NO. 18 - 1248

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; JOHN VEGA, an individual; HELEN DUBOWY, an individual; PHILIPPE QUIX, an individual; THOMAS POZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual; and Does 1 – 10, inclusive,
Defendants - Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 16 CV 3207
Judge Alison J. Nathan

BRIEF OF APPELLANT CANDICE LUE

Candice Lue, Pro Se
[redacted]
[redacted]

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As a pro se Plaintiff who files my documents in paper, I have no control over how these documents are placed on the Court's docket. With that said, I hereby provide Electronic Links to docket #s 107-112 & 114-118 (App.TOC. #7) of Civil Action No.: 16 CV 3207 which were prejudicially and nefariously stricken from the District Court's docket (App.TOC. #21) because per the Second Circuit Court's Docket ("SCCD") Nos. 10 & 11 - "*PAPERS, district court documents*" (App.TOC. #6), the amount of pages (*457pg & 35pg*) are not consistent with that of the said paper copies of the District Court's Docket ("DCD") No. 106 and DCD Nos. 107-112 & 114-118 (App.TOC. #s 9 & 7, respectively) that I submitted to the Second Circuit Court pursuant to Rules 10(b)(2) & 10(e)(2)(C) of the Federal Rules of Appellate Procedure (App.TOC. #5).

Further, as it relates to Rule 10(b)(2), dumping all this pertinent information as "*PAPERS*" on the Second Circuit Court's docket and not as they were previously docketed on the District Court's docket (App.TOC. #7) will be "*burdensome*" for

both myself and the Court to reference pertinent arguments and evidence thus the need for the Electronic Links[1] to suffice.

The Electronic Links to the DCD Nos. 107-112 & 114-118 can be found at http://candicelue.com/The_Truth.htm **AND** http://candicelue.com/The_Evidence.htm as follows:

http://candicelue.com/The_Truth.htm

- Affidavit in Response/Opposition to "Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1 (Docket # 107 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in the Defendants' Statement of Undisputed Material Facts"
http://candicelue.com/Aff%20in%20Res-Opp%20to%20Defs%20Undisp%20Mat%20Facts.pdf

- Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment (Docket # 108 - App.TOC. #7)

LINK – "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment"

Part 1
http://candicelue.com/Part%201%20Mem%20of%20Law%20in%20Opp%20to%20Defs%20Motion%20for%20SJ.pdf

Part 2
http://candicelue.com/Part%202%20Mem%20of%20Law%20in%20Opp%20to%20Defs%20Motion%20for%20SJ.pdf

Part 3
http://candicelue.com/Part%203%20Mem%20of%20Law%20in%20Opp%20to%20Defs%20Motion%20for%20SJ.pdf

[1] These links are at http://candicelue.com. I have no choice but to litigate this case in the public sphere because I have been meted with injustice after injustice in BOTH the United States District Court for the Southern District of New York and the Second Circuit Court of Appeals.

- Affidavit in Opposition/Response to "Declaration of Fidelia Shillingford in Support re: 89 Motion for Summary Judgment (Docket # 109 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Fidelia Shillingford's "Declaration"
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- Affidavit in Opposition/Response to "Declaration of Helen Dubowy in Support re: 89 Motion for Summary Judgment (Docket # 110 - App.TOC. #7)"

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- Affidavit in Opposition/Response to "Declaration of Michelle Sullivan in Support re: 89 Motion for Summary Judgment (Docket # 111 - App.TOC. #7)"

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- Affidavit in Opposition/Response to "Declaration of Chris Liasis in Support re: 89 Motion for Summary Judgment (Docket # 112 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Chris Liasis' "Declaration"
http://candicelue.com/Affidavit%20in%20Opp-Res%20to%20Dec%20of%20Chris%20Liasis.pdf

- Affidavit in Opposition/Response to "Declaration of Kimberly Dauber in Support re: 89 Motion for Summary Judgment (Docket # 115 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Declarant Kimberly Dauber's "Declaration"
http://candicelue.com/Affidavit%20in%20Opp-Res%20to%20Dec%20of%20K%20Dauber.pdf

- Affidavit in Opposition/Response to "Declaration of John Vega in Support re: 89 Motion for Summary Judgment (Docket # 116 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to "Investigator", Defendant John Vega's "Declaration"
http://candicelue.com/Affidavit%20in%20Opp-Res%20to%20Dec%20of%20J%20Vega.pdf

- Affidavit in Opposition/Response to "Declaration of Alex Khavin in Support re: 89 Motion for Summary Judgment (Docket # 117 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Alex Khavin's "Declaration"
http://candicelue.com/Affidavit%20in%20Opp-Res%20to%20Dec%20of%20A%20Khavin.pdf

- Affidavit in Opposition/Response to "Declaration of Baruch Horowitz in Support re: 89 Motion for Summary Judgment (Docket # 118 - App.TOC. #7)"

LINK – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Declarant Baruch Horowitz's "Declaration"
http://candicelue.com/Affidavit%20in%20Opp-Res%20to%20Dec%20of%20B%20Horowitz.pdf

http://candicelue.com/The_Evidence.htm

- Exhibits in Opposition/Response to Defendants' Motion for Summary Judgment (Docket # 114 - App.TOC. #7)

LINK - http://candicelue.com/The_Evidence.htm

(There are no Electronic Links for these two filings that were struck from the DCD by Judge Alison J. Nathan but a paper copy is available in the Appendix)

- Requested Subpoena/Issued Subpoena for Defendant JPMorgan Chase & Co. to produce documents for Declarant Baruch Horowitz (App.TOC. #10)

- Notice of Opposition to Defendants' Motion for Summary Judgment re: 89 Motion for Summary Judgment - Docket # 106 (App.TOC. #9)

OTHER ELECTRONIC LINKS

- Defendants' Declarations aka LIES Under Penalty of Perjury
(DCD #s 90 - 99)
http://candicelue.com/Defendants_Declarations_aka_LIES_under_Penalty_of_Perjury.htm

- Response to Judge Alison J. Nathan's Order of August 11, 2017
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- Addendum to Response to Judge Alison J. Nathan's Order of August 11, 2017
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- Response to Judge Alison J. Nathan's Order of November 20, 2017
(DCD # 132)
http://candicelue.com/The_Latest_November_28_2017.pdf

- Response to Judge Alison J. Nathan's Order of December 4, 2017
(DCD # 135 – First Response)
http://candicelue.com/The_Latest_December_15_2017.pdf

- Response to Judge Alison J. Nathan's Order of December 4, 2017
(DCD # 136 – Second Response)
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- JPMorgan Chase Uses Black, Servile Employees As Conduits And/Or Cover For Their Employment Racial Discrimination
(DCD #s 109 & 117 – Stricken by Judge Alison J. Nathan (App.TOC. #7) – Page 41)
http://candicelue.com/JPMorgan_Chase_Uses_Black_Servile_employees_as_conduits_and_or_cover_for_their_Employment_Racial_Discrimination.pdf

- Black Employees Are Punished More Severely Than White Employees At JPMorgan Chase

(DCD # 110 – Stricken by Judge Alison J. Nathan (App.TOC. #7) – Page 43)
http://candicelue.com/Black_Employees_Are_Punished_More_Severely_Than_White_Employees_At_JPMorgan_Chase.pdf

- JPMorgan Chase's "investigation" Into My Claim of Employment Racial Discrimination Was Biased, Retaliatory and A Total Farce

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PRELIMINARY STATEMENT

I, pro se Plaintiff, Candice Lue hereby submit my Appeal of Civil Action No.: 16 CV 3207 in good faith and in pursuit of the Fifth and Fourteenth Amendment Rights to Procedural Due Process and the Seventh Amendment Right to a Trial by Jury afforded me under the Constitution of the United States of America.

With that said, pursuant to Rules 10(b)(2) and 10(e)(2)(C) of the Federal Rules of Appellate Procedure, I have resubmitted to this Court (App.TOC. #5) my duly, timely and lawfully submitted Oppositions/Responses to the **nine (9) individual** Defendants' Motion for Summary Judgment[1] which were prejudicially, nefariously and arbitrarily stricken from the District Court's docket by Judge Alison J. Nathan. (I respectfully refer the Court to "*Judicial Misconduct Complaint against Judge Alison J. Nathan*" (App.TOC. #21)).

On pages 8 - 9 of Judge Alison J. Nathan's Memorandum Opinion & Order dismissing my lawsuit with prejudice she states that: "*In this case, the Court affords additional care to Plaintiff's position for two reasons. First, as a pro se litigant, Plaintiff is afforded "special solicitude" under Second Circuit Law. See Graham v. Lewinski, 848 F. 2d 342, 344 (2d Cir. 1988*) .... *A pro se plaintiff is entitled to have her pleadings held to "less stringent standards than formal pleadings drafted by lawyers*" *Haines v. Kerner, 404 U.S. 519, 520 (1971)*…. [A pro se plaintiff's]

[1] Second Circuit Court Docket ("SCCD") #s 10-11 (App.TOC. #6) OR http://candicelue.com/The_Truth.htm **and** http://candicelue.com/The_Evidence.htm.

pleadings must be read LIBERALLY and interpreted to "raise the strongest arguments that they suggest" *Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir, 1994)*.

While these Laws/Rules exist and I truly appreciate that they do, they are FARTHEST from the truth as it relates to my experience as a pro se Plaintiff with Judge Alison J. Nathan presiding over my lawsuit. Judge Nathan has DENIED every single one of my "*pleadings*" and has GRANTED every single one of the counseled, multi-billion dollar Defendants' "*pleadings*" even when their said "*pleadings*" are **in contravention** of her own Individual Practices, Federal Laws, the Rule of Law (ignoring the Clean Hands Doctrine Rule of Law to grant Defendants, JPMorgan Chase & Co. et al their **CRIMINAL** Motion for Summary Judgment - proven PERJURY is a CRIME pursuant to 18 USC § 1621) and Court Rules. I respectfully refer the Court to examples that can be found in "*Statement of the Case*", et al below; "*Addendum to Response to Judge Alison J. Nathan's Order of August 11, 2017*" (App.TOC. #15) and Judge Alison J. Nathan's corresponding Order (District Court docket ("DCD") sheet #s 124 & 125, respectively - App.TOC. #1); "*Petition for Issuance of a Writ of Mandamus*" - Second Circuit - Docket Number: 16–3873; "*Petition for Issuance of a Writ of Mandamus*" - Second Circuit - Docket Number: 17–2751 and "*Judicial Misconduct Complaint against Judge Alison J. Nathan*" (App.TOC. #21) which all prove that as a pro se Plaintiff, I was **not** held to a "*less stringent standard*" but the multi-billion dollar, counseled Defendants were. Unless, for example, Judge Alison J. Nathan considers ordering that I stuff the 198-page,

double-spaced, single-document representing my Memorandum of Law in Opposition to the **nine (9) individual** Defendants'[2] Memorandum of Law in Support of their Motion for Summary Judgment to dismiss my lawsuit with prejudice into a 25-page, double-spaced document (which would mean getting rid of **NINETY PERCENT (90%)** of my pertinent and collective arguments), as being "*less stringent*" while declaring the said 198-page single-document representing my Memorandum of Law in Opposition to the **nine (9)[3] individual** Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, "*overly burdensome*" for the multi-billion dollar, counseled Defendants to review and respond to – Bearing in mind that all **nine (9)** Defendants are individually represented by the **same** attorney.

Also, unlike the multi-billion dollar, counseled Defendants who could write a statement such as the one they wrote on page 21 of their Memorandum of Law in Support of their Motion for Summary Judgment (DCD # 91) which states: "*Plaintiff claims that Vega, Dubowy, and Poz "aided and abetted" violations of Title VII and 42 U.S.C. § 1981* ***because they disagreed with her assessment that she was the victim of discrimination***" without any further argument or evidence (because everything the Defendants say is **Gospel** for Judge Alison J. Nathan), there is no way in my disadvantaged position as a poor, Black, pro se Plaintiff that I could have

[2] Each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice.

[3] See "*Examples of Other Judges' Instructions in Their Orders that Involve Multiple Parties*" – (App.TOC. #20).

written such a blanketed two-line opposition/response with regards to ALL three (3) Defendants.

As articulated in pages 167-178 of my Opposition to the Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, I had to **individually** prove that each of the three (3) Defendants, John Vega, Helen Dubowy and Thomas Poz aided and abetted the Employment Racial Discrimination and Retaliation that was perpetrated against me in violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. (I respectfully refer the Court to **"Aiding and Abetting"** on page 39 below).

With that said, anyone of reasonable mind can understand how the Defendants were able to use 25 pages to submit their Memorandum of Law in Support of their Motion for Summary Judgment for **nine (9) individual** Defendants, each of whom has specific and different Causes of Action against them – Bearing in mind that the specifics of the "Aiding and Abetting" charge I have against Defendant John Vega is different from that of Defendant Helen Dubowy and different from that of Defendant Thomas Poz and vice versa.

As a pro se Plaintiff, Judge Alison J. Nathan did not hold me to a "*less stringent standard*" than the multi-billion dollar, counseled Defendants, she held the multi-billion dollar, counseled Defendants to a "*less stringent standard*" than me.

INTRODUCTION

The District Court's March 27, 2018 Memorandum Opinion & Order ruling that the May 9, 2017 filing of the Defendants' CRIMINAL (proven PERJURY is a crime pursuant to 18 USC § 1621) Motion for Summary Judgment to dismiss my lawsuit with prejudice is "*unopposed and fully submitted*" and granting the Defendants their said Motion is profoundly erroneous.

As evidenced on the PacerMonitor.com Audit Trail as Docket #s 106-112 & 114-118 (App.TOC. #7), by July 31, 2017, I duly, timely and lawfully submitted my Oppositions/Responses to the Defendants' said Motion and as can be referenced on the DCD sheet (Nos. 89–100 - App.TOC. #1), my Oppositions/Responses were in **direct** opposition/response to all the filings in the Defendants' said Motion.

However, after the Defendants sent a Letter Motion to Judge Alison J. Nathan on August 1, 2017 asking her to strike my Oppositions/Responses claiming non-compliance with her Individual Practices' page limits and telling her that neither the Court nor the Defendants "*should be burdened with reviewing and responding*" to my said Oppositions/Responses, Judge Nathan prejudicially and arbitrarily struck **all** of my said Oppositions/Responses from the District Court's Docket with an Order that "*Plaintiff's revised submissions shall comport with the Court's Individual Practices in Civil Cases Rule 3.B. and 3.G*" (DCD #s 113 & 120).

Besides the fact that this ruling was **not** in compliance with Judge Alison J. Nathan's Individual Practices which states in **bold** at the top of her Individual Practices page that: "*Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES (see Rules for Pro Se Cases*)" and I am a pro se Plaintiff, her "*Rules for Pro Se Cases*" as of May 11, 2017[4] and through Saturday, August 12, 2017 (12 days after I submitted my Oppositions/Responses), had **nothing** about "page limits" and, unlike the counseled Defendants, per Judge Nathan's "*Rules for Pro Se Cases*", oral argument is **not** allowed for pro se litigants - "*Oral Argument: Unless otherwise ordered by the Court, argument will not be heard in pro se matters*" (App.TOC. #11).

However, after bringing this error to the Court's attention in my August 12, 2017 "*Response to Judge Alison J. Nathan's Order of August 11, 2017*" (App.TOC. #14), instead of Judge Nathan mooting her Order granting the Defendants' request to strike all my filings from the District Court's docket as she had obviously erred in her said ruling, she revised her "*Rules for Pro Se Cases*" and **backdated** the said revision to August 10, 2017, the day before her August 11, 2017 Order and ten (10) days after I submitted my Oppositions/Responses to the Defendants Motion for Summary Judgment to dismiss my lawsuit with prejudice (App.TOC. #11)[5].

[4] The date of Judge Alison J. Nathan's initial Order (DCD # 101)
[5] Bearing in mind that no court case is decided on a future Rule of Law - The Rule of Law would have to be in effect for a court case to be decided based on it.

In conjunction, the 198-page single-document representing my Memorandum of Law in Opposition to the Defendants' Memorandum of Law in Support of their Motion for Summary Judgment was in opposition to **nine (9) individual** Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice – meaning that the newly implemented "25-page limit" for a Memorandum of Law in Opposition that Judge Alison J. Nathan would allow for a case where there is one (1) defendant, cannot be reasonable and/or logical to be imposed upon a case where there are **nine (9) individual** Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice.

This reasonable logic should also apply to my 80-page single-document Response/Opposition to the Defendants' "Statement of Undisputed Material Facts under Local Civil Rule 56.1" whereby Judge Alison J. Nathan's newly implemented page limit for Opposition/Response is 50 pages[6]. As, again, I was responding to **nine (9) individual** Defendants.

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[6] Bearing in mind that Judge Nathan's "Special Rules of Practice in Civil Pro Se Cases - Revised: August 10, 2017 (App.TOC. #11) states: "*An opposing party's response to the moving party's Rule 56.1 statement shall be no longer than 50 pages,* ***unless leave of the Court to file a longer document is obtained at least one week prior to the due date of such submission***." So, if it is okay/possible to request "***leave of the Court to file a longer document***" which was not necessary when my Oppositions/Responses were submitted on July 31, 2017 (Docket #s 106-112 and 114-118 – App.TOC. #7), why is there an issue with the 80 pages I filed in Response/Opposition to the

By the Rule of Law, Affidavits and Evidence are not subjected to page limits. And, after several requests (App.TOC. #s 16, 17 & 19), Judge Nathan was not able to provide a valid and/or legal explanation, pursuant to my Fifth and Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", as to why she struck from the District Court's docket my issued Subpoena, **all** my Evidence and my eight (8) Affidavits in Opposition/Response to the Defendants'/Declarants' eight (8) Declarations which are in **direct response** to the Defendants'/Declarants' character and the numbered statements in their Declarations (App.TOC. #7).

In light of the aforesaid and pursuant to 10(b)(2) & 10(e)(2)(C) of the Federal Rules of Appellate Procedure, I have resubmitted my **SWORN**[7] Memorandum of Law in Opposition to the Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, my **SWORN** Response/Opposition to the Defendants' "Statement of Undisputed Material Facts under Local Civil Rule 56.1", my **SWORN** Affidavits in Opposition/Response to the Defendants' Declarations and all my corroborating evidence in both physical (Second Circuit Court docket #s 10 & 11) and via electronic links (please see above) to show that the findings and

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NINE (9) Defendants' "*Rule 56.1 Statement*" and/or why, as a pro se litigant didn't Judge Nathan recommend that I do that?

[7] Meaning they are evidence which should not be subjected to page limits.

conclusion of Judge Alison J. Nathan's Memorandum Opinion & Order are unsupported.

I respectfully ask that this Court vacate Judge Alison J. Nathan's unsupported Memorandum Opinion & Order and direct the Defendants to honor the issued Subpoena and to review and respond to my duly, timely and lawfully submitted Oppositions/Responses to their Motion for Summary Judgment to dismiss my lawsuit with prejudice. Alternatively, I respectfully ask that this Court deny the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice pursuant to the "Clean Hands Doctrine Rule of Law" which states: "*Someone* [JPMorgan Chase & Co., et al] *bringing a lawsuit or motion and asking the court for equitable relief must be INNOCENT of wrongdoing* [THE **CRIME** OF PERJURY] *or unfair conduct relating to the subject matter of his/her claim*".

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 for Summary Judgment on March 27, 2018 (App.TOC. #s 2 & 3). I, pro se Plaintiff, Candice Lue filed a timely Notice of Appeal on April 24, 2018 (App.TOC. #4).

STATEMENT OF THE ISSUES

1. Whether the District Court abused its discretion in ruling that the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice is "unopposed and fully submitted" when my Oppositions/Responses and my corroborating evidence to the said Motion and my issued Subpoena were prejudicially, nefariously and arbitrarily stricken from the District Court's docket.
2. Whether my pertinent evidence in the form of Exhibits and my Affidavits in direct response to the Defendants' Declarations aka LIES under penalty of perjury are subjected to page limits.
3. Whether the "Clean Hands Doctrine Rule of Law" is cognizable in the Southern District of New York Court.
4. Whether, pursuant to Rule 3(h)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, Judge Alison J. Nathan's handling of this lawsuit in her capacity as the presiding district court judge was unethical, egregious and unbecoming.

STATEMENT OF THE CASE

On April 29, 2016, pursuant to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981, I, pro se Plaintiff, Candice Lue filed an Employment Racial Discrimination and Retaliation lawsuit in the United States District Court for the Southern District of New York, County of New York against JPMorgan Chase & Co., et al.

The Claims at issue in my Complaint arose during my January 2013 through November 7, 2014 tenure in my capacity as an Energy Confirmations Drafting Analyst in the Investment Banking Global Commodities Confirmations Department and during my January 2015 through January 6, 2016 tenure in my capacity as a Credit Reporting Risk Analyst in the Asset Management Credit Risk Department at JPMorgan Chase & Co., respectively; when it became very apparent to me that a culture of Racial Discrimination exists within JPMorgan Chase & Co. (I respectfully refer the Court to Civil Action Nos.: 1:17-cv-00347 and 2:07-cv-05540 - United States of America v. JPMorgan Chase Bank, NA **and** Alfredo B Payares v. Chase Bank USA, NA., & J.P. Morgan Chase & Co et al - class action, respectively).

After a long and arduous year of "pulling teeth" trying to get the justice afforded me under the U.S. Constitution as is clearly shown on the District Court's docket sheet (App.TOC. #1), on May 9, 2017, Attorney Anshel Kaplan, the attorney representing all nine (9) Defendants, filed on behalf of each of the said nine (9)

Defendants, a Motion for Summary Judgment to dismiss with prejudice my individual lawsuit against each of them (App.TOC. #8).

On May 11, 2017, Judge Alison J. Nathan Ordered that "*Plaintiff Lue file any opposition papers by June 13, 2017. Defendants' reply, if any, shall be due by June 27, 2017*" **without** any further instructions including that for "page limits" considering I have nine (9) individual Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action I have against them be dismissed with prejudice.

Besides the fact that any instructions including that for "page limits" should take into account the number of Defendants in the lawsuit, as of May 11, 2017 and through Saturday, August 12, 2017 (12 days after I submitted my Oppositions/Responses to the nine (9) Defendants' said Motion for Summary Judgment), there was **nothing** about "page limits" indicated in Judge Nathan's "*Rules for Pro Se Cases*". What was indicated was "*Oral Argument: Unless otherwise ordered by the Court, argument will not be heard in pro se matters*" (App.TOC. #11).

As a pro se Plaintiff with no legal background or experience and having to hold down a full-time job, on May 11, 2017 and June 7, 2017, respectively; I requested via the Defendants' attorney and approval from the District Court, two extensions to adequately respond to all of the nine (9) Defendants' Motion for Summary Judgment to have my lawsuit against them dismissed with prejudice. As promised in my June

7, 2017 extension request, by July 31, 2017 I filed via the District Court's Pro Se Intake Unit, my Oppositions/Responses to all nine (9) Defendants' said Motion and a Subpoena request for the Clerk or Deputy Clerk of Court's signature for Defendant JPMorgan Chase & Co. to produce personnel documents for their former employee/Declarant, Baruch Horowitz (App.TOC. #s 9 & 10).

On August 1, 2017, the Defendants' attorney, Anshel Kaplan filed a Letter Motion[8] addressed to Judge Alison J. Nathan (DCD # 113) asking her to strike my Subpoena and my Oppositions/Responses including my eight (8) Affidavits in Opposition/Response to the Defendants eight (8) Declarations aka LIES under Penalty of Perjury and my evidence in the form Exhibits which corroborated the arguments in my Oppositions/Responses from the Court's docket due to "page limits" - without regard for the fact that I have **nine (9)** individual Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action I have against them be dismissed with prejudice – Bearing in mind that, per the Rule of Law, Affidavits are not subjected to page limits (and in some cases the Defendants'/Declarants' said

[8] I respectfully refer the Court to an email trail with a copy of the Defendants' attorney Letter Motion (App.TOC. #13) as, in contravention of Judge Alison J. Nathan's "Special Rules of Practice in Civil Pro Se Cases - Filing of Papers # 3" which states: "*Counsel in pro se cases shall serve a pro se party with a paper copy of any document that is filed electronically and file with the Court a separate Affidavit of Service. Submissions filed without proof of service that the pro se party was served with a paper copy* ***will not be considered***", to date, July 31, 2018, I have not received a paper copy of the Defendants' said August 1, 2017 Letter Motion and, the false Affidavit of Service the attorney filed, was filed with the Court on **August 15, 2017** – after my first report to Judge Alison J. Nathan of not receiving a paper copy of the Letter Motion and two weeks after the said Letter Motion was filed.

Declarations consisted of more pages than my Affidavits) and neither is pertinent evidence. In conjunction, per Judge Alison J. Nathan's "*Rules for Pro Se Cases*", as of May 11, 2017 and through Saturday, August 12, 2017 (12 days after I submitted my Oppositions/Responses to the nine (9) Defendants' Motion for Summary Judgment), page limits did not apply to me[9], a pro se litigant.

On August 11, 2017, even though 1) the Defendants' August 1, 2017 Letter Motion as it relates to page limits was in contravention of her own "*Special Rules of Practice in Civil Pro Se Cases*", 2) in her May 11, 2017 Order she did not provide any instructions regarding "page limits", 3) it cannot be logical that the same "page limit" that is allowed to respond to one (1) Defendant would be adequate to respond to all nine (9) Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice and 4) on page 8 of her Memorandum Opinion & Order dismissing my lawsuit with prejudice she states that: "*In this case, the Court affords additional care to Plaintiff's position for two reasons. First, as a pro se litigant, Plaintiff is afforded "special solicitude" under Second Circuit Law…. A pro se plaintiff is entitled to have her pleadings held to "less stringent standards than formal pleadings drafted by lawyers*", Judge Alison J.

[9] Even so, my submission would still be in compliance with Judge Nathan's newly implemented "25-page limit" for Memorandum of Law in Opposition because I was responding to each of **NINE (9) individual** Defendants' request to have my lawsuit against them dismissed with prejudice - ("25-page limit") x 9 = 225 pages. My said Memorandum had 198 pages, 27 pages less than 25 x 9.

Nathan prejudicially and arbitrarily, granted the multi-billion dollar Defendants their Letter Motion to strike all my Oppositions/Responses from the District Court's docket due to "page limits".

In my August 12, 2017 Response to Judge Alison J. Nathan's August 11, 2017 Order (App.TOC. #14), I made it clear that her said Order was in contravention of her own "*Special Rules of Practice in Civil Pro Se Cases*" and attached a copy of the said Rules as of August 12, 2017 in conjunction with a copy of her "*Individual Practices In Civil Cases*" which made it clear that "page limit" did not apply to pro se litigants.

However, instead of Judge Alison J. Nathan mooting her August 11, 2017 Order as any fair judge would do, she revised her "*Special Rules of Practice in Civil Pro Se Cases*" to include "page limits" to favor the multi-billion dollar Defendants and nefariously **backdated** the said revision to August 10, 2017, the day before her August 11, 2017 Order and ten (10) days after I submitted my Oppositions/Responses to the **NINE (9)** Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice.

I argued for eight (8) straight months that this prejudicial and nefarious action by Judge Alison J. Nathan (DCD sheet – App.TOC. #1), which would mean getting rid of **NINETY PERCENT (90%)** of my pertinent and collective arguments, was in violation of my Fifth and Fourteenth Amendment Rights to Procedural Due Process. In addition, after several requests (App.TOC. #s 16, 17 & 19), Judge Alison J. Nathan was not able to provide a valid and/or legal explanation pursuant to my said Fifth and

Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", as to why she struck my eight (8) Affidavits and all my Evidence from the District Court's docket when Affidavits and Evidence are NOT subjected to page limits. In conjunction, my 198-page, double-spaced, single-document Memorandum of Law in Opposition and my 80-page single-document "Statement of Undisputed Material Facts under Local Civil Rule 56.1" Response/Opposition are for **nine (9)** individual Defendants. (I respectfully refer the Court to the Petition for Issuance of a Writ of Mandamus I filed on September 1, 2017 - Second Circuit - Docket Number: 17–2751.)

However, in violation of my Fifth and Fourteenth Amendment Rights to Procedural Due Process, Judge Alison J. Nathan was adamant that I get rid of **ninety percent (90%)** of my arguments and the corroborating evidence so she could give the multi-billion dollar Defendants an unfair win. My efforts under the protection and guidance of the U.S. Constitution and the Rule of Law to protect my said Rights failed. And, on March 27, 2018, District Judge Alison J. Nathan entered a Memorandum Opinion & Order granting each of the nine (9) Defendants their Motion for Summary Judgment to dismiss my lawsuit with prejudice. On April 24, 2018, I, pro se Plaintiff, Candice Lue filed a timely Notice of Appeal to this Court from the Order dismissing my Complaint (App.TOC. #4).

STATEMENT OF FACTS

As it relates to my January 2015 through January 6, 2016 tenure in my capacity as a Credit Reporting Risk Analyst in the Asset Management Counterparty Risk Group, for eight (8) straight months prior to filing a Charge with the Equal Employment Opportunity Commission ("EEOC") against JPMorgan Chase & Co., all I asked of the said company and my managers was **not** to treat me as a second class citizen/three-fifths of a person/the help/the house slave.

As the only Black Analyst in the Counterparty Risk Group, in addition to always having to work late (as is the norm with the Credit Reporting Risk Analyst position), Defendant Alex Khavin ("Khavin"), an Executive Director and Head of the Counterparty Risk Group for Global Investment Management at JPMorgan Chase & Co., who is White and who was my skip level manager ordered me to work an additional minimum of two (2) hours later (could be up to 11:00 PM) to do 13 copies of the printing, collating, stapling, etc. of each of the other group members' (including members who were on my job level) presentation materials for the group's 8:00 AM Monthly Governance Meeting.

As Khavin tried to rationalize in her "Declaration of Alex Khavin[10]" (DCD # 92 - statement #s 12–14), she solely assigned the aforesaid racially discriminatory tasks to me because the said members in the group, who were all non-Black (except for my direct manager who was Black and a servile employee[11] to Khavin), consistently failed to have their presentation materials ready for the said 8:00 AM meeting to start on time[12]. The meeting starts at 8:00 AM and instead of having the printing, etc. of their presentation materials done the night before to distribute in the said meeting, they would wait until the morning of the meeting, sometimes coming in at 7:55 AM and rushing to put their materials together delaying the meeting for 20 minutes or more. This being so frustrating to Khavin, as the only Black analyst to have joined the group, as if I were the new "help"/"house slave", to "rectify this matter" Khavin unfairly assigned me to do the printing, etc. of all these lax

[10] Aka LIES under Penalty of Perjury. I respectfully refer the Court to The "Baruch Horowitz Lie" below, my Affidavits in Opposition/Response to "Declaration of Alex Khavin" and "Declaration of Baruch Horowitz" which without a valid/legal explanation were stricken from the District Court's Docket by Judge Nathan but were resubmitted to this Court pursuant to FRAP 10(b)(2) & 10(e)(2)(C) as "Docket #s 10 – 11". As provided above, these Affidavits are available at http://candicelue.com/The_Truth.htm. More on The "Baruch Horowitz Lie" from my Opposition/Response to the "Defendants Undisputed Material Fact - # 18" (that Judge Nathan also struck from the DCD) can be found at this link:
http://candicelue.com/Opposition_Response_to_the_Baruch_Horowitz_Lie.pdf

[11] I respectfully refer the Court to "Affidavit in Opposition/Response to "Declaration of Fidelia Shillingford" which without a valid/legal explanation was stricken from the DCD by Judge Nathan but was resubmitted to this Court pursuant to FRAP 10(b)(2) & 10(e)(2)(C) as "Docket #s 10 – 11". As provided above, this Affidavit is available at http://candicelue.com/The_Truth.htm - "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Fidelia Shillingford's "Declaration"

[12] Similar to "back in the day" when White families got Black Helps to take care of their family's/children's chores.

employees' presentation materials – Bearing in mind that another non-Black analyst had joined the group just one week before I did.

I myself had up to three (3) presentations to prepare for the said meeting (more than any of the other members) yet in addition to these three, I was ordered by Khavin to work a minimum of two (2) hours later than usual (when everyone else has left for the day[13]) to prepare everyone else's presentation materials which, their presentation materials had **nothing** to do with my position as a Credit Reporting Risk Analyst (my manager, Defendant Fidelia Shillingford ('Shillingford") and I were on the Reporting side of the group and the other members were on the Credit Analysis side of the said group).

Also, as it relates to "adding value" to the department, as articulated above, the printing of 13 copies, etc. of everyone in the group presentation materials was only a benefit/perk for the non-Black members of the team who were lax in having their presentation materials ready for the monthly 8:00 AM meeting, at the expense of me, the only Black analyst on the team. A benefit/perk, that like a help/house slave, I would have never gotten the opportunity to enjoy since these were **solely** my tasks to do[14].

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[13] For more than half of the month my average time to leave work was 8:00 to 8:30 pm (a few times after 9:00 pm) and for the rest of the time, there was a possibility, not a guarantee, that I would get to leave between 6:00 and 6:30 pm (extremely rare for 6:00 pm) when the average time for the whole month for the non-Black analysts and associates to leave work was between 5:00 and 5:30 pm with a 6:00 pm late evening. Am. Compl. ¶ 14

[14] The equivalent of a White/non-Black family historically getting a Black Help to do their family's undesirable chores – Bearing in mind that I was an Exempt employee.

In conjunction, Khavin solely assigned me the task of taking the minutes for the said monthly governance meetings (a task which was so undesirable that Khavin made it rotational among all the non-Black analysts and associates before I joined the team as I was informed during my interview for the position and per Kimberly Dauber's email dated February 4, 2015[15] – Exhibit B – Second Circuit Court Docket ("SCCD") #s 10-11 or http://candicelue.com/The_Evidence.htm

The aforesaid tasks were not even assigned to the White administrative assistant on the team even though these are tasks that would more likely fall into the "administrative assistant" job category. As a matter of fact, the said White administrative assistant was not even as much as assigned the task to print the meeting agenda she prepared and sent out via email to the team for the said monthly team meeting (Exhibit K – SCCD #s 10-11 or http://candicelue.com/The_Evidence.htm). But, along with all the presentation materials Khavin discriminatively assigned me to print for the non-Black members of the team, the task of printing a copy of the governance meeting agenda for each of the said non-Black members of the team was also assigned to me, an analyst, to do. I respectfully refer the Court to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) –

[15] "*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 adhoc function. However, Alex* [Khavin] *would pick a different person each time during our meetings….*"

WORK ASSIGNMENTS which states: "*Work assignments must be distributed in a nondiscriminatory manner. This means that race cannot be a factor in determining the amount of work a person receives, or in determining who gets the more, or less, desirable assignments*".

In addition, reminiscent of the devious ways in which Black voters were treated to frustrate them and to prevent them from using their voting privilege before the 1965 Voting Rights Act was passed, unlike the non-Black analysts in the Counterparty Risk Group who could use their work from home privilege by just sending an email to the team saying something like, "I am not feeling too well today so I will be working from home" (Exhibit L – SCCD #s 10-11 or http://candicelue.com/The_Evidence.htm), Khavin's directive through Defendant Shillingford[16] for me was that I had to send an email to Shillingford detailing my situation and ask for permission to work from home (permission which would have to come from Khavin herself) and she, Shillingford would communicate accordingly to the team (Exhibit L-1 - JPMorgan Chase 000665 - SCCD #s 10-11 or http://candicelue.com/The_Evidence.htm).

[16] Shillingford is Black and a servile employee of Khavin who relegated herself to "horizontal racist" status to secure her, Shillingford's, career at JPMorgan Chase which was at the "mercy" of Khavin. I respectfully refer the Court to my Affidavits in Opposition/Response to 'Declaration of Alex Khavin and "Declaration of Fidelia Shillingford" which were resubmitted to the Court pursuant to FRAP 10(b)(2) & 10(e)(2)(C) as "Docket #s 10 – 11". As provided above, these Affidavits are available at http://candicelue.com/The_Truth.htm - "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Alex Khavin's "Declaration" and "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Fidelia Shillingford's "Declaration".

As it relates to my January 2013 through November 7, 2014 tenure in my capacity as an Energy Confirmations Drafting Analyst in the Investment Banking Global Commodities Confirmations Department ("Confirmations Department"), it was during the aforesaid eight months prior to me reporting the matter of Employment Racial Discrimination and Retaliation against me to the EEOC that I began to realize how I had been naïvely dismissing circumstances consistent with the culture of racial bias against Blacks at JPMorgan Chase & Co.[17] whereby my career was consistently and intentionally regressed and stagnated by my skip level manager, Defendant Chris Liasis ("Liasis") and my direct manager, Michelle Sullivan ("Sullivan") who are both White.

It never mattered what I did to exceed my work expectation as I explicitly outlined in my Sixth Cause of Action (Am. Compl), my efforts and contributions to process improvements, etc. in the Confirmations Department were always quelled and towards the end of my tenure, my regular duties were taken away from me and I was assigned duties that were regressive to my career by Liasis and Sullivan[18] in an effort to intentionally stagnate and regress my career at JPMorgan Chase[19].

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[17] I respectfully refer the Court to Civil Action Nos.: 1:17-cv-00347 and 2:07-cv-05540 - United States of America v. JPMorgan Chase Bank, NA **and** Alfredo B Payares v. Chase Bank USA, NA., & J.P. Morgan Chase & Co et al - class action, respectively.

[18] Vance v. Ball State University, 133 S. Ct. 2434 (2013)

[19] The reassignment of my duties which pretty much left me "counting pencils" was not necessary as, within seven months, the Physical Commodities section in which I worked would have been sold by JPMorgan Chase and my position would have been eliminated. But, in an effort to put blight on my marketability by indirectly forcing me to update my resume with tasks that would be regressive to my financial career, Liasis and his co-conspirator, Sullivan reassigned my duties and I was

In conjunction, with all my efforts going above and beyond my call of duty (I respectfully refer the Court to my Affidavits in Opposition/Response to "Declaration of Chris Liasis"[20] and "Declaration of Michelle Sullivan"[21]), Liasis and Sullivan never gave me a performance rating above "Meets Expectation (M)". And, to even be considered for a promotion, a JPMorgan Chase employee needs to have at least a "Meets Expectation Plus (M+)" performance rating" – Bearing in mind that I was a high achiever during my high school and college matriculation[22].

With that said, there is comparative evidence to prove that while Liasis and Sullivan were regressing and stagnating my financial career, within the two years of Liasis being my skip level manager, I had seen where he promoted a White female employee who worked in the Marketing Middle Office Group[23] from an Analyst to a Senior Analyst to an Associate/Manager then to a Vice President/Manager. And, with all due respect, I have yet to hear about any process improvement or any other substantial or significant contribution that this White employee had made to the Marketing Middle Office Group (Am. Compl. ¶ 162).

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relegated to spending most of my day calling clients to ask them if they had received issued trade confirmations and when can we expect a returned signed copy.

[20] Where my quelled contributions to the Confirmations Department are outlined and where I provided comparative treatment of myself and a White employee managed by Liasis.

[21] These Affidavits were resubmitted to the Court pursuant to FRAP 10(b)(2) & 10(e)(2)(C) as "Docket #s 10-11". As provided above, these Affidavits are available at http://candicelue.com/The_Truth.htm - "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Chris Liasis' "Declaration" and "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Defendant Michelle Sullivan's "Declaration".

[22] Graduated 3rd from a high school that was more than 99.5% White and graduated Summa Cum Laude from college (New Jersey Governor Scholar, Gates Millennium Scholar, etc.)

[23] This group for which Liasis was the direct manager works very closely with the Confirmations Department.

As outlined in Paragraphs 2, 15, 137 and 138 of my Amended Complaint, I took all the measures necessary to openly mitigate the damages that the Defendants caused me, but to no avail. I continuously raised the issue of racial discrimination against me both verbally and via email to the Defendants and/or employees in positions to rectify this unlawful matter but it was never rectified but only ignored, aided, abetted, enforced, shooed away, dismissed and/or ridiculed by these said Defendants and/or employees (Exhibits CC, CC-1 & D - SCCD #s 10-11 OR http://candicelue.com/The_Evidence.htm). Instead, I was retaliated against by way of a pretextual performance review and placed on a fallacious "performance improvement plan" followed by a written warning and ultimately my termination on January 6, 2016. The written warning and my termination occurred after I filed a Charge against JPMorgan Chase & Co. with the EEOC.

SUMMARY OF ARGUMENT

My Fifth and Fourteenth Amendment Rights to Procedural Due Process and my Seventh Amendment Right to a Trial by Jury were violated when District Court judge, Judge Alison J. Nathan denied me, pro se Plaintiff, Candice Lue, the right to properly and adequately oppose/respond to **NINE (9)** individual Defendants each of whom on May 9, 2017 filed a Motion for Summary Judgment to dismiss my lawsuit against them with prejudice. This action by the District Court is contrary to Rule 12(d) of Federal Rules of Civil Procedure which states "….*All parties must be given*

*a reasonable opportunity to present **all** the material that is **pertinent** to the motion*" and Local Civil Rules 56.2 and 12.1 which respectively state that: "*if you have proof of your claim, **now is the time to submit it***".

The violation of my afore-stated Rights to properly and adequately respond to **nine (9) individual** Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice includes:

I. Judge Alison J. Nathan prejudicially revising her "*Special Rules of Practice in Civil Pro Se Cases*" to include "page limits" then nefariously backdating the said revision to August 10, 2017 (the day before her August 11, 2017 Order and ten (10) days after I submitted my Oppositions/Responses to the Defendants' Motion for Summary Judgment) after she was informed via my August 12, 2017 Response (App.TOC. #14) that her August 11, 2017 Order was in contravention of her own "*Special Rules of Practice in Civil Pro Se Cases*" – Bearing in mind that even with the revision and backdating of her "*Special Rules of Practice in Civil Pro Se Cases*" to include "page limits", it cannot be logical that the same "page limit" that is allowed to respond to one (1) Defendant would be adequate to respond to **nine (9)** Defendants (I respectfully refer the Court to "*Examples of Other Judges' Instructions in Their Orders that Involve Multiple Parties*" – App.TOC. #20).

II. After several requests (App.TOC. #s 16, 17 & 19), Judge Alison J. Nathan was not able to provide a valid and/or legal explanation, pursuant to my Fifth and Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", as to why she arbitrarily struck my eight (8) Affidavits and all my Evidence from the District Court's docket when Affidavits and Evidence are NOT subjected to page limits – Also bearing in mind - *Graham v. Lewinski, 848 F. 2d 342, 344 (2d Cir. 1988*) – A pro se litigant is afforded "special solicitude" under Second Circuit law, *Haines v. Kerner, 404 U.S. 519, 520 (1971)* - A pro se plaintiff is entitled to have her pleadings held to "less stringent standards than formal pleadings drafted by lawyers" and *Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir, 1994)* - A pro se plaintiff's pleadings must be read LIBERALLY and interpreted to "raise the strongest arguments that they suggest".

III. Judge Alison J. Nathan striking my Requests pursuant to Rule 56(d) of the Federal Rules of Civil Procedures[24] which were included in my Affidavits in Opposition/Response to the Defendants'/Declarants' Declarations and a Subpoena that was issued to me by the Clerk of Court which was duly served

[24] Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant": "*If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order*".

upon the Defendants' attorney, Seyfarth Shaw LLP to obtain documents from JPMorgan Chase that would have proven, beyond a shadow of a doubt, the Defendants' inability to produce documents to support the LIES in the said Defendants'/Declarants' Declarations and moreso "THE BARUCH HOROWITZ LIE" (see more below) which was not only stated several times under Penalty of Perjury in the Defendants'/Declarants' Declarations but it was the main defense the Defendants used to have my lawsuit dismissed with prejudice. As I informed the District Court on several occasions, the need for this Subpoena arose **after** I was served with a copy of the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice which was rife with "THE BARUCH HOROWITZ LIE" but in Judge Alison J. Nathan's usual condescending manner she ignored me - a clear obstruction of justice by her.

Judge Alison J. Nathan arbitrarily striking my Oppositions/Responses to the **nine (9)** Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice rests on bias, nefarious intent and violation of my Fifth and Fourteenth Amendment Rights to Procedural Due Process.

ARGUMENT

1. The District Court Abused Its Discretion in Ruling that the Defendants' Motion for Summary Judgment to Dismiss My Lawsuit with Prejudice Is "Unopposed and Fully Submitted".

The District Court's March 27, 2018 Memorandum Opinion & Order ruling that the May 9, 2017 filing of the Defendants' CRIMINAL (proven PERJURY is a crime pursuant to 18 USC § 1621) Motion for Summary Judgment to dismiss my lawsuit with prejudice is "*unopposed and fully submitted*" and granting the Defendants their said Motion is an abuse of discretion.

As evidenced on the PacerMonitor.com Audit Trail as Docket #s 106-112 & 114-118 (App.TOC. #7), by July 31, 2017, I duly, timely and lawfully submitted my Oppositions/Responses to the Defendants' said Motion and as can be referenced on the District Court's docket (Nos. 89–100 - App.TOC. #1), my Oppositions/Responses were in **direct** response to all the filings in the Defendants' said Motion.

However, on August 11, 2017, Judge Alison J. Nathan prejudicially, nefariously[25] and arbitrarily struck my said Oppositions/Responses from the District Court's docket in violation of my Fifth and Fourteenth Amendment Rights to Procedural Due Process[26] ordering that I get rid of **NINETY PERCENT (90%)** of

[25] I respectfully refer the Court to "*Judicial Misconduct Complaint against Judge Alison J. Nathan*" - (App.TOC. #21)

[26] In conjunction, Rule 12(d) of Federal Rules of Civil Procedure which states "….*All parties must be given a reasonable opportunity to present **all** the material that is **pertinent** to the motion*" and Local Civil Rules 56.2 and 12.1 which respectively state that: "*if you have proof of your claim, **now is the time to submit it***".

my arguments and pertinent corroborating evidence in Opposition/Response to **nine (9) individual** Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice.

The striking of my said Oppositions/Responses from the District Court's docket was in accordance with an August 1, 2017 Letter Motion (DCD # 113) from the Defendants' attorney claiming non-conformity of my Oppositions/Responses with Judge Alison J. Nathan's "*Individual Practices in Civil Cases*" as it relates to her "page limit" rules when as per the said Individual Practices, those rules did not apply to pro se Plaintiffs and I, Candice Lue, am a pro se Plaintiff (App.TOC. #11).

In addition, it is obviously stated in **bold** at the top of the page of Judge Alison J. Nathan's "*Individual Practices in Civil Cases*" (App.TOC. #11) that: "*Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES (see Rules for Pro Se Cases*)" and again, I am a pro se Plaintiff. Further, Judge Alison J. Nathan's "*Rules for Pro Se Cases*" as of May 11, 2017 and through Saturday, August 12, 2017 (12 days after I submitted my Oppositions/Responses), had **nothing** about "page limits" and unlike the counseled Defendants, per Judge Nathan's "*Rules for Pro Se Cases*", oral argument is **not** allowed for pro se litigants - "*Oral Argument: Unless otherwise ordered by the Court, argument will not be heard in pro se matters*" (App.TOC. #11).

However, after bringing the matter that the Court had erred in its August 11, 2017 ruling to Judge Nathan's attention in my August 12, 2017 "*Response to Judge Alison J. Nathan's Order of August 11, 2017*" (App.TOC. #14), instead of Judge Nathan recognizing her error of being in contravention of her own Individual Practices for pro se litigants and mooting her Order granting the Defendants' request to strike **all** my Oppositions/Responses (including my eight (8) Affidavits and **all** my evidence) to their Motion for Summary Judgment from the District Court's docket, she nefariously revised her "*Rules for Pro Se Cases*" and **backdated** the said revision to August 10, 2017 (the day before her August 11, 2017 Order and ten (10) days after I submitted my Oppositions/Responses to the Defendants Motion for Summary Judgment to dismiss my lawsuit with prejudice to include page limits for "Memorandum of Law in Opposition" and "Response to Rule 56.1 Statement" (App.TOC. #11).

No court case is decided on a "future Rule of Law" - The Rule of Law would have to be in effect for a court case to be decided based on it. Judge Alison J. Nathan revising her Individual Practices for pro se litigants to validate her aforesaid August 11, 2017 Order in which she granted the Defendants' Letter Motion to strike my Oppositions/Responses from the District Court's docket and nefariously **backdating** that said revision to August 10, 2017 which eventually resulted in her ruling on March 27, 2018 that the Defendants' Motion for Summary Judgment to dismiss my

lawsuit with prejudice is "unopposed and fully submitted", is nothing short of the Court abusing its discretion.

In light of the aforesaid, I respectfully ask that this Court moot the argument on page 9 of Judge Alison J. Nathan's Memorandum Opinion & Order which states: "*Ultimately, the district court may grant an unopposed motion for summary judgment against a pro se plaintiff if: (1) the pro se plaintiff has received adequate notice that failure to file a proper opposition may result in dismissal of the case*" because the evidence[27] pursuant to Rules 10(b)(2) and 10(e)(2)(C) of the Federal Rules of Appellate Procedure clearly shows that my **proper** Oppositions/Responses to the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice were duly, timely and lawfully submitted and filed by July 31, 2017. In conjunction, there is no where in the Rule of Law that gives Judge Nathan the authority to **prejudicially**, **nefariously**, **arbitrarily** and **without discretion** throw out **ALL** of my Oppositions/Responses solely because they do not comply with her "**after the fact**"/"future rule" and prejudicially implemented page limits.

A. <u>Standards of Review – 5A & 5B</u>

B. <u>With nine (9) Defendants each of whom is motioning that my lawsuit against them be dismissed with prejudice and each of whom has specific and different Causes of Action against them, the same "25-page limit" that is allowed to respond to one (1) Defendant cannot be logically adequate to respond to all nine (9) Defendants.</u>

[27] Second Circuit Court Docket ("SCCD") #s 10-11 **OR** http://candicelue.com/The_Truth.htm **and** http://candicelue.com/The_Evidence.htm.

The 198-page, double-spaced, single-document representing my Memorandum of Law in Opposition to the Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, which is a part of my Oppositions/Responses that the District Court struck from the Court's Docket as being too "*overly burdensome*"[28] for the Defendants' attorney to review and respond to, is in opposition to **nine (9) individual** Defendants'[29] Motion for Summary Judgment to dismiss my lawsuit with prejudice. Each of these **nine (9) individual** Defendants has specific and different Causes of Action against them and each of them is requesting that the said specific and different Causes of Action against them be dismissed with prejudice – Meaning that the newly implemented "25-page limit"[30] for a Memorandum of Law in Opposition that Judge Alison J. Nathan would allow for a case where there is one (1) defendant, cannot be reasonable and/or logical to be imposed upon a case where there are **nine (9) individual** Defendants each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice.

This reasonable logic should also apply to my 80-page, double-spaced, single-document representing my Response/Opposition to the **nine (9) individual** Defendants' "Statement of Undisputed Material Facts under Local Civil Rule 56.1"

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[28] Page 1 of Judge Alison J. Nathan's Memorandum Opinion & Order
[29] ALL of whom are represented by the **same** attorney
[30] Bearing in mind that per Judge Nathan's "*Rules for Pro Se Cases*" - "*Unless otherwise ordered by the Court, [oral] argument will **not** be heard in pro se matters*".

whereby Judge Alison J. Nathan's newly implemented page limit for Response to Rule 56.1 Statement is 50 pages - Bearing in mind that Judge Nathan's "*Special Rules of Practice in Civil Pro Se Cases*" - Revised: August 10, 2017[31] (App.TOC. #11) states: "*An opposing party's response to the moving party's Rule 56.1 statement shall be no longer than 50 pages,* ***unless leave of the Court to file a longer document is obtained at least one week prior to the due date of such submission***." So, if it is okay/possible, per Judge Nathan's "*Special Rules of Practice in Civil Pro Se Cases*" which was revised on "August 10, 2017" to request "***leave of the Court to file a longer document***" (which was not necessary when my Oppositions/Responses were submitted by July 31, 2017 - Docket #s 106-112 and 114-118 – App.TOC. #7), logically there should not be an issue with the 80 pages I filed in Response/Opposition to the **NINE (9)** Defendants "Statement of Undisputed Material Facts under Local Civil Rule 56.1".

In conjunction, in Judge Alison J. Nathan's May 11, 2017 Order[32] she provided **no** instructions as it relates to "page limits" obviously because as of May 11, 2017 and through Saturday, August 12, 2017 (12 days after I submitted my Oppositions/Responses to the **nine (9)** Defendants Motion for Summary Judgment), per her own Individual Practices for Pro Se Cases, page limits did not apply to pro se litigants. Also, anyone of reasonable mind would think that with **nine (9)** individual

[31] BACKDATED to August 10, 2017
[32] District Court Docket # 101 (App.TOC. #1)

Defendants, any "page limit" would/should take into account the number of Defendants[33] – Especially bearing in mind that per Judge Alison J. Nathan's said Individual Practices for Pro Se Litigants, there is **no** oral argument for pro se litigants - "*Oral Argument: Unless otherwise ordered by the Court, argument will not be heard in pro se matters*". So, the only way for me, pro se Plaintiff, Candice Lue to submit my Oppositions/Responses to the **nine (9)** Defendants' said Motion for Summary Judgment to dismiss my lawsuit with prejudice is via written arguments.

With that said, it is important to note that via my "*Response to Judge Alison J. Nathan's Order of December 4, 2017*" – (DCD # 136), I requested to redo my 198-page single-document Memorandum of Law in Opposition to all **nine (9)** Defendants' Memorandum of Law in Support of their Motion for Summary Judgment to dismiss my lawsuit with prejudice by **individually** resubmitting my said Opposition to each of the **nine (9)** Defendants' arguments in accordance with the "25-page limit" Judge Alison J. Nathan implemented **after** I submitted my said 198-page single-document Opposition to all **nine (9)** Defendants' Memorandum of Law in support of their Motion for Summary Judgment and **after** I submitted my Response to her August 11, 2017 Order. However, my Request was ignored by Judge Alison J. Nathan (see pages 4 - 6 of my "*Response to Judge Alison J. Nathan's Order of December 4, 2017*" - DCD # 136).

[33] As shown in the examples provided in "*Examples of Other Judges' Instructions in Their Orders that Involve Multiple Parties*" - (App.TOC. #20).

This redo and resubmission would have ensured that my Fifth and Fourteenth Amendment Rights to Procedural Due Process, which states: "….*All parties must be given a reasonable opportunity to present* ***all*** *the material that is* ***pertinent*** *to the motion* ***[of NINE (9) Defendants]***" and Local Civil Rules 56.2 and 12.1 which respectively state that: "*if you have proof of your claim,* ***now is the time to submit it***", and in turn, my Seventh Amendment Right to a Trial by Jury would not have been violated.

C. Because my Oppositions/Responses to the Nine (9) Defendants' Motion for Summary Judgment Were Prejudicially, Nefariously and Arbitrarily Stricken from the District Court's Docket, It Is An Abuse of Discretion and Power to Deem The Defendants' Motion for Summary Judgment "Unopposed and Fully Submitted".

As is clearly stated in my "*Notice of Opposition to Defendants' Motion for Summary Judgment*" (which Judge Alison J. Nathan struck from the District Court's docket) and as shown on "*Civil Action No.: 16 CV 3207 – PacerMonitor.com Audit Trail - Stricken Docket Nos. 106-112 & 114-118*" (App.TOC. #s 9 & 7), **all** my Responses to the nine (9) Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice were labeled as "**Opposition**". And, without a valid and/or legal explanation, pursuant to my Fifth and Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", Judge Nathan arbitrarily struck **all** my said **Oppositions** from the District Court's docket and deemed the Defendants' said Motion "*unopposed*". With that said, just as

how a judge does not have the authority to arbitrarily change a Defendant's plea of "not guilty" to a plea of "guilty" or vice versa, it was an abuse of discretion and power for Judge Alison J. Nathan to arbitrarily change my Response of "**opposition**" from "opposed" to "unopposed".

2. Per the Rule of Law, Pertinent Evidence in the Form of Exhibits And, Affidavits in Direct Response to the Defendants' Declarations aka LIES under Penalty of Perjury Are Not Subjected to "Page Limits" thus Should Not Have Been Stricken from the District Court's Docket.

Looking at Judge Alison J. Nathan's Memorandum Opinion & Order, I see nothing but the LIES and regurgitated, unsupported statements from the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice. That is why, I have done a color-coded markup of her said Memorandum Opinion & Order to show that JUSTICE can only prevail if this Court vacate this said Memorandum Opinion & Order and direct the multi-billion dollar, counseled Defendants to review and respond to my duly, timely and lawfully submitted Oppositions/Responses to their CRIMINAL (proven PERJURY is a CRIME pursuant to 18 USC § 1621) Motion for Summary Judgment to dismiss my lawsuit with prejudice.

I have color-coded Judge Alison J. Nathan's Memorandum Opinion & Order (App.TOC. #12) as follows:

PINK: Categorically false statements that were debunked/proof available in my Oppositions/Responses stricken from the District Court's docket by Judge Alison J. Nathan; and

BLUE: Opposition arguments and corroborating proof available in my Oppositions/Responses stricken from the District Court's docket by Judge Alison J. Nathan.

In conjunction, the LIES and regurgitated, unsupported statements from the Defendants' Motion for Summary Judgment outlined in Judge Alison J. Nathan's Memorandum Opinion & Order have been addressed in my Response/Opposition to the Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1, in my Affidavits in Opposition/Response to the Defendants'/Declarants' Declarations aka LIES under Penalty of Perjury as well as in my Opposition to the Defendants' Memorandum of Law in Support of their Motion for Summary Judgment - all of which, in addition to my corroborating evidence in the form of Exhibits, Judge Alison J. Nathan prejudicially, nefariously, arbitrarily and without discretion, citing "page limit", struck from the District Court's docket. My said Oppositions/Responses can be found pursuant to Rules 10(b)(2) and 10(e)(2)(C) of the Federal Rules of Appellate Procedure in SCCD #s 10 – 11 **OR** for less burdensome access (as it seems as if my said Oppositions/Responses were just "dumped" on the Second Circuit Court docket) via the Electronic Link - **http://candicelue.com/The_Truth.htm**. In addition, I have provided Electronic Links to my Oppositions/Responses to pages 16 through 20 of Judge Alison J. Nathan's Memorandum Opinion & Order as follows:

"Retaliation - Pretext"
I respectfully refer the Court to Pages 51-53 & 111-120 of my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment – **SCCD #s 10-11**
OR

LINK: "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment" - **"PARTS 1 & 2" - http://candicelue.com/The_Truth.htm**

"Harassment / Hostile Work Environment"

I respectfully refer the Court to Pages 178-188 of my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment – **SCCD #s 10-11**

OR

LINK: "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment" - **"PART 3" - http://candicelue.com/The_Truth.htm**

"Aiding and Abetting"

I respectfully refer the Court to Pages 167-178 of my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment – **SCCD #s 10-11**

OR

LINK: "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment" - **"PART 3" - http://candicelue.com/The_Truth.htm**

"Common Law Torts"

I respectfully refer the Court to Pages 188-190 of my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment – **SCCD #s 10-11**

OR

LINK: "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment" - **"PART 3" - http://candicelue.com/The_Truth.htm**

"Tenth Cause of Action - Defamation of Character on the Basis of Race"

I respectfully refer the Court to Pages 190-197 of my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment – **SCCD #s 10-11**

OR

LINK: "Pro Se Plaintiff, Candice Lue's Opposition to the LIES in the Defendants' Memorandum of Law in Support of Their Summary Judgment" - **"PART 3" - http://candicelue.com/The_Truth.htm**

A. Standards of Review – 5A, 5B & 5C

B. Without a valid and/or legal explanation, Judge Alison J. Nathan struck my Affidavits in Opposition/Response to the Defendants'/Declarants' Declarations aka LIES under Penalty of Perjury and my corroborating evidence from the District Court's docket then used the said LIES to grant the Defendants' Motion for Summary Judgment.

After several requests (App.TOC. #s 16, 17 & 19), Judge Alison J. Nathan was not able to provide a valid and/or legal explanation, pursuant to my Fifth and Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", as to why she struck from the District Court's docket **all** my pertinent[34] evidence in the form of Exhibits and my eight (8) Affidavits in Opposition/Response to the Defendants'/Declarants' eight (8) Declarations which, by the Rule of Law, are **not** subjected to page limits.

That is why pursuant to 10(b)(2) and 10(e)(2)(C) of the Federal Rules of Appellate Procedure, I have resubmitted these Exhibits and Affidavits in both physical and Electronic Form (see above) to show that the findings and conclusion of Judge Alison J. Nathan's Memorandum Opinion & Order are unsupported.

[34] "Pertinent" as in **EVERY** piece of evidence that I presented in support of my said Oppositions/Responses was corroborated and referenced individually and/or collectively (where there was more than one piece of evidence available), by first providing the name of the Exhibit then identifying the document either by a JPMorgan Chase reference number at the bottom of the email page, the sender's name, date and/or time that the email was sent, providing initialed notes and clarity on some of the said emails, using highlights and asterisks for quick identification, etc.

C. JPMorgan Chase Uses Black, Servile Employees as Conduits and/or Cover for Their Employment Racial Discrimination

One of the LIES that Judge Alison J. Nathan used to grant the Defendants their CRIMINAL Motion for Summary Judgment can be found on pages 15-16 of her Memorandum Opinion & Order whereby she cited from the Defendants' Declarations aka LIES under Penalty of Perjury that: "*Defendants have presented undisputed evidence that Khavin made the decision that Shillingford would supervise the new hire before Plaintiff was hired, and Plaintiff was explicitly told this both verbally and in her offer letter*[35]*. See Khavin Decl. ¶¶5-6; Shillingford Decl. ¶¶ 4-5 & Ex. A. Again, Plaintiff raises no genuine factual dispute.*"

This is a deceptive LIE to its core for which I provided solid arguments and proofs in my Affidavits in Opposition/Response to both Defendants, Alex Khavin's and Fidelia Shillingford's (who is Black) Declarations and my corroborating evidence mainly in "Exhibit O" which were **all** prejudicially, nefariously and arbitrarily stricken from the District Court's docket by Judge Alison J. Nathan. I respectfully refer the Court to the documents I resubmitted to this Court pursuant to 10(b)(2) and 10(e)(2)(C) of the Federal Rules of Appellate Procedure (SCCD #s 10 & 11) or for a

[35] The only reason why the "offer letter" ("*Ex. A*") **dated November 6, 2014** states: "*reporting to Fidelia Shillingford*" is because on **November 5, 2014** (Exhibit O - JPMorgan Chase 000221) the manager for the Credit Reporting Risk Analyst position was switched from the White Manager, Kimberly Dauber to Fidelia Shillingford (who is Black and who no one else including my non-Black predecessors had ever reported to) after it was determined that Me, the Black candidate, was chosen for the job.

quick link (provided in one single document[36]) to my Response to "*Khavin Decl. ¶¶5-6*" and "*Shillingford Decl. ¶¶ 4-5 & Ex. A*":

http://candicelue.com/JPMorgan_Chase_Uses_Black_Servile_employees_as_conduits_and_or_cover_for_their_Employment_Racial_Discrimination.pdf

In conjunction, besides the fact that Title VII of the Civil Rights Act of 1964 – EEOC Compliance Manual Section 15 – Race and Color Discrimination – V(A)(2) – THE DECISIONMAKER'S RACE states that: "*The race of the decisionmaker may be relevant, but is not controlling. In other words, it should not be presumed that a person would not discriminate against members of his own race. As the Supreme Court has noted, "[b]ecause of the many facets of human motivation, it would be unwise to presume as a matter of law that human beings of one definable group will not discriminate against other members of their group*", on page 13 of Judge Alison J. Nathan's Memorandum Opinion & Order she states that: "*the fact that Shillingford is also a Black woman can be seen to undermine any inference of discriminatory animus….Shillingford is also the person who made both the decision to hire Plaintiff and the decision to fire her, further undermining any possible inference of discrimination*".

This regurgitated, unsupported LIE to its core along with the previous, are examples of how **JPMorgan Chase uses Black, servile employees as conduits**

[36] For convenience, this single document includes "Khavin Decl. ¶¶5, 6 & 7", "Shillingford Decl. ¶¶ 4, 5, 6 & 35" and my direct Responses to these ¶¶ as well as my corroborating evidence for both LIES (see 2nd lie below).

and/or cover for their Employment Racial Discrimination. And, these are the said LIES that Judge Alison J. Nathan used to grant the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice.

D. Black Employees Are Punished More Severely Than White Employees At JPMorgan Chase

On page 11 of her Memorandum Opinion & Order dismissing my lawsuit with prejudice, Judge Alison J. Nathan states that: "*In addition to identifying similarly situated employees who are subject to the same evaluation and discipline standards, a plaintiff must also show that those employees engaged in acts of comparable seriousness but were not punished as severely as plaintiff." Risco v. McHugh, 868 F. Supp. 2d 75, 100-01 (S.D.N.Y. 2012)….. Plaintiff offers no evidence that similarly situated employees who also similarly refused to handle specific tasks, or who communicated with their supervisors in a similar manner, were treated more favorably*" which is another LIE to its core.

Judge Alison J. Nathan states that: "*Plaintiff offers no evidence*" because Judge Alison J. Nathan prejudicially, nefariously, arbitrarily and without a valid and/or legal explanation struck my Affidavit and ALL the evidence I provided in Opposition/Response to Defendant Helen Dubowy's Declaration from the District Court's docket (Docket # 110 – App.TOC. #7). I respectfully refer the Court to my "Affidavit in Opposition/Response to Declaration of Helen Dubowy" (SCCD # 10-11 **OR** http://candicelue.com/The_Truth.htm – "Pro Se Plaintiff, Candice Lue's

Opposition/Response to the Main Aider and Abettor, Defendant Helen DuBowy's "Declaration" – pages 16-19) to see my Affidavit that Judge Alison J. Nathan struck from the District Court's docket and how **Black employees are punished more severely than White employees at JPMorgan Chase**. Or, for a quicker reference:

http://candicelue.com/Black_Employees_Are_Punished_More_Severely_Than_White_Employees_At_JPMorgan_Chase.pdf

In conjunction, as it relates to Judge Nathan's statement that: "*And while it is true that Plaintiff seems to have been specifically asked to handle the Tasks, a jury could not reasonably infer from this fact alone that the request was attributable to racial discrimination*", Title VII of the Civil Rights Act of 1964 – EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – WORK ASSIGNMENTS states that: *"Work assignments must be distributed in a nondiscriminatory manner. This means that race cannot be a factor in determining the amount of work a person receives, or in determining who gets the more, or less, desirable assignments*"….. **100%** of the "*less desirable assignments*" were assigned to me, Plaintiff, Candice Lue, the only Black analyst in the Counterparty Risk Group.

E. JPMorgan Chase's "Investigation" into My Claim of Employment Racial Discrimination Was Biased, Retaliatory and A Total Farce

On page 18 of Judge Alison J. Nathan's Memorandum Opinion & Order dismissing my lawsuit with prejudice, she states that: "*Plaintiff's fifth cause of action – "Failure to Take Steps to Prevent Discrimination, Retaliation and Harassment" –*

primarily charges Chase's HR department with failing to prevent harassment and discrimination by conducting bogus investigations and otherwise covering up her treatment. Am. Compl. ¶¶ 136-41. Chase did conduct prompt investigations after she raised her concerns; Plaintiff is simply critical that their conclusions were that Plaintiff's complaints were unsubstantiated. Given that the Court concludes that Plaintiff has failed to raise an issue of material fact regarding her underlying harassment, retaliation, and discrimination claims, her allegations regarding Chase's failure to intervene must fall too".

The Court "*concludes that Plaintiff has failed to raise an issue of material fact regarding her underlying harassment, retaliation, and discrimination claims*" because Judge Alison J. Nathan prejudicially, nefariously, arbitrarily and without a valid and/or legal explanation struck my **twelve page, double-spaced** Affidavit and ALL the evidence I provided in Opposition/Response to "investigator", Defendant John Vega's Declaration from the District Court's docket (docket # 116 – App.TOC. #7). I respectfully refer the Court to SCCD #s 10-11 **OR** http://candicelue.com/The_Truth.htm – "Pro Se Plaintiff, Candice Lue's Opposition/Response to "Investigator", Defendant John Vega's "Declaration") to see the Affidavit that Judge Alison J. Nathan struck from the District Court's docket that proved beyond a shadow of a doubt that the so-called "*prompt investigations*"

conducted by JPMorgan Chase's HR department was biased, retaliatory **and a total farce**. Or, for a quicker reference (provided in one single document[37]):

http://candicelue.com/JPMorgan_Chase_Farce_Investigation.pdf

In conjunction, on page 4 of Judge Nathan's Memorandum Opinion & Order she states that: "*As a Reporting Analyst, Plaintiff's job description included "[c]ontributing to team-wide efforts such as risk assessment methodology enhancements, portfolio-wide reviews and preparing management presentations. Am. Compl., Ex. H.*" However, as articulated on pages 2–5 ("*Response to Declaration Statement # 3*" – "*Job Description Encompassed the Tasks*") of "Pro Se Plaintiff, Candice Lue's Opposition/Response to "Investigator", Defendant John Vega's "Declaration" – http://candicelue.com/The_Truth.htm, this responsibility which has **nothing** to do with the demeaning tasks (that as the only Black analyst in the Counterparty Risk Group I was solely assigned) was on **all** of the non-Black analysts and associates in the Counterparty Risk Group job descriptions - Am. Compl., ¶¶ 58 & 59. So, why is there a different interpretation of this responsibility for me?

F. <u>The "Baruch Horowitz Lie"</u>

On page 11 of her Memorandum Opinion & Order dismissing my lawsuit with prejudice, Judge Alison J. Nathan states that: "*As the undisputed facts show, Khavin* [my White skip level manager] *had previously assigned this same task to Baruch*

[37] For convenience, this single document includes pages 5-11 of my 12-page "Affidavit in Opposition/Response to Declaration of John Vega" as well as corroborating evidence.

Horowitz, a White man with a higher job title than Plaintiff, suggesting that the assignment of the Tasks to Plaintiff was unrelated to her race" – A LIE to its core which I have dubbed – The "Baruch Horowitz Lie"[38] – Bearing in mind that this LIE was not only **stated under penalty of perjury** by more than one Defendant/Declarant but it is the main defense the Defendants used to have my lawsuit dismissed with prejudice.

First off, the Defendants/Declarants submitted this LIE with ZERO evidence to back it up and when in my Affidavit in Opposition/Response to Baruch Horowitz's Declaration I requested evidence pursuant to Rule 56(d) of Federal Rules of Civil Procedure to prove the Defendants'/Declarants' inability to produce documents to support this LIE and in addition OBTAINED A SUBPOENA FROM THE CLERK OF COURT for the Defendants to produce documents including Baruch Horowitz's performance reviews while in the employ of JPMorgan Chase & Co. to further prove that this defense by the Defendants is a LIE STATED UNDER PENALTY OF PERJURY, at the request of the powerful, multi-billion dollar, counseled Defendants (DCD # 113), Judge Alison J. Nathan prejudicially, nefariously, arbitrarily and without discretion struck ALL my Oppositions/Responses including the one for Baruch Horowitz from the District Court's docket as well as the Subpoena that was issued to me by the Clerk of Court and which was duly served upon the Defendants'

[38] With all due respect, based on the arguments I have provided in my Affidavit in Opposition/Response to Baruch Horowitz's Declaration, Mr. Horowitz might not be of sound mind and as such, is disgracefully being exploited by JPMorgan Chase.

attorney, Seyfarth Shaw LLP. I respectfully refer the Court to SCCD # 10-11 **OR** http://candicelue.com/The_Truth.htm – "Pro Se Plaintiff, Candice Lue's Opposition/Response to the LIES in Declarant Baruch Horowitz's Declaration" that was stricken from the District Court's docket by Judge Alison J. Nathan. This LIE was also stated as the Defendants' Undisputed Material Fact # 18 to which a quick reference to my direct Response/Opposition can be found at this link:

http://candicelue.com/Opposition_Response_to_the_Baruch_Horowitz_Lie.pdf

In conjunction, on page 11 of her Memorandum Opinion & Order, Judge Alison J. Nathan further states that: "*Similarly, Plaintiff claims that she was treated differently from non-Black analysts in being required to ask for permission before working from home and in having her requests to work from home to care for her mother denied. See Am. Compl. ¶ 19. However, the undisputed evidence showed that Horowitz and other analysts had to ask for permission to work from home, and this was consistent with the group's policy. See Declaration of Baruch Horowitz, Dkt. No. 99 ¶ 7; Shillingford Decl. ¶¶13-14 & Ex. C. Plaintiff offers no specific counter-example that raises a genuine dispute.*" However, as articulated in my "*Affidavit in Opposition/Response to Declaration of Baruch Horowitz*" and my Response to "*Declaration Statement #s 13, 14 & 19 (Exhibit C)*" of "*Affidavit in Opposition/Response to Declaration of Fidelia Shillingford*" (SCCD # 10-11 **OR** http://candicelue.com/The_Truth.htm), this statement is a regurgitated and

unsupported LIE to its core for which **no** evidence was presented by the Defendants to show that "*Horowitz and other analysts had to ask for permission to work from home, and this was consistent with the group's policy*". The **only** evidence that was presented was evidence from me, Plaintiff, Candice Lue that shows that asking for permission to work from home, prior to me raising the issue of disparate treatment against me, the only Black analyst in the Counterparty Risk Group, was **not** "*consistent with the group's policy*". I respectfully refer the Court to (SCCD # 10-11 **OR** http://candicelue.com/The_Evidence.htm – Exhibit L).

G. Tangible Employment Actions Taken Against Me are in Violation of Title VII of the Civil Rights Act of 1964 – EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII – C. RETALIATION

I was retaliated against by way of a pretextual Performance Improvement Plan ("PIP") for taking a stance against being treated as the help/house slave for the non-Black members of the Counterparty Risk Group[39]. My continued stance against this racially discriminatory treatment then led me to being issued a Written Warning on September 24, 2015 and led to my termination on January 6, 2016. These tangible employment actions were in violation of Title VII of the Civil Rights Act of 1964 – EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII – C. RETALIATION which states: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by*

[39] I respectfully refer the Court to my "Statement of Facts" above

filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.

3. Judge Alison J. Nathan's handling of this lawsuit in her capacity as the presiding District Court Judge was unethical, egregious and unbecoming

I was first alerted to the bias I became accustomed to from Judge Alison J. Nathan when in contravention of the Southern District of New York's Mediation/ADR Program – Counseled Employment Discrimination Cases – 2015 Second Amended Standing Admin Order – (M10-468), she pawned off my lawsuit to Mediation 23 days after the Summons and Complaint were served upon the Defendants WITHOUT the Defendants even filing a Notice of Appearance much less an Answer (DCD # 4) – Bearing in mind that after 21 days of no Answer from the Defendants, a default judgment in my favor should have been rendered.

A. Standards of Review – 5D & 5E

B. Judge Alison J. Nathan Has Been Disingenuous throughout Her Whole Tenure of Presiding over This Case

Besides prejudicially, nefariously and arbitrarily striking my issued Subpoena and **all** my Oppositions/Responses to the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice, ignoring my reports of the CRIME of perjury committed by the Defendants/Declarants and upon multiple requests not providing me, a pro se plaintiff, with valid and/or legal explanation pursuant to my Fifth and

Fourteenth Amendment Rights to Procedural Due Process, which states: "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", Judge Alison J. Nathan has been consistently disingenuous throughout her whole tenure of presiding over this lawsuit.

My "last alert" of Judge Alison J. Nathan being disingenuous can be seen on page two of her Memorandum Opinion & Order where she states: "*Plaintiff responded on November 28, 2017, deeming the Court's November 20 Order a "farce"*…." This statement by Judge Alison J. Nathan is categorically false and I had previously addressed it on pages 10-11 of my "*Response to Judge Alison J. Nathan's Order of December 4, 2017*" (DCD # 135 – App.TOC. #18). Yet, here **again**, Judge Alison J. Nathan is repeating the said categorically false statement in her Memorandum Opinion & Order (whatever it takes to be biased against me. I respectfully refer the Court to my "*Petition for Issuance of a Writ of Mandamus*" - Second Circuit - Docket Number: 16–3873).

C. Naming Individuals as Defendants due to their "Official/Supervisory Capacity" is Cognizable under Title VII

On page 10 of Judge Alison J. Nathan's Memorandum Opinion & Order, she states that: "*Plaintiff attempts to hold the individual Defendants liable under Title VII, which is not cognizable*". However, pages 62-63 of my Memorandum of Law in

Opposition to the Defendants' Motion for Summary Judgment[40] ("*IV(A) - SUMMARY JUDGMENT IS WARRANTED AS TO ALL CLAIMS - Claims against the Individual Defendants Should be Dismissed*") prove that this statement by Judge Nathan is unsupported and untrue. In fact, it is intellectually dishonest and is in violation of *Graham v. Lewinski, 848 F. 2d 342, 344 (2d Cir. 1988*), *Haines v. Kerner, 404 U.S. 519, 520 (1971)* and *Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir, 1994)* – Page 27 above.

As articulated in my said Opposition, the individual Defendants are named under Title VII so that they can be found in violation of the said statute for their acts of unlawful Employment Racial Discrimination against me. It is understood or should be understood, however, that in terms of any personal liability as it relates to monetary damages, under Title VII, their employer, JPMorgan Chase & Co. is liable, not the individual Defendant personally – Meaning that the individual Defendants are being sued in their individual "official capacity" and not their "personal capacities" thus their liabilities are respondeant superiores under Title VII (Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(A)(3) - EMPLOYER LIABILITY - Conduct of Supervisors[41]).

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[40] Which Judge Nathan prejudicially, nefariously and arbitrarily struck from the District Court's Docket but pursuant to Rules 10(b)(2) & 10(e)(2)(C) of the Federal Rules of Appellate Procedure, please see SCCD # 10–11 **OR** via Electronic Link under http://candicelue.com/The_Truth.htm - PART 2 - Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment (Docket # 108 - App.TOC. #7).

[41] "*An individual qualifies as an employee's supervisor if the individual has authority to undertake or recommend tangible employment decisions affecting the employee, or the individual has*

Title VII does not say that an individual of management/supervisory status whose employer has more than 15 employees and who perpetrated unlawful employment discriminatory acts within the course of their employment with the said employer cannot be **proven** in a Court of Law to be in violation of the said statute. Title VII **only** says that individual liability (as it relates to monetary damages) should not be imposed on such individual employee as, "*Congress did not intend to impose individual liability; rather, Congress meant only "to import respondeat superior liability into Title VII*" - Fantini v. Salem State College, No. 07-2026 (1st Cir. Feb. 23, 2009).

With that said, in order "*to import respondeat superior liability into Title VII*", the Defendants who are Individuals being sued in their respective "official capacity" have to **first** be found in violation of Title VII and, the only way for these Individuals to be found in violation of Title VII is **in a Court of Law**. And as such, the Defendants who are "Individuals" are proper Defendants under Title VII which makes naming these Individuals as "Defendants", cognizable under Title VII.

D. Pursuant to Rule 3(h)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings and Article II, Section 4 of the U.S. Constitution, I Have filed a Judicial Misconduct Complaint against Judge Alison J. Nathan

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authority to direct the employee's daily work activities.(138) As a general rule, employers are responsible for the behavior of their supervisors because employers act through their supervisors". **ALL** the Defendants qualify as "*an employee's supervisor*"

I respectfully refer the Court to "*Judicial Misconduct Complaint against Judge Alison J. Nathan*" (App.TOC. #21)

4. The "Clean Hands Doctrine Rule of Law" is Cognizable in the Southern District Court of New York

Just as how the "Clean Hands Doctrine Rule of Law" is cognizable in Judge Marilyn Milian's courtroom - "The People's Court", it is cognizable in the Southern District of New York Court.

A. Standard of Review – 5F

B. The Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice is **CRIMINAL** (proven PERJURY is a CRIME pursuant to 18 USC § 1621).

My Oppositions/Responses to each of the nine (9) individual Defendants' arguments in their Motion for Summary Judgment to dismiss my lawsuit with prejudice made it as clear as day that my Civil and Constitutional Rights under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 were violated by Defendants, JPMorgan Chase & Co., et al, that my Claims of Employment Racial Discrimination and Retaliation against the said Defendants are valid and that six (6) of the eight (8) Defendants/Declarants LIED under Penalty of Perjury, **A CRIME** pursuant to 18 USC § 1621[42].

[42] I respectfully refer the Court to Docket #s 109-112 & 115-118 (App.TOC. #7) which without a valid and/or legal explanation were stricken from the DCD by Judge Nathan but were resubmitted to this Court pursuant to FRAP 10(b)(2) & 10(e)(2)(C) as "Docket #s 10-11". As provided above,

C. Reported the Defendants' **CRIME OF PERJURY** to the District Court on Several Occasions pursuant to 18 USC § 4

Besides the fact that all my Oppositions/Responses to the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice that the District Court prejudicially, nefariously and arbitrarily struck from the docket were rife with evidence and overwhelming proof that six (6) of the eight (8) Declarants/Defendants LIED under penalty of perjury and that in just about all of my subsequent Court filings, I made every effort to make the District Court aware of this CRIME pursuant to 18 USC § 4, Judge Alison J. Nathan consistently ignored me.

CONCLUSION

In light of the foregoing, I respectfully ask that this Court order the removal of the multi-billion dollar, counseled Defendants from the SHELTER of Judge Alison J. Nathan's robe, vacate Judge Alison J. Nathan's unsupported Memorandum Opinion & Order and direct the Defendants to honor the issued Subpoena and to review and respond to my duly, timely and lawfully submitted Oppositions/Responses to their Motion for Summary Judgment to dismiss my lawsuit with prejudice. Alternatively, I respectfully ask that this Court deny the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice pursuant to the "*Clean Hands Doctrine Rule of Law*" - "5(F)" of my "Standards of Review".

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my Affidavits exposing the LIES in six (6) of the eight (8) Defendants/Declarants Declarations are available at http://candicelue.com/The_Truth.htm

Respectfully Submitted,

July 31, 2018 CANDICE LUE

_____
Signature

[redacted]
Address

[redacted]
City, State, Zip Code

CERTIFICATION OF COMPLIANCE

I certify that the foregoing Appellant Brief contains 13,990 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 31, 2018 in the manner indicated below:

Messrs. Robert Whitman and Anshel Kaplan
Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
(Service via United States Postal Service Priority Mail)

_____
Candice Lue
Appellant

NO. 18 - 1248

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; JOHN VEGA, an individual; HELEN DUBOWY, an individual; PHILIPPE QUIX, an individual; THOMAS POZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual; and Does 1 – 10, inclusive,
Defendants - Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
Civil Action No.: 16 CV 3207
Judge Alison J. Nathan

APPENDIX OF APPELLANT CANDICE LUE

Candice Lue, Pro Se
[redacted]

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