

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

CANDICE LUE, an individual,

Plaintiff,

V.

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

Defendants.

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

PLAINTIFF'S BRIEF FOR:

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

I. ARGUMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Pre-meditated fraud against Plaintiff, Candice Lue and upon the Courts – All the fraudulent acts and conduct outlined in “2” above were pre-mediated by JPMorgan Chase & Co., et al to fraudulently influence the outcome of my Employment Racial Discrimination and Retaliation lawsuit against them and to compromise the authorities of the Courts.

4. Common Law Conspiracy is not protected by “absolute privilege” – “Conspiracy, in common law is an agreement between two or more persons to commit an unlawful act or to accomplish a lawful end by unlawful means.” – Britannica

- Defendants JPMorgan Chase, Fidelia Shillingford, Alex Khavin, Kimberly Dauber and Baruch Horowitz, acting as individuals, combined, associated, agreed or acted in concert with each other to unlawfully make false statements **under penalty of perjury** to influence the outcome of my afore-mentioned Employment Racial Discrimination and Retaliation lawsuit against them. This conspiracy and pre-conceived plan by JPMorgan Chase, Shillingford, Khavin, Dauber and Horowitz constitute a conspiracy at common law. In addition, their said false statements are not protected by “absolute privilege” as **on its face/as stated**, the said perjurious statements are not defamatory and “absolute privilege” protects actual statements made during the course of a judicial proceeding which are defamatory **on its face/as stated** not statements made that are **not** defamatory **on its face/as stated** but only when opined and/or interpreted defame one’s character due to anyone’s/society’s civil right to form their own opinion and/or make their own interpretation.

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

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

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

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

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

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

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

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

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

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

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

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

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

II. CONCLUSION

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

DATED: January 31, 2020

Respectfully Submitted,

CANDICE LUE
Pro Se Plaintiff

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