, I have to work from home today. I can be reached via email and communicator. If urgent, you can call me at [REDACTED]

Best regards,
Candice

96A

Lue, Candice

From: Nguyen, Fiona N
Sent: Wednesday, March 11, 2015 7:50 AM
To: JPM AM Global CRG
Subject: WFH

Hi all,


I will be working from home today due to a mild headache. I can be reachable at [REDACTED] or via communicator.

Fiona Nguyen
Analyst - Counterparty Risk Group
J.P. Morgan Asset Management
270 Park Ave, 9th Floor, New York, NY 10017
T: 212-270-3909 | C: 916-335-7109 | fiona.n.nguyen@jpmorgan.com

97A

Lue, Candice

From: Nguyen, Fiona N
Sent: Wednesday, May 06, 2015 7:55 AM
To: AM Counterparty Risk Group
Subject: WFH

Hi all,
I am not feeling well today and will be working from home, available via email, communicator and .

Fiona

98A

Lue, Candice

From: Ng, Kenneth T
Sent: Tuesday, May 05, 2015 8:26 AM
To: Dauber, Kimberly S; AM CRG NY
Subject: Tuesday

Hi Kim

I'm not feeling well this morning and will be working from home available via e-mail, communicator or reachable at [REDACTED]

Kenny.

99A

Lue, Candice

From: Kishore, Gaurav
Sent: Monday, May 11, 2015 8:06 AM
To: JPM AM Global CRG
Subject: Working from Home Today

I'm having an early morning meeting with EMEA and therefore WFH today. I can be reached at [REDACTED]

Regards,
Gaurav

Gaurav Kishore

Executive Director, Counterparty Risk Management
270 Park Ave, 9th Floor
New York, NY 10017
212 - 648 -0816
gaurav.kishore@jpmchase.com

100A

Lue, Candice

From: Shillingford, Fidelia X
Sent: Monday, December 08, 2014 7:53 AM
To: JPM AM Global CRG
Subject: WFH Today

All
WFH today. Faith had a fever last night and has the cold. Staying home to monitor her.

Fidelia Shillingford

Lue, Candice

101A

From: Lue, Candice
Sent: Tuesday, March 31, 2015 5:18 PM
To: Shillingford, Fidelia X; Kulda, Eileen
Subject: RE: WFH - Monday April 6 / Holy Thursday April 2

Hi Fidelia,

Following up from our conversation, since taking off Holy Thursday for religious observance has always been a part of my tradition/upbringing, I'll just take the day off as a vacation day.

Hi Eileen,

Can you please update the team calendar for me on Holy Thursday (April 2) as a vacation day? It's currently on calendar as WFH.

Thanks and regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | ☎ (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

From: Lue, Candice
Sent: Tuesday, March 31, 2015 11:07 AM
To: Shillingford, Fidelia X
Subject: RE: WFH - Monday April 6

Hi Fidelia,

For Monday, my doctor's appointment is at 3pm and I will have my blackberry with me. My personal cell phone number is [REDACTED]

Regarding Holy Thursday, I just wanted to let you know that I usually take the day off in addition to Good Friday for religious purposes (Easter observance). However, because of the workload/human resource shortage, I elected to work from home on Holy Thursday. Also, please be advised that if I were to come into the office on Holy Thursday, I would have to leave by 3pm to be home no later than 5pm. If I work from home then I'll be able to work until 5pm (2 hours more).

Easter is the holiest Christian holiday in my family ☺

Best regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | ☎ (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

From: Shillingford, Fidelia X
Sent: Tuesday, March 31, 2015 10:40 AM
To: Lue, Candice
Subject: RE: WFH - Monday April 6

Thanks Candice for the heads-up.
Can you please advise what your availability will be on Monday? Are you planning to take time off in the morning or afternoon for your doctor's appointment? Also, please provide number(s) that you can be reached at when WFH?

102A

Lastly, given that you will be off on Friday and WFH on Monday; can I ask that you please come into the office on Thursday? I am ok with you leaving on time on Thursday, if needs be. Please ask Eileen to remove the WFH on Thursday.

Regards

Fidelia Shillingford | VP, Counterparty Risk Management | **J.P. Morgan Asset Management**
270 Park Avenue, 9th Floor, New York, NY 10017-2014 | T: 212 648 1810

From: Lue, Candice
Sent: Monday, March 30, 2015 10:19 AM
To: Shillingford, Fidelia X; Kulda, Eileen
Subject: WFH - Monday April 6

Hi Fidelia/Eileen,

I have a doctor's appointment on Monday, April 6 and need to work from home. Can I be added to the team calendar for WFH?

Thanks and regards,
Candice

Candice Lue | Asset Management | Counterparty Risk Group | **J.P. Morgan** | 270 Park Avenue, 9th Floor, New York, NY 10017 | ☎ (212) 648 - 0936 | ✉ Candice.Lue@jpmorgan.com

EXHIBIT 10

(Common Law Conspiracy - Defendants JPMorgan Chase, Fidelia Shillingford, Alex Khavin, Kimberly Dauber and Baruch Horowitz, acting as individuals, combined, associated, agreed or acted in concert with each other to unlawfully make false statements under penalty of perjury to influence the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them - Re: Page 16 - Am. Com.)

LEGEND FOR COLOR CODING

Yellow - "The Baruch Horowitz Lie" - Defendants - JPMorgan Chase, Shillingford, Khavin, Dauber and Horowitz (Pages 8, 9 & 10 - Am. Com.)

Pink - "The Manager Switch Lie" - Defendants - Khavin and Shillingford
(Pages 11, 12, 13 & 14 - Am. Com.)

Green - "The Work from Home Lie" - Defendants - Shillingford and Horowitz
(Pages 14 & 15 - Am. Com.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CANDICE LUE,

Plaintiff,

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- X

No. 16 Civ. 03207 (AJN)(GWG)

DECLARATION OF JOHN VEGA

JOHN VEGA, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the foregoing is true and correct:

1. I was employed as an Executive Director in the Employee Relations Department of JPMorgan Chase Bank, N.A., a wholly-owned bank subsidiary of JPMorgan Chase & Co. ("Chase"), a Defendant in the above-captioned action. I respectfully submit this declaration in support of Defendants' motion for summary judgment in this action. This declaration is based on my personal knowledge, as well as my review of Chase business records.

2. In June and July 2015, based on a referral from Terri Vernon, a Vice President on the HR Advice Direct team, I conducted an HR investigation into certain complaints made by Candice Lue. Specifically, Ms. Lue complained that Alex Khavin and Fidelia Shillingford were discriminating against her on the basis of her race because they directed her to take minutes at, and collect and distribute documents for, the group's monthly governance meeting.

3. My investigation revealed that Plaintiff's predecessor, a more senior, Caucasian male, Baruch Horowitz, had been assigned these tasks before Ms. Lue joined the group.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
CANDICE LUE,

Plaintiff,

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- x

No. 16 Civ. 03207 (AJN)(GWG)

DECLARATION OF FIDELIA SHILLINGFORD

FIDELIA SHILLINGFORD, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the foregoing is true and correct:

1. I am employed as a Vice President in the Counterparty Risk Group ("CRG") of J.P. Morgan Investment Management Inc., a wholly-owned subsidiary of JPMorgan Asset Management Holdings Inc., which is a wholly-owned subsidiary of JPMorgan Chase Holdings LLC, which is a wholly-owned subsidiary of JPMorgan Chase & Co. ("Chase"), a Defendant in the above-captioned action. I respectfully submit this declaration in support of Defendants' motion for summary judgment in this action. This declaration is based on my personal knowledge, as well as my review of Chase business records.

2. I am an African-American woman, and I supervised Candice Luc ("Plaintiff") while she was a member of the CRG from her hiring into that group in November 2014 until her termination in January 2016.

Manager "Switch"

3. In or about 2013, Alex Khavin, an Executive Director, became the head of the CRG. Several months later, Kim Dauber, a Vice President, joined the CRG. When Dauber joined, Khavin changed the reporting structure of the group such that all junior members of the CRG, *i.e.*, analysts and associates, would report to Dauber, while all senior members, *i.e.*, Vice Presidents and Executive Directors, would report to Khavin directly. Prior to that time, everyone in the CRG reported to Khavin directly.

4. In the months leading up to Plaintiff's hiring into CRG in November 2014, I expressed to Khavin that I wanted to gain managerial experience. Thus, when the CRG began looking to hire a Credit Reporting Risk Analyst ("Reporting Analyst"), Khavin told me that the person hired to fulfill the role would report to me, and not Dauber.

5. On or about October 30, 2014, I interviewed Plaintiff. During the interview I made clear to her that I would be the supervisor of the person hired for the role, not Dauber. Other members of the CRG who interviewed Plaintiff expressed the same.

6. The ultimate decision to hire Plaintiff was mine. A true and correct copy of Plaintiff's offer letter is annexed here to as Exhibit A.

7. The individual who replaced Plaintiff, a Caucasian, reports to me as well.*

See "NOTES" (Fidelia Shillingford) following.
CL

Job Description

8. Reporting Analysts and a Counterparty Credit Risk Analysts ("Credit Analysts") are two different positions and serve two different functions, notwithstanding their similar official job descriptions. First, the Reporting Analyst(s) reports to me, while the Credit Analysts report to Dauber. Second, the Reporting Analysts are responsible for reporting and operational functions of the CRG, while the Credit Analysts are responsible for analysis. To elaborate, Reporting Analysts prepare daily and monthly reports, including the "Monthly Counterparty Risk Exposure Report," "Limits Monitoring

Report," and "Exception Monitoring." In contrast, Credit Analysts are responsible for assessing risk and conducting ad hoc analyses on counterparties.

9. I informed Plaintiff that she was being hired as a Reporting Analyst.

Taking Minutes and Document Collection

10. Prior to Plaintiff's arrival to the CRG, Baruch Horowitz, Plaintiff's predecessor, was exclusively responsible for taking the minutes at, and collecting and distributing the materials for, the CRG's monthly governance meeting (the "Tasks").

11. In or about June 2014, Horowitz began a disability leave. In his absence, Khavin made the task of taking minutes temporarily rotational until Horowitz returned to work. In further recognition of Horowitz's absence, each analyst was tasked with bringing their own materials to the monthly governance meeting and distributing them upon arrival. However, we found that this approach was inefficient because the participants were spending the first 15-20 minutes of each meeting collecting documents.

12. Horowitz did not return to work from his leave, and the status quo remained until a replacement Reporting Analyst could be hired and resume the Tasks. * ALSO see "NOTES" (Fidelia Shillingford) following.

CZ

Work from Home

13. In the CRG, employees are permitted to work from home ("WFH") at the discretion of their manager. WFH enables employees to work remotely on those occasions when they are available to fulfill their job responsibilities but are otherwise unable to come into the office.

14. Prior to working from home, employees must obtain supervisor approval. An employee cannot unilaterally decide to WFH.

Plaintiff's Unsatisfactory Performance, Disrespect, and Insubordination

15. On or about January 26, 2015, Plaintiff complained that to me that Khavin was demeaning her by assigning her the Tasks, "as if she was the help, as if this is 1910."

NOTES (Fidelia Shillingford)

- Statement #7 – Lesser credentials were required for the “Caucasian” who replaced me (see my job description in Exhibit 5 and the job descriptions following as proof). Note where for “qualifications” my job description clearly states: “Undergraduate degree with 1+ years of relevant work experience – strong academic performance with coursework in economics, statistics and finance”. This was also the qualification requirement of all the other analysts and associates who did not report to Shillingford. This qualification is missing from the “Caucasian’s” job description.
- Statement #12 – I had THREE (3) non-Black predecessors, none of whom was assigned the discriminatory tasks:
 1. Baruch Horowitz
 2. Kenneth Ng who was later moved over to the Credit Analysis side of the team and was replaced by Thomas Monaco.
 3. Thomas Monaco who left after only two months on the job causing Kenneth Ng to return to the role. In November of 2014, I replaced Kenneth Ng.

JPMorgan Chase & Co., et al’s intentional omission of this information is another example of “spoliation of evidence”.

Candice Lue

CL

109A

JPMorgan

J.P. Morgan is a leading global financial services firm with assets of \$2.1 trillion and operations in more than 60 countries. The firm is a leader in [investment banking](#), financial services for consumers, small business and commercial banking, financial transaction processing, asset management and private equity. Information about J.P. Morgan is available at www.jpmorganchase.com.

J.P. Morgan Asset Management, Risk Management is committed to being a world

class leader in risk management; maintaining a system of strong controls, providing guidance and clear direction on key risk principles, proactively managing risk and achieving a consistent balance between our business goals and deployment of capital.

AM Risk Management employs people around the world and ensures strong risk management discipline throughout the lines of business within AM. The JPM AM Counterparty Risk Group with assistance from regional risk personnel supervises credit risk arising from counterparty activities conducted on behalf of clients.

Specific responsibilities include:

- Updating and distributing Counterparty reports
- Working with large volumes of data to conduct on-going analyses and periodic reviews of Counterparty Credit exposures
- Monitor and report counterparty exposures to Senior Management as required
- Performing periodic reconciliation of the various AM platforms to our independent credit risk system
- Assist in maintaining credit administration system and records
- Contributing to the development, enhancement, and periodic review of risk assessment methodologies and reporting capabilities and preparing Management presentations

Qualifications

The ideal candidate must possess a strong risk and control mindset:

- Be very detailed oriented
- Have excellent analytical and written/verbal communication skills
- Must be able to work under pressure and deliver on multiple tight, time sensitive timelines
- Team player
- Self-starter with strong project management skills
- Demonstrated interest in/knowledge of global financial markets and products
- Strong Excel/PowerPoint/MS Office skills and experience with Tableau preferred

JPMorgan Chase is an equal opportunity and affirmative action employer Disability/Veteran.

Job Risk

Primary Location US-NY-New York-270 Park Avenue / 02317

Organization ASSET MANAGEMENT

Schedule Full-time

Job Type Standard

Shift Day Job

Corporate Brand JPMorgan Chase & Co.

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Job Description**Asset Management, Global Investment Management - Counterparty Risk Reporting Analyst - NY-160069076****Job Description****JPMorgan**

J.P. Morgan is a leading global financial services firm with assets of \$2.1 trillion and operations in more than 60 countries. The firm is a leader in investment banking, financial services for consumers, small business and commercial banking, financial transaction processing, asset management and private equity. Information about J.P. Morgan is available at www.jpmorganchase.com.

Counterparty Risk Reporting Analyst

J.P. Morgan Asset Management, Risk Management is committed to being a world class leader in risk management; maintaining a system of strong controls, providing guidance and clear direction on key risk principles, proactively managing risk and achieving a consistent balance between our business goals and deployment of capital.

AM Risk Management employs people around the world and ensures strong risk management discipline throughout the lines of business within AM. The JPM AM Counterparty Risk Group with assistance from regional risk personnel supervises credit risk arising from counterparty activities conducted on behalf of clients.

Specific responsibilities include:

- Updating and distributing Counterparty reports
- Working with large volumes of data to conduct on-going analyses and periodic reviews of Counterparty Credit exposures
- Monitor and report counterparty exposures to Senior Management as required
- Performing periodic reconciliation of the various AM platforms to our independent credit risk system
- Assist in maintaining credit administration system and records
- Contributing to the development, enhancement, and periodic review of risk assessment methodologies and reporting capabilities and preparing Management presentations

Qualifications

The ideal candidate must possess a strong risk and control mindset:

- Be very detailed oriented
- Have excellent analytical and written/verbal communication skills
- Must be able to work under pressure and deliver on multiple tight, time sensitive timelines
- Team player
- Self-starter with strong project management skills
- Demonstrated interest in/knowledge of global financial markets and products
- Strong Excel/PowerPoint/MS Office skills and experience with Tableau preferred

JPMorgan Chase is an equal opportunity and affirmative action employer Disability/Veteran.

Job Risk

Primary Location US-NY-New York-270 Park Avenue / 02317

Organization ASSET MANAGEMENT

Schedule Full-time

Job Type Standard

Shift Day Job

Corporate Brand JPMorgan Chase & Co.

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111A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
CANDICE LUE,

Plaintiff,

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- x

No. 16 Civ. 03207 (AJN)(GWG)

DECLARATION OF ALEX KHAVIN

ALEX KHAVIN, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the foregoing is true and correct:

1. I am employed as an Executive Director in the Special Credits Group of JPMorgan Chase Bank, N.A., a wholly-owned bank subsidiary of JPMorgan Chase & Co. ("Chase"), a Defendant in the above-captioned action. I respectfully submit this declaration in support of Defendants' motion for summary judgment in this action. This declaration is based on my personal knowledge, as well as my review of Chase business records.

2. I was the second-level supervisor for Candice Lue ("Plaintiff") while she was a member of the Counterparty Risk Group ("CRG") from her hiring in November 2014 until I left the CRG in June 2015. *See "NOTES" (Alex Khavin) following. *ex*

3. Plaintiff's immediate supervisor from her hiring in November 2014 until her termination in January 2016 was Fidelia Shillingford, a Vice President.

Manager "Switch"

4. In or about April 2013, I became the head of the CRG. Several months later, Kim Dauber, a Vice President, joined the CRG. After Dauber joined, I changed the reporting structure of the group so that all junior members of the CRG, *i.e.*, analysts and associates, would report to Dauber, while all senior members, *i.e.*, Vice Presidents, would report to me directly. Prior to that time, everyone in the CRG reported to me directly.

5. In the months before Plaintiff's hiring into the CRG in November 2014, Shillingford and I had conversations about growing her managerial skills. When the CRG began looking to hire a Credit Reporting Risk Analyst ("Reporting Analyst"), I told her that the person hired to fulfill the role would report to her, and not Dauber.

6. I made this decision based on discussions with Shillingford and my immediate manager, Philippe Quix, a Managing Director, and communicated the decision to Shillingford. At the time, I did not know who would be hired for the Reporting Analyst position. I did not know Plaintiff at that time and was not aware of her candidacy. My decision to make Shillingford the manager was unrelated to the identity of the selected candidate.

7. Because all analysts and associates had previously reported to Dauber, the internal job posting for the position reflected Dauber as the hiring manager. This was a mistake by the HR hiring manager, as it was previously decided that Shillingford was going to be the one to whom the Reporting Analyst would report.

Document Collection and Distribution

8. The CRG monthly governance meeting ("Governance Meeting") is a meeting during which the CRG reviews trends and controls (e.g., limits, breaches, and exposures), notes any issues, and discusses follow-up from previous meetings.

9. The Governance Meeting is attended (physically and virtually) by many individuals in several locations, including New York, Hong Kong, and London. Due to the number of individuals who participate, meeting materials came from many different sources.

10. Because of this, when I joined CRG, I tasked Plaintiff's predecessor, Baruch Horowitz ("Horowitz"), a Caucasian male and a senior Associate, with preparing the materials for the Governance Meetings, including collecting meeting materials from individuals in various offices, and printing and bringing hard-copies into the meeting. These tasks were assigned to Horowitz alone.

11. As an Associate, Horowitz held a more senior title than that held by Plaintiff, an Analyst.

12. In June 2014, Horowitz began a disability leave. As a result, each member of the CRG tried to handle his tasks on their own, but we found that the first 10-20 minutes of each Governance Meeting were spent collecting, exchanging, and distributing the materials, and we lost valuable meeting time.

13. In addition, because some participants were joining the Governance Meeting from overseas locations, they were unable to receive some of the materials as they had not been distributed before the meeting.

14. Thus, when Plaintiff was hired, in an effort to make the Governance Meeting more streamlined and efficient, I asked her to collect, consolidate, and distribute the meeting materials, as Horowitz had done.

Taking Minutes

15. CRG analysts and associates take meeting notes or "minutes" at many meetings, including the CRG Governance Meetings,*Technology Initiatives Meetings, AM Risk People

* See "NOTES" (Alex Khavin) following.

CZ

Council Meetings, and others.* At some of these meetings, the task of taking minutes was assigned on a rotational basis.

16. After I joined the CRG in 2013, I assigned Horowitz alone the task of taking minutes at the Governance Meeting. He carried out this responsibility until he went out on disability leave in or about June 2014.

17. After Horowitz left, I temporarily made the task of taking minutes at the Governance Meeting rotational among the Credit Analysts because, at the time, each of the Credit Analysts were very busy, and I thought a division of labor was appropriate.

18. Horowitz, however, never returned to work. Thus, the temporary rotation was in effect until Plaintiff was hired in November 2014.

19. *Throughout this six month period,* it remained my view that document collection and taking minutes ultimately remained the responsibility of the Reporting Analyst, the position for which Plaintiff was hired. ^{See "NOTES" (Alex Khavin) following.} *CL*

Plaintiff's Unsatisfactory Performance

20. During Plaintiff's first couple of Governance Meetings, I assigned her the tasks of taking minutes and document collection and distribution (the "Tasks"), as Horowitz had done before he left the company.

21. At the April 2015 Governance Meeting, in order to further streamline the document collection and distribution process as it had been while Horowitz handled the task, I asked that the group send to Plaintiff all meeting materials in advance of the May 2015 Governance Meeting so that Plaintiff could distribute them beforehand in order to save time distributing them at the meeting itself, as well to ensure these materials were made available to those individuals joining remotely. In response, Plaintiff got up and walked out of the meeting.

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NOTES (Alex Khavin)

- Statement #2 – Defendant Khavin officially left the Counterparty Risk Group (CRG) the SAME DAY that I was fired, January 6, 2016 (see proof on next page). Within half an hour after this announcement, I was fired.
- Statement #15 – Not true. In my one year and two month tenure in the Counterparty Risk Group (CRG), the only meeting I knew of where the analysts and/or associates of this group were required to take meeting notes was for the Monthly Governance Meeting.
- Statement #19 – I had THREE (3) non-Black predecessors, none of whom was assigned the discriminatory tasks:
 1. Baruch Horowitz
 2. Kenneth Ng who was later moved over to the Credit Analysis side of the team and was replaced by Thomas Monaco.
 3. Thomas Monaco who left after only two months on the job causing Kenneth Ng to return to the role. In November of 2014, I replaced Kenneth Ng.

JPMorgan Chase & Co., et al's intentional omission of this information is another example of "spoliation of evidence".

Candice Lue



116A

Lue, Candice

From: Philippe Quix <targetedemail@jpmchasebroadcast.com>
Sent: Wednesday, January 06, 2016 4:18 PM ✶
Subject: Organization Announcement

GLOBAL INVESTMENT MANAGEMENT


J.P.Morgan
Asset Management

Organization Announcement

As you know, **Tom Poz** has been serving as interim Head of the Counterparty Risk Group for Global Investment Management, while Alex Khavin is out on extended leave. I am pleased to announce that Tom will assume the role on a full-time basis going forward, reporting to me.

Tom has been with J.P. Morgan for 15 years. He has been a Credit Officer in the Counterparty Risk Group since 2013, covering North America. He transitioned to Asset Management from the CIB, where he spent the prior nine years in the FIG Global Credit Risk Management unit covering banks, broker-dealers and clearinghouses. Altogether, Tom has 22 years credit experience covering financial institutions.

Please join me in congratulating Tom on his appointment to this critical role in our organization.



Philippe Quix
Chief Risk Officer,
Global Investment Management

This message was sent to all AM Risk employees.

JPMC INTERNAL USE ONLY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CANDICE LUE,

Plaintiff,

No. 16 Civ. 03207 (AJN)(GWG)

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- X

DECLARATION OF KIMBERLY DAUBER

KIMBERLY DAUBER, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the foregoing is true and correct:

1. I am employed as a Vice President in the Counterparty Risk Group ("CRG") of J.P. Morgan Investment Management Inc., a wholly-owned subsidiary of JPMorgan Asset Management Holdings Inc., which is a wholly-owned subsidiary of JPMorgan Chase Holdings LLC, which is a wholly-owned subsidiary of JPMorgan Chase & Co. ("Chase"), a Defendant in the above-captioned action. I respectfully submit this declaration in support of Defendants' motion for summary judgment in this action. This declaration is based on my personal knowledge, as well as my review of Chase business records.

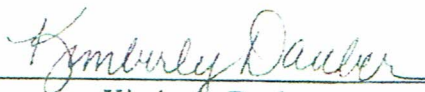
2. On February 4, 2015, I sent an e-mail to Candice Lue stating in pertinent part: "Every analyst and/or associate on this team has been the minute taker of our Extended meetings at some time during the last 2 years." A true and correct copy of such e-mail correspondence is annexed hereto as Exhibit A.

* 3. By "extended meetings." I was referring to non-governance meetings, such as our Technology Initiatives Meeting and Investment Risk Process meetings, at which the task of taking minutes was rotated among the analysts and associates.

4. I was not referring to the monthly governance meeting, the meeting for which Ms. Lue was assigned the exclusive responsibility to take minutes. Before Ms. Lue joined the CRG, that task was performed by Ms. Lue's predecessor, Baruch Horowitz. Mr. Horowitz was also exclusively responsible for collecting and distributing documents to the participants in advance of the meetings.

5. The only time these tasks were rotational was from June to November 2014, when Mr. Horowitz was on disability leave and after he left the company and his position had not yet been filled.

Dated: New York, New York
May 9, 2017



Kimberly Dauber

* Not true. The names "Extended Meeting" and "Monthly Governance Meeting" were used interchangeably by the Team. See the emails in Exhibit 3 and the asterisks on JPMorgan Chase document numbers 002366 and 002367 (that Kimberly Dauber referenced in Statement #2) following.

CL

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From: Dauber, Kimberly S
To: Lue, Candice; Shillingford, Fidelia X
Sent: 2/4/2015 7:02:31 PM
Subject: RE: Minutes and Documents for Extended Team Meeting *

Candice -

Every analyst and/or associate on this team has been the minute taker of our Extended meetings at some time during the last 2 years. I don't think this is a function that is specifically written out in job duties because it's an ad-hoc function. However, Alex would pick a different person each time during our meetings. Most recently, it was understood that the reporting analyst would handle it. I'm fine with including additional analysts to assist you with this.

Best regards,

Kimberly Dauber | Vice President | J.P. Morgan Asset Management | 270 Park Ave, 9th Floor, New York, NY 10017 | T: 212-270-1655 | kimberly.s.dauber@jpmorgan.com

From: Lue, Candice
Sent: Wednesday, February 04, 2015 1:55 PM
To: Shillingford, Fidelia X; Dauber, Kimberly S
Subject: RE: Minutes and Documents for Extended Team Meeting *

Hi Fidelia,

Just to reiterate, as previously discussed, I have never considered these tasks to be my responsibility as I had confirmed such in the interview and on the job.

Best regards,

Candice

Candice Lue | Asset Management | Counterparty Risk Group | J.P. Morgan | 270 Park Avenue, 9th Floor, New York, NY 10017 | (212) 648 - 0936 | + Candice.Lue@jpmorgan.com

120A

From: Shillingford, Fidelia X
Sent: Wednesday, February 04, 2015 1:38 PM
To: Dauber, Kimberly S
Cc: Lue, Candice
Subject: Minutes and Documents for Extended Team Meeting *

Hi Kim

I have discussed with Alex and she is ok with the proposal that we continue to rotate the responsibility of document collection and minutes taking for our monthly governance meeting. *

I suggest that we have a schedule so that each analyst is aware of who is responsible for which month. Can you please select at least two analysts who could assist Candice with this responsibility? Once confirmed, I will fill in the appropriate names for Analyst 1 and 2 and circulate.

Thank you.

Analyst	Month
Feb	Candice
Mar	Analyst 1
Apr	Analyst 2
May	Candice
Jun	Analyst 1
Jul	Analyst 2
Aug	Candice
Sep	Analyst 1
Oct	Analyst 2
Nov	Candice
Dec	Analyst 1

Regards

Fidelia Shillingford | VP, Counterparty Risk Management | J.P. Morgan Asset Management

270 Park Avenue, 9th Floor, New York, NY 10017-2014 | T: 212 648 1810

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CANDICE LUE,

Plaintiff,

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- X

No. 16 Civ. 03207 (AJN)(GWG)

**DECLARATION OF
BARUCH HOROWITZ**

BARUCH HOROWITZ, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury as follows:

1. I was employed by JPMorgan Chase Bank, N.A. ("Chase"), a subsidiary of JPMorgan Chase & Co., a Defendant in the above-captioned action. I know the facts testified to in this Declaration to be true based upon my own personal knowledge.
2. I am a Caucasian male.
3. I worked for Chase from approximately November 2005 to August 2014. From approximately December 2011 to August 2014, I was employed as an Associate in the Counterparty Risk Group ("CRG") of JPMorgan Asset Management, a business unit of Chase.
4. While employed as an Analyst in CRG, I had two supervisors: Jim Sexton ("Sexton") and, later, Alex Khavin ("Khavin"). Khavin joined the CRG at some point after I did.
5. Prior to Khavin joining the team, I was periodically directed by Jim Sexton to take minutes at the group's monthly CRG meeting and other meetings, and I did so. Once Khavin joined CRG, she also periodically directed me to take minutes at the group's monthly

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CRG meeting and other meetings. I did so. Subsequently, Khavin asked me to take the minutes on a "going-forward basis," and I did so for a period of time.

6. Additionally, Sexton and then Khavin directed me to prepare the materials for the monthly CRG meeting, including printing, organizing, sorting, collating, and stapling. I did so. Once I had completed these tasks, I typically e-mailed copies of the materials to everyone on the invite list of the monthly CRG meeting, including those attending remotely, and brought hard copies to the meeting to distribute to those attending in person. I am not aware that anyone else was assigned these tasks.

7. During my employment with Chase, I periodically worked from home. Prior to doing so, however, I contacted my group supervisor at the time for permission.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 28, 2017
Los Angeles, California


Baruch Horowitz

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK**

CANDICE LUE, an individual,

Plaintiff,

V.

JPMORGAN CHASE & CO., a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; and MICHELLE SULLIVAN, an individual; inclusive,

Defendants.

**CIVIL ACTION NO.: 19 CV 9784
(KPF) (SDA)**

**PLAINTIFF'S MEMORANDUM
OF LAW IN OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS
(DOCKET #s 28 & 29)**

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I. PRELIMINARY STATEMENT

Defendants, JPMorgan Chase & Co., et al's use of "absolute privilege" as their "one-trick pony" legal defense in this lawsuit is detrimental to the integrity of the U.S. Judicial System¹. The U.S. Supreme Court has explained that: "[E]very court has supervisory power...." to ensure they "are not used to gratify private spite or promote public scandal" or "serve as reservoirs of libelous statements...." – *Nixon v. Warner Communications, Inc., et al*, 435 U.S. 589, 98 S.Ct. 1306 (1978). "This supervisory function is not only within a district court's power, but also among its responsibilities." - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019). Accordingly, with the facts presented, the Defendants' Motion to Dismiss should be denied.

II. INTRODUCTION

Without one piece of evidence to disprove my arguments, the only defense that JPMorgan Chase & Co. ("JPMorgan Chase"), Alex Khavin ("Khavin"), Fidelia Shillingford ("Shillingford"), Kimberly Dauber ("Dauber"), Baruch Horowitz ("Horowitz"), Chris Liasis ("Liasis") and Michelle Sullivan ("Sullivan"), inclusive (collectively "Defendants" or "JPMorgan Chase & Co., et al") have to my civil action for Defamation, Common Law Conspiracy, False and Fraudulent Acts and Conduct, Actual Malice, Libel, Defamation Per Se and Defamation by Implication against them is "absolute privilege".

In other words and without merit as is later discussed, they are using the "absolute privilege" law as protection for their criminal, conspiratorial, false and fraudulent acts and conduct which influenced the outcome of my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207 and 18-CV-01248) and which have caused me severe harm and loss through the defamation of my character which is being compounded each and every day - "The

¹ See Exhibit 11 – New York Law Journal article – "Should the Absolute Privilege Apply to Defamation Per Se?"

[absolute] privilege's purpose is not to protect those making defamatory comments but "to lessen the chilling effect on those who seek to utilize the judicial process to seek relief" – Jacobs v. Adelson, 325 P.3d 1282 (Nev. 2014).

While the Defendants have put complete and total confidence in their "absolute privilege" defense to shield them from their intentional and pre-meditated fraud against me, Plaintiff, Candice Lue and upon the District and Appeals Courts, my arguments in opposition will show that the said Defendants' use of the "absolute privilege" defense in this lawsuit is without merit and as such their Motion to dismiss my Amended Complaint should be denied.

III. BACKGROUND

As the only Black analyst in JPMorgan Chase's Asset Management Counterparty Risk Group, for taking a stance (which included reporting to the Equal Employment Opportunity Commission (EEOC), the unlawful employment racial discrimination and retaliation that was perpetrated against me) against being treated as the help/house slave by Defendant Alex Khavin, who is a racist, JPMorgan Chase fired me, Plaintiff, Candice Lue on January 6, 2016.

This unlawful, retaliatory act prompted me to file an Employment Racial Discrimination and Retaliation lawsuit on April 29, 2016 (1:16-CV-03207) against JPMorgan Chase and eight (8) of its managers namely, Alex Khavin; Fidelia Shillingford; John Vega; Helen Dubowy; Philippe Quix; Thomas Poz; Chris Liasis and Michelle Sullivan in the Southern District Court of New York, County of New York utilizing the Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 Statutes.

JPMorgan Chase & Co., et al's response to my said lawsuit was to commit criminal, conspiratorial, false and fraudulent acts and conduct for the sole purposes of intentionally

injuring me, Plaintiff, Candice Lue, defaming my character and reputation and influencing the outcome of my said Employment Racial Discrimination and Retaliation lawsuit.

On October 23, 2019, I filed the above-captioned civil action in this Court with a subsequent Amended Complaint filed on October 30, 2019 to recover damages caused by the said Defendants' said criminal, conspiratorial, false and fraudulent acts and conduct for which I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery to show that a recovery is warranted - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (¶ 29).

IV. ARGUMENT

1) THE DEFENDANTS' "ABSOLUTE PRIVILEGE" DEFENSE IS WITHOUT MERIT

A. The Tort of Defamation Is Solely Predicated by Perjury As On Its Face, As It Relates to the "Absolute Privilege" Defense, the Challenged Statements Are Not Defamatory.

JPMorgan Chase & Co., et al's "absolute privilege" defense is without merit because none of the statements I quoted in my "First Cause of Action" in my Amended Complaint as false statements the said Defendants made **under penalty of perjury** in their Declarations pursuant to 28 U. S. C. § 1746 ("Supplemental Appendix") that they filed with their "Brief for Defendants-Appellees" in the Second Circuit Court of Appeals on November 2, 2018, **on its face as it relates to "absolute privilege" immunity**, is defamatory to my character and as such do not warrant the "absolute privilege" defense for this lawsuit².

No where during the course of my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207 and 18-CV-01248) judicial proceedings did the Defendants explicitly state that I, Plaintiff, Candice Lue is a vindictive, lying, uncongenial and elitist person and a less

² "If a person is offering testimony as a witness in Court, and gives damaging testimony about **someone else -- such as that the person lied or cheated** -- those statements will be protected from civil liability for defamation." Credit to AllLaw.com

desirable/undesirable employee and no where in my Amended Complaint did I state that the Defendants explicitly described me as any of the such either. “Absolute privilege” protects actual statements made which are defamatory **on its face/as stated** during the course of a judicial proceeding. “Absolute privilege” does not protect statements made during a judicial proceeding that are **not** defamatory **on its face/as stated** but only when opined and/or interpreted defame one’s character due to anyone’s/society’s opinion and/or interpretation of the said statements which is anyone’s/society’s absolute civil right. Another of **several** cases in point – Baruch Horowitz’s Declaration – statement #s 2, 6 & 7 (see Exhibit 12) which state: *“I am a Caucasian male”.... “Sexton and then Khavin directed me to prepare materials for the monthly CRG meeting, including printing, organizing, sorting, collating, and stapling. I did so....”..... “I periodically worked from home. Prior to doing so, however, I contacted my group supervisor at the time for permission.”* **On its face/as stated**, these false statements (6 & 7) made **under penalty of perjury** by Defendant, Baruch Horowitz (**talking about himself**) are not defamatory to my character but when opined and/or interpreted by anyone/society, make **me, Plaintiff, Candice Lue**, out to be an elitist, vindictive and troublesome Black employee who refused to do the Tasks that were done by “my predecessor”³, *“a Caucasian male”*, thus defaming my reputation and character and making me a less desirable and/or undesirable employee.

With that said, JPMorgan Chase & Co., et al’s “absolute privilege” defense as it relates to the Defamation tort in my Amended Complaint is without merit because “absolute privilege” is extended solely to actual defamatory statements made by parties during a judicial proceeding, not to anyone’s/society’s opinion and/or interpretation of the said statements. If Defendants, JPMorgan Chase & Co., et al had explicitly stated in their Declarations that I, Plaintiff, Candice

³ I had three (3) non-Black predecessors none of whom was assigned the discriminatory tasks. However, JPMorgan Chase & Co., et al are pretending two of them do not exist (Baruch Horowitz, Thomas Monaco and Kenneth Ng - another example of JPMorgan Chase & Co., et al’s “spoliation of evidence”).

Lue is a vindictive, lying, uncongenial and elitist person and a less desirable/undesirable employee then those defamatory statements would be protected from civil liability for defamation (see footnote "2") but for their statements made **under penalty of perjury**, "absolute privilege" is not warranted and "absolute privilege" does not protect JPMorgan Chase & Co., et al from anyone's/society's opinion and/or interpretation of their perjurious statements as that is their (anyone's/society's) absolute civil right.

However, while those said statements made by the Defendants in their Declarations pursuant to 28 U. S. C. § 1746, **on its face/as stated**, are not defamatory and as such do not warrant "absolute privilege", those said statements are LIES made **under penalty of perjury** based on intentional, conspiratorial, false and fraudulent acts and conduct by Defendants JPMorgan Chase & Co., et al which have caused me severe harm and loss through the defamation of my character which is being compounded each and every day because, how they have/will be opined and/or interpreted have/will subject me to hatred, contempt, distrust, ridicule, disgrace and pariah status (the fundamentals of defamation) by anyone who gets access to them, including potential employers.

With that said, as it relates to the **crime of perjury**, the victim of perjury normally does not have a cause of action against the person who committed the perjury but perjury can provide a predicate for other tort claims if the elements of those torts can otherwise be proven - *Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956).

In this lawsuit, the tort claims that I have brought which are **predicated** by the **crime of perjury** for which I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery of their perjurious elements of intentional, conspiratorial, false and fraudulent acts and conduct, are the tort claims of Defamation, Common Law Conspiracy, False and

Fraudulent Acts and Conduct, Actual Malice, Libel, Defamation Per Se and Defamation by Implication. The tort claims of Defamation, Actual Malice, Libel, Defamation Per Se and Defamation by Implication emanate from anyone's/society's civil right whereby anyone/society has a right to their own opinion and/or interpretation of the statements made **under penalty of perjury** by JPMorgan Chase & Co., et al. The said opinion and/or interpretation of JPMorgan Chase & Co., et al's statements which have caused me severe harm and loss.

B. Absolute Privilege Should Not Be Extended to the Defendants Due to the Courts' Neglect of Duty.

"Neglect of duty is the omission to perform a duty. Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect is willful, through malice, ignorance or oversight, when such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare, it is gross. [State ex rel. Hardie v. Coleman, 115 Fla. 119 (Fla. 1934)]" - (Credit to USLEGAL.COM).

In my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit, the District and Appeals Courts neglected their duty to uphold the rule of law by consistently ignoring my reports and evidence of the CRIME of Perjury and the false and fraudulent acts and conduct committed by JPMorgan Chase & Co., et al via several Motions I filed with the District Court and cited 18 USC §§ 4, 1505 and 1621 (16-CV-03207), a Writ of Mandamus (17 – 2751) I filed with the Appeals Court and documents I resubmitted to the Appeals Court (18–CV-01248) which were most relevant to my Appeal pursuant to Rule 10(b)(2) of the Federal Rules of Appellate Procedure which had all the evidence to show that JPMorgan Chase & Co., et al committed the crimes of perjury and obstruction of justice.

Also, without a valid explanation (which I requested multiple times via the said Motions I filed with the District Court but was ignored by Judge Alison J. Nathan), the District Court struck from the docket (District Court docket sheet #s 106-112 and 114-118 – see Exhibit 13) **ALL** my eight (8) Affidavits and almost 500 pages of corroborating evidence in the form of Exhibits as well as my Subpoena request for documents in response to the Defendants' perjurious Declarations pursuant to 28 U. S. C. § 1746, which provided all the proofs that the said Defendants, JPMorgan Chase & Co., et al, were committing pre-meditated fraud against me, Plaintiff, Candice Lue and upon the Court.

In conjunction, in the less than two pages of my 4 and less than a ¼ page (double-spaced) pre-prepared statement that I was only allowed to read at the April 18, 2019 Second Circuit Court of Appeals oral argument, I described the Defendants' Motion for Summary Judgment as being "CRIMINAL and PERJURIOUS" **five (5)** times, cited 18 USC §§ 4, 1505 and 1621, stated the Defendants LIED under Penalty of Perjury and even so, the Appeals Court ignored my report of JPMorgan Chase & Co., et al's intentional, criminal, false and fraudulent acts and conduct.

Then, as if the afore-stated miscarriage of justice by the Courts was not bad enough, the said District and Appeals Courts then went on to **repeat and affirm as facts**⁴, the false, misleading, libelous, perjurious, malicious, mendacious and disparaging statements that JPMorgan Chase & Co., et al made **under penalty of perjury** about and against me to make me

⁴ Which includes Judge Alison J. Nathan's statements in her Memorandum Opinion and Order that: "[Plaintiff's] White predecessor was exclusively responsible for the same Tasks and had to obtain the same permissions to work from home. Shillingford, who is Black, made the decision to both hire and fire Plaintiff..... Overall, the evidence [the Defendants' PERJURIOUS Declarations] is "so overwhelmingly tilted in one direction that any contrary finding would constitute clear error.... The undisputed facts, which are "all" supported by citations to evidence in the record, warrant a grant of summary judgment to Defendants on all counts, and the dismissal of Plaintiff's claims." And the Appeals Court's statement in their Summary Order and Judgment that: "Indeed, the district court also considered that Lue's white predecessor received the same assignments as Lue and was subject to the same requirements to work from home; the same person made both the decision to hire Lue and the decision to fire her."

On a separate note, nothing in any of these Orders, by law, can negate or nullify the Defendants' reported and proven criminal, false and fraudulent acts and conduct.

out to be a vindictive, lying, troublesome, uncongenial and elitist person and a less desirable and/or undesirable employee in their Memorandum Opinion & Order and Summary Order and Judgment, respectively; - “[E]very court has supervisory power....” to ensure they “are not used to gratify private spite or promote public scandal” or “serve as reservoirs of libelous statements....” – *Nixon v. Warner Communications, Inc., et al*, 435 U.S. 589, 98 S.Ct. 1306 (1978). “This supervisory function is not only within a district court’s power, but also among its responsibilities.” - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019).

In light of the foregoing, if the Courts had not become so corrupted that they neglected their duty, the Defendants’ criminal, overt, conspiratorial, false and fraudulent acts and conduct would have been addressed and there would not have been a need for this lawsuit. In addition, the Defendants were well aware of the District and Appeals Courts’ grossly erroneous statements in their Memorandum Opinion and Order and Summary Order and Judgment, respectively; but said nothing because their criminal, overt, conspiratorial, false and fraudulent acts and conduct were intentional and pre-meditated. Consequently, and for these reasons, “absolute privilege” should not be extended to the Defendants.

C. The Challenged Statements Are Not Subjected to “Absolute Privilege”

Because The Defendants Have No Evidence of Pertinency.

JPMorgan Chase & Co., et al knowingly, purposefully and intentionally misrepresenting important material facts in statements they made in their Declarations pursuant to 28 U.S.C. § 1746 constitute criminal, false and fraudulent acts and conduct. False, misleading, libelous, perjurious, malicious, mendacious and disparaging statements that are manufactured out of thin air for which not one scintilla of evidence can be produced to support them, cannot be considered

“material⁵ and pertinent to the questions involved” - Brown v. Maxwell, 929 F.3d 41, 53 (2d Cir. 2019) and as such cannot be subjected to absolute privilege. “Upon our review of the papers and documentary evidence submitted by the parties, we discern “not one scintilla of evidence present upon which to base the possible pertinency of [the] defendant’s statement[s]”. Therefore, the challenged statements are not subject to an absolute privilege” - Gugliotta v. Wilson, 168 A.D.3d 817, 819 (2d Dept. 2019).

In contrast, I, Plaintiff, Candice Lue, am able to provide and have provided (docket # 24) solid and material (there is a clear difference between “material” and “misrepresented material”) evidence of pertinency that show that the Defendants’ said false, misleading, libelous, perjurious, malicious, mendacious and disparaging statements and acts are criminal, false and fraudulent and as such, a recovery is warranted - *Pratt v. Payne (2003)*, 153 Ohio App. 3d 450 (§ 29).

D. Common Law Conspiracy Is Not Protected by “Absolute Privilege”.

“Conspiracy, in common law is an agreement between two or more persons to commit an unlawful act or to accomplish a lawful end by unlawful means.” – Britannica. In other words, defamation aside, Common Law Conspiracy is Common Law Conspiracy (Am. Comp. - Second Cause of Action).

Defendants JPMorgan Chase & Co., Fidelia Shillingford, Alex Khavin, Kimberly Dauber and Baruch Horowitz, acting as individuals, combined, associated, agreed or acted in concert with each other to unlawfully make false statements **under penalty of perjury** to influence the outcome of my Employment Racial Discrimination and Retaliation lawsuit (1:16-CV-03207 and 18-CV-01248). This conspiracy and pre-conceived plan by JPMorgan Chase, Shillingford, Khavin, Dauber and Horowitz constitute a conspiracy at common law.

⁵ There is a clear difference between “material” and “misrepresented material”.

I have provided incontrovertible evidence via Exhibits 3 through 10 with Exhibit 10 having the actual evidence (see docket # 24) to prove that Defendants JPMorgan Chase & Co., Fidelia Shillingford, Alex Khavin, Kimberly Dauber and Baruch Horowitz in their quest and benefit to influence the outcome of my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit, committed unlawful acts that constitute a conspiracy at common law which is not protected by "absolute privilege". In addition, my Second Cause of Action (Common Law Conspiracy) encompasses the said Defendants acting as individuals, combined, associated, agreed or acted in concert with each other to commit false and fraudulent acts and conduct (as listed below) which also constitute a conspiracy at common law and which again, is not protected by "absolute privilege".

**2) JPMORGAN CHASE & CO., ET AL'S CONSPIRATORIAL, FALSE AND
FRAUDULENT ACTS AND CONDUCT WERE PRE-MEDITATED TO
INTENTIONALLY INJURE ME, PLAINTIFF, CANDICE LUE.
(AMENDED COMPLAINT - THIRD CAUSE OF ACTION)**

The following includes a summary of JPMorgan Chase & Co., et al's pre-meditated, overt, conspiratorial, false and fraudulent acts and conduct for which I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery. The said pre-meditated, overt, conspiratorial, false and fraudulent acts and conduct were committed for the sole purposes of intentionally injuring me, Plaintiff, Candice Lue, defaming my character and reputation, compromising the authorities of the Courts and influencing the outcome of my Employment Racial Discrimination and Retaliation lawsuit:

- Fraudulent use of Declarations pursuant to 28 U. S. C. § 1746, spoliation of evidence, common law conspiracy, fraudulently using Fidelia Shillingford, a Black employee, as a conduit and a cover for Employment Racial Discrimination,

fraudulently using Baruch Horowitz, my White predecessor as an employee who was solely assigned the racially discriminatory “Tasks” and who had to first request permission in order to use JPMorgan Chase’s “work from home” employment benefit, fraudulently using my November 6, 2014 hire letter, fraudulently using current non-Black employees as ploys to pretend to execute the racially discriminatory “Tasks”, fraudulently using Defendant Alex Khavin’s newly employed manager, Philippe Quix to cover her, Alex Khavin’s racial discrimination, fraudulently using a snippet from Defendant, Chris Liasis’ comments on my 2013 mid year performance review to defame my character, fraudulently having my White predecessor’s manager, Defendant Kimberly Dauber lie in a declaration that Baruch Horowitz was solely assigned the discriminatory “Tasks”, JPMorgan Chase & Co.’s Human Resources legal representatives unlawfully “*pre-planning*” and “*discussing*” my termination from the company after the company was served with my Charge of Employment Racial Discrimination and Retaliation by the Equal Employment Opportunity Commission (EEOC), etc.

The afore-stated has made it clear that JPMorgan Chase & Co., et al’s conspiratorial, false and fraudulent acts and conduct were pre-meditated to intentionally injure me, plaintiff, Candice Lue - “....*the complaint alleges facts showing that the [Defendants]: (1) specifically desired to injure [me, Plaintiff, Candice Lue]; or (2) knew that injury to [me, Plaintiff, Candice Lue] was certain or substantially certain to result from the [Defendants’] act and despite this knowledge, still proceeded.*” (*Mitchell v. Lawson Milk Co.*, 40 Ohio St. 3d 190, 532 N.E.2d 753 (Ohio 1988)) **and** “....*this [is] an action to recover damages because of the false and fraudulent acts and conduct of [JPMorgan Chase & Co., et al].*” (*Morgan v. Graham*, 228 F.2d 625, 627, 628 (10th Cir. 1956)).

3) IN AN EFFORT TO SALVAGE MY PUBLIC REPUTATION AND CHARACTER, I DECIDED TO SHARE MY TRUTH VIA MY WEBSITE AND SOCIAL MEDIA.

As the Defendants' exhibit shows, both the link to and the page with the misleading, libelous, perjurious, malicious, mendacious and disparaging statements made by JPMorgan Chase & Co., et al **under penalty of perjury** pursuant to 28 U. S. C. § 1746 that are on my website, are clearly labeled "**Defendants Declarations aka LIES under Penalty of Perjury**" and the link provided to the respective Defendant's/Declarant's actual Declaration clearly states: "**Read "Defendant's/Declarant's" LIES UNDER PENALTY OF PERJURY**".

In addition, when anyone clicks on any of the "Read "Defendant's/Declarant's" LIES UNDER PENALTY OF PERJURY" links, they will see a comment icon at the top right of the respective Defendant's/Declarant's Declaration which when the mouse moves over it, reveals a comment as follows:

Alex Khavin

As my White skip level manager, not only did Alex Khavin use my Black manager, Fidelia Shillingford as a conduit and a cover for her Racial Discrimination against me but she LIED under Penalty of Perjury in this Declaration to cover her acts of Racial Discrimination - A CRIME pursuant to 18 U.S.C. § 1621. See my response to Alex Khavin's LIES at: http://candicelue.com/The_Truth.htm

Fidelia Shillingford

As a fellow Black employee, not only was Fidelia Shillingford used by my White skip level manager, Alex Khavin as a conduit and a cover for the Racial Discrimination perpetrated against me but she was also used to LIE under Penalty of Perjury in this Declaration on behalf of JPMorgan Chase - These acts of perjury are CRIMES pursuant to 18 U.S.C. §§ 1621 and 1505. See my response to these LIES at: http://candicelue.com/The_Truth.htm

Chris Liasis

As a former White skip level manager, Chris Liasis LIED under Penalty of Perjury (A CRIME pursuant to 18 U.S.C. § 1621) in this Declaration to cover the acts of Racial Discrimination he perpetrated against me in regressing and stagnating my career at JPMorgan Chase. See my response to Chris Liasis' LIES at: http://candicelue.com/The_Truth.htm

Michelle Sullivan

As a former White manager, Michelle Sullivan LIED under Penalty of Perjury (A CRIME pursuant to 18 U.S.C. § 1621) in this Declaration to cover the acts of Racial Discrimination she perpetrated against me in regressing and stagnating my career at JPMorgan Chase. See my response to Michelle Sullivan's LIES at: http://candicelue.com/The_Truth.htm

Kimberly Dauber

JPMorgan Chase used Kimberly Dauber, a White manager, to LIE in this Declaration on their behalf under Penalty of Perjury which are CRIMES pursuant to 18 U.S.C. §§ 1621 and 1505. See my response to Kimberly Dauber's LIES at: http://candicelue.com/The_Truth.htm
 SHAME ON YOU KIMBERLY DAUBER!

Baruch Horowitz

JPMorgan Chase used Baruch Horowitz, one of my three White predecessors, to LIE in this Declaration on their behalf (THE BARUCH HOROWITZ LIE) under Penalty of Perjury which are CRIMES pursuant to 18 U.S.C. §§ 1621 and 1505. See my response to Baruch Horowitz's LIES at: http://candicelue.com/The_Truth.htm

Defendants' Statement of Undisputed Material Facts under Local Civil Rule

If JPMorgan Chase & Co., et al had not perpetrated the unlawful acts of Employment Racial Discrimination & Retaliation against me as I have accused them of doing, they would not have to LIE as much as they did in this document. See my DISPUTED responses to these LIES at: http://candicelue.com/The_Truth.htm

Defendants' Memorandum of Law in Support of Their Summary Judgment

If JPMorgan Chase & Co., et al had not perpetrated the unlawful acts of Employment Racial Discrimination & Retaliation against me as I have accused them of doing, they would not have

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to LIE as much as they did in this document. See my response to these LIES at: http://candicelue.com/The_Truth.htm

On my website, there is also a link to and a page for my Responses to those said misleading, libelous, perjurious, malicious, mendacious and disparaging statements made by JPMorgan Chase & Co., et al **under penalty of perjury** pursuant to 28 U. S. C. § 1746 which is clearly labeled "**THE TRUTH**" and this is where my said Responses are clearly labeled "**Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in "Defendant's/Declarant's" Declaration**".

So, the only publicity on my website for JPMorgan Chase & Co., et al's misleading, libelous, perjurious, malicious, mendacious and disparaging statements made **under penalty of perjury** is for my effort to salvage my public reputation and character, for the public to know that the said statements that are being republished and peddled by legal websites are misleading, libelous, perjurious, malicious, mendacious and disparaging and to disclose the judicial injustice that was being meted out to me within the confines of the Courts.

After Judge Alison J. Nathan without a valid explanation struck from the District Court's docket **ALL** my eight (8) Affidavits and almost 500 pages of corroborating evidence in the form of Exhibits as well as my Subpoena request for documents in response to JPMorgan Chase & Co., et al's perjurious Declarations pursuant to 28 U. S. C. § 1746 (Exhibit 13), which provided all the proofs that the said Defendants were committing pre-meditated fraud against me, Plaintiff, Candice Lue and upon the Court, only the said Defendants' perjurious Declarations remained⁶ and/or were available as the Court's public record for legal websites to republish and peddle. So,

⁶ For almost three (3) months prior to me submitting my Responses/Oppositions to the Defendants' CRIMINAL and PERJURIOUS Motion for Summary Judgment only the Defendants' said disparaging, criminal and perjurious documents were available as public record from the Court for my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit which were being republished and peddled by legal websites.

in an effort to salvage my public reputation and character, I decided to create a website where I could share my truth. Currently, if someone Googles my name, just on the first three pages of the Google results, these legal websites that **only** have JPMorgan Chase & Co., et al's LIES made **under penalty of perjury** (which are affirmed by the District Court and reaffirmed by the Appeals Court **as facts**) to republish and peddle, outnumber my website anywhere from 7 to 10 - 1 (see Exhibit 14).

With that said, it is easier for anyone and/or society to imply and/or to accept that the Courts and the said powerful Defendants are telling the truth versus me, a poor, Black person⁷ – Bearing in mind that it was months **after** my website was published that the District Court affirmed and the Appeals Court reaffirmed **as facts** JPMorgan Chase & Co., et al's LIES **made under penalty of perjury** (see footnote “4”). And, that is why if JPMorgan Chase & Co., et al's criminal, conspiratorial, false and fraudulent acts and conduct against me which are ongoing and compounded each and every day are not remedied, I will suffer damage for the rest of my life. The only means by which I have to remedy current and future damages is via this lawsuit.

As it relates to the Defendants' disclosure of my postings on Twitter, as Exhibit 15 of “Plaintiff's Exhibits in Opposition to Defendants' Motion to Dismiss” shows, calling out a judge who sits on a federal bench for her biases⁸ and exposing Employment Racial Discrimination and Retaliation at JPMorgan Chase & Co. are not unique for my postings on Twitter. These postings are just a sign of the times as one's First Amendment Right is concerned and, as such, should not have any bearing on this lawsuit. In addition, as a Black person, it is inherently my duty and my

⁷ Just as how the Appeals Court blatantly **ignored** my arguments and evidence and stated in their Summary Order and Judgment that: “*Indeed, **the district court** also considered that Lue's white predecessor received the same assignments as Lue and was subject to the same requirements to work from home; the same person made both the decision to hire Lue and the decision to fire her.*”

⁸ “*In order to preserve the integrity of the judiciary, and to ensure that justice is carried out in each individual case, judges must adhere to high standards of conduct.*” - York v. United States, 785 A.2d 651, 655 (D.C. 2001).

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responsibility to call out and/or to fight against overt and blatant racial discrimination and/or judicial injustice perpetrated against my race.

4) I HAVE SUFFERED AND CONTINUE TO SUFFER SEVERE HARM AND LOSS MENTALLY, PHYSICALLY, EMOTIONALLY AND FINANCIALLY

JPMorgan Chase & Co., et al's intentional, criminal, conspiratorial, false and fraudulent acts and conduct have caused me severe harm and loss mentally, physically, emotionally and financially as follows:

- I am now a pariah to the financial industry which I worked hard throughout my high school and college matriculation to be a part of.
- Their **LIES under penalty of perjury** have subjected me to hatred, contempt, distrust, ridicule, disgrace and pariah status by anyone and everyone in the world who accesses them via Court records or via the Internet, including potential employers as they make me out to be a lying, vindictive, troublesome, uncongenial, elitist person and most of all, a less desirable/undesirable employee.
- Their **LIES under penalty of perjury** have/will destroy and/or limit my upward and/or outward career mobility, my ability to compete for more desirable jobs and my ability to be accepted as a welcomed and/or trusted member of society.
- As someone with close international ties and pride, JPMorgan Chase & Co., et al's criminal, conspiratorial, false and fraudulent acts and conduct have personally destroyed me and my family as by simply Googling my name, anyone in the world can access the said pre-meditated fraudulent acts perpetrated against me by JPMorgan Chase & Co., et al through legal websites that republish and peddle them nationally and internationally.
- It is easier for anyone/society to imply and/or to accept that the Courts and the powerful JPMorgan Chase & Co., et al are telling the truth versus me, Plaintiff, Candice Lue, a poor, Black person (see footnote "7") so the defamation of my character through JPMorgan Chase & Co., et al's intentional, criminal,

conspiratorial, false and fraudulent acts and conduct is being compounded each and every day.

- If JPMorgan Chase & Co., et al's intentional, criminal, conspiratorial, false and fraudulent acts and conduct against me, for which I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery, are not remedied via this lawsuit, I will suffer damage for the rest of my life.

In modern days, employers proactively look to the Internet for information on potential employees to gather evidence that they believe is of/could be of "*general concern*" as a way to protect their companies against what they would consider to be negative experiences/outcomes - *Rosenbloom v. Metromedia, Inc.*, 403 U.S. 29, 91 S.Ct. 1811, 29 L.Ed.2d 296 (1971).

With that said, on a very heart-wrenching note, because of JPMorgan Chase & Co., et al's defamatory, intentional, criminal, conspiratorial, false and fraudulent acts and conduct against me which includes the misleading, libelous, perjurious, malicious, mendacious and disparaging statements that were published with actual malice and repeated and affirmed **as facts** by the District and Appeals Courts to make me out to be a vindictive, lying, troublesome, uncongenial and elitist person and a less desirable/undesirable employee, I have no choice but to worry about what if I lose my current job due to no fault of my own? Will I be able to find a company that, even if they are desperate to find talents like me, would be willing to hire me?

Case in point, after being fired by JPMorgan Chase for, as the only Black analyst in the company's Asset Management Counterparty Risk Group, taking a stance against being treated as the help/house slave by Executive Director, Defendant Alex Khavin, who is a racist, I got a three (3) month temporary work assignment but after consecutive contract renewals, I ended up working as a temporary contractor with the company for almost three (3) years⁹. Approaching

⁹ Even though my background and work experience were in demand per the amount of jobs that were being advertised, I could not get a permanent job with benefits anywhere including in the financial industry.

the end date prior to my last renewal there, the company renewed my contract for an additional one (1) year with a new end date that would have caused me to work at the company for almost four (4) years as a temporary contractor even though the company reported my performance to the employment agency through which I worked as “solid” and my skills were needed by the company¹⁰.

Why? After I started working at the company, employees of the company found out about my Employment Racial Discrimination and Retaliation lawsuit against JPMorgan Chase and Co., et al¹¹. And, if the company was waiting on the outcome of my said lawsuit (which came seven months prior to my last contract renewal) to consider offering me permanent employment, it would be obvious that there is no way that they would have hired me, which turned out to be the case, as the District Court’s Memorandum Opinion & Order repeated and affirmed **as facts** all the misleading, libelous, perjurious, malicious, mendacious and disparaging statements JPMorgan Chase and Co., et al made about and against me. So even though the company saw my work, my character, etc., they only knew me after my lawsuit was filed, no one there had any connection to anyone in my past and when I started working there, that was the first time that anyone at the company knew anything about me so they obviously were not going to “take the risk” of making me a permanent member of their staff.

After three (3) years of multiple job application/candidacy rejections, under what I would describe as “unusual/unique circumstances”, I was finally able to land my current permanent job.

Even though I think that the company for which I now work is a very good company to work for, I have witnessed where candidates who were offered jobs within the same timeframe

¹⁰ The company (which I did not know about until I was sent there to work) at the time of me starting the job had an open permanent position which entails doing the duties that I was sent there to do but they later removed that position from the career section of their website and it was never reposted up to the time of my departure.

¹¹ I was approached by an employee of the company who asked me about my lawsuit because he “saw it being discussed in the company’s LinkedIn group”.

that I was employed rejected those job offers. The truth is, because of very bad press and some financial instability, the company has had difficulty retaining and recruiting employees. With that said, an opportunity was opened for me. I was aware of the company's bad press and financial instability via a preliminary research I did on the company prior to my first interview but I was in such a precarious situation that I had no choice but to accept the opportunity.

In addition, in conversations I had with my hiring manager, I found out that he knew someone from the small town in which I went to school and spent a good chunk my formative years. I excelled academically in high school whereby, my name would be on the school's exterior announcement board for the town to see or in the town's local newspaper. I also volunteered a lot in the community¹². I represented my high school well - in Washington, D.C. as a Model Congress lead debater, in the regional and state "Future Business Leaders of America" competitions where I came in first and fourth, respectively for Marketing, I was a State of New Jersey Governor Scholar, I was January 2004 "Student of the Month" for the State of New Jersey, I spoke at my high school's Baccalaureate ceremony for which I was stopped and congratulated on many occasions, etc., etc. So residents of this small town, which was more than 99.5% White and where everyone knows everyone knew me and knew of my character and as such would be able to give a good word on my behalf. However, while such is much appreciated, it is my quest to restore my dignity which has been destroyed by JPMorgan Chase & Co., et al whereby I am hired and/or welcomed by society solely based on my abilities to do a job and/or because of my true character and not because I am in any way patronized.

With that said, because the afore-stated are the "unusual/unique circumstances" under which I was able to get a permanent job, I have no choice but to worry about, "if the current and

¹² Among the many awards I received at my high school graduation, one of them was for community service.

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future damages JPMorgan Chase & Co., et al have/will cause me are not remedied by way of this lawsuit, what if I lose my current job due to no fault of my own”?

Because of JPMorgan Chase & Co., et al’s intentional, criminal, overt, conspiratorial, false and fraudulent acts and conduct, I have suffered and continue to suffer severe harm and loss mentally, physically, emotionally and financially. These said intentional, criminal, overt, conspiratorial, false and fraudulent acts and conduct have/will destroy and/or limit my upward and/or outward career mobility, my ability to compete for more desirable jobs and my ability to be accepted as a welcomed and/or trusted member of society.

V. CONCLUSION

In light of the foregoing, I have stated valid Claims for this lawsuit to be allowed to proceed to trial as the Defendants’ “absolute privilege” defense is without merit and I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery to show that a recovery is warranted - *Pratt v. Payne (2003)*, 153 Ohio App. 3d 450 (§ 29). In addition, the Law protects **against** criminal, conspiratorial, false and fraudulent acts and conduct. The Law **does not** protect criminal, conspiratorial, false and fraudulent acts and conduct as in the Defendants’ crimes of perjury and obstruction of justice. Accordingly, the Defendants’ Motion to dismiss my Amended Complaint should be denied.

DATED: April 23, 2020

Respectfully Submitted,


CANDICE LUE
Pro Se Plaintiff


147A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CIVIL ACTION NO.: 19 CV 9784 (KPF) (SDA)

CANDICE LUE, an individual,
Plaintiff,

v.

JPMORGAN CHASE & CO. a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual; inclusive,

Defendants.

PLAINTIFF'S EXHIBITS

**IN OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS
(DOCKET #s 28 & 29)**

148A

EXHIBIT 11

**(New York Law Journal article – “Should the Absolute Privilege Apply to
Defamation Per Se?”)**

149A

UNITED STATES

SEARCH (/newyorklawjournal/search/)

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New York Law Journal (/newyorklawjournal/)

PROMOCODE=NY&SO

PROMOCODE=NY&SO
THE-ABSOLU

TOPICS (/TOPICS/) SURVEYS & RANKINGS (/RANKINGS/) CASES (/NEWYORKLAWJOURNAL/CASE-DIGESTS/)

Analysis (/newyorklawjournal/analysis/)

Should the Absolute Privilege Apply to Defamation Per Se?

Under New York law, the concepts of absolute (or litigation) privilege and defamation per se seem directly cont—if a statement is defamatory per se, then how can it be privileged? Certain statements are so heinous that the litigation privilege should not insulate the speaker from liability, particularly where the statements are not direct relevant to the litigation in which they were made.

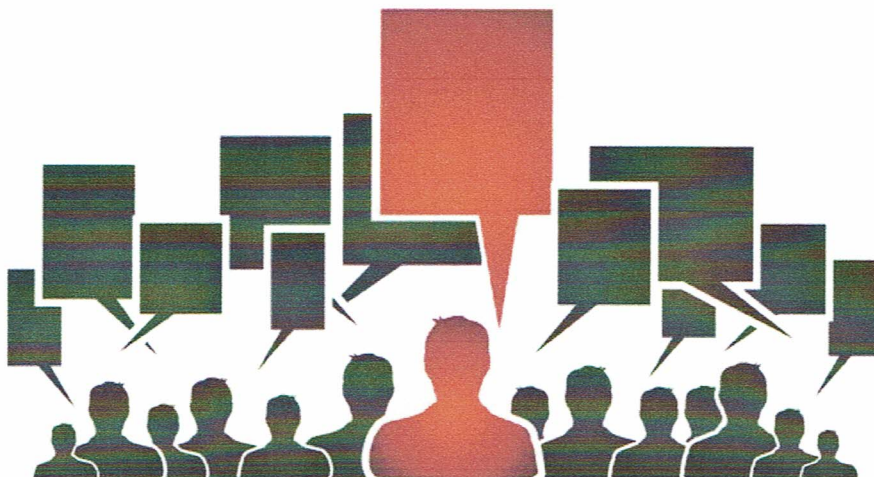
By **Danielle Marlow** | December 03, 2019 at 11:45 AM

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Under New York law, statements made in the context of court proceedings are typically protected and entitled to an “absolute privilege,” also known as “litigation privilege,” meaning they may not be the basis of liability, no matter how vile and outrageous the content and no matter how malicious the motive, provided they are material and pertinent to the litigation. New York likewise recognizes that certain statements are so derogatory that they are deemed “defamation per se,” meaning that a plaintiff need not even prove he/she was damaged by such statements to secure relief therefrom; rather, they are so disparaging that damages are presumed. These concepts seem directly contradictory—if a statement is defamatory per se,

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NEW YORK LAW JOURNAL
(/NEWYORKLAWJOURNAL/)

3 **Lawyers Reveal True Depth of Mental Health Struggle** (/2020/02/19/lawyers-reveal-true-depth-of-the-mental-health-struggles/)

litigation privilege should not insulate the speaker from liability, particularly where the statements are not directly relevant to the litigation in which they were made. To address this issue, there arguably should be exceptions to the absolute privilege, including for statements that are defamatory per se.

In order to assert a claim for defamation, a plaintiff must prove he/she suffered actual damages as a result of the offensive statements at issue to recover, meaning the plaintiff must demonstrate a financial or economic loss. But, in the case of defamation per se, the standards are not as stringent and such damages are presumed. There are four categories of statements considered to be defamatory per se:

- Statements charging a plaintiff with a serious crime,
- Statements that tend to injure another in his or her trade, business, or profession,
- Statements imputing a loathsome disease on a plaintiff, and
- Statements imputing unchastity on a woman.

Despite the clear recognition under New York law of the seriousness of baseless accusations and the damage they cause, such statements are absolutely privileged when made in the context of judicial proceedings. This absolute privilege applies to statements made in connection with litigation (or in good-faith anticipation of litigation) when the comments and descriptions are considered to be relevant to the issues involved in the case. The underlying purpose of the privilege is to ensure that attorneys are able to speak freely in the course of litigation without a fear of harassment or potential financial punishment.

The recent case of *Deaton v. Napoli*, No. 17-CV-4592, 2019 WL 4736722 (E.D.N.Y. Sept. 27, 2019) highlights how the absolute privilege can unwittingly (and unjustifiably) protect defamatory statements and overlook the undeserving harm they may cause. In *Deaton*, plaintiffs, John Deaton (head of the Deaton law firm) and Marie Deaton (John Deaton's wife), alleged that defendants made statements in court filings that John had an affair with one of his associate attorneys, that the affair caused John and Marie to get divorced, and that John subsequently harassed the associate when she went to work at the Shrader law firm. As a result of these defamatory statements, plaintiffs claimed that their personal and professional reputations were tarnished, that they lost significant business relationships—including a referral relationship with the Shrader law firm, and sought millions of dollars in damages. Notwithstanding the severity of the allegations, the U.S. District Court for the Eastern District of New York dismissed the action outright, holding that the statements at issue were absolutely privileged because they were made in the context of judicial proceedings.

4 **Meet Cynthia Rufe, Who the Group of Federal Judges Holding an 'Emergency Meeting' on Roger Stone**
(/nationallawjournal/2019/02/cynthia-rufe-who-leads-group-of-federal-judges-holding-an-emergency-meeting-on-roger-stone)

NATIONAL LAW JOURNAL
(/NATIONALLAWJOURNAL/)

5 **Check It Out: Law Schools with the Highest Bar Pass Rates in 2019**
(/2020/02/19/check-it-out-schools-with-the-highest-pass-rates-in-2019/)

LAW.COM (HTTPS://WWW.LAW.COM)

(https://www.lawcatalog.com/library-of-new-york-plaintiffs-personal-injury-forms.html?store=law_catalog&utm_source=website&utm_medium=inline&utm_campaign=ljp_books&utm_promo&utm_term=lc)

Library of New York Plaintiffs' Personal Injury Forms (<https://www.lawcatalog.com/library-of-new-york-plaintiffs-personal-injury-forms.html>)



____store=law_catalog&utm_source=website&utm_medium=inline&utm_campaign=ljp_books&utm_promo&utm_term=lc) BOOK

The 750+ page book serves as a comprehensive personal injury firm forms library. The forms includes: Initial Intake Forms, Client Letters, Pre-Suit Forms, Sample Complain...

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This case highlights the potential abuse of judicial process, and the question of whether there should be exceptions to the absolute privilege applicable to statements made in judicial proceedings—no matter how scandalous, humiliating, and damaging. For example, what if an employer brings a restrictive covenant action against a former employee, and in that action, impugns the employee's business practices and character—for example by claiming the employee stole from the employer, or was sexually promiscuous—when neither allegation is true, or directly relevant? Regardless of whether the employer wins or loses the litigation, the employer arguably has already won, as judicial proceedings are publicly available, can be disseminated to the press, and readily appear when performing Internet searches—thus enabling the employer to publish these false and defamatory allegations to all in the industry and make the employee a pariah.

The question thus arises as to whether there should be an exception to the absolute privilege applicable to statements made in the context of judicial proceedings? For example, where statements are blatantly and demonstrably false, where they are defamatory per se, and/or where they are made maliciously to harm the subject of the statements, should they be privileged? If the privilege continues to apply, parties can and will continue to be able to abuse the litigation process to harm others, to gain an unwarranted competitive advantage, and/or for other illegitimate ends. Consideration, therefore, should be given to circumscribe the breadth of the absolute privilege.

The Second Circuit insinuated as much in *Brown v. Maxell*, when expressly recognizing the potential abuse of affording absolute privilege to statements made in connection with litigation proceedings and noting as follows:

Court filings are, in some respects, particularly susceptible to fraud. *For while the threat of defamation actions may deter malicious falsehoods in standard publications, this threat is non-existent with respect to certain court filings.* This is so because, under New York law (which governs the underlying defamation claim here), “absolute immunity from liability for defamation exists for oral or written statements made ... in connection with a proceeding before a court.” Thus, although the act of filing a document with a court might be thought to lend that document additional credibility, in fact, allegations appearing in such documents might be less credible than those published elsewhere.

Brown v. Maxell, 929 F.3d 41, 53 (2d Cir. 2019) (emphasis added). In a footnote, the Second Circuit proposed a potential means to address this indisputable potential for abuse by noting the exception that a statement must be “material and pertinent to the questions involved” for the litigation privilege to apply. *Id.* at note 47 (citing *Front*, 24 N.Y.3d at 718). Therefore, immaterial and impertinent statements are actionable, particularly when they are “so needlessly defamatory as to warrant the inference of express malice.” *Id.*; see also *Gugliotta v. Wilson*, 168 A.D.3d 817, 819 (2d Dept. 2019) (declining to apply absolute privilege where there was “not one scintilla of evidence present upon which to base the possible pertinency of [the] defendant’s statement[s]”).

This infrequently used exception could potentially be expanded to prevent abuse of the judicial privilege—especially where court filings are transparently used to lodge patently irrelevant allegations for the malicious purpose of damaging a party’s

reputation, gaining a competitive advantage against that party, causing that party to suffer harm, or other nefarious purposes that should not be tolerated. There is simply no reason that such statements should be protected by an absolute privilege—particularly where they are defamatory per se and not relevant to the claim at issue. Likewise, statements should not be protected where a plaintiff can prove that a statement was made without basis and with the malicious intent to harm.

Put simply, the need for a judicial privilege is obvious. But, like most rules, the judicial privilege must be subject to exceptions where the privilege is patently and maliciously abused—particularly in the present day and age when judicial proceedings are publicly available on the Internet for all to see. The exception to the privilege noted in *Brown v. Maxell* for statements not “material and pertinent to the questions involved” in the litigation should be expanded, and additional exceptions, for example for statements that are defamatory per se and statements made for demonstrably malicious purposes, should be considered.

Danielle Marlow is a partner at Moritt Hock & Hamroff.

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201 OLIVER ST #608

153A

EXHIBIT 12

(Baruch Horowitz's Declaration – Statement #s 2, 6 & 7)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CANDICE LUE,

Plaintiff,

- against -

JPMORGAN CHASE & CO., ALEX KHAVIN,
FIDELIA SHILLINGFORD, JOHN VEGA,
HELEN DUBOWY, PHILIPPE QUIX, THOMAS
POZ, CHRIS LIASIS, MICHELLE SULLIVAN,
and DOES 1 - 10, inclusive,

Defendants.
----- X

No. 16 Civ. 03207 (AJN)(GWG)

**DECLARATION OF
BARUCH HOROWITZ**

BARUCH HOROWITZ, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury as follows:

1. I was employed by JPMorgan Chase Bank, N.A. ("Chase"), a subsidiary of JPMorgan Chase & Co., a Defendant in the above-captioned action. I know the facts testified to in this Declaration to be true based upon my own personal knowledge.
2. I am a Caucasian male.
3. I worked for Chase from approximately November 2005 to August 2014. From approximately December 2011 to August 2014, I was employed as an Associate in the Counterparty Risk Group ("CRG") of JPMorgan Asset Management, a business unit of Chase.
4. While employed as an Analyst in CRG, I had two supervisors: Jim Sexton ("Sexton") and, later, Alex Khavin ("Khavin"). Khavin joined the CRG at some point after I did.
5. Prior to Khavin joining the team, I was periodically directed by Jim Sexton to take minutes at the group's monthly CRG meeting and other meetings, and I did so. Once Khavin joined CRG, she also periodically directed me to take minutes at the group's monthly

CRG meeting and other meetings. I did so. Subsequently, Khavin asked me to take the minutes on a "going-forward basis," and I did so for a period of time.

6. Additionally, Sexton and then Khavin directed me to prepare the materials for the monthly CRG meeting, including printing, organizing, sorting, collating, and stapling. I did so. Once I had completed these tasks, I typically e-mailed copies of the materials to everyone on the invite list of the monthly CRG meeting, including those attending remotely, and brought hard copies to the meeting to distribute to those attending in person. I am not aware that anyone else was assigned these tasks.

7. During my employment with Chase, I periodically worked from home. Prior to doing so, however, I contacted my group supervisor at the time for permission.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 28, 2017
Los Angeles, California



Baruch Horowitz

EXHIBIT 13

(Docket sheet showing the eight (8) Affidavits, almost 500 pages of evidence in the form of exhibits and my Subpoena request that Judge Alison J. Nathan struck without a valid explanation from the District Court's docket with the proofs showing that JPMorgan Chase & Co., et al committed pre-meditated fraud against me, Plaintiff, Candice Lue and upon the Court)


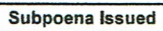
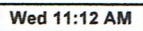
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Plaintiff


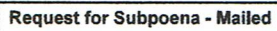
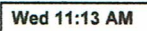
Candice Lue
4122 Bel Vista Court
Lodi, NJ 07644

Docket last updated: 6 hours ago

Wednesday, August 02, 2017


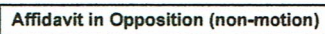
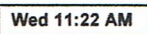
  

SUBPOENA ISSUED for JPMorgan Chase & Co. to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Case. Document filed by Candice Lue.(rro)


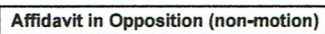
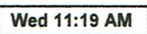
  

Request for Subpoena Mailed: Request for 1 Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises, from Candice Lue mailed on 8/2/2017. (rro)


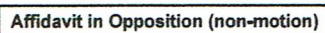
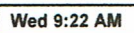
Tuesday, August 01, 2017

118   


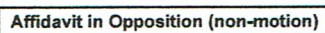
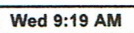
AFFIDAVIT of Candice Lue IN OPPOSITION/RESPONSE TO "DECLARATION OF BARUCH HOROWITZ IN SUPPORT RE: 89 Motion for Summary Judgment- (Docket #99)", re:99 Declaration in Support of Motion. Document filed by Candice Lue. (sc)

117   



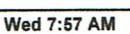
AFFIDAVIT of Candice Lue IN OPPOSITION/RESPONSE TO "DECLARATION OF ALEX KHAVIN IN SUPPORT RE: 89 MOTION FOR SUMMARY JUDGMENT - (DOCKET#92)", re:92 Declaration in Support of Motion. Document filed by Candice Lue. (sc)

116   



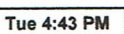
AFFIDAVIT of Candice Lue IN OPPOSITION/RESPONSE TO "DECLARATION OF JOHN VEGA IN SUPPORT RE: 89 MOTION FOR SUMMARY JUDGMENT - (DOCKET #98)", re:98 Declaration in Support of Motion. Document filed by Candice Lue. (sc)

115   


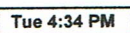
AFFIDAVIT of Candice Lue IN OPPOSITION/RESPONSE TO "DECLARATION OF KIMBERLY DAUBER IN SUPPORT RE: 89 MOTION FOR SUMMARY JUDGMENT - (DOCKET #97)", re:97 Declaration in Support of Motion. Document filed by Candice Lue. (sc)

114   

EXHIBITS(IN OPPOSITION/RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT DOCKET ##s 89-100. Document filed by Candice Lue. (Attachments: #1 Exhibit, #2 Exhibit, #3 Exhibit, #4 Exhibit, #5 Exhibit, #6 Exhibit, #7 Exhibit, #8 Exhibit)(sc)

113   

FIRST LETTER MOTION for Conference addressed to Judge Alison J. Nathan from Anshel Joel Kaplan dated 8/1/17. Document filed by Does 1-10, Helen Dubowy, JPMorgan Chase & Co., Alex Khavin, Chris Liasis, Thomas Poz, Philippe Quix, Fidelia Shillingford, Michelle Sullivan, John Vega.(Kaplan, Anshel)

112   

AFFIDAVIT of Candice Lue IN OPPOSITION/RESPONSE TO "DECLARATION OF CHRIS LIASIS IN SUPPORT RE: 89 MOTION FOR SUMMARY JUDGMENT - (DKT #94)", re:94 Declaration in Support of Motion. Document filed by Candice Lue. (sc)

159A

EXHIBIT 14

(Google results showing that legal websites republishing and peddling JPMorgan Chase & Co., et al's LIES made under penalty of perjury outnumber my website anywhere from 7 to 10 - 1)

160A

[candicelue.com](#) ▾

Fight Against Employment Racial Discrimination

Candice Lue's Mission Statement. To fight the multi-billion dollar powerhouse, JPMorgan Chase & Co. and its eight (8) managers who UNLAWFULLY ...

[candicelue.com](#) ▸ [Meet_Candice](#) ▾

Meet Candice - Pro Se Plaintiff in the Employment Racial ...

Imbalanced Scale of Justice. Lue v. JPMorgan Chase & Co. et al (1:16-CV ... I am **Candice Lue**, the Pro Se Plaintiff in the Employment Racial Discrimination ...

www.casemine.com › ... › 2019 › April ▼

Lue v. JPMorgan Chase & Co. | 18-1248-cv | 2d Cir ...

Apr 24, 2019 - FOR PLAINTIFF-APPELLANT: **CANDICE LUE**, pro se, Lodi, New Jersey. FOR DEFENDANTS-APPELLEES: ANSHEL J. KAPLAN (Robert S.

dockets.justia.com › ... › New York › Southern District ▼

Lue v. JPMorgan Chase & Co. et al 1:2019cv09784 | US ...

Oct 23, 2019 - 14) served on **Candice Lue** on November 22, 2019. Document filed by Kimberly Dauber, Baruch Horowitz, JPMorgan Chase & Co., Alex ...

www.law360.com › cases ▼

Lue v. JPMorgan Chase & Co. et al - Law360

Parties, docket activity and news coverage of federal case Lue v. JPMorgan ... Lue v. JPMorgan Chase & Co. et al. Track this case ... Plaintiff. **Candice Lue** ...

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Candice Lue | Facebook

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Lue v. JPMorgan Chase & Co. – CourtListener.com

Apr 24, 2019 - FOR PLAINTIFF-APPELLANT: **CANDICE LUE**, pro se, Lodi, New Jersey. FOR DEFENDANTS-APPELLEES: ANSHEL J. KAPLAN (Robert S.

www.pacermonitor.com › public › case › Lue_v_JPMo... ▼

Lue v. JPMorgan Chase & Co. - PacerMonitor

Apr 27, 2018 - Friday, April 27, 2018. 1, 1 NOTICE OF CIVIL APPEAL, with district court docket, on behalf of Appellant **Candice Lue**, FILED. [2290471] 18-1248 ...

www.docketbird.com › [nysd-1:2016-cv-03207-00139](#) ▼

Lue v. JPMorgan Chase & Co. et al: MEMORANDUM ...

Lue v. JPMorgan Chase & Co. et al. Southern District of New York, nysd-1:2016-cv-03207. MEMORANDUM OPINION & ORDER re: {{89}} MOTION for Summary ...

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Lue v. JPMorgan Chase & Co. et al :: New York Southern ...

ORDER: re: 47 Objection (non-motion) filed by **Candice Lue**. For substantially the same reasons detailed in Judge Gorenstein's July 18, 2016 Order, see Dkt No.

www.docketalarm.com › [Cases](#) › [2d Cir.](#) › [18-1248](#) ▼

Lue v. JPMorgan Chase & Co., 18-1248 (2d Cir.) via Docket ...

11/9/2018, 75, ORAL ARGUMENT STATEMENT LR 34.1 (a), on behalf of filer Appellant **Candice Lue**, FILED. Service date 11/06/2018 by US mail. [2447332] ...

www.leagle.com › [decision](#) ▼

Lue v. JPMorgan Chase & Co. - Leagle.com

Mar 27, 2018 - Plaintiff **Candice Lue** ("Plaintiff" or "Lue") alleges various forms of discrimination, harassment, and retaliation based on her race and stemming ...

163A

EXHIBIT 15

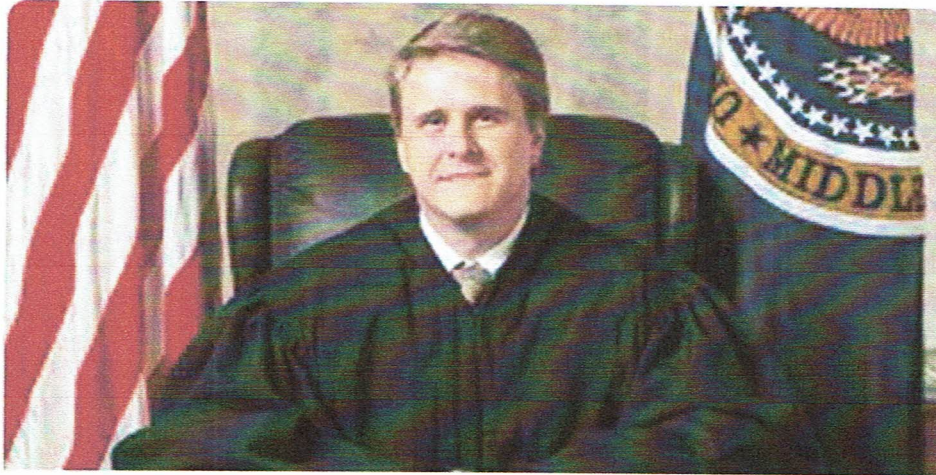
**(Twitter posts calling out judges who sit on federal benches for their biases
as well as exposing Employment Racial Discrimination and Retaliation at
JPMorgan Chase & Co.)**

164A



NAACP @NAACP · Feb 11

In this year of [#DefendingOurDemocracy](#), we are clear. In order to protect our vote, we must protect our courts. With his horrendous anti-voter record, Andrew Brasher belongs nowhere near a Southern circuit court. [#BlockBrasher](#)



Alabama NAACP, others oppose Trump nominee to court

The Senate is expected to vote this week on President Trump's nomination of Andrew Brasher to the 11th Circuit Court of Appeals.

[al.com](#)

165A



Logo 🏳️🌈 @LogoTV · 1 Nov 2019

After his history of anti-LGBTQ sentiments were brought up at a Senate Judiciary Committee hearing, #Trump judicial nominee #LawrenceVanDyke burst into tears



Trump Judicial Nominee Sheds Actual Tears Over Criticism

When his potential anti-LGBTQ bias was brought up at a Senate Judiciary Committee hearing, Lawrence VanDyke broke down.

newnownext.com



NAACP 🐦 @NAACP · 10 Dec 2019

Federal judges must be fair & impartial, above all else. Trump's nominee to nation's largest circuit court--Lawrence VanDyke--can't be fair to each & every litigant appearing before him.

This is why we must #StopVanDyke.

Call your Senators at 202-224-3121 & say NO to VanDyke.

166A



Elizabeth Warren @ewarren · 28 Nov 2018

Thomas Farr has worked to disenfranchise African Americans & undermine workers' rights. He doesn't belong anywhere near a federal court bench.

[huffingtonpost.com/entry/thomas-f...](https://www.huffingtonpost.com/entry/thomas-farr-hq) #StopFarr



Senate To Vote On Trump Judicial Pick Who Critics Call The 'Vote-Su...

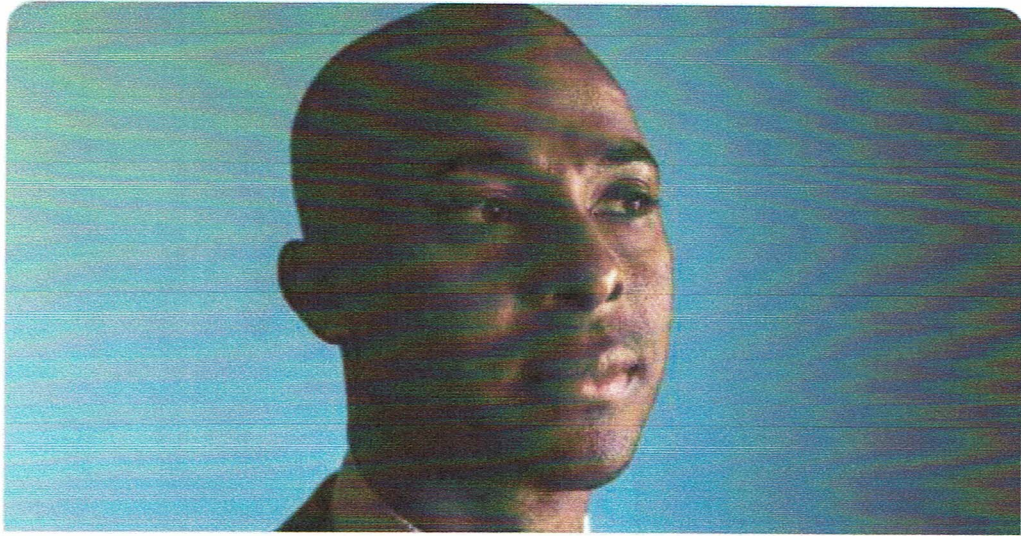
Thomas Farr, Trump's nominee to a federal court seat, defended North Carolina's voter suppression law and racially discriminatory gerrymandering.

[huffpost.com](https://www.huffpost.com)

167A



Jimmy GRIZZ Kennedy  @Kennedy73 · Dec 11, 2019



This Is What Racism Sounds Like in the Banking Industry
A JPMorgan employee and a customer secretly recorded their
conversations with bank employees.
[🔗 nytimes.com](https://www.nytimes.com)

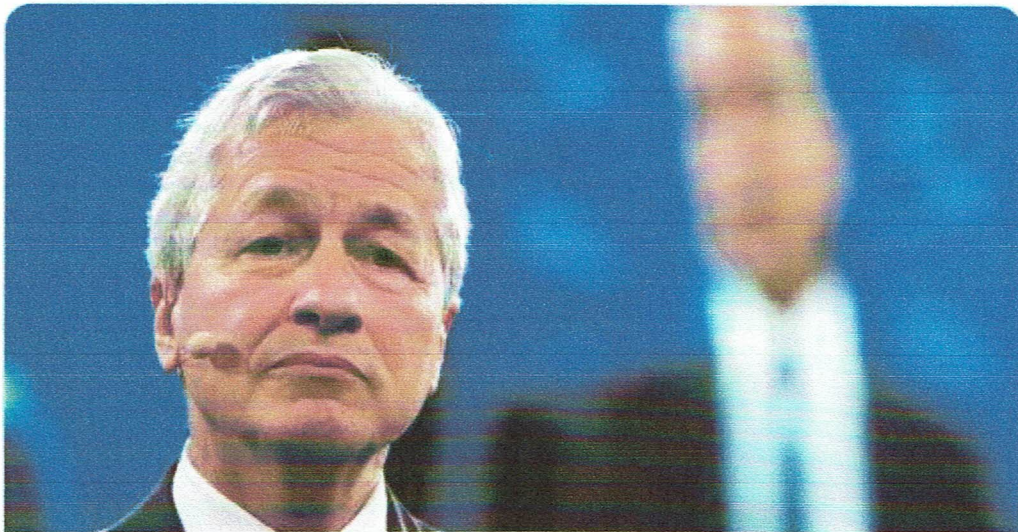
168A



The New York Times  @nytimes · Dec 14, 2019



The comments from Jamie Dimon, the chairman and chief executive of JPMorgan Chase, came days after The New York Times published a report detailing allegations of racism at branches of JPMorgan in the Phoenix area.



JPMorgan Chase C.E.O. Says It Needs to Do More to Tackle Racism

The comments came days after The New York Times published a report detailing allegations of racism at branches of JPMorgan in the Phoenix ...

 nytimes.com

169A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CANDICE LUE, an individual,

Plaintiff,

V.

JPMORGAN CHASE & CO., a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; KIMBERLY DAUBER, an individual; BARUCH HOROWITZ, an individual; CHRIS LIASIS, an individual; and MICHELLE SULLIVAN, an individual; inclusive,

Defendants.

CIVIL ACTION NO.: 19 CV 9784
(KPF) (SDA)

RESPONSE TO:

DEFENDANTS' ATTORNEY ANSHEL
KAPLAN'S LETTER TO JUDGE
KATHERINE POLK FAILLA
(DOCKET # 33)

I. ARGUMENT

The clear difference in the lawsuits Lue v. JPMorgan Chase & Co., et al and Gill v. Dougherty is that the statements made in the former by Defendants, JPMorgan Chase & Co., et al were blatant LIES made **under penalty of perjury** which were affirmed by the District Court and reaffirmed by the Appeals Court **as facts**¹ and the statements made in the latter, Gill v. Dougherty, No. 2019-05940, 2020 WL 6750782 (2d Dept. Nov. 18, 2020) were statements made based on the Defendant's **opinion**, "*and not facts*". See pages 1 – 2 of JPMorgan Chase & Co., et al's "Exhibit A" (Docket # 34) which states: "*Further, the context of the complained-of statement in a campus publication was such that a reasonable reader would have concluded that he or she was reading an opinion, and not facts, about the plaintiff (see Rosner v Amazon.com, 132 AD3d 835, 837;*

¹ See pages 7, 15, 17 and 18 of "Plaintiff's Memorandum of Law In Opposition To Defendants' Motion to Dismiss" (Docket # 30).

Silverman v Daily News, L.P., 129 AD3d 1054, 1055; *Hollander v Cayton*, 145 AD2d 605, 605-606).”

Also, as articulated and evidenced in “IV – 2” on pages 10 and 11 of “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (Docket # 30), JPMorgan Chase & Co., et al’s conspiratorial, false and fraudulent acts and conduct were pre-meditated to intentionally injure me, plaintiff, Candice Lue (Amended Complaint - Third Cause of Action). Whereby, the ruling on page 2 of JPMorgan Chase & Co., et al’s “Exhibit A” (Docket # 34) states: “*The plaintiff failed to allege sufficient facts to establish that Dougherty intended to deceive through his actions in the prior hybrid action/proceeding (see Klein v Rieff, 135 AD3d 910, 912; Seldon v Lewis Brisbois Bisgaard & Smith LLP, 116 AD3d 490, 491; see also Doscher v Meyer, 177 AD3d 697, 699).*”

In addition, as articulated and evidenced in my Amended Complaint and my “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (Docket # 30), anyone of reasonable mind can see that JPMorgan Chase & Co., et al’s blatant LIES made **under penalty of perjury** and their conspiratorial, false and fraudulent acts and conduct perpetrated against me were for the sole purposes of intentionally injuring me, Plaintiff, Candice Lue, defaming my character and reputation and influencing the outcome of my Employment Racial Discrimination and Retaliation lawsuit. Because of JPMorgan Chase & Co., et al’s intentional, criminal, overt, conspiratorial, false and fraudulent acts and conduct, I have suffered and continue to suffer severe harm and loss mentally, physically, emotionally and financially (see “IV – 4” on pages 16 – 20 of “*Plaintiff’s Memorandum of Law In Opposition To Defendants’ Motion to Dismiss*” (Docket # 30). Whereby, the ruling on page 2 of JPMorgan Chase & Co., et al’s “Exhibit A” (Docket # 34) states: “....the plaintiff did not sufficiently plead “malicious intent or disinterested malevolence as the sole motive for the challenged conduct” of the Iona defendants, and failed to sufficiently plead special

damages (*Ahmed Elkoulily, M.D., P.C. v New York State Catholic Healthplan, Inc.*, 153 AD3d 768, 772; see *Nachbar v Cornwall Yacht Club*, 160 AD3d 972, 973-974)."

Furthermore, as articulated and evidenced in "IV – 1C" on page 8 of "*Plaintiff's Memorandum of Law In Opposition To Defendants' Motion to Dismiss*" (Docket # 30), "*the challenged statements are not subjected to "absolute privilege" because the Defendants have no evidence of pertinency.*"

In contrast, I, Plaintiff, Candice Lue, am able to provide and have provided (docket # 24) solid and material evidence of pertinency that show that the Defendants' false, misleading, libelous, perjurious, malicious, mendacious and disparaging statements and acts are criminal, fraudulent and defamatory. JPMorgan Chase & Co., et al knowingly, purposefully and intentionally misrepresented important material facts in statements they made in their Declarations for which they cannot produce one scintilla of evidence to support (*Gugliotta v. Wilson*, 168 A.D.3d 817, 819 (2d Dept. 2019)). Also, there is a clear difference between "material" and "misrepresented material" - "*to qualify for the privilege, a statement must be 'material and pertinent to the questions involved'*" - *Brown v. Maxwell*, 929 F.3d 41, 53 (2d Cir. 2019).

II. CONCLUSION

In light of the foregoing, I have stated valid Claims for this lawsuit to be allowed to proceed to trial as the Defendants' "absolute privilege" defense is without merit and I have provided (docket # 24)/will be able to provide solid proofs on my own or via Discovery to show that a recovery is warranted - *Pratt v. Payne* (2003), 153 Ohio App. 3d 450 (¶ 29).

DATED: December 9, 2020

Respectfully Submitted,

CANDICE LUE
Pro Se Plaintiff

K2IHLUEO

1 So, on that basis, we'd seek to file a motion to dismiss. And
2 while that motion is pending, your Honor, we would respectfully
3 request a stay of discovery until the decision's rendered on
4 that motion.

5 THE COURT: Let me ask about that last point. Is it
6 your contemplation that the motion, if successful -- and I'm
7 not saying it will be -- would result in the dismissal of the
8 entire complaint?

9 MR. KAPLAN: We would, your Honor.

10 THE COURT: The reason I ask that question is if it's
11 a motion for partial dismissal and there will be something
12 left, I would tailor discovery to go forward, but if the
13 contemplated motion addresses the entirety of the pleading and
14 if successful it would get rid of the entire case, then I'm not
15 going to start discovery because that would be a waste of time
16 for the parties. So I need to know what of my case is there
17 before I can tailor discovery.

18 Would you please comment on, if you have had the
19 opportunity to review, Ms. Lue's brief. I don't know if she's
20 anticipated all of your arguments, and so I do want -- I think
21 she has spoken to the things that are raised in your pre-motion
22 letter, but perhaps you have a reply to that.

23 MR. KAPLAN: Sure. If I may, your Honor, I just need
24 a bit of clarification, which brief we're discussing. There
25 were a lot of filings.