UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CIVIL ACTION NO.: 16 CV 3207 (AJN) (GWG)

CANDICE LUE, an individual,

Plaintiff

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

PART 2

MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (DOCKET # 91)

(Page 2 - 1st ¶) **Opposition/Response to** *"As the record amply demonstrates, Plaintiff's performance warnings and eventual termination resulted.... Because she persisted in her inexplicable and intractable refusal*[26] *to perform the duties expected of her....."*

In contrast, while I was severely punished by way of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", given a written warning (both of which barred me from accessing the company's progressive benefits) and ultimately terminated on January 6, 2016 for taking a stance against obvious disparate treatment against me in the assignments that were off limits for the non-Black analysts (including my non-Black predecessors) but were solely assigned to me, the only Black analyst in the Counterparty Risk Group, to do, without fear of being punished, my White co-worker, Ryan Vroom was unabashed about his outright refusal to do the Reconciliation Report which is an **essential** task of the Counterparty Risk Group. This is a tedious task that I ended up having to do (Am. Compl. ¶ 69).

Ryan Vroom is the said White employee who, when another co-worker left the company and a task that the exited co-worker previously did was passed on to him to do, he also flat out refused to do it, throwing a tantrum shouting, "**I am not taking this on!**" and just like the Reconciliation Report that he refused to do, I, Plaintiff, Candice Lue, am the one, the Black one, who also had to end up doing this task as well (Exhibit PP - ¶ 2 of page 10 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

However, unlike me, Black Plaintiff, Candice Lue, White employee, Ryan Vroom was not severely punished by means of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", he was not given a written warning, both of which would have barred him from all of the company's progressive benefits and most of all, he was not terminated.

[26] The said "*inexplicable and intractable refusal*" that landed Martin Luther King, Jr. in jail, the said *inexplicable and intractable refusal*" that landed Nelson Mandela in prison for twenty-seven (27) years, the said *inexplicable and intractable refusal*" that landed Rosa Parks in jail, the said "*inexplicable and intractable refusal*" that would have landed Harriett Tubman in jail if she was caught, the said "*inexplicable and intractable refusal*" that caused Congressman John Lewis to get bloodied on Bloody Sunday and the said "*inexplicable and intractable refusal*" Bob Marley advocated in his songs that just like Martin Luther King, Jr., Nelson Mandela and Rosa Parks propelled him to worldwide fame.

As a matter of fact, he got **promoted** – Bearing in mind that for this White employee to have gotten a promotion, his performance rating would have to be, per JPMorgan Chase's "promotion criteria", at least 2 years of Meets Expectation (M) or above performance, with rating of Meets Expectation Plus (M+) or Exceeds Expectation (E) in the year of the promotion (Exhibit QQ – "Why Black Workers Really Need to be Twice as Good", "Black Troops More Likely to Face Military Punishment", ¶ 69 - Am. Compl. & Exhibit H-3).

(Page 2 - 1st & 2nd ¶¶) **Opposition/Response to** "*....Because she was extraordinarily harsh and insubordinate in her interactions with her supervisors. It was this behavior, not the imagined presence of racial animus, that prompted Plaintiff's discipline and termination*"

Admonishing racial discrimination should not be misconstrued as being "*extraordinarily harsh and insubordinate*" bearing in mind that besides me, **in peaceful defiance**[27], refusing to do the employment racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group that were off limits for the non-Black analysts and associates (including my non-Black predecessors) and even off limits for the White administrative assistant that was in the group to do, the Defendants have not provided any substantive evidence to prove that I was "*extraordinarily harsh and insubordinate*".

The days when Black people had to stand up straight and look downward to the ground because it was "*extraordinarily harsh and insubordinate*" to look a racist in the eye as the said racist was demeaning them and treating them as second class citizens, are over. The days when a racist addressed an adult Black male as "boy" and the adult Black male had to stand there and not be "*extraordinarily harsh and insubordinate*" to the racist while being demeaned by being referred to as "a boy", are over. And, so are the days when as a Black employee working for JPMorgan Chase, it is "*extraordinarily harsh and insubordinate*" of me to take a stance against or to not accept second class treatment meted out to me on the basis of my race from racist managers

[27] "Blank stare", "no comment", "I have no further comment" and telling the truth via emails.

(Khavin) or conduits of racist managers (Shillingford) who for their own job security, these conduits engage in horizontal racism. Racism **must** be admonished in whatever way necessary without violence and without care as to whether or not the racist thinks that doing so is being "*extraordinarily harsh and insubordinate*" to him or her.

It is despicable and shameful of Defendants JPMorgan Chase & Co., et al to intentionally misconstrue my admonition of racial discrimination against me by using my said stance[28] as a defense for my unlawful and retaliatory termination. Further and pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

II. FACTS

(Page 2) Opposition/Response to Defendants' "Facts"

As is evidenced in my "Response/Opposition" to the "Defendants' Local Civil Rule 56.1 Statement of Undisputed Facts ("56.1 stmt)", the "undisputed facts" are either not supported by facts and/or are categorically false (*Ante, at 521-522. Under McDonnell Douglas and Burdine, an employer caught in a lie will lose on the merits, subjecting himself to liability not only for damages, but also for the prevailing plaintiff's attorney's fees, including, presumably, fees for the extra time spent to show pretext. See 42 U. S. C. § 2000e-5(k) (1988 ed., Supp. III) (providing for an award of a "reasonable attorney's fee" to the "prevailing party" in a Title VII action*).

[28] The said stance Martin Luther King, Jr. was found "*extraordinarily harsh and insubordinate*" for taking that landed him in jail, the said stance Nelson Mandela was found "*extraordinarily harsh and insubordinate*" for taking that landed him in prison for twenty-seven (27) years, the said stance Rosa Parks was found "*insubordinate*" for taking that landed her in jail, the said stance Harriett Tubman would have been found "*extraordinarily harsh and insubordinate*" for taking if she was caught and was sent to jail, the said stance Congressman John Lewis was found "*insubordinate*" for taking that caused him to get bloodied on Bloody Sunday and the said stance Bob Marley advocated in his songs that just like Martin Luther King, Jr., Nelson Mandela and Rosa Parks propelled him to worldwide fame.

In conjunction, unless the said Defendants can make the documents required/requested in my "Affidavit in Opposition/Response to their Motion for Summary Judgment - Docket Nos. 90 – 99" available to me to either justify my said opposition/response or in the alternative, support the said Defendants' "Statements of Undisputed Material Facts" and their Declarations submitted "*in Support re: 89 Motion for Summary Judgment*", then I respectfully ask that the Court deny the Defendants' Motion for Summary Judgment pursuant to Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant" which states:

"*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*" **and** St. Mary's Honor Center v. Hicks, 509 U.S. at 511 which states:

"*In order to rebut the inference of discrimination, the employer must articulate, through admissible evidence, a legitimate, nondiscriminatory reason for its actions. The employer's burden is one of production, not persuasion; the ultimate burden of persuasion always remains with the plaintiff*".

III. SUMMARY JUDGMENT STANDARD

(Page 2 - 3) Opposition/Response to Defendants' "Summary Judgment Standard"

Admissible and concrete evidence, demonstrating that a trial is required because disputed issues of material fact exist, have been proffered.

IV. SUMMARY JUDGMENT IS WARRANTED AS TO ALL CLAIMS

A. Claims against the Individual Defendants Should be Dismissed

(Page 3) **Opposition/Response to** "Claims against the Individual Defendants Should be Dismissed"

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.

However, 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' liabilities are respondeant superiores under Title VII.

Title VII does not say that an individual of management 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). And as such, the individual Defendants' **liabilities** are respondeant superiores under Title VII.

Further and pursuant to Vance v. Ball State University, 133 S. Ct. 2434 (2013): "*The standard for employer liability for hostile work environment harassment depends typically on whether or not the harasser is the victim's supervisor. An employer is vicariously liable for a hostile work environment created by a supervisor*"[29].

In addition, pursuant to "EEOC Compliance Manual Section 15 - Race and Color Discrimination" – VII(A)(3) - Employer Liability: "*Any time discrimination by a supervisor results in the victim suffering a tangible employment action, such as being fired (or quitting in response to intolerable harassment accompanied by an official company act),(139) demoted, not promoted, or docked in pay, the employer is automatically liable, and there are no defenses available to the employer*".

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[29] "*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 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*" (Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(A)(3) - Conduct of Supervisors).

In light of the afore-stated, the Individual Defendants are proper Defendants under Title VII because again, **the law does not say that Individual Defendants cannot be proven in a Court of Law to be in violation of the said statute** only 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). And as such, claims against the said Individual Defendants under Title VII must not be dismissed.

In conjunction, as it relates to the Defendants' being proper Defendants under 42 U.S.C. § 1981, such has been demonstrated in my Amended Complaint, my "Summary of Arguments" above and/or my respective Affidavits in opposition/response to the said Defendants' Declarations. And as such, claims against the said Individual Defendants under 42 U.S.C. § 1981 must not be dismissed.

B. Claims beyond the Statute of Limitations Should be Dismissed

(Page 4) **Opposition/Response to** "Claims beyond the Statute of Limitations Should be Dismissed"

As articulated in my Sixth Cause of Action (¶¶ 148 & 149 – Am. Compl.), the racial discrimination against me started within six months of working for JPMorgan Chase with Defendants Sullivan and Liasis as my managers. And, as articulated throughout my Amended Complaint, continued until my termination date of January 6, 2016[30]. I also stated in Exhibit D - "Complaint: Michelle Sullivan – I Need Help" (last ¶ on page 1) and in my Tenth Cause of Action that "*Chris Liasis, who as her* (Sullivan's) *former manager and I will safely say confidant, started the defamation of my character [on the basis of my race]*".

Liasis not only started the defamation of my character on the basis of my race but he influenced Sullivan to enforce the said racially discriminatory acts against me. Thus, Liasis is just

[30] JPMorgan Chase has a culture of Employment Racial Discrimination (Summary of Arguments above – "Defendant JPMorgan Chase & Co.")

as culpable in this lawsuit as Sullivan is. Liasis' racist influence followed me right up to my retaliatory termination date of January 6, 2016 thus making his unlawful, racially discriminatory acts valid causes for legal action pursuant to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 and him a worthy Defendant in this lawsuit under both statutes. I respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Chris Liasis' – Docket # 94".

C. Claims beyond the Scope of the EEOC Charge Should be Dismissed

(Page 4) **Opposition/Response to** "Claims beyond the Scope of the EEOC Charge Should be Dismissed"

Naming Liasis and Sullivan as Defendants under Title VII is naturally borne out of the fact that the company that was reported to the Equal Employment Opportunity Commission (EEOC) for Employment Racial Discrimination is JPMorgan Chase & Co.[31] and as managers of JPMorgan Chase & Co., Liasis and Sullivan perpetrated Employment Racial Discrimination against me. As such, pursuant to Fantini v. Salem State College, No. 07-2026 (1st Cir. Feb. 23, 2009), JPMorgan Chase & Co. bears respondeat superior liability for both Liasis' and Sullivan's employment racially discriminatory actions under Title VII.

In conjunction, not only did Sullivan have a major influence in my work affairs in my Credit Reporting Risk Analyst position for which Defendant Shillingford was my manager from November 10, 2014 to January 6, 2016 but Sullivan fought tooth and nail to have her malicious, mendacious, rancorous and racially stereotypical comments (wink-wink[32]) and poor performance

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[31] As my "Summary of Arguments – Defendant JPMorgan Chase & Co." above shows, JPMorgan Chase has a culture that festers Employment Racial Discrimination.

[32] EEOC Compliance Manual Section 15 – Race and Color Discrimination - V(A)(2) – RACE-RELATED STATEMENTS (ORAL OR WRITTEN) MADE BY DECISIONMAKERS OR PERSONS INFLUENTIAL TO THE DECISION. "*Race-related statements include not only slurs and patently biased statements, but also "code words" that are purportedly neutral on their face but which, in context, convey a racial meaning.(47) The credibility of the witness(es) attesting to discriminatory statements, and the credibility of the witness(es) denying them, are critical to determining whether such statements actually were made. If racially discriminatory statements were made, their importance will depend on their egregiousness and how closely they relate – in time and content – to the decision in question.*" Also Exhibit A-1 - "*Often, unconscious stereotypes or implicit biases are, [can be, and will be] at play*" - Former Equal Employment Opportunity Commissioner, Stuart Ishimaru.

rating put on my 2014 year end performance review when she was no longer my manager. Also, as articulated in my Second and Tenth Causes of Action (¶¶ 109 & 214a respectively – Am. Compl.), according to Defendants Shillingford and Dubowy, the performance rating of "M-" that they gave me on the pretextual and retaliatory "performance improvement plan"[33] (Exhibit C) that they placed me on, on July 30, 2015 and which was mentioned in my Complaint to the EEOC, was a "*carryover*" of the said performance rating that Sullivan gave me on my 2014 year end performance review.

In addition, I respectfully refer the Court to Exhibit EE-1 where I had requested a meeting with Shillingford for May 27, 2015 via an email invite with the Subject; "*Lack of Trust and Confidence AND Your Relationship with Michelle Sullivan*". My explanation for this meeting as stated in the body of the said email invite was as follows: "*Just wanted to discuss with you the influence my previous manager* [Sullivan] *has in my current work affairs and the lack of trust and confidence I have in your management*" and email dated May 14, 2015[34] where six months after my start date in the Counterparty Risk Group, Shillingford was discussing my personal and confidential (with emphasis) information with Sullivan. So it is appropriate that Sullivan is named as a Defendant in this lawsuit both under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981.

Also, as articulated in my Sixth Cause of Action (¶¶ 148 & 149), the racial discrimination against me started within six months of working for JPMorgan Chase with Defendants Sullivan and Liasis as my managers. And, as articulated throughout my Amended Complaint, continued until my termination date of January 6, 2016. I also stated in my Tenth Cause of Action that "*Chris Liasis, who as her* (Sullivan's) *former manager and I will safely say confidant, started the defamation of my character [on the basis of my race]*" (also in the last paragraph on page 1 of Exhibit D -

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[33] The "performance improvement plan" was mentioned in my Complaint to the EEOC and in my email response to the said "performance improvement plan" dated August 3, 2015 (Exhibit C), the latter part of the last ¶ on page 1 continued onto page 2 was about Sullivan.

[34] This email correspondence between Shillingford and Sullivan was pursuant to my email dated May 7, 2015 (Exhibit L) and the communication that pursued. The information regarding my "sick days" was needed as part of the cover-up for me being denied the privilege of the company's work from home benefit.

"Complaint: Michelle Sullivan – I Need Help"). Liasis not only started the defamation of my character on the basis of my race but he influenced Sullivan to enforce the said racially discriminatory acts against me. Even though around August of 2014, Liasis was officially no longer a member of the management team of the Confirmations Department, it was as if only a restraining order could have kept him out of the department as he was a constant visitor. His visits were such that each time he was there, another co-worker and I would start up a conversation via JPMorgan Chase's Communicator application saying things like "*look who is here,* ***again***" and the co-worker would respond saying "*Imposter*" then after a few "*ha-has*" we would end the conversation.

Liasis' influence was still in the department, his legacy was still there and his friendship with Sullivan, who made sure to do everything in her power to regress and stagnate my career at JPMorgan Chase while subtly defaming my character on the basis of my race via the mendacious, malicious, rancorous and racially stereotypical comments she started putting on my performance reviews after butting heads with Liasis, was just as strong.

Thus, Liasis is just as culpable in this lawsuit as Sullivan is. Liasis' racist influence followed me right up to my retaliatory termination date of January 6, 2016 thus making his unlawful, racially discriminatory acts valid causes for legal action pursuant to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 and him a worthy Defendant in this lawsuit under both statutes.

D. Plaintiff Cannot Establish Her Claims of Race Discrimination

1. Legal Framework

(Page 5) **Opposition/Response to** "Plaintiff Cannot Establish Her Claims of Race Discrimination"

The Defendants state that: "*the uncontroverted facts in the record show that Chase terminated her [Plaintiff's] employment because of her unsatisfactory performance.*"

However, unlike the malicious and mendacious comments that Shillingford put on the PIP she issued to me on July 30, 2015, Shillingford's comments on my 2014 year end performance review, less than one month before it became fully apparent to me that I was being designated by Khavin as the team's house slave, was: "*Candice has hit the ground running in this new role. She has been very hands-on and follows up on outstanding issues; additionally, Candice is willing to take on new responsibilities with a can-do-attitude....*" (Exhibit G – JPMorgan Chase 000471[35] & 2014 Performance Review - Page 11 - 31-DEC-2014 & Am. Compl. ¶ 101) and in March of 2015 as email dated March 26, 2015[36] (Exhibit G) shows, Shillingford also complimented me on the presentation I did at the March 2015 Governance Meeting. As a matter of fact, Khavin as well complimented me for my presentations at the March 2015 Monthly Governance Meeting (just 4 months on the job). Khavin passed by my desk and told me "*great job on the presentation*" to which the employee from another area sitting next to me, who heard Khavin's compliment to me, advised me to "*remember that* (referring to Khavin's compliment) *for your year end performance review*".

With regards to my ability to present and to speak to (when questions are asked) the presentations I made at the Monthly Governance Meetings[37], this was the feedback from Kimberly Dauber for my 2015 mid-year performance review: "*based on statements made to [her, Kimberly Dauber] by others*" - "*Good presentation skills – delivers the monthly exposure report professionally* (Exhibit OO – JPMorgan Chase 000493).

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[35] "JPMorgan Chase 000471" was the "draft" my then manager, Shillingford sent to my skip level manager, Khavin, who is a racist, as her, Shillingford's comment for my 2014 year end performance review (I was on the job for less than two months. This was also before my former manager, Michelle Sullivan submitted her malicious, mendacious, rancorous and racially stereotypical comments that she, Sullivan fought tooth and nail to put on my said 2014 year end performance review). "JPMorgan Chase 000471" states: "*Candice has had to hit the ground running in this new role; her ability to learn quickly and prioritize her work has helped her to accomplish the given tasks within her new role. Candice is very proactive and willing to take on new responsibilities. For 2015, she needs to develop an understanding of the various trading products and business operations; and to build relationships within the business.*" However, as page 11 of my 2014 year end performance review shows, this "draft" by Shillingford was modified to reflect a less praiseworthy comment (as shown above) for my said 2014 year end performance review.

[36] This was prior to Shillingford, based on my knowledge, accepting and agreeing to the roles of enabler, facilitator, coordinator and enforcer of the second class treatment from Khavin that was being meted out to me (¶ 55 – Am. Comp.)

[37] Being able to make and speak to these presentations are extremely important to the Credit Reporting Risk Analyst role.

I also respectfully refer the Court to the following:

- My 2015 Final Analyst/Associate Evaluation which is a summary of my 2015 contributions to the Counterparty Risk Group and to JPMorgan Chase as a whole and the "Thank You" email dated August 14, 2015 that I received from Nikhil Saxena, the 2015 summer intern who I think ended up working in the said Counterparty Risk Group (Exhibit LL).
- My 2012 year end performance review done by Defendant Michelle Sullivan prior to her butting heads with racist, Chris Liasis (Exhibit G – 2012 Performance Review). I respectfully ask that the Court notes how the Defendants not only conspicuously omitted my 2012 Performance Review from Exhibit A and Exhibit C attached to "Declaration of Michelle Sullivan" but they totally denied that Michelle Sullivan was my manager during that time (I respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Michelle Sullivan' – Docket # 95" and "Defendants' 'Undisputed' Material Fact # 3" – "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Rule 56.1").
- The compliments I received for my work from a previous manager and the representative for one of JPMorgan Chase's top brokers prior to me joining Sullivan's department in August 2012 (Exhibit I) .
- The "Goodbye" email dated October 17, 2014 I received from my former co-worker, Cecille Taylor-Simpson (Exhibit GG)

In addition, as it relates to the data quality issues plaguing the integrity of the Exposure Report[38] on which I worked during my tenure in the Counterparty Risk Group, the following is what I articulated in my Amended Complaint and for which emails of the quality of my work should be available on JPMorgan Chase's server:

[38] The Exposure Report was once referred to as "the monster" by a former co-worker of the Counterparty Risk Group.

Paragraph 101d:

*"The data quality management as it related to the automation of my work was primarily my task to do, a task that "**previous analysts who performed the job**" minimally did or minimally had to do. It was through **my due diligence and the integrity of the work that I produced**, that many of these data quality issues came to light. With that said, Shillingford had to escalate the data quality issue matter to Philippe Quix, the Global Investment Management Chief Risk Officer/Managing Director/Khavin's manager in a meeting held on November 17, 2015[39] at 12:15 pm* [with me, Plaintiff, Candice Lue, Shillingford, Quix, Hubert Gorniak[40] and two members of the Tech Team, including the Tech team's head] (Exhibit LL) *and Quix had to schedule subsequent meetings with other senior level managers to address the issue."* And;

Paragraph 101f:

"To elaborate a bit on my work with the Tech Team especially as it relates to this retaliatory and pretextual "performance improvement plan' on which I was placed, the Counterparty Risk Group is very dependent on the Tech Team and I was the key liaison for the exposure reporting for the said Tech Team. In light of this interaction, the Tech Team including its head was exposed to the quality of my work which included my data quality issue analyses, my investigations and escalations, my testing of system enhancements and data validations, my communication skills, my work ethic and approachability, etc. With that said, I once again implore and to some extent challenge JPMorgan Chase to have these employees testify under oath in defense of their charge of "performance issues" against me that led to my firing on January 6, 2016."

My Stance against The Employment Racially Discriminatory Tasks That Were Solely Assigned to Me on The Basis of My Race

In light of the aforesaid, that "*unsatisfactory performance*" that the Defendants claim that "*Chase terminated [me]*" for was based solely on the fact that I took a stance against the obvious

[39] About six (6) weeks prior to my January 6, 2016 retaliatory termination.
[40] Hubert Gorniak was the other vice president on the Reporting side of the Counterparty Risk Group.

disparate treatment of Employment Racial Discrimination that was perpetrated against me by refusing to do tasks and **ONLY** tasks that were racially discriminatorily assigned solely to me to do on the basis of my race.

These were tasks that Khavin, the head of the Counterparty Risk Group, had never assigned to any of the non-Black analysts and/or associates (including my non-Black predecessors) to do whether exclusively or on a rotational basis because she did not want to demean any of them by making it seem as if it was the task of any one of them to do. However, in her act of disparate treatment against Blacks, Khavin assigned the employment racially discriminatory tasks to me, an analyst as well, as solely my job to do.

As the only Black Analyst in the Counterparty Risk Group, as if I were the house slave for the non-Black members of the group, including the members on my own job level, and reminiscent of the 1800s plantation style living, in the era of slavery when Blacks had to serve their masters and their masters' families, Khavin solely assigned me the task of taking the minutes for the Monthly Governance Meetings (a task which was so undesirable that Khavin made it rotational among the analysts and associates before I joined the team as I was told in my interview and per Kimberly Dauber's email dated February 4, 2015[41] – Exhibit B) and the tasks of printing 13 copies of each of the non-Black team member's presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the monthly team meetings where the said non-Black team members will be waiting to "be served" (tasks which never existed before I joined the team, tasks that were not even assigned to the White administrative assistant on the team to do and tasks that were only a benefit/perk for the non-Black members of the team). (I respectfully refer the Court to my "Affidavit in Opposition/Response to Declaration of Alex Khavin - Docket # 92" – "Response to Declaration Statement #s 12, 13 & 14").

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[41] "*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 would pick a different person each time during our meetings....*"

In a meeting with Khavin on April 24, 2015, I tried my best to articulate to her how I felt about her treating me "*as if I am the help and as if this is 1910*" and her "how dare you" response to me, "*it is your job and I expect you to do it. If you need help go and ask the [White] administrative assistant to help you*" was condescending, unapologetic and unrepentant. Khavin's response was also evidence of the disparity in how she treated me versus how she treated the non-Black analysts and associates in the group[42].

With that said, for taking a stance against the aforesaid disparate treatment against me, I was severely punished by JPMorgan Chase and its managers. These severe punishments included being placed on a retaliatory and pretextual "performance improvement plan" on July 30, 2015 (Exhibit C), issued a "written warning" on September 24, 2015 (Exhibit F) and ultimately terminated on January 6, 2016 "*because of [my] unsatisfactory performance*" which was **due to me taking the said stance**.

The **only** "expectation" on the "written warning" that was issued to me on September 24, 2015 as it regards "*unsatisfactory performance*" was: "*It is my expectation that Candice perform the job responsibilities for which she was hired; she is expected to print all materials for our monthly team meeting and provide copies for each member*" (Exhibit F) – meaning, be the house slave for the non-Black members on the team including the ones on my job level, **who are not even members of the Reporting side of the group as I was** (Shillingford Dec., ¶ 8) **and whose presentation materials for the monthly team meeting had nothing to do with mine**, or else.

Pretext

In addition to my "Response to Declaration Statement #s 26, 27 & 31 – Exhibits I, J and N, respectively attached to 'Declaration of Fidelia Shillingford'" – "Affidavit in Opposition/Response

[42] Khavin refused or failed to instruct me to ask help of any of the non-Black analysts in my own job category or on my same job level. However, she, in her act of lack of respect and disparate treatment against Blacks instructed me to go and ask the White administrative assistant to help me, an analyst, to do a task that would more likely fall into the administrative assistant's job category. Also, please note that Khavin herself had never given the White administrative assistant the directive to provide me with this help. So, unlike me where it is firmly "my job", this "help" would be at the White administrative assistant's discretion.

to 'Declaration of Fidelia Shillingford' – Docket # 93", I respectfully refer the Court to the aforesaid "written warning" (Exhibit F) where in addition to the "expectation", Shillingford stated: "*Note, this* [employment racially discriminatory tasks] *falls under her* [Plaintiff, Candice Lue's] *job responsibility: 'Updating and distributing daily Counterparty Reports'*"....

Besides the obvious fact that this "written warning" was a fallacy[43], it is also nonsensical in that, how can a **monthly** responsibility, "*to print all materials for our monthly team meeting and provide copies for each member*" fall under a **daily** responsibility of "*Updating and distributing daily Counterparty Reports*"? Furthermore, when Shillingford issued me this "written warning" on September 24, 2015, the responsibility of "*Updating and distributing daily Counterparty Reports*" was already moved over to a non-Black analyst. So, since the responsibility of "*Updating and distributing daily Counterparty Reports*" was being done by a non-Black analyst, how is it that the said non-Black analyst was never asked/told "*to print all materials for our monthly team meeting and provide copies for each member*" since, according to Shillingford, "*Note, this falls under [the] job responsibility: 'Updating and distributing daily Counterparty Reports*"? Also, this said job responsibility of "*Updating and distributing daily Counterparty Reports*" has been on all the analysts' and associates' job descriptions before I joined and after I joined the Counterparty Risk Group yet, none of the other said analysts and associates, all non-Black, was ever given the task "*to print all materials for our monthly team meeting and provide copies for each member*" - The said racially discriminatory task that I took a stance against which led me to be put on a "performance improvement plan, the said "written warning" and my termination of January 6, 2016.

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[43] "*The responsibility had to be picked up by an Associate in the team*" – the recently promoted to "Associate" ploy, Ryan Vroom (¶ 69 – Am. Compl. & "Affidavit in Opposition/Response to Declaration of Helen Dubowy – Exhibit C" - "Recommendation for Termination" - Docket # 96").

Violation of Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – WORK ASSIGNMENTS

In conjunction with the "expectation" for the written warning, the "performance improvement plan" on which I was placed on July 30, 2015 states: "*She [Plaintiff, Candice Lue] has not taken on all tasks assigned to her*[44]*.... She has demonstrated refusal to perform assigned tasks*" and the "recommendation for termination" states: "*Candice was issued a PIP (performance improvement plan) on July 30th, 2015 and a Written Warning on September 1st, 2015. Both documents included issues on refusing to perform assigned tasks .... Because of her continued lack of professionalism*[45] *and refusal to perform the work asked of her, it is the recommendation to move forward with termination of employment*".

These "*responsibilities/tasks*" are the said employment racially discriminatory tasks that were not only off limits for the non-Black analysts and associates (including my non-Black predecessors) to do but they were even off limits for the White administrative assistant on staff to be assigned to do (¶ 13, 91, 125, - Am. Compl.). However, these said employment racially discriminatory tasks were not only solely assigned to me, the only Black analyst on the team to do, but on a monthly basis, as Exhibit K shows, I was harassed to do them without regard for Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – 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***".

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[44] The ONLY tasks that I did not take on were the employment racially discriminatory tasks that were NEVER assigned to any of the non-Black analysts and/or associates in the two years prior to me joining the Counterparty Risk Group and after I joined the said group but were solely assigned to me, the only Black analyst to have joined the Counterparty Risk Group.

[45] With regards to my "professionalism", any issue with my professionalism is a direct result of the racially discriminatory treatment I endured working at JPMorgan Chase. However, the Defendants have **no proof** that outside of my peaceful stance against the employment racial discrimination that was perpetrated against me, which according to them was "*unprofessional*", I was in any way, not professional.

Violation of Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION

My termination from JPMorgan Chase was retaliatory as the sole reason for my said termination was based on my opposition to the Employment Racial Discrimination that was perpetrated against me in the work assignment that was assigned only to me and solely on the basis of my race. And, pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

In contrast, while I was severely punished by way of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", given a written warning, (both of which barred me from accessing the company's progressive benefits) and ultimately terminated on January 6, 2016 for taking a stance against obvious disparate treatment against me in the assignments that were off limits for the non-Black analysts and associates on the team (including my non-Black predecessors) but were solely assigned to me to do, without fear of being punished, my White co-worker, Ryan Vroom was unabashed about his outright refusal to do the Reconciliation Report which is an **essential** task of the Counterparty Risk Group. This is a tedious task that I ended up having to do (Am. Compl. ¶ 69).

Ryan Vroom is the said White employee who, when another co-worker left the company and a task that the exited co-worker previously did was passed on to him to do, he also flat out refused to do it, throwing a tantrum shouting, **"I am not taking this on!"** and just like the Reconciliation Report that he refused to do, I, Plaintiff, Candice Lue, am the one, the Black one, who also had to end up doing this task as well (Exhibit PP - ¶ 2 of page 10 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

However, unlike me, White employee, Ryan Vroom was not severely punished by means of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", he was not given a written warning, both of which would have barred him from all of the company's progressive benefits and most of all, he was not terminated for "*unsatisfactory performance*". As a matter of fact, he got **promoted** – Bearing in mind that for this White employee to have gotten a promotion, his performance rating would have to be, per JPMorgan Chase's "promotion criteria", at least 2 years of Meets Expectation (M) or above performance, with rating of Meets Expectation Plus (M+) or Exceeds Expectation (E) in the year of the promotion (Exhibit QQ – "Why Black Workers Really Need to be Twice as Good", "Black Troops More Likely to Face Military Punishment", ¶ 69 - Am. Compl., Exhibit H-3 & Exhibit QQ-1).

I would also like to add that after the Equal Employment Opportunity Commission (EEOC) served my "Perfected Charge" upon JPMorgan Chase sometime in November 2015[46], **for the first time**, in an email from Shillingford sent with "High Importance" and dated December 1, 2015 (Exhibit Y), Shillingford announced that the responsibilities of the taking of the minutes for the Monthly Governance Meeting and the printing, etc. of the team members' presentation materials for the said meeting would be rotated among all the analysts and associates. This would take effect **DECEMBER 23, 2015** (almost one year after it was solely assigned to me and I was harassed on a monthly basis to do it). However, because the analysts and associates were never used to doing the printing, etc. of the team members' presentation materials, solely or on a rotational basis, as emails dated December 23, 2015 (Exhibit Y) show, a commotion ensued[47]. What I want to draw the

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[46] By now, Khavin had been on "extended leave" since June 2015 and Shillingford, who is Black and a servile employee having been coached by JPMorgan Chase's HR legal representatives to fully take on Khavin's racist role to mitigate my Employment Racial Discrimination Claim being she is of the same race as I am (Am. Compl. ¶ 114, my response to the written warning (Exhibit F), Declaration of Helen Dubowy - Docket # 96) was obviously given the directive to start this "commotion".

[47] For more on this December 23, 2015 "commotion", I respectfully ask that the Court see the full email trail in Exhibit Y and my "Response [under sworn oath] to Request # 46" - "Response to Defendants First Request for Production of Documents" - docket # 45" detailing why this "rotation/commotion" was only a ploy as per Exhibits CC and CC-2 as my retaliatory termination was already finalized. However, according to Shillingford's Declaration statement # 35 "*I did not wish to see her [Plaintiff, Candice Lue] terminated during the holiday season, so I requested to HR that the termination occur in early January*"- after almost one year of enforcing horizontal racism against me, how sweet.

Court's attention to however, is Shillingford's email dated December 23, 2015 and time stamped 12:32 PM (Exhibit Y) where Shillingford had to emphasize "her fairness" in the rotation of the aforesaid tasks by saying: "*The new schedule was communicated to all, as per below email* ***and to be fair, all analysts were assigned a month or two****. And I was specific that the assigned analyst would be responsible for taking notes and prepping materials*."

As I have said throughout my Amended Complaint, none of the non-Black analysts and/or associates would have had the task of taking the minutes for the Monthly Governance Meetings and the tasks of printing 13 copies of each of the team member's presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the monthly team meetings assigned **solely** to them. But, in Khavin's and Shillingford's (Khavin's servile Black employee and conduit for extending her, Khavin's bigotry to me) disparate treatment against me on the basis of my race, they assigned these said demeaning tasks solely to me as my job to do **every** month of the year. In Shillingford's said email, "**fairness**" had to be emphasized in asking the non-Black analysts and associates to do these tasks **only once or twice per year** but for me, the only Black analyst in the group and before my Perfected Charge was served upon JPMorgan Chase by the Equal Employment Opportunity Commission, these tasks were solely my job to do **twelve (12) times per year**. As I said in my email in the said December 23, 2015 email trail (EXHIBIT Y), "*How fair!*"

In light of the aforesaid, taking a stance against obvious disparate treatment of Employment Racial Discrimination against me should not be misconstrued as "*unsatisfactory performance*" that warrants the tangible employment action up to and including termination. Further, pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION – "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge,*

testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)".

2. Chase Terminated Plaintiff's Employment For Legitimate Reasons

(Page 6) **Opposition/Response to** "Chase Terminated Plaintiff's Employment for Legitimate Reasons"

With regards to "*using inappropriate and disrespectful tone in emails and verbal communication*", first off, when did responding verbally by saying: "*no comment/I have no further comment*" to someone who harasses you on a monthly basis solely on the basis of your race, "*inappropriate and disrespectful verbal communication*"?

Secondly, as it relates to "*using inappropriate and disrespectful tone in emails*", As I stated in Paragraph 5 of my email response dated August 3, 2015 (Exhibit C) to the performance improvement plan on which I was placed: "*If you [Shillingford] are referencing the emails in which I complained about being treated as the help (and I bet you are), I think my standing up has been misconstrued. In those emails I do write rhetorical questions such as "Am I the help? Is this 1910?" because of the demeaning treatment being meted out to me. Putting what you don't want to see in an email, the TRUTH, does not make the email unprofessional. Even though I've been discouraged by you [Shillingford] time and again not to put things in email, it is the means I use to protect myself from these vicious mendacities. Sadly, not even this means is teflon enough to do so. As long as what I write in these emails can be said under penalty of perjury*[48]*, they should not be deemed unprofessional.*

Furthermore, what did the Defendants expect me to do when Shillingford, my then manager, sent me an **email**, yes in writing, with a blatant lie instead of me responding saying: "*With ALL due respect, your statement is untrue*"? Just sit there and let Shillingford lie on me? Now, as

[48] That is why I am asking the Court to punish to the full extent the majority of the Declarants for the lies told in their Declaration under penalty of perjury.

"evidence", my said email "*With ALL due respect, your statement is untrue*" is Shillingford's Declaration Statement # 32 – Exhibit O under "*inappropriate and disrespectful*" emails.

As it relates to "*disruptive behavior in the workplace*", this is categorically false and has caused me to be sick to my stomach. Besides the email that I sent on May 27, 2015 which stated: "*In the interest of team spirit, can you please print, sort, organize and staple as well as send out your own presentation materials to the team? I find it unfair and demeaning that the task of printing, sorting, organizing, stapling, sending out and lugging YOUR presentation materials to the meetings is placed on me*", I have NEVER even as much as discussed this matter with one other member of the Counterparty Risk Group or even members of other groups that I sat next to. And, by the way how I interacted with them, they would have never known what I was going through[49]. So to say that I had "*disruptive behavior in the workplace*" by taking a peaceful stance against the employment racial discrimination that was perpetrated against me, is malicious, mendacious and just like the Defendants' Declarations and their "Statement of Undisputed Material Facts" which for the most part are categorically false, disgusting and disgraceful. The only thing that could be "*disruptive*" about my behavior is not being the perk/benefit to the non-Black members of the Counterparty Risk Group by not being their help/house slave.

Further, with regards to my "professionalism", any issue with my professionalism is a direct result of the racially discriminatory treatment I endured working at JPMorgan Chase. This is also an insult to the hard work my mother put into raising me. There had never been a school that I attended where a teacher did not compliment my mother for the way how she raised me. This is the first time in my life that I have been described as being "*unprofessional, insubordinate, disruptive and disrespectful*" and it is all because of the racial discrimination I have come face to face with in "the real world". So, contrary to the "angry Black woman" and the "Uppity Negro" (Exhibit QQ – "The Myth of the Angry Black Woman", "How Michelle Obama Felt about Being Labeled An

[49] Case in point, see the "Thank You" email I received from Nikhil Saxena (Exhibit LL), the 2015 summer intern who I think ended up working in the said Counterparty Risk Group. Please note the date of Nikhil Saxena's email. It was right in the midst of the turmoil I was going through.

'Angry Black Woman'", "Angry Black Woman", "Uppity Negro") that the non-Black Defendants and the horizontal racist, Shillingford are trying to make me out to be, I am the exact opposite.

With that said, admonishing racial discrimination should not be misconstrued as being "*unprofessional, insubordinate, disruptive and disrespectful*". The days when Black people had to stand up straight and look downward to the ground because it was "*unprofessional, insubordinate, disruptive and disrespectful*" to look a racist in the eye as the said racist was demeaning them and treating them as second class citizens, are over. The days when a racist addressed an adult Black male as "boy" and the adult Black male had to stand there and be respectful to the racist while being demeaned by being referred to as "a boy", are over. And, so are the days when as a Black employee working for JPMorgan Chase, it is "*unprofessional, insubordinate, disruptive and disrespectful*" of me to take a stance against or to not accept second class treatment meted out to me on the basis of my race from racist managers or conduits of racist managers who for their own job security, these conduits engage in horizontal racism. Racism **must** be admonished in whatever way necessary without violence and without care as to whether or not the racist thinks that doing so is being disrespectful to him or her.

It is despicable and shameful of Defendants JPMorgan Chase & Co., et al to intentionally misconstrue my admonition of racial discrimination against me by using my said stance[50] as a defense for my unlawful and retaliatory termination. Further and pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying,*

[50] The said stance Martin Luther King, Jr. was found "disrespectful and insubordinate" for taking that landed him in jail, the said stance Nelson Mandela was found "disrespectful and insubordinate" for taking that landed him in prison for twenty-seven (27) years, the said stance Rosa Parks was found "disrespectful and insubordinate" for taking that landed her in jail, the said stance Harriett Tubman would have been found "disrespectful and insubordinate" for taking if she was caught and was sent to jail, the said stance Congressman John Lewis was found "disrespectful and insubordinate" for taking that caused him to get bloodied on Bloody Sunday and the said stance Bob Marley advocated in his songs that just like Martin Luther King, Jr., Nelson Mandela and Rosa Parks propelled him to worldwide fame.

assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)".

a. **Plaintiff's Behavioral and Attitude Problems**

(Pages 6 -7) **Opposition/Response to** "Plaintiff's Behavioral and Attitude Problems"

From my **first** Governance Meeting, November 2014 Governance Meeting, Khavin assigned the taking of the minutes to me. Khavin did not even give me the opportunity as a new employee to see what the Governance Meeting is about. A copy of the meeting minutes for the November 2014 Governance Meeting that I sent out to the team should be on JPMorgan Chase's server.

In any event, for two years prior to me joining the Counterparty Risk Group, Khavin had made the taking of the minutes for the monthly Governance Meeting rotational among the non-Black analysts and associates in the group as she was cognizant of not demeaning any of them by making it seem as if it was the task of any one of them. But in her act of lack of respect and disparate treatment against Blacks, Khavin assigned the task of taking the minutes for the monthly team meeting to me, an analyst as well, as solely my job from my **first** Governance Meeting in the Counterparty Risk Group.

Each Bullet below Corresponds **in Opposition/Response** to the Bullets under "Plaintiff's Behavioral and Attitude Problems"

- The first time it became fully apparent to me that I was being racially discriminated against by way of disparate treatment by Khavin was on January 21, 2015. On January 26, 2015, I officially raised this issue of racial discrimination against me to my then direct manager, Fidelia Shillingford then subsequently and consistently both verbally and/or in writing to Defendants Khavin, Shillingford, Vega, Poz, Quix and to the Global Head of HR, John Donnelly and up to January 6, 2016 (my retaliatory termination date), the issue was never

rectified but only ignored, aided, abetted, enforced, shooed away and/or dismissed by these said named – Bearing in mind that January 6, 2016 was four months after a copy of my charge was served on JPMorgan Chase by the Equal Employment Opportunity Commission. (¶ 2 – Am. Compl.)

- This is an insult to anyone of reasonable mind's intellect. What does someone complaining about being demeaningly treated, "*as if I am the help and as if this is 1910*", have to do with "*Based on Shillingford's concern that Plaintiff might have difficulty juggling the Tasks along with her other responsibilities, all of which were still new to her, Shillingford and Khavin tried to accommodate her by agreeing to reinstall the rotation that was temporarily in place during the latter half of 2014.... In reply to this email – an email which had been sent in an effort to accommodate her* (what a sick joke)*.... Plaintiff brashly retorted, 'Just to reiterate,* ***as previously discussed****, I have never considered these tasks to be my responsibility as I had confirmed such in the interview and on the job'*" Exhibit B (Email dated February 4, 2015 and time stamped 1:55 PM).

  Besides the fact that the first half of the Defendants' statement is categorically false, what is "*brash*" about my email? This is the perfect example of the articles "How Michelle Obama Felt About Being Labeled An 'Angry Black Woman'" and "The Myth Of The Angry Black Woman" (Exhibit QQ). Further, the days when as a Black employee working for JPMorgan Chase, it is "*brash*" of me to take a stance against or to not accept second class treatment meted out to me on the basis of my race from racist managers (Khavin) or conduits of racist managers, (Shillingford) are over.

  In addition, to prove that the first half of the Defendants' statement is categorically false, Shillingford's comments on my 2014 year end performance review, less than one month before it became fully apparent to me that I was being designated by Khavin as the team's

house slave[51], was: "*Candice has hit the ground running in this new role. She has been very hands-on and follows up on outstanding issues; additionally, Candice is willing to take on new responsibilities with a can-do-attitude*" (Exhibit G – JPMorgan Chase 000471[52] & 2014 Performance Review - Page 11 - 31-DEC-2014 & Am. Compl. ¶ 101).... There was nothing about "*difficulty juggling the Tasks*".

- April 2015 - Whether or not it was out of GUILT of treating me, the only Black analyst in her group, as the help/house slave why Khavin wanted to know why I walked out of the April 2015 Governance Meeting, I will never know. However, the first thing that Khavin asked me when I went into the April 24, 2015 meeting that she called me to was if it was "*due to a biological issue*" why I walked out of the meeting the day before[53]. This was because I was not "*disruptive, rude or disrespectful*" when I walked out. I walked out as peacefully as I could to avoid any disturbance. The only thing of suspect was that I was out for 20 minutes. After I told Khavin my real reason for walking out (treating me as if I am the help, as if this is 1910?") she lashed out on me. (I respectfully refer the Court to my Response to "Defendants' Undisputed Material Fact # 22" - Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1'").

  In addition, as I articulated in Exhibit A – EEOC Intake Questionnaire – Question # 6 – Page 2: "*Alex had initiated this meeting because, being humiliated again in the monthly*

[51] By January 2015 it had become fully apparent to me that Khavin's intention was to turn me into the group's help/house slave – a perk/benefit for the non-Black members of the group.

[52] "JPMorgan Chase 000471" was the "draft" my then manager, Shillingford sent to my skip level manager, Khavin, who is a racist, as her, Shillingford's comment for my 2014 year end performance review (I was on the job for less than two months. This was also before my former manager, Michelle Sullivan submitted her malicious, mendacious and racially stereotypical comments that she, Sullivan fought tooth and nail to put on my said 2014 year end performance review). "JPMorgan Chase 000471" states: "*Candice has had to hit the ground running in this new role; her ability to learn quickly and prioritize her work has helped her to accomplish the given tasks within her new role. Candice is very proactive and willing to take on new responsibilities. For 2015, she needs to develop an understanding of the various trading products and business operations; and to build relationships within the business.*" However, as page 11 of my 2014 year end performance review shows, this "draft" by Shillingford was modified to reflect a less praiseworthy comment (as shown above) for my said 2014 year end performance review.

[53] In addition to my sworn oath, I respectfully ask that the Court accept my additional layer of swearing under penalty of perjury to this statement.

meeting the day prior, April 23, 2015, I had walked out of the meeting for twenty minutes and she wanted to know why.

During the April monthly meeting, a team member had asked about a presentation material that had absolutely nothing to do with my meeting presentation/credit reporting risk analyst tasks and instead of addressing the individuals responsible, Alex immediately asked, "Did Candice send that out last night?" Again, as if I am the team's help. Why should I be the one responsible for printing, etc. and sending out everyone else's presentation material when that task is not even shared or reciprocated by the non-Black teammates on my level? After it was realized that the person questioning the presentation material might have had an oversight, Alex immediately directed the team that to make things EASIER for everyone, instead of everyone going through their emails searching for presentation materials sent to the team, going forward, they should all send their presentation materials to me and along with me doing all their printing, etc., I should also open each email sent, pull the attachments, put all the attachments together in one email then send this email to the team. So, it is too hard for everyone to go through their emails for the sent documents and print them for themselves but for me, along with printing everyone's documents, I must not only search through my emails for the documents, I must open each email sent, pull the attachments and put all those attachments together in one email to make it "easier" for everyone else. So what will become easier for everyone else would become three times harder for me. I am made to feel as if I share the same sentiment as a slave working on a plantation."

- April 24, 2015 - Pursuant to my "Response to Declaration Statement #s 12, 13 & 14" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin - Docket # 92'", the conclusion of my April 24, 2015 email asking: "*Am I the help? Is this 1910?*" is/was warranted.

- May 26, 2015 - In a meeting invite dated May 26, 2015, I requested a one on one with Shillingford because as my manager, I was not comfortable with the level of trust I had in her as it related to the relationship she was having with my former manager, Defendant Michelle Sullivan and the way how she, Shillingford had become adamant in enforcing the employment racially discriminatory tasks that Khavin had assigned solely to me, the only Black analyst on the team, to do.

  By then it had become apparent to me that Shillingford was the enabler, the facilitator, the coordinator and the enforcer of the employment racial discrimination that Khavin was meting out to me. It also began to come full circle to me, as this was now obvious, the real reason why my manager was switched at the last minute (November 5, 2014 – Exhibit O - JPMorgan Chase 000221) from the White manager, Kimberly Dauber to Shillingford who is Black and who had never managed any of the other non-Black analysts and/or associates before, including the non-Black analysts who had previously worked in my position, the Credit Reporting Risk Analyst position (Am. Compl. ¶¶ 23, 68, 163 and Eighth and Ninth Causes of Action – "*Unlawful Segregation on the Basis of Race* and *Unwillingness/Failure to Promote to a Managerial Position on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*").)

  With that said, I wanted to have this one on one (just between Shillingford and me) to discuss with her the "*influence my previous manager [Sullivan] has in my current work affairs and the lack of trust and confidence I have in your [Shillingford's] management*". This said meeting invite was titled "*Lack of Trust and Confidence AND Your Relationship with Michelle Sullivan*".

  However, as is obvious, before even responding to me, Shillingford forwarded this private one on one invite to Khavin and HR representatives because, I was being "disrespectful" to her. Only to find out via the thousands of duplicate copies of emails that I received from the

Defendants' attorneys' office on March 21, 2017 that, besides the obvious that Shillingford was indeed the enabler, the facilitator, the coordinator and the enforcer of the employment racial discrimination that Khavin was meting out to me, that my instincts as it related to the Subject of my invite - "*Lack of Trust and Confidence AND Your Relationship with Michelle Sullivan*" were right on par.

When I sent this invite to Shillingford, I did not mean to be rude but judging from why Shillingford is a Defendant in this lawsuit and what I am able to provide as Exhibit EE-1, anyone of reasonable mind would understand why I sent this meeting invite to Shillingford.

Exhibit EE-1 shows the following:

- Shillingford was not only forwarding and/or discussing my personal and confidential affairs with internal employees, she was also doing so with an "**outside unknown source**".
- When I informed Shillingford, via email on March 16, 2015 that I was not feeling well and stated in detail the type of issue I was having, Shillingford forwarded this email, my personal business, to an "**outside unknown source**" by the name of Franklin Dieudonne.
- On March 31, 2015 when I informed Shillingford, via email of my doctor's appointment and provided "my personal cell phone number" along with other personal information, those personal information were also forwarded to the said "**outside unknown source**".
- When I informed Shillingford, via email on July 31, 2015, of my inability to attend work due to the "*mental stress and emotional anxiety [which] were so overwhelming that I became physically sick with nausea and exhaustion*" (Am. Compl. ¶ 169), my email was not only forwarded to and ridiculed by Defendant and "neutral investigator", John Vega in a series of back and forth emails between Shillingford and Vega dated July 31, 2015 and August 3, 2015 but my email was also forwarded to the said "**outside unknown source**" to obviously ridicule me as well.

- In an email trail dated May 14, 2015[54] which was six months after my start date in the Counterparty Risk Group, Shillingford was discussing my personal and confidential (with emphasis) information with my former manager, Sullivan. Shillingford should not have been "screen sharing" my personal and confidential email with my ex-manager Sullivan, maybe someone in HR who has access to my personal information but not with anyone with whom she had to "screen share" because that person should not have access to my personal and confidential information. Also to take note of is Shillingford's email dated May 13, 2015 where she starts off by saying "*Sorry to bother you **again***".
- Unbeknownst to me, in an email dated October 22, 2015 that Shillingford sent to Helen Dubowy, Terri Vernon and Thomas Poz (JPMorgan Chase 001409 - Exhibit N attached to Shillingford's Declaration), she stated that "*Candice emailed only her materials for the team meeting. We had to request the help of another analyst to coordinate the materials. This analyst printed all the materials, organized into a packet and brought copies to the meeting*". This statement by Shillingford is categorically false – meaning that Shillingford had been lying about me behind my back. The "*analyst*" Shillingford is referencing is Fiona Nguyen and as the email from Fiona Nguyen dated October 21, 2015 (Exhibit OO-1) shows, just like Ryan Vroom ("Response to Statement # 26 – Exhibit I), Fiona Nguyen never "*printed all the materials*". All Fiona Nguyen did was she asked the other team members, including myself, for the already printed, organized and stapled copies of their presentation materials for the Governance Meeting for her to put in order of the Meeting Agenda ("collate") for her, Fiona Nguyen to take into the Governance Meeting (Exhibit PP - ¶ 2 of page 11 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

[54] This email correspondence between Shillingford and Sullivan was pursuant to my email dated May 7, 2015 (Exhibit L) and the communication that pursued. The information regarding my "sick days" was needed as part of the cover-up for me being denied the privilege of the company's work from home benefit.

- As I stated on the second page of my "2015 Final Analyst/Associate Evaluation" (Exhibit G) as "Strength 4": "*My gossip free discipline that allows me to refrain from discussing team members' private, personal or professional situations and/or issues with other team members to influence them or to gain favor from them.*" This "strength" was "tongue in cheek" for the way how Shillingford gossiped away my business with the members of the Counterparty Risk Group and members of other outside groups to gain their favor and to pit them against me. Shillingford is a pro at trying (the operative word) to gain people's favor but she is not so in gaining their respect (Am. Compl ¶ 103).

Based on the fact that JPMorgan Chase is providing legal representation for the alleged perpetrators/Defendants in this lawsuit, I cannot say much about the company's ethics/credibility. However, I do not think that any reputable company would be proud of what I have provided in Exhibit EE-1 as it relates to the "*Lack of Trust and Confidence*" an employee would have in one of their managers.

- May 27, 2015 - As I articulated in Exhibit A – EEOC Intake Questionnaire – Question # 6 – Page 5, ¶ 2": "*Come May, I have had it. The humiliating feeling of being treated as the help was unbearable. When the first email was sent to me to not only do the printing of all presentation materials but the new additional "punishment" as stated in the preceding paragraph, I sent an email to the team saying, "In the interest of team spirit, can you please print, sort, organize and staple as well as send out your own presentation materials to the team? I find it unfair and demeaning that the task of printing, sorting, organizing, stapling, sending out and lugging YOUR presentation materials to the meetings is placed on me.*"

  And, as I articulated in Paragraph 106 of my Amended Complaint: "*When I was getting nowhere with stopping Khavin and Shillingford from treating me as if I was the house slave,* **[in search of empathy]**, *I sent this email to the team....*"

- May 27, 2015 – I respectfully ask that the Court take note that Khavin **did not** copy the White administrative assistant on her said May 27 email (Exhibit A attached to Declaration of Alex Khavin), she only copied the only two Black employees in the Counterparty Risk Group ("CRG") which she, Khavin headed. Because, just like the non-Black analysts and associates in the CRG, Khavin was cognizant of not making the said White administrative assistant feel demeaned by making her feel as if the printing, etc. of the team members' presentation material was a task for her to do – but it was okay for her, the White administrative assistant to feel as if she was just doing Plaintiff, Candice Lue, the Black one, a favor.

  As I stated in paragraph 91 of my Amended Complaint: "*Also, please note that Khavin herself had never given the White administrative assistant the directive to provide me with this help*" **and** in Paragraph 125 where I said: "*These were tasks that were not only off limits for the non-Black analysts to do but they were even off limits for the White administrative assistant on staff to be asked to do. The White administrative assistant was not even asked to print the agenda she prepared and sent out via email to the team for the said monthly team meeting. But, printing 13 copies, one for each of the non-Black team members, of this said meeting agenda was a part of the demeaning and discriminatory printing task that Khavin assigned to me, a credit reporting risk analyst, to do.*"

  In addition, I respectfully refer the Court to my "Response to Declaration Statement #s 12, 13 & 14" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin - Docket # 92'".

- July 22, 2015 - Just to clarify, this meeting was one of Shillingford's and I scheduled one on ones where we "*discussed workload for the last two weeks, upcoming two weeks and any other tasks/issues*" (Exhibit CC-1 – Shillingford's email dated July 20, 2015 - JPMorgan Chase 002990). Secondly, as my previous experience working at JPMorgan Chase shows, I

had **never** missed a task deadline. I was always cognizant of hard deadlines and the fact that the second reviewer[55] needs adequate time to do his/her review.

Deadlines for Shilllingford however, were based on HER, Shillingford's convenience as the second reviewer of my reports not the CRG's deadlines. Because Shillingford "had" Dubowy, Vega, etc. as the "wind beneath her wings" she bullied and went on. In other words, if Shillingford wanted to leave early that day, I had to have the report ready by such time. This behavior was especially prevalent with Shillingford after I was denied the company's work from home benefit and when I returned to work, three (3) days of my Business as Usual (BAU) workload were sitting there waiting on my return.

As I stated in Paragraph 20 of my Amended Complaint: *"Shillingford's behavior and attitude in enforcing Khavin's bigotry against me was reminiscent of the epitome of being a "slave master's pet" in the era of slavery. Her behavior and attitude were that of a slave that his master had found favor with to carry out the lashing, etc. of the other slaves on the slave master's behalf. As the automatic second reviewer of my work, mainly because I took a stance against her enforcement of Khavin's bigotry against Blacks, against me, Shillingford's reaction to finding even just one error or omission in my work was always rancorous and condescending. (More in Second Cause of Action - "Unlawful Retaliation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981".)"*

[55] Second review is commonplace at JPMorgan Chase

b. **Plaintiff's Performance Improvement Plan and Subsequent Written Warning**

(Page 8) **Opposition/Response to** "Plaintiff's Performance Improvement Plan and Subsequent Written Warning"

It is obvious that the only "*behavior*" that the Defendants were willing to accept from me, Black Plaintiff, Candice Lue, was to be submissive like a "good slave" would and accept the Disparate Treatment of Employment Racial Discrimination that was being meted out to me. Case in point, if I simply said: "*I have no comment*" **or** "*I have no further* comment" **or** I give the alleged perpetrator/tortfeasor, Shillingford a "*blank stare*" **or** "*I walk away*" **or** I put what I have to say in an email by respectfully telling alleged Perpetrator/Tortfeasor, Shillingford that she is a liar, which she is, as articulated in my "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford - Docket # 93", the said Defendants deem my communication as being "*rude, disrespectful, disruptive, insubordinate, etc.*"

The "performance improvement plan" (PIP) that Defendants Shillingford and Dubowy placed me on, on July 30, 2015 was fallacious, retaliatory and pretextual and was in violation of 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION. I respectfully refer the Court to my "Second Cause of Action - Unlawful Retaliation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981" where I painstakingly refuted this retaliatory and tangible employment action that was taken against me.

Further, as my "Fifth Cause of Action - "Failure to Take Steps to Prevent Discrimination, Retaliation and Harassment in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981" of my Amended Complaint and the "Defendants Undisputed Material Fact # 36" show, escalating the issue of Employment Racial Discrimination to John Donnelly whose title is "*Chase's global head of HR* [reporting to Jamie Dimon, JPMorgan Chase's Chairman and CEO]" was to no avail.

(Page 8 – last ¶) Opposition/Response to 56.1 Stmt. 37

"*On August 25, 2015, Shillingford asked Plaintiff in an email to remind all CRG members to save their materials in the shared folder on the Chase network to enable Plaintiff to print them in advance of the next Governance Meeting....*"

Why should I, the Black analyst, be "reminding" the non-Black team members of the Counterparty Risk Group to "*save their materials in the shared folder on the Chase network*" when this had been the procedure in the two years prior to me joining the said group[56]? It is as if I am Babsy, the household help who works for spoiled kids/teenagers who have to be constantly reminded to put their clothes in the wash so that, I, "Babsy" can wash them.

This is tantamount to what I wrote in my "Response to Declaration Statement #s 12, 13 & 14" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin - Docket # 92'" where, as I stated in my "Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016" (Exhibit PP - ¶ 2 of page 11), I said: "*[White employee] Ryan [Vroom] was the worst of the bunch to be organized and ready for the meeting as it relates to preparing and handing out copies of his presentation materials. As a matter of fact, I witnessed that Ryan was unprepared with his presentation materials for at least 3 monthly meetings, including my first two monthly meetings in the department where Khavin had to frustratingly stop the meeting and wait on Ryan to go and make copies of his presentation materials to hand out to the team*". And, the fact that in Shillingford's email dated June 23, 2015 (Exhibit K), she wrote: "*Please ensure that **all materials are available in the folder by Wednesday 3pm**; otherwise you will have to bring a hard copy to the meeting*" further explains the "Babsy" scenario.

To add to this scenario explanation of feeling as if I was the help/house slave as the only Black Analyst in the Counterparty Risk Group, when the mother, the father and any of the spoiled kids/teenagers can call to "Babsy" saying, "Babsy, my clothes are in the wash, can you please do

[56] I respectfully refer the Court to Shillingford's email dated June 23, 2015 (Exhibit K) where as a vice president but the only other Black employee in the Counterparty Risk Group, this is what Shillingford had to do.

the wash?" Babsy, on the other hand cannot call to the mother, the father or any of the children and ask them to wash her clothes[57]. In other words, when the non-Black employees in the Counterparty Risk Group, including analysts at my job level, can send me their presentation materials or "*save their materials in the shared folder on the Chase network*" for the Monthly Governance Meeting for me, Black Plaintiff, Candice Lue, to print, I cannot send my said presentation materials to any of the said non-Black employees, including analysts at my said job level, to print. I have to print them for myself[58]. So, there is obviously disparate treatment here as it relates to, as a Black employee, having the same benefits that the non-Black employees, including the ones at my job level, have which is in violation of 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964.

The foregoing is akin to why I coined the question that I have asked Defendants JPMorgan Chase & Co., et al directly and rhetorically: "*Am I the help? Is this 1910?*" whereby, as the only Black analyst in the Counterparty Risk Group, the employment racially discriminatory tasks were assigned to me to both "**remind**" the non-Black team members of the said group to "*save their materials in the shared folder on the Chase computer system*" and then on my own, print, collate and staple 13 copies of each of the said non-Black team members presentation materials (one copy for each member of the team), email and lug the said presentation materials to the monthly team meeting where the said non-Black team members, including the ones on my own job level, would be waiting to "be served". Then, at the end of the day, non-Black team members like Ryan Vroom get **promoted** by Khavin while myself and Black, servile employee, Shillingford end up being demoted/rated as "low performers" (Exhibit FF).

With that said, pursuant to Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant" which states: "*If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the*

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[57] Work traditionally done in White households by Black/African American women especially up to the late 1960's as reenacted in the movie "The Help".

[58] As email dated June 23, 2015 (Exhibit K) shows, the only other Black team member of the CRG, Shillingford had to do the printing of the non-Black team members' presentation materials when I was on vacation.

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" **and** St. Mary's Honor Center v. Hicks, 509 U.S. at 511 which states "*In order to rebut the inference of discrimination, the employer must articulate, through admissible evidence, a legitimate, nondiscriminatory reason for its actions. The employer's burden is one of production, not persuasion; the ultimate burden of persuasion always remains with the plaintiff*", if:

Defendant Shillingford cannot make factual evidence available showing that for the two years prior to Plaintiff, Candice Lue, who is Black, joining the Counterparty Risk Group she had asked any of the non-Black analysts and/or associates, including Plaintiff, Candice Lue's three non-Black predecessors, Baruch Horowitz, Kenneth Ng and Thomas Monaco "*to remind all CRG members to save their materials in the shared folder on the Chase computer system so that [a non-Black analyst and/or associate] could print them in advance of the [Month/Year] Governance Meeting*" then Shillingford solely assigning these less desirable and racially discriminatory tasks to me, Plaintiff, Candice Lue, the only Black analyst in the CRG to do on a monthly basis is in violation of 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – 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.*"

And, pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

(Page 8 – last ¶) Opposition/Response to 56.1 Stmt. 38

"Plaintiff looked at her [Shillingford] blankly without responding.... When Shillingford told her [Plaintiff, Candice Lue] this was unacceptable and reminded Plaintiff that refusing to perform her assigned duties was one of the areas for improvement on her [Plaintiff's] PIP (performance improvement plan), Plaintiff Responded, "I have no further comment" and walked away."

First off, I did not "*walk[] away*". I sat there in the meeting room with Shillingford until she adjourned the meeting. However, by looking at Shillingford "*blankly*" then saying "*I have no further comment*" was not being "*disruptive*", '*disrespectful*' and/or "*insubordinate*". It was merely a peaceful defiance against the employment racial discrimination that was being perpetrated against me especially based on the fact that by then, I had reported the matter to the Equal Employment Opportunity Commission (EEOC).

In any event, the "*blank look*" that I gave Shillingford, a servile Black employee who relegated herself to horizontal racist status (¶ 30 – Am. Compl.), was the same "*blank look*" that Harriet Tubman, Rosa Parks, Martin Luther King, Jr., Bob Marley, Nelson Mandela, and Marcus Garvey were giving her, Shillingford from their respective graves. With that said, *"I have no further comments"* could not have been a better response.

(Page 8 – last ¶) Opposition/Response to 56.1 Stmt. 39

"*Plaintiff refused to print the materials for the August Governance Meeting, and another employee* [the ploy, Ryan Vroom] *had to step in and do so*".

As I stated in my "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford - Docket # 93'" – "Response to Declaration Statement # 26 – Exhibit I": "*prior to him* [Ryan Vroom] *being the volunteer for the ploy concocted by Shillingford, et al,* [Ryan Vroom] *was the worst "member of the group" to be organized and ready for the Monthly Governance Meeting as it related to preparing/printing and handing out copies of his presentation materials to all the*

members of the team ("Affidavit in Response to Declaration of Alex Khavin - docket # 92 – "Response to Statement #s 12, 13 & 14").

Furthermore, the only "[printing of the materials for the August Governance Meeting]" that Ryan Vroom did as per [56.1 Stmt.,39] was to go around (as he had nothing to do – Am. Compl. ¶ 69) telling the other employees to print copies of their presentation materials for the Governance Meeting (which included putting the pages in order and stapling) then to give them to him, Ryan Vroom for him to put in order of the Meeting Agenda ("collate") for him, Ryan Vroom to take into the Governance Meeting (Exhibit OO-1 – Email dated September 23, 2015 and Exhibit PP - ¶ 2 of page 11 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

As it relates to "*Plaintiff refused to print the materials for the August 2015 Governance Meetings*", as the only Black analyst in the Counterparty Risk Group where there is a White administrative assistant who was never assigned/ordered to do these tasks that would more likely fall into the administrative assistant job category, anyone of reasonable mind would understand why I coined the question that I have asked Defendants JPMorgan Chase & Co., et al directly and rhetorically: "*Am I the help? Is this 1910?*" ("Response to Declaration Statement #s 12, 13 & 14" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin - Docket # 92'" – "The Pursuit of Happyness" and "The Color Purple")

(Page 9 – last ¶) Opposition/Response to 56.1 Stmt. 40, 41 & 42

As email dated September 23, 2015 (JPMorgan Chase 001432 – 001433 - Exhibit J attached to "Declaration of Fidelia Shillingford) shows, there was no "*emphasis added*". As the said email clearly shows, "the Exposure Report" was in regular print.

I respectfully refer the Court to my "Response to Declaration Statement # 27 – Exhibit J" – "Affidavit in Opposition/Response to Declaration of Fidelia Shillingford – Docket # 93" where I have outlined in explicit detail how this September 23, 2015 email from Shillingford is part of a

pre-planned, pre-arranged and pretextual ploy to unlawfully retaliate against me for raising the Claim of Employment Racial Discrimination to JPMorgan Chase's HR Department and the Equal Employment Opportunity Commission (EEOC).

This surreptitious move was a desperate attempt to get fodder for the written warning which I was given on September 24, 2015 and to contort into insubordination, my stance against the disparate treatment of Employment Racial Discrimination that was being meted out to me by using the Black, servile employee[59], Fidelia Shillingford (Factual Allegation "B" - "JPMorgan Chase Surreptitiously Tried To Contort My Stance Against Racial Discrimination Into Insubordination ¶¶ 54 & 55").

With regards to what "*the Warning* [written warning] *informed Plaintiff*", I respectfully refer the Court to my job description (Exhibit H) where the Court will see that of all the tasks listed on my said job description - bearing in mind that the employment racially discriminatory tasks are not listed on my said job description, the **only** "expectation" for the "written warning", based on my "*unsatisfactory performance*", that was issued to me on September 24, 2015 for my stance against the said employment racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group, was: "*It is my expectation that Candice perform the job responsibilities for which she was hired; she is expected to print all materials for our monthly team meeting and provide copies for each member*" (Exhibit F) – meaning, be the house slave for the non-Black members on the team, including the ones on my job level, **who are not even members of the Reporting side of the group as I was** (Shillingford Dec., ¶ 8) **and whose presentation materials for the monthly team meeting had nothing to do with mine**, or else.

Further, I understand that "*the written warning* [that was issued to me on September 24, 2015] *provided, among other things, that Plaintiff....*" However, THE LAW provides that pursuant to 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual

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[59] "*[Black folks are] twice as servile to people in positions of power and twice as hard on black folks in proving their allegiance to the basic tenets of white supremacy.*" - "BreakingBrown.com - Corporate Careerist Blacks" - (Exhibit QQ)

Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

c. **Plaintiff's Termination**

Opposition/Response to "Plaintiff's Termination"

(Page 10) Opposition/Response to 56.1 Stmt. 43

As the only Black analyst in the Counterparty Risk Group, my continued stance against the obvious Disparate Treatment/Employment Racial Discrimination that was perpetrated against me, whereby I was treated as a second class citizen/three-fifths of a person/the help/house slave, should not be misconstrued as being "*insubordinate and disrespectful*" resulting in tangible employment actions being taken against me. As, pursuant to 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

"*I have repeatedly asked HR to remove [Shillingford] as my manager to prevent [her] from carrying out these unlawful acts against me.*" However, even after repeated requests, HR failed to remove Shillingford, the Black, servile employee who had relegated herself to being a horizontal racist and who they continued to use as a conduit for the disparate treatment perpetrated against me.

As I stated in Paragraph 114 of my Amended Complaint: "*I spoke with [Defendant Vega] about the disparate treatment on the basis of my race that was being meted out to me by Khavin with the help of Shillingford making sure to disclose at that point that Shillingford is Black. He told*

me that he was aware that Shillingford was a "woman of color" and tried to assure me, as an attorney by profession, I guess, that because Shillingford is also Black/"woman of color" that she could not be racist against me. I begged to differ but he was so much into doing his job of covering up JPMorgan Chase's and its managers' racial discrimination against Blacks that he was not having any part of my divergence." However, pursuant to 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: "*The race of the decisionmaker may be relevant, but is not controlling.(55) 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."(56).*

In conjunction, as I stated in Paragraph 23 of my Amended Complaint: "*I had asked HR to remove Shillingford as my direct manager but in their intent to aid and abet violations of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981, they ignored my request. Shillingford was not removed as my manager because that would mean that I would have to report to a White manager. And, since the White manager did not enforce disparate treatment against the non-Black employees who reported to her, it would have been way too obvious for her to enforce Khavin's bigoted and disparate treatment against Blacks against me alone. So, Shillingford who is Black and who was willing to horizontally, as it related to race, enable, facilitate, coordinate and enforce Khavin's bigoted and disparate treatment against me, stayed as my manager.*"

So again, my continued stance against the obvious Disparate Treatment/Employment Racial Discrimination that was perpetrated against me should not be misconstrued as being "*insubordinate and disrespectful*"

(Page 10) Opposition/Response to 56.1 Stmt. 44

"In an email exchange on October 14 and 15, 2015, Plaintiff reacted unprofessionally to constructive feedback from Shillingford. Shillingford reached out to HR, saying...."

.....The said thing she, Shillingford was instructed by her coaches, JPMorgan Chase's HR legal representatives to say (Exhibits CC & CC-1).

Also, in conjunction with my "Response to Declaration Statement # 30 – Exhibit M" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford - Docket # 93'", my emails that Shillingford was referring to (JPMorgan Chase 000095 & 000096 – Exhibit M attached to Declaration of Fidelia Shillingford - Docket # 93) are the said emails I used in my "Response [under Sworn Oath] to Request #s 11, 30 & 32 - "Response to Defendants First Request for Production of Documents" - Docket # 45" as proof of Shillingford's deliberate, unlawful, pretextual and retaliatory attempts to denigrate my performance (EXHIBIT Y-1)[60].

With that said, my email responses to Shillingford's attempts to denigrate my performance should not be misconstrued as "*unprofessional, patronizing and accusatory*", because they were meant to call out Shillingford in her quest to unlawfully and pretextually retaliate against me. And, as my email dated July 21, 2015 (Exhibit Y-1) shows, I forwarded an example of my email response to Shillingford's quest to denigrate my performance to Defendant/"Investigator" Vega to show the mechanism Shillingford was using to strategically retaliate against me for raising the issue of Employment Racial Discrimination[61]. Sadly, I did not know at the time that this was the inner workings of Vega himself, Shillingford and the other HR legal representatives who were working in tandem, behind the scenes, to unlawfully retaliate against me (Exhibits CC & CC-1).

In light of the aforesaid and pursuant to 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C.

[60] As she did on the fallacious, pretextual and retaliatory "performance improvement plan" she placed me on, on July 30, 2015. Now the said denigration attempts have been put under the guise of "*constructive feedback*".

[61] Having gotten a "Low Meets Expectation (M-)" rating from Khavin on her 2014 year end performance review (Exhibit FF), Shillingford's career at JPMorgan was at the mercy of Khavin and HR so in her quest to secure her career/future at JPMC, Shillingford who is Black was willing to relegate herself to horizontal racist status (Exhibit QQ – "Corporate Careerist Blacks").

RETALIATION: "*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*".

(Pages 10 - 11) Opposition/Response to 56.1 Stmt. 45

"*On October 21, 2015, Shillingford sent an e-mail to Plaintiff reminding her to ensure that all of the group's materials are ready for the following day's October 2015 Governance Meeting*"

As I said in my "Response [under Sworn Oath] to Request # 14 - "Response to Defendants First Request for Production of Documents" - Docket # 45": "*It is a **DISGRACE** that Chase could fathom that treating me, the only Black analyst in the Counterparty Risk Group, as the team's house slave reminiscent of the 1800s plantation style living, in the era of slavery when Blacks had to serve their masters and their masters' families by assigning **solely** me the demeaning and racially discriminatory tasks of printing, collating, stapling and lugging of the non-Blacks' presentation materials to the monthly team meeting as well as being ordered to search through my emails for the said presentation materials sent by the team, open each email sent, pull the attachments and put all those attachments together in one email to make it "**easier**"[62] for the non-Black team members while making it three times harder for me, the only Black analyst in the group, would be a task that would be deemed beneficial to the company. This just explains the culture of racial discrimination against Blacks within JPMorgan Chase. If JPMorgan Chase was a company of any honor, it would have unreservedly disavowed this treatment of one of its Black employees, because this is racism in its purest form..... **DISGRACEFUL!***"

With regards to "*As before, another member of the group had to step in and complete this task instead of Plaintiff*", this was my response to this mendacious statement as articulated in my

[62] Khavin, my then skip level manager, who is a racist, exact word

"Response to Declaration Statement # 31 – Exhibit N" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' - Docket # 93":

"In the email dated October 22, 2015 that Shillingford sent to Helen Dubowy, Terri Vernon and Thomas Poz (JPMorgan Chase 001409 - Exhibit N attached to Shillingford's Declaration) where she, Shillingford stated that "Candice emailed only her materials for the team meeting. We had to request the help of another analyst to coordinate the materials. This analyst printed all the materials, organized into a packet and brought copies to the meeting", this statement by Shillingford is categorically false.

The "analyst" Shillingford is referencing is Fiona Nguyen[63] and as the email from Fiona Nguyen dated October 21, 2015 (Exhibit OO-1) shows, just like Ryan Vroom ("Response to Statement # 26 – Exhibit I - ["Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' - Docket # 93"]), Fiona Nguyen never "printed all the materials". All Fiona Nguyen did [just like Ryan Vroom] was she asked the other team members, including myself, for the already printed, organized and stapled copies of their presentation materials for the Governance Meeting for her to put in order of the Meeting Agenda ("collate") for her, Fiona Nguyen to take into the Governance Meeting (Exhibit PP - ¶ 2 of page 11 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

On the contrary, the "Tasks" assigned to me, the only Black analyst in the Counterparty Risk Group, was for me to personally print 13 copies of each of the non-Black team member's presentation materials (one copy for each member of the team), personally collate, staple and lug each of those 13 copies of the said presentation materials to the monthly team meetings where the said non-Black team members will be waiting to "be served".

[63] Fiona Nguyen was set up by Ryan Vroom (not Shillingford) as a second ploy (Exhibit PP - ¶ 2 of page 11 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016")

"*Also on October 21, 2015, Shillingford reminded Plaintiff that she had transitioned one of her responsibilities to Plaintiff and that she was expected to present it at the Governance Meeting.*"

Shillingford and I worked on the Reporting side of the Counterparty Risk Group. Between us, we had a total of three (3) presentations that we had to do at the Monthly Governance Meetings. I did the presentations for and spoke to the Exposure Report (the monster) and the Reconciliation Report while Shillingford did the same for the "*Dashboard*".

However, in Shillingford's quest, as the enabler, the facilitator, the coordinator and the enforcer of the disparate treatment and retaliation that had been meted out to me, Shillingford was looking for "incidents" (Exhibit CC - JPMorgan Chase 001893) to garner material for her and JPMorgan Chase's HR legal representatives' unlawful and pretextual argument against me to justify my pre-planned and impending retaliatory termination by making it seem that I am refusing to do CRG essential tasks.

With that said, in Shillingford's email dated October 21, 2015 and time stamped 6:35 PM (JPMorgan Chase 001411 – Exhibit O attached to Shillingford's Declaration), Shillingford mendaciously stated that "*Additionally, as discussed (please reference attached email) I have transitioned the responsibility of the Dashboard to you; you are expected to talk to it tomorrow and have copies available for the team members.*"

First off, I had **never** verbally discussed this "*transition[]*" with Shillingford. And, secondly, as I stated in my email response to Shillingford's "*(reference[d] attached email)*", the said attachment gave **no** such directive (JPMorgan Chase 001410 – Exhibit O attached to Shillingford's Declaration). So, by calling out Shillingford for another one of her deliberate lies in her quest to garner material for her and JPMorgan Chase's HR legal representatives' unlawful and pretextual argument against me to justify my pre-planned and impending retaliatory termination by making it seem that I am refusing to do CRG essential tasks, in my said email response to Shillingford, I said: "*Let me **respectfully** say that it takes very little intellect for anyone to see that*

the full trail of the email attachment you referenced gave no directive of the transitioning to me of PRESENTING the Dashboard ***at the Monthly Governance Meeting****. Your directive was only ordering me to print same.*" What the Defendants failed to state though, is that I ended that said email response by saying: "*However, I can take a shot at presenting the Dashboard at tomorrow's team meeting.*" (Email time stamped 8:50 PM - JPMorgan Chase 001410 – Exhibit O attached to Shillingford's Declaration).

I had more presentations to do at the Monthly Governance Meeting than any of the non-Black analysts and associates. As a matter of fact, when Shillingford passed off the Dashboard for me to do, it made it three (3) presentations that I had to do at the Governance Meeting when the non-Black analysts had one or sometimes none to do. So, with all that having to do **three (3)** presentations entail, how could anyone of reasonable mind think it fair that I was solely assigned to print 13 copies of all the presentation materials for all the non-Black team members?

It is important to note that this late in the evening assignment that Shillingford sprang on me is the same one I articulated about in my "Response to Declaration Statement #s 12, 13 & 14 – pg. 10" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin - Docket # 92'" where I stated: "*When Defendant Shillingford informed me, via BlackBerry on my way home from work*[64]*, that I was to do the presentation for the Asset Management Dashboard for the October 2015 Governance Meeting, in order to make sure that the presentation materials for the said Dashboard were distributed before the 8:30 AM Governance Meeting the next day, when I reached home, I signed on remotely from my home computer to prepare the presentation materials and emailed the said materials to the team after 9:00 PM that night. Then, the next day, I was in the office before 8:00 AM to print, collate and staple thirteen (13) hard copies of the said materials so that I would have them ready for distribution when the meeting started at 8:30 AM.*"

[64] I had managed to have left work about 6:30 PM that day.

(Page 11) Opposition/Response to 56.1 Stmt. 47

"On December 1, Shillingford approached Plaintiff and explained that another analyst was going to be responsible for organizing the materials for the December Governance Meeting, but that he would be working from home the next day, and asked Plaintiff to coordinate with this analyst to make sure the task was completed. In response, Plaintiff turned her head away from Shillingford and continued working on her computer. Shillingford asked for a response, and Plaintiff replied, "I have no comments."

First off "*another analyst*" is the ploy, Ryan Vroom. The said "White privileged" employee who outright refused to do two essential tasks that I ended up having to do (¶ 69 – Am. Compl. & "Affidavit in Opposition/Response to Declaration of Helen Dubowy – Exhibit C" - "Recommendation for Termination" - Docket # 96"). Yet, unlike me, the Black one, who took a stance against the employment racially discriminatory tasks that were solely assigned to me and was severely punished by means of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", a written warning, both of which barred me from all of the company's progressive benefits and then ultimately terminated, he was **promoted**.

Ryan Vroom is also the said White employee I spoke about in my "Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016" (Exhibit PP - ¶ 2 of page 11), where I said: "*Ryan [Vroom] was the worst of the bunch to be organized and ready for the meeting as it relates to preparing and handing out copies of his presentation materials. As a matter of fact, I witnessed that Ryan was unprepared with his presentation materials for at least 3 monthly meetings, including my first two monthly meetings in the department where Khavin had to frustratingly stop the meeting and wait on Ryan to go and make copies of his presentation materials to hand out to the team*". However, now he is "poster analyst" for taking on the tasks that "Plaintiff refused to do".

The statement about Ryan Vroom "*working from home the next day*" is an insult to anyone of reasonable mind's intellect. Why would Ryan Vroom "*working from home the next day*", the

day of the Governance Meeting, have any bearing on him doing the printing, collating and stapling of the presentation materials for all the members of the Counterparty Risk Group when such tasks needed to be done the day prior to the said Governance Meeting when he, Ryan Vroom was working from the office? Further, if Ryan Vroom was not **the** ploy, why wouldn't Shillingford have me "*coordinate*" with another analyst who would not be "*working from home the next day*"?

In addition, as I articulated in my "Response/Opposition to Defendants Undisputed Material Fact # 39" - "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1 - Docket # 90", the only "*organizing the materials*" that Ryan Vroom ever did, which was for the September 2015 Governance Meeting, was to tell the other team members to print copies of their own presentation materials for the Governance Meeting (which included putting the pages in order and stapling) then to give them to him, Ryan Vroom for him to put in order of the Meeting Agenda ("collate") for him, Ryan Vroom to take into the Governance Meeting (Exhibit OO-1 – Email dated September 23, 2015). He, Ryan Vroom, never did the printing, etc. of the said presentation materials himself.

With that said, "*[Shillingford] ask[ing] Plaintiff, [Candice Lue], to coordinate with this analyst/**ploy** to make sure the task was completed*" simply meant that I, Plaintiff, Candice Lue was supposed to do the printing, collating and stapling of all the members of the CRG's presentation materials for the November 2015 Governance Meeting[65] and give them to Ryan Vroom for him to put in order of the Meeting Agenda ("collate") - the easiest part of the tasks. As, "the easiest part of the tasks", was the only thing that Ryan Vroom, **the ploy**, ended up doing after I took my peaceful stance when "*Shillingford asked [me] Plaintiff for a response, but [I] Plaintiff replied, "I have no comments"*.

As is shown in Shillingford's email dated December 1, 2015 to Terri Vernon and Defendants Helen Dubowy and Thomas Poz, (JPMorgan Chase 000088 – Exhibit P attached to

[65] The November 2015 Governance Meeting was postponed to December 2, 2015 due to the Thanksgiving Holiday.

Shillingford's Declaration), this **ploy** was just another "incident" in Shillingford's quest to garner material for her and JPMorgan Chase's HR legal representatives' unlawful and pretextual argument against me to justify my pre-planned and impending retaliatory termination as I articulated in "Defendants Undisputed Material Fact # 47" and my email response to Shilllingford dated December 1, 2015 (JPMorgan Chase 000089 – Exhibit Q attached to Shillingford's Declaration).

As I stated in Paragraph 20 of my Amended Complaint, "*Shillingford's behavior and attitude in enforcing Khavin's bigotry against me was reminiscent of the epitome of being a "slave master's pet" in the era of slavery. Her behavior and attitude were that of a slave that his master had found favor with to carry out the lashing, etc. of the other slaves on the slave master's behalf*" (Exhibit QQ – "Corporate Careerist Blacks").

(Page 11) Opposition/Response to 56.1 Stmt. 48

"*Shillingford then sent Plaintiff a confirmatory e-mail, noting for the record that she [Plaintiff] had refused to coordinate with the other analyst to prepare the documents for the Governance Meeting. In response, Plaintiff stated:*

For the record, your PLOYS which are cover ups for the unlawful behavior being meted out to me will not stand. There is no 'other analyst' who is being ordered to have everyone in the department send their documents to them to print, collate, staple and lug to the monthly meetings..."

I respectfully refer the Court to my "Opposition to 56.1 Stmt. 47" above and/or my "Response/Opposition to the Defendants' "Undisputed Material Fact # 47" – "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1 - Docket # 90".

In addition, this "coordinating with another analyst" had never been reciprocated to me. What I was told when I articulated the unfairness of me, Plaintiff, Candice Lue, the only Black analyst in the Counterparty Risk Group, solely being assigned the tasks of the taking of the minutes for the monthly team meetings, a task that was rotated among all the analysts and associates for the

two years prior to me joining the Counterparty Risk Group and the tasks of printing, collating, and stapling 13 copies of each of the non-Black team members of the Counterparty Risk Group's presentation materials (one copy for each member of the team), and the emailing and lugging of the said presentation materials to the monthly team meeting where the said non-Black team members, including the ones on my own job level, would be waiting to "be served", tasks which never existed prior to me joining the Counterparty Risk Group was: "*If you need help go and ask the [White administrative assistant] to help you.*" Also, as I said in Paragraph 91 of my Amended Complaint: "*Khavin refused or failed to instruct me to ask help of any of the non-Black analysts in my own job category or on my same job level. However, she, in her act of lack of respect and disparate treatment against Blacks instructed me to go and ask the White administrative assistant to help me, an analyst, to do a task that would more likely fall into the administrative assistant's job category. Also, please note that Khavin herself had never given the White administrative assistant the directive to provide me with this help.*"

(Page 12) Opposition/Response to 56.1 Stmt. 49 & 50

"*Following this incident, as well as those from the preceding months, and in view of the fact that Plaintiff had been placed on a PIP and Written Warning, Shillingford decided that Plaintiff's employment should be terminated and worked with HR to draft a Recommendation for Termination....*"

As it relates to "*Shillingford decided that Plaintiff's employment should be terminated*"... In JPMorgan Chase's quest to discredit the Employment Racial Discrimination that was perpetrated against me, the HR legal representatives were subtly trying to shift my claim of Employment Racial Discrimination against me, from Khavin, the main perpetrator who is White unto Shillingford, the conduit of Khavin's said Employment Racial Discrimination, who is Black. And, Shillingford, a servile employee, was willing to take on this position as a badge of honor in service to her

"masters" (Exhibit CC - JPMorgan Chase 001392 & 003342, Am. Compl. ¶ 114, Exhibit F and Declaration of Fidelia Shillingford - Docket # 93).

However, and pursuant to 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: "*The race of the decisionmaker may be relevant, but is not controlling.(55) 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."(56).*

In conjunction, I respectfully refer the Court to my "Response to Declaration Statement # 35" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' – Docket # 93" and Exhibit CC-2 where the evidence is as clear as day that my termination was not decided by Shillingford and that for the most part or even any part, Shillingford was not a part of my termination discussions whether where she was invited to a meeting or copied on emails based on the subject of my termination. I respectfully ask that the Court also note email trail dated December 10, 2015 (JPMorgan Chase – 001933 - Exhibit CC-2) between JPMorgan Chase's legal representatives, Kathy Knepper and Helen Dubowy where the email from Dubowy time stamped 4:30 PM shows that Shillingford was not even aware of the communication regarding my recommendation for termination.

And, as it further relates to "*worked with HR to draft a Recommendation for Termination*", as I articulated in my "Response to Declaration Statement # 35" – Affidavit in Opposition/Response to "Declaration of Fidelia Shillingford' – Docket # 93": "*Shillingford being omitted for not having any real influence in my employment termination process*[66] *is also evident in the email from Terri Vernon to Helen Dubowy dated January 5, 2016 (JPMorgan Chase 001818) where Terri Vernon*

[66] Meaning that JPMorgan Chase's HR legal representatives did not care whether or not Shillingford recommended /approved.... Shillingford was just there to be used e.g. to concoct emails, etc. like the one she did on October 22, 2015.

*asked Helen Dubowy to "**review and/or revise**" [my recommendation for termination] while the directive given to Shillingford in the email dated January 6, 2016 (JPMorgan Chase 000327) for my said recommendation for termination was "there is a section that we need you [Shillingford] to complete marked by the XXXXX", **nothing about** "review and/or revise."*

With regards to "*in view of the fact that Plaintiff had been placed on a PIP and Written Warning*", as my Second Cause of Action - "Unlawful Retaliation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981", Exhibits CC[67] and CC-1 show and as articulated in my "Response/Opposition to Defendants Undisputed Material Fact # 42" – "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1", the "performance improvement plan" (PIP) and the "written warning" on which I was placed were pretextual, retaliatory and tangible employment actions that were taken against me for reporting to JPMorgan Chase's HR Department that I had been racially discriminated against by my skip level manager, Alex Khavin who is White and that Shillingford, who is Black and a servile employee of Khavin was the enabler, the facilitator, the coordinator and the enforcer of the said racist and disparate treatment that Khavin was meting out to me.

The two pretextual, retaliatory and tangible employment actions of putting me on a PIP and a written warning were also taken against me due to my staunch opposition to the employment racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group, which is in violation of 42 U.S.C. § 1981 and 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 filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*" and;

[67] JPMorgan Chase's HR legal representatives were instrumental in concocting the PIP and the Written Warning

Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – 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.*"

With that said, as I articulated in my "Response to Declaration Statement # 35" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' - Docket # 93", "*Just as how the ultimate decision to hire me Plaintiff, Candice Lue was* ***not*** *made by Shillingford, as I have articulated and provided proof of in my "Response to Declaration Statement # 5" and my "Response to Declaration Statement # 6*" ["Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' - Docket # 93"], *the ultimate decision for my January 6, 2016 retaliatory termination or the recommendation of my said retaliatory termination by JPMorgan Chase, as per the evidence provided in Exhibit CC-2, was* ***not*** *made by Shillingford.*"

3. Plaintiff Cannot Raise a Triable Issue of Pretext

(Page 12) **Opposition/Response to** "Plaintiff Cannot Raise a Triable Issue of Pretext"

Some examples of specific evidence that my termination from JPMorgan Chase was pretextual are as follows:

- If my termination from JPMorgan Chase was not pretextual, so many LIES would not have been needed to be told by the Defendants. With that said, I respectfully refer the Court to my: "Affidavit in Opposition/Response to Declaration of Alex Khavin in Support re: 89 Motion for Summary Judgment (Docket # 92)", "Affidavit in Opposition/Response to Declaration of Fidelia Shillingford in Support re: 89 Motion for Summary Judgment (Docket # 93)", "Affidavit in Opposition/Response to Declaration of Chris Liasis in Support re: 89 Motion for Summary Judgment (Docket # 94)", "Affidavit in

Opposition/Response to Declaration of Michelle Sullivan in Support re: 89 Motion for Summary Judgment (Docket # 95)", "Affidavit in Opposition/Response to Declaration of Kimberly Dauber in Support re: 89 Motion for Summary Judgment (Docket # 97)", "Affidavit in Opposition/Response to Declaration of Baruch Horowitz in Support re: 89 Motion for Summary Judgment (Docket # 99)" and "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1 (Docket # 90)"

In light of the foregoing and pursuant to EEOC Compliance Manual Section 15 - Race and Color Discrimination" - V(A)(2) – EMPLOYER CREDIBILITY: "*The credibility of the employer's explanation is key and must be judged in light of all the evidence obtained during the investigation. If an employer's explanation for the employee's treatment ultimately is not credible, that is powerful evidence that discrimination is the most likely explanation.(59) An employer's credibility will be undermined if its explanation is unsupported by or contrary to the balance of the facts. Similarly, the credibility of the explanation can be called into question if it is unduly vague,(60) appears to be an after-the-fact explanation, or appears otherwise fabricated (e.g., the explanation shifts, or inconsistent reasons are given).*"

- As I painstakingly refuted in my Second Cause of Action - "Unlawful Retaliation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981", the statements made on the "performance improvement plan" are fallacious, pretextual and retaliatory.
- As Exhibit CC shows, my 2015 mid-year performance review was totally linked to my Claim of Employment Racial Discrimination in a pretextual attempt to discredit my said Claim. And, as anyone of reasonable mind would ask, what does my Claim of Employment Racial Discrimination have to do with my mid-year performance review? Especially when

the Claim is a clear as day..... As the only Black analyst in the Counterparty Risk Group, Alex Khavin, the head of the said group, treats me as if I am the help/house slave reminiscent of the 1800s plantation style living, in the era of slavery when Blacks had to serve their masters and their masters' families.

- As email dated May 27, 2015 sent by Khavin (JPMorgan Chase 002942 – 002943 - Exhibit CC) shows, Khavin was fallaciously re-working my job description to facilitate the employment racially discriminatory tasks she solely assigned to me, the only Black analyst in the group she headed. This was an attempt by Khavin to cover her act of disparate treatment against me in violation of EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – WORK ASSIGNMENTS. And, as email dated July 29, 2015 and time stamped 7:49 AM sent by Shillingford (JPMorgan Chase 002935 - Exhibit CC) shows, Shillingford, Khavin's servile employee was collaborating with Khavin to do the same in their effort to discredit my Employment Racial Discrimination Claim. The rework was so bizarre that in Terri Vernon's email response dated July 29, 2015 and time stamped 11:09 AM Terri Vernon had to question: "*This is taken from the job description that Candice applied to[?]*". In addition, I respectfully refer the Court to note the fallacious "*[My] main responsibilities*" listed on the PIP on which I was issued versus my "specific (main) responsibilities" listed on my official job description in Exhibit H.
- Shillingford asking HR legal representatives, whom I had never met or with whom I had never even had an email communication with, to approve, confirm and/or revise statements that she, my manager, should put on the "performance improvement plan" (PIP) that she, Shillingford, my manager was placing me on – tangible employment action (Examples – Shillingford's email dated July 29, 2015 and time stamped 1:55 PM - JPMorgan Chase 003056 - Exhibit CC and email trail dated July 30, 2015 - JPMorgan Chase 003049 - Exhibit CC-1). As my manager, shouldn't it be Shillingford right out providing such

statements and not having HR legal representatives concocting such statements to put on my work record? This was clearly a pretextual attempt to discredit my Employment Racial Discrimination Claim.

- Defendant Helen Dubowy whom I had never met or heard of until she sat in with Shillingford at my 2015 mid-year performance review on July 30, 2015, on July 6, 2015, three weeks prior to my said performance review, was sending the PIP template to Shillingford with the message: "*As Discussed. Thanks.*" (JPMorgan Chase 002992 - Exhibit CC-1) – Bearing in mind my response to "D" above – "Plaintiff Cannot Establish Her Claims of Race Discrimination – (1) Legal Framework" as it regards the Defendants' claim of "*unsatisfactory performance*".
- I respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Helen Dubowy - Docket # 96'" – "Conclusion", Exhibits CC and CC-1 which show how Dubowy was not only extremely eager to terminate me from JPMorgan Chase but she was very scornful and dismissive of my Claim of Employment Racial Discrimination. I also respectfully refer the Court to see email time stamped 4:30 PM from the trail dated December 10, 2015 (JPMorgan Chase – 001933 - Exhibit CC-2) between Dubowy and Kathy Knepper who is from JPMorgan Chase HR Legal.
- Coming up with "ploys" such as articulated and refuted in Paragraphs 54 – 57 of my Amended Complaint - Factual Allegation "B" ("JPMorgan Chase Surreptitiously Tried to Contort My Stance against Racial Discrimination into Insubordination") in an attempt to garner material to justify "insubordination" to put on the written warning which I was given in an effort to discredit my Employment Racial Discrimination Claim. I respectfully refer the Court to my "Response to Declaration Statement # 27 – Exhibit J" - "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford".

- Using a Ploy/White employee, Ryan Vroom in an attempt to discredit my Claim of Employment Racial Discrimination. I respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford - Docket # 93'" – "Response to Declaration Statement # 26 – Exhibit I", Exhibit PP - pages 10 & 11 - "Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016" and Paragraph 69 of my Amended Complaint.
- Nonsensically using a job responsibility on my job description to justify the fallacious, pretextual and retaliatory written warning I was given to make it seem that the employment racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group, came under the said job description. However, as I previously articulated: "*I respectfully refer the Court to the said "written warning" (Exhibit F) where in addition to the above, Shillingford stated: "Note, this [employment racially discriminatory tasks] falls under her [Plaintiff, Candice Lue's] job responsibility: 'Updating and distributing daily Counterparty Reports'"....*

Besides the obvious fact that this "written warning" was a fallacy, it is also nonsensical in that, how can a ***monthly*** *responsibility, "to print all materials for our monthly team meeting and provide copies for each member" fall under a* ***daily*** *responsibility of "Updating and distributing daily Counterparty Reports"? Furthermore, when Shillingford issued me this "written warning" on September 24, 2015, the responsibility of "Updating and distributing daily Counterparty Reports" was already moved over to a non-Black analyst. So, since the responsibility of "Updating and distributing daily Counterparty Reports" was being done by a non-Black analyst, how is it that the said non-Black analyst was never asked/told "to print all materials for our monthly team meeting and provide copies for each member" since, according to Shillingford, "Note, this falls under [the] job responsibility: 'Updating and distributing daily Counterparty Reports"? Also, this said job responsibility of "Updating*

and distributing daily Counterparty Reports" has been on all the analysts' and associates' job descriptions before I joined and after I joined the Counterparty Risk Group yet, none of the other said analysts and associates, all non-Black, was ever given the task "to print all materials for our monthly team meeting and provide copies for each member" - The said racially discriminatory task that I took a stance against which led me to be put on a "performance improvement plan, the said "written warning" and my termination of January 6, 2016."

- Disingenuously attempting to twist job responsibility "iv" of the Credit Reporting Risk Analyst job description which states: "*Contributing to team-wide efforts such as* ***risk assessment methodology enhancements, portfolio-wide reviews and preparing management presentations***" (Exhibit H) to make it appear that the employment racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group and against which I took a stance, fall under the said responsibility. However, I have refuted this pretextual attempt as articulated in my "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1" – "Response/Opposition to Defendants Undisputed Material Fact # 16" as follows: "*First off, this responsibility was on ALL of the analysts and associates in the Counterparty Risk Group's job descriptions (Exhibit H). With that said, anyone of reasonable mind perusing the job descriptions for the said analysts and associates in the Counterparty Risk Group would observe that based on the responsibilities listed and the qualifications and the skills required to execute those responsibilities, "preparing management presentation" does not correlate with the tasks of printing, collating, and stapling 13 copies of each of the non-Black team members of the Counterparty Risk Group's presentation materials (one copy for each member of the team), and the emailing and lugging of the said presentation materials to the monthly team meeting, etc., the employment*

racially discriminatory tasks that I was solely assigned during my tenure in the Counterparty Risk Group.

Without the "……" in the "Defendants Undisputed Material Fact # 16", this is exactly what responsibility "iv" of the Credit Reporting Risk Analyst job description states: "Contributing to team-wide efforts such as ***risk assessment methodology enhancements, portfolio-wide reviews and preparing management presentations****". And, each month, without fail, I prepared and presented my up to three management presentations at the Counterparty Risk Group's monthly governance team meeting.*

Linking the printing, etc. to "preparing management presentations" was a ploy concocted by Defendant John Vega[68] and Defendant JPMorgan Chase's HR department to use as cover for the employment racial discrimination that I had reported being perpetrated against me (Am. Compl. ¶ 116).

The true interpretation of and what correlates with "preparing management presentations" is the caliber of presentations the candidate sought for the Credit Reporting Risk Analyst position should be able to produce and present. Based on the fact that these presentations are viewed by senior level managers, the said candidate would need to have the ability to produce and present high quality and intellectually stimulating presentations to the senior management audience. That is why, one of the questions that Tatevik Avetyan asked me when she was interviewing me was "how do you feel about doing presentations in front of senior management?" ("Letter Response to Defendants' Responses and Objections to Plaintiff's Second Set of Document Requests [pg 4]" - Docket entry # 60).

With that said, senior management is the ultimate audience for many of the presentations that the Counterparty Risk Group, including myself, prepares. This audience encompasses as high as, not only Defendant Philippe Quix, the Global Investment Management Chief

[68] John Vega was in charge of investigating my employment racial discrimination claim.

Risk Officer but also the Asset Management Chief Risk Officer who reports to the firm-wide Chief Risk Officer who in turn reports to JPMorgan Chase's Chairman and CEO, Jamie Dimon. I was also advised that the Asset Management CEO views these presentations. Case in point, in a December 2015 global townhall meeting held by the Global Investment Management Chief Risk Officer, Defendant Philippe Quix, he asked my then manager, Defendant Shillingford a question from the firm-wide Chief Risk Officer about the calculation logic of the Exposure Report. As the Credit Reporting Risk Analyst, one of my main responsibilities was working on the said Exposure Report and presenting the analysis at the Counterparty Risk Group's Monthly Governance Meetings.

In light of the foregoing, how can "preparing management presentation" be interpreted as printing, etc. presentation materials for the entire team given the high credential requirements sought for the Credit Risk Reporting Analyst position and the caliber and level of the ultimate audience for these presentations? Again, linking the printing, etc. to "preparing management presentation" was a ploy concocted by Defendant John Vega and JPMorgan Chase's HR department to use as cover for the employment racial discrimination that I had reported being perpetrated against me."

- Attempting to twist the fact that I was treated at a double standard by Khavin with regards to using JPMorgan Chase's work from home privilege, into the company's "time away from work to care for an ill family member" policy - totally ridiculous and disingenuous and was clearly an attempt to discredit my Claim of Employment Racial Discrimination. I respectfully refer the Court to my "Response to Declaration Statement #s 13, 14 & 19 – Affidavit in Response/Opposition to 'Declaration of Fidelia Shillingford' – Docket # 93".
- And the last evidence of the many pretexts that I will mention is "The Baruch Horowitz Lie" to which I will respectfully refer the Court to my "Affidavit in Opposition/Response to Declaration of Baruch Horowitz in Support re: 89 Motion for Summary Judgment (Docket #

99)" and my "Response/Opposition to Defendants Undisputed Material Fact # 18" – "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1".

In addition and pursuant to Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant" which states: "*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*" **and** St. Mary's Honor Center v. Hicks, 509 U.S. at 511 which states "*In order to rebut the inference of discrimination, the employer must articulate, through admissible evidence, a legitimate, nondiscriminatory reason for its actions. The employer's burden is one of production, not persuasion; the ultimate burden of persuasion always remains with the plaintiff*", if:

Defendants, JPMorgan Chase & Co., et al cannot make factual evidence consistent with their claim that Baruch Horowitz was "*exclusively assigned and/or performed the task of the taking of the minutes for the Counterparty Risk Group's monthly team meetings and the tasks of the printing, organizing, sorting, collating, stapling, emailing of presentation materials of each of the team members of the said Counterparty Risk Group and the lugging of copies of the said presentation materials to the group's monthly meetings to distribute to each person in attendance*" available, such as providing at least one (1) year of consecutive emails showing Baruch Horowitz sending out the minutes for the Counterparty Risk Group's monthly meetings to all the members of the said group and/or cannot at least produce any email correspondence such as the ones I have provided in Exhibit K to prove that, just like me, Plaintiff, Candice Lue, who is Black, the first of my three predecessors, Baruch Horowitz, was exclusively assigned and/or performed the task of the taking of the

minutes for the Counterparty Risk Group's monthly team meetings and the tasks of the printing, organizing, sorting, collating, stapling, emailing of presentation materials of each of the team members of the said Counterparty Risk Group and the lugging of copies of the said presentation materials to the group's monthly meetings to distribute to each person in attendance, then I respectfully ask that the Court, with prejudice, reject such claim.

(Page 12 - ¶ 3) **Opposition/Response to** *"Plaintiff cannot identify any non-Black employee who engaged in the same or substantially similar behavior as she and was not terminated."*

"Refusing to do Task Assigned"

As I articulated above and in my "Affidavit in Opposition/Response to 'Declaration of Helen Dubowy' - Docket # 96" – "Response to Helen Dubowy Declaration Exhibit C" - "Recommendation for Termination": *"As the "Recommendation for Termination" attached as "JPMorgan Chase 000060 - Exhibit C" to Dubowy's Declaration shows, for taking a stance against this disparate treatment, the unlawful act of Employment Racial Discrimination, through peaceful defiance[69], by reporting the matter to JPMorgan Chase's HR Department and by filing a Charge against the said company with the Equal Employment Opportunity Commission (EEOC), I was severely punished by JPMorgan Chase and its managers. These severe punishments included being placed on a retaliatory and pretextual "performance improvement plan" on July 30, 2015 (Exhibit C), issued a "written warning" on September 24, 2015 (Exhibit F) and ultimately terminated on January 6, 2016.*

In contrast, while I was severely punished by way of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", given a written warning, (both of which barred me from accessing the company's progressive benefits) and ultimately terminated on January 6, 2016 for taking a stance against obvious disparate treatment against me in the

[69] 2nd paragraph of the said "Recommendation for Termination" and Shillingford's email dated August 26, 2015/time stamped 4.25 PM (Exhibit CC-1)

assignments that were off limits for the non-Black analysts on the team but were solely assigned to me to do, without fear of being punished, my White co-worker, Ryan Vroom was unabashed about his outright refusal to do the Reconciliation Report which is an ***essential*** *task of the Counterparty Risk Group. This is a tedious task that I ended up having to do (Am. Compl. ¶ 69).*

*Ryan Vroom is the said White employee who, when another co-worker left the company and a task that the exited co-worker previously did was passed on to him to do, he also flat out refused to do it, throwing a tantrum shouting, "****I am not taking this on!****" and just like the Reconciliation Report that he refused to do, I, Plaintiff, Candice Lue, am the one, the Black one, who also had to end up doing this task as well (Exhibit PP - ¶ 2 of page 10 - "Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").*

However, unlike me, White employee, Ryan Vroom was not severely punished by means of a poor performance review, he was not given a written warning, both of which would have barred him from all of the company's progressive benefits and most of all, he was not terminated. As a matter of fact, he got ***promoted*** *– Bearing in mind that for this White employee to have gotten a promotion, his performance rating would have to be, per JPMorgan Chase's "promotion criteria", at least 2 years of Meets Expectation (M) or above performance, with rating of Meets Expectation Plus (M+) or Exceeds Expectation (E) in the year of the promotion (Exhibit QQ – "Why Black Workers Really Need to be Twice as Good", "Black Troops More Likely to Face Military Punishment", ¶ 69 - Am. Compl. & Exhibit H-3)."*

Work Assignment

As I have articulated throughout my Amended Complaint, other filings I have made with the Court and/or via Production of Documents submitted to the Defendants: For two years prior to me joining the Counterparty Risk Group headed by Khavin, Khavin had made the taking of the minutes for the Monthly Governance Meeting rotational among the non-Black analysts and associates in the group as she did not want to demean any of them by making it seem as if this undesirable task was

the task of any one of them to do. But, in her act of lack of respect and disparate treatment against Blacks, as the first Black analyst to have joined Khavin's group, Khavin assigned the task of taking the minutes for the Monthly Governance Meeting to me as solely my job to do. And, as it relates to the undesirable, tedious and employment racially discriminatory tasks of printing 13 copies of each of the non-Black team member's presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the Governance Meeting where the said non-Black team members, including the ones on my job level, will be waiting to "be served", these tasks never existed before I joined the team and/or were never assigned to any of the non-Black analysts and/or associates to do, whether exclusively or on a rotational basis[70] after I joined the team. None of the aforesaid tasks was even assigned to the White administrative assistant on the team as solely her job to do even though these are tasks that would more likely fall into the administrative assistant job category.

With that said and as I answered on my EEOC Intake Questionnaire – Question # 8 - "*Describe who was in the same or similar situation as you and how they were treated*", none of the non-Black analysts and/or associates was ever demeaned and humiliated by being solely assigned to do the aforesaid undesirable, tedious and employment racially discriminatory tasks like I, the only Black analyst on the team, was assigned to do.

In addition, I respectfully refer the Court to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 - Race and Color Discrimination" - V(A)(2) - COMPARATIVE TREATMENT EVIDENCE which states: "*This is evidence as to whether the claimant was treated the same as, or differently than, similarly situated persons of a different race. Such evidence is not always required, but a difference in the treatment of similarly situated persons of different races is probative of discrimination because it tends to show that the treatment was not based on a nondiscriminatory reason. Conversely, an employer's consistent treatment of similarly*

[70] I respectfully refer the Court to pages 70 and 71 above

situated persons of different races tends to support its contention that no discrimination occurred. Comparator evidence that supports either party's position must be weighed in light of all the circumstances. For example, if the group of similarly situated persons who were treated better than the claimant included persons of the claimant's race, that would weaken his or her claim, but it would not be conclusive proof of nondiscrimination because the balance of the evidence overall might still more convincingly point to discrimination.(49) Identification of persons who are similarly situated to the claimant should be based on the nature of the allegations, the alleged nondiscriminatory reasons, and other important factors suggested by the context,(50) but should not be based on unduly restrictive standards.(51)".

I also 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) – 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.***"

(Page 13) Opposition/Response to "First"

I respectfully refer the Court to my "Affidavit in Opposition/Response to Declaration of Baruch Horowitz in Support re: 89 Motion for Summary Judgment (Docket # 99)" and my "Response/Opposition to "Defendants Undisputed Material Fact # 18" – "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1".

In addition and pursuant to Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant" which states: "*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*" **and** St. Mary's Honor

Center v. Hicks, 509 U.S. at 511 which states "*In order to rebut the inference of discrimination, the employer must articulate, through admissible evidence, a legitimate, nondiscriminatory reason for its actions. The employer's burden is one of production, not persuasion; the ultimate burden of persuasion always remains with the plaintiff*", if:

Defendants, JPMorgan Chase & Co., et al cannot make factual evidence consistent with their claim that Baruch Horowitz was "*exclusively assigned and/or performed the task of the taking of the minutes for the Counterparty Risk Group's monthly team meetings and the tasks of the printing, organizing, sorting, collating, stapling, emailing of presentation materials of each of the team members of the said Counterparty Risk Group and the lugging of copies of the said presentation materials to the group's monthly meetings to distribute to each person in attendance*" available, such as providing at least one (1) year of consecutive emails showing Baruch Horowitz sending out the minutes for the Counterparty Risk Group's monthly meetings to all the members of the said group and/or cannot at least produce any email correspondence such as the ones I have provided in Exhibit K to prove that, just like me, Plaintiff, Candice Lue, who is Black, the first of my three predecessors, Baruch Horowitz, was exclusively assigned and/or performed the task of the taking of the minutes for the Counterparty Risk Group's monthly team meetings and the tasks of the printing, organizing, sorting, collating, stapling, emailing of presentation materials of each of the team members of the said Counterparty Risk Group and the lugging of copies of the said presentation materials to the group's monthly meetings to distribute to each person in attendance, then I respectfully ask that the Court, with prejudice, reject the claim that: "*Plaintiff's predecessor, Baruch Horowitz, a Caucasian, was exclusively responsible for the Tasks well before Plaintiff joined the CRG.*"

(Page 13) Opposition/Response to "**Footnote** # 3"

I respectfully refer the Court to "**Argument**" of my "Affidavit in Opposition/Response to 'Declaration of Kimberly Dauber' - Docket # 97" and ¶ 3 of pg. 7 of the said Affidavit. I also

respectfully refer the Court to " **Conclusion**" of my "Affidavit in Opposition/Response to 'Declaration of Kimberly Dauber' - Docket # 97" which states: "*In light of the foregoing, unless Declarant, Kimberly Dauber and/or Defendants, JPMorgan Chase & Co., et al can produce any such emails as I have produced in Exhibit NN to prove that the Technology Initiatives Meeting and/or the Investment Risk Process meetings were also referred to as "Extended Team Meetings" and unless Declarant, Kimberly Dauber and/or Defendants, JPMorgan Chase & Co., et al can make factual evidence available, as I have made available in Exhibit K, to prove that like me, Plaintiff, Candice Lue who is Black, my non-Black predecessor, Baruch Horowitz was exclusively assigned the tasks of taking the minutes for the Monthly Governance Meetings and the tasks of printing, collating, and stapling 13 copies of each of the team members of the Counterparty Risk Group's presentation materials (one copy for each member of the team), and the emailing and lugging of the said presentation materials to the monthly team meeting, then I respectfully ask that the Court, pursuant to Rule 56(d) of Federal Rules of Civil Procedure – "When Facts Are Unavailable To The Nonmovant" which states: "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" **and** St. Mary's Honor Center v. Hicks, 509 U.S. at 511 which states "In order to rebut the inference of discrimination, the employer must articulate, through admissible evidence, a legitimate, nondiscriminatory reason for its actions. The employer's burden is one of production, not persuasion; the ultimate burden of persuasion always remains with the plaintiff", reject statements # 3, 4 & 5 of Kimberly Dauber's Declaration.*"

(Page 13) Opposition/Response to "Second"

I respectfully refer the Court to my "Affidavit in Response/Opposition to Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1" – "Response/Opposition to "Defendants Undisputed Material Fact # 16" which states: "*First off, this responsibility was on ALL*

of the analysts' and associates' in the Counterparty Risk Group's job descriptions (Exhibit H). With that said, anyone of reasonable mind perusing the job descriptions for the said analysts and associates in the Counterparty Risk Group would observe that based on the responsibilities listed and the qualifications and the skills required to execute those responsibilities, "preparing management presentation" does not correlate with the tasks of printing, collating, and stapling 13 copies of each of the non-Black team members of the Counterparty Risk Group's presentation materials (one copy for each member of the team), and the emailing and lugging of the said presentation materials to the monthly team meeting, etc., the employment racially discriminatory tasks that I was solely assigned during my tenure in the Counterparty Risk Group.

Without the "……" in the "Defendants Undisputed Material Fact # 16", this is exactly what responsibility "iv" of the Credit Reporting Risk Analyst job description states: "Contributing to team-wide efforts such as ***risk assessment methodology enhancements, portfolio-wide reviews and preparing management presentations****" (See Exhibit H – Job Descriptions). And, each month, without fail, I prepared and presented my up to three management presentations at the Counterparty Risk Group's monthly governance team meeting.*

Linking the printing, etc. to "preparing management presentations" was a ploy concocted by Defendant John Vega[71] and Defendant JPMorgan Chase's HR department to use as cover for the employment racial discrimination that I had reported being perpetrated against me (Am. Compl. ¶ 116).

The true interpretation of and what correlates with "preparing management presentations" is the caliber of presentations the candidate sought for the Credit Reporting Risk Analyst position should be able to produce and present. Based on the fact that these presentations are viewed by senior level managers, the said candidate would need to have the ability to produce and present high quality and intellectually stimulating presentations to the senior management audience. That

[71] John Vega was in charge of investigating my employment racial discrimination claim.

is why, one of the questions that Tatevik Avetyan asked me when she was interviewing me was "how do you feel about doing presentations in front of senior management?" ("Letter Response to Defendants' Responses and Objections to Plaintiff's Second Set of Document Requests [pg 4]" - Docket entry # 60).

With that said, senior management is the ultimate audience for many of the presentations that the Counterparty Risk Group, including myself, prepares. This audience encompasses as high as, not only Defendant Philippe Quix, the Global Investment Management Chief Risk Officer but also the Asset Management Chief Risk Officer who reports to the firm-wide Chief Risk Officer who in turn reports to JPMorgan Chase's Chairman and CEO, Jamie Dimon. I was also advised that the Asset Management CEO views these presentations. Case in point, in a December 2015 global townhall meeting held by the Global Investment Management Chief Risk Officer, Defendant Philippe Quix, he asked my then manager, Defendant Shillingford a question from the firm-wide Chief Risk Officer about the calculation logic of the Exposure Report. As the Credit Reporting Risk Analyst, one of my main responsibilities was working on the said Exposure Report and presenting the analysis at the Counterparty Risk Group's Monthly Governance Meetings.

In light of the foregoing, how can "preparing management presentation" be interpreted as printing, etc. presentation materials for the entire team given the high credential requirements sought for the Credit Reporting Risk Analyst position and the caliber and level of the ultimate audience for these presentations? Again, linking the printing, etc. to "preparing management presentation" was a ploy concocted by Defendant John Vega and JPMorgan Chase's HR department to use as cover for the employment racial discrimination that I had reported being perpetrated against me."

(Page 14) Opposition/Response to "**Footnote** # 4"

As the Reporting Analyst, I solely did the Exposure and Reconciliation Reports, GIM CRO Packet, AM CRO Packet and the AM Dashboard. Likewise, the task that the Credit Analysts solely

performed was the portfolio review and analysis of the counterparties. The rest of the other tasks, including ad hoc tasks, in the Counterparty Risk Group are shared among all the analysts and associates in the group[72].

Case in point, in about two months of being on the team, the task of "*Updating and distributing daily Counterparty Reports*" was transitioned to me from a Credit Analyst and subsequently, when two new analysts joined the Counterparty Risk Group in August 2015, the said task along with the Limits Monitoring that I was doing at the time were transitioned one to each of them to do so that they could have work.

In addition, the two tasks that White employee, Ryan Vroom, a Credit Analyst right out refused to do, the Reconciliation Report, which my predecessor, Kenneth Ng told me he never did, and the AM CRO Packet[73] were transitioned to me. Also, all the analysts and associates in the Counterparty Risk Group are somewhat crossed-trained to handle the group's tasks or to backup each other. As I said in Paragraph 78 of my Amended Complaint: "*I could understand that as an analyst[74], I was named as a backup for the to-be-hired analyst and to be frank,* ***as the only Black analyst, I was always named as the backup.***"

However, in the Defendants quest to cover Khavin's bigotry, they are trying to make it out to seem as if the Reporting side of the Counterparty Risk Group is totally separate and apart from the Credit Analysis side – Bearing in mind that prior to me, the only Black analyst to have joined the said group, my three non-Black predecessors, unlike me, reported to Kimberly Dauber, the White manager for the Credit Analysis side not to Shillingford who had always been on the Reporting side. I was the only analyst made to report to Shillingford who is Black.

With that said, I respectfully refer the Court to Paragraphs 188 and 189 of my Amended Complaint which states: "*Prior to me joining the team, my three non-Black predecessors all*

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[72] Reporting and Credit Analysts/Associates

[73] This task was transitioned when another Credit Analyst left the company but because Ryan Vroom refused to do it, it was passed on to me to do.

[74] Khavin named Shillingford, **a vice president**, as a backup for an analyst when team members on the analyst and associate levels were not named by her.

reported to the White manager, Kim Dauber on the team. Again, my reporting to Shillingford was a switch made after it was confirmed that I, the Black candidate, was the chosen candidate. To be frank and as history and the timeframe in which the switch by Khavin was done clearly show, if I were not Black, my manager would have been Kim Dauber meaning that Shillingford would not have been promoted to managerial status (EXHIBIT O).

When my non-Black Credit Reporting Risk Analyst predecessors were reporting to Kim Dauber, Dauber was not and had never been a part of Credit Risk Reporting like Shillingford was. Kim Dauber had always been a part of Credit Risk Analysis. So, my three non-Black predecessors who were, like me, a part of Credit Risk Reporting did not report to Shillingford, the vice president in Credit Risk Reporting who is Black but to Kim Dauber, the vice president in Credit Risk Analysis who is White."

As it relates to the Defendants' statement that: "*As for the Credit Analysts, they have different duties than Reporting Analysts and report to different supervisors, even though the official job descriptions are the same*", in conjunction with the above and as I articulated in my "Response to Declaration Statement #s 8 & 9" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' – Docket # 93", my response to that is as follows:

"*That is why it makes logical sense that the **only reason** why Khavin solely assigned me, the only Black analyst on the team, the employment racially discriminatory tasks of printing 13 copies of each of the non-Black team member's, **who have a different position from mine and serve a different function from mine**, presentation materials (one copy for each said team member), collating, stapling and lugging of the said presentation materials to the monthly team meeting where the said non-Black team members will be waiting to "be served" is only to be a benefit/perk for the non-Black members of the team at the expense of me, the only Black analyst on the team. A benefit/perk, that like a plantation slave, I would have never gotten the opportunity to enjoy.*" My

presentation materials and content had nothing to do with their respective presentation materials and content whereby it should be my duty to do their printing of the said materials.

(Page 14) Opposition/Response to "Third"

Opposition/Response to "*Plaintiff claims that, unlike non-Black Analysts, she was required to ask for permission before working from home.... On the Contrary, Plaintiff's predecessor, Horowitz*[75] *had to ask for and obtain permission before working from home. The same is true for the other analysts and associates in CRG.*"

With regards to "*Plaintiff's predecessor, Horowitz*" who, with all due respect, I believe is not of sound mind, this is what I articulated in my "Affidavit in Opposition/Response to 'Declaration of Baruch Horowitz' – Docket # 99" - "**Work from Home**": "*In his quest to deceive the Court that as a Caucasian male (Horowitz Dec., # 2), his treatment by Defendant, Alex Khavin ("Khavin") was no different from mine, the only Black analyst in the group, Baruch Horowitz further stated that: "During my employment with Chase, I periodically worked from home. Prior to doing so, however, I contacted my group supervisor at the time for permission" (Horowitz Dec., # 7).*

However, as emails dated March 30, 2015 and March 31, 2015 in Exhibit L show, as the only Black analyst in the Counterparty Risk Group even when I asked permission one week in advance to work from home, I was denied that privilege. I had to take the day as a vacation day.

So, unlike Baruch Horowitz, who according to him, he asked for permission to work from home for whatever reason and obviously without hesitation that permission was granted to him, for me, the Black analyst, that work from home privilege was solidly denied."

And, with regards to "*The same is true for the other analysts and associates in CRG*", Exhibit L also clearly shows that in consistence with treating me at a double standard to my non-Black counterparts, unlike the other non-Black analysts who could just send an email to the team

[75] In conjunction with "The Baruch Horowitz Lie", I had two other predecessors, Kenneth Ng and Thomas Monaco, who the Defendants are avoiding like the plague (Affidavit in Opposition/Response to Declaration of Kimberly Dauber)

saying, "I am not feeling well today so I will be working from home", Khavin's directive for me was to send my then manager, Shillingford an email letting her know my situation and asking for permission[76] to work from home and then Shillingford should be the one communicating accordingly to the team (Example email from Shillingford dated May 8, 2015 and time stamped 2:03 PM – JPMorgan Chase 000665 - Exhibit L-1). In other words, unlike the non-Black analysts on my job level (Exhibit L), I, Black Plaintiff, Candice Lue, was passing my place in sending the email I sent to the team on May 7, 2015 (Exhibit L).

(Page 14 – "*Third*") **Opposition/Response to** "*Plaintiff claims that, unlike non-Black Analysts.... Her requests to work from home to care for her sick mother were denied, requiring her to use vacation[77] days....Moreover, CRG policy provides that when an employee is away from the office to care for a sick relative, she must use sick, personal or vacation time.....*"

As I articulated in my "Response to Declaration Statement # 19 - Exhibit C" – "Affidavit in Response/Opposition to 'Declaration of Fidelia Shillingford' – Docket # 93": "*Pursuant to my "Response to Declaration Statement #s 13 & 14" above, as cover for Khavin's racial bigotry, the Defendants are trying to twist the fact that I was treated at a double standard by Khavin with regards to using JPMorgan Chase's work from home privilege, into the company's "time away from work to care for an ill family member" policy - totally ridiculous and disingenuous.*

First off, before I was given the directive by Khavin through her conduit and servile employee, Shillingford that unlike the non-Black analysts who could just send an email to the team saying, "I am not feeling well today so I will be working from home" (Exhibit L), for me, the only Black analyst on the team, I had to first send Shillingford an email letting her, Shillingford know my situation and asking for permission[78] to work from home and then Shillingford should be the one communicating accordingly to the team, ***neither*** *Khavin nor Shillingford knew that the reason I*

[76] Permission which would have to come from Khavin herself, Khavin only made Shillingford my manager so that she, Khavin could extend her racial bigotry to me.
[77] For this request, the directive was that I use my sick days
[78] Permission which would have to come from Khavin herself, Khavin only made Shillingford my manager so that she, Khavin could extend her racial bigotry to me.

wanted to work from home was to help my mother who had had a terrible fall the day before and woke up in extreme pain the morning after the said fall (May 7, 2015).

*As my initial email dated May 7, 2015 (Exhibit L) where I informed the team that I was working from home shows, I did not mention anything about "an ill family member" all I said was "**due to a family emergency**[79]". This emergency could have been a fire, a robbery, having to take a family member somewhere or to pick up a family member from somewhere, etc.*

It was only after Shillingford passed on Khavin's directive to me in a telephone call I had with Shillingford on the afternoon of May 7, 2015 (Exhibit EE-2)[80] *that I told Shillingford about my mother's accidental fall and that was when Shillingford and Khavin knew my exact reason for wanting to work from home. Shortly after I spoke to Shillingford, I sent an email (Exhibit L – dated May 7, 2015, time stamped 6:20 PM) to Shillingford on which I copied Khavin pointing out Khavin's treating me at a double standard. And, it was because of this email pointing out Khavin's treating me at a double standard why, as cover, my "work from home" access denial quickly turned into "time away from work to care for an ill family member" policy.*

I also did not know that I would not have been able to go into work the next day because, as a tough cookie, myself and my mother's thought was that with some Bengay, painkillers, pain wraps, hot/cold pads, etc[81]*, by next day, she would have been able to manage on her own. So, Khavin's directive for me in response to my May 7, 2015 email to the team to say that I had to work from home was strictly based on treating me at a double standard and, at the time, had absolutely nothing to do with JPMorgan Chase's "time away from work to care for an ill family member" policy."*

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[79] Because this was an emergency/accident there was no way for me to have asked in advance for permission to work from home.

[80] I respectfully refer the Court to Shillingford's initial response to this email (Exhibit EE-2) before she spoke to Khavin. There was nothing regarding Khavin's directive. Confirming what Shillingford told me on the phone that the directive was from Khavin.

[81] I had to get these at the pharmacy and the pharmacy did not open until about 9:00 AM so that is also why I had to work from home. However, I started working at/or around 7:30 AM to facilitate this but still had to end up working until about 9:30 that night to facilitate my regular Business as Usual (BAU).

To show how vile Khavin is, on the afternoon of May 7, 2015 before she told Shillingford to call me and give me her double standard directive, she herself called me and gave me a tedious task to work on. I was surprised when I saw Khavin's number as an incoming call on my telephone (Exhibit EE-2) but was even more surprised to find out that someone could be so vile that after sending a message of a family emergency, she would call just to give me such a tedious and urgent task to work on, a task which could have been worked on by any one of the other analysts or associates.

As I said in my "Response to Declaration Statement #s 13 & 14" above, "the worst part of Khavin, at her discretion and through Shillingford, denying me the company's work from home privilege was, when I returned to work after ending up having to take off three (3) business days due to the said family emergency, the three days work of my regular Business as Usual (BAU) was sitting there waiting for me to do and I was pressured and expected to meet all the hard deadlines that were required for my job (Exhibit L-2 – JPMorgan Chase 000613). This had never happened to any of the non-Black analysts and/or associates (Exhibit QQ – "Why Black Workers Really Need to be Twice as Good", "Black Troops More Likely to Face Military Punishment" & Am. Compl. ¶ 71)."

If I was given the opportunity to work from home, I would have been caught up with my duties because the main reason for wanting to work from home was just to stay close to my mother. So that, in between the time I would be working, if she needed help with removing the cover of a pain reliever bottle, a water bottle or help turning over in bed due to pain, I'd be close and could just spare a few minutes to help her. But again, unlike the non-Black analysts and/or associates in the Counterparty Risk Group, I was not granted permission to work from home (Exhibit L-2 – JPMorgan Chase 000613).

Also, based on the overwhelming amount of work that I had to do which both Khavin and Shillingford were aware of, forcing me to take days off as sick days was just a cover for Khavin's

racial bigotry[82]. The Defendants are trying to twist the fact that I was treated at a double standard by Khavin with regards to using JPMorgan Chase's "work from home" privilege, which was totally at her, Khavin's discretion, into the company's "time away from work to care for an ill family member" policy. Because Khavin is a racist[83], she saw me in a lesser light than the non-black analysts in the group and generally employees below the analyst level do not have access to the "work from home" (WFH) benefit (Am. Comp. ¶¶ 25, 70 & 174).

(Page 14) Opposition/Response to "Fourth"

In JPMorgan Chase's quest to discredit the Employment Racial Discrimination that was perpetrated against me, the HR legal representatives were subtly trying to shift my claim of Employment Racial Discrimination against me, from Khavin, the main perpetrator who is White unto Shillingford, the conduit of Khavin's said Employment Racial Discrimination, who is Black. And, Shillingford, a servile employee, was willing to take on this position as a badge of honor in service to her "masters"[84] (Exhibit CC - JPMorgan Chase 001392 & 003342, Am. Compl. ¶ 114, Exhibit F and Declaration of Fidelia Shillingford - Docket # 93).

However, pursuant to 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: "*The race of the decisionmaker may be relevant, but is not controlling.(55) 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*

[82] In the email trail between myself and Shillingford dated March 16, 2015 (Exhibit L) where I told Shillingford I was not feeling well and will not be able to make it into the office, Shillingford asked: "*Will you be WFH (work from home) or taking a sick day*?"

[83] Amended Complaint - Factual Allegation "G" ("Khavin Rendered Second Class Treatment to Shillingford and Shillingford Accepted It") and Ninth Cause of Action ("Unwillingness/Failure to Promote to a Managerial Position on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981") and Pg. 25 last ¶ of my "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' – Docket # 93"

[84] Having gotten a M- rating from Khavin on her 2014 year end performance review (Exhibit FF), Shillingford's career at JPMorgan was at the mercy of Khavin and HR so in her quest to secure her career/future at JPMC, Shillingford who is Black was willing to relegate herself to horizontal racist status (Exhibit QQ – "Corporate Careerist Blacks").

to presume as a matter of law that human beings of one definable group will not discriminate against other members of their group."(56).

As it relates to the statement: "*Shillingford, who is Black, made the decisions to hire and fire Plaintiff*", the only thing truthful about this said statement is: "*Shillingford, who is Black*".

With that said, regarding the ultimate "*decision[] to hire*", I respectfully refer the Court to my "Response to Declaration Statement #s 4, 5 & 6" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' – Docket # 93" **and** my "Response to Declaration Statement #s 5, 6 & 7" – "Affidavit in Opposition/Response to 'Declaration of Alex Khavin' – Docket # 92" **and** my Amended Complaint - Eighth and Ninth Causes of Action – "Unlawful Segregation on the Basis of Race and Unwillingness/Failure to Promote to a Managerial Position on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981" where it has been made as clear as day via solid evidence that "*the decision[] to hire Plaintiff [Candice Lue]*" was not made by Defendant Fidelia Shillingford.

Likewise, regarding the ultimate "*decision[] to fire*", I respectfully refer the Court to my "Response to Declaration Statement # 35" – "Affidavit in Opposition/Response to 'Declaration of Fidelia Shillingford' – Docket # 93" where it has been made as clear as day via solid evidence that "*the decision[] to fire Plaintiff [Candice Lue]*" was a retaliatory and legal decision made in the "legal interest of JPMorgan Chase" based on my Claim of Employment Racial Discrimination against me and not based on a decision made by Defendant Fidelia Shillingford (Exhibit CC-2 - JPMorgan Chase 001933 - email trail dated December 10, 2015 between JPMorgan Chase's legal representatives, Kathy Knepper and Helen Dubowy where the email from Dubowy time stamped 4:30 PM shows that Shillingford was not even aware of the communication regarding my recommendation for termination).

(Page 15) Opposition/Response to "Fifth"

I respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Michelle Sullivan' – Docket # 95", "Affidavit in Opposition/Response to 'Declaration of Chris Liasis' – Docket # 94" and Paragraphs 213 – 215 of my Tenth Cause of Action in my Amended Complaint which states: "*With overt racial stereotypes about Black people such as Black people are usually tardy, the angry Black woman, Black people are arrogant/"uppity" when they have the gall to take a stance against unfair treatment meted out to them, Black people have poor communication skills, etc. that can be so detrimental and defaming to a Black person's character, it is unforgivable that Liasis and Sullivan would lie in the manner stated in the foregoing to depict me, a Black woman, to defame my character. And, even though some of these racial stereotypes were not explicitly written or spoken, they were subtly and surreptitiously implied, coded and pointed.*

214. The aforesaid rancorous, malicious, mendacious and racially stereotypical comments which were a defamatory assault on my character were the said comments that Sullivan used to give me a "Low Meets expectation (M-)" rating as my overall rating on my 2014 year end performance review. This "Low Meets expectation (M-)" rating caused me significant loss as, with a "Low Meets (M-)" rating I was automatically deprived of employment benefits such as applying for better or other positions through JPMorgan Chase's job postings, receiving a promotion or transfer within the company and from applying for tuition assistance. Not being eligible for the company's tuition assistance program meant that I was denied the benefit of sponsorship and financial assistance with the CFA exams which, the Chartered Financial Analyst (CFA) Certification is a big boost to one's financial career growth and a benefit that non-Black employees always took advantage of.

214a. The said "Low Meets expectation (M-)" rating from Sullivan was the rating that Shillingford put on the retaliatory and pretextual "performance improvement plan" she placed me on, on July 30, 2015. As, according to Shillingford and Dubowy, this "M-" rating was "a

carryover" of the performance rating that my previous manager, Sullivan, gave me on my 2014 year end performance review (see # 109).

215. As a direct result of Defendants' unlawful and defamatory acts on the basis of my race, I have suffered and continue to sustain substantial losses in employment benefits. I have also suffered and continue to suffer harm, emotional, physical and mental injuries, the derailment of my financial career in the financial industry and loss of reputation as these defamatory comments became an albatross around my neck and a blight for any potential future positions at JPMorgan Chase."

In addition, the acknowledgement of subtle forms of discrimination such as the ones I outlined in my Sixth and Tenth Causes of Action and for which there is a need to combat, were raised by Former Equal Employment Opportunity Commissioner, Stuart Ishimaru in a piece he wrote for the New York University Labor & Employment Law newsletter where he said: "*the Commission has to become better at combating emerging and nuanced forms of workplace discrimination. We of course must continue to identify and rectify blatant bigotry in the workplace. However, there are new, more subtle types of employment discrimination, or what I call 'second generation' violations to confront. These are harder to detect and therefore harder to prove. Often, unconscious stereotypes or implicit biases are at play*" (Exhibit A-1).

In light of the foregoing and pursuant to EEOC Compliance Manual Section 15 – Race and Color Discrimination - V(A)(2) - RACE-RELATED STATEMENTS (ORAL OR WRITTEN) MADE BY DECISIONMAKERS OR PERSONS INFLUENTIAL TO THE DECISION which states: "*Race-related statements include not only slurs and patently biased statements, but also "code words" that are purportedly neutral on their face but which, in context, convey a racial meaning.(47) The credibility of the witness(es) attesting to discriminatory statements, and the credibility of the witness(es) denying them, are critical to determining whether such statements actually were made. If racially discriminatory statements were made, their importance will depend*

on their egregiousness and how closely they relate – in time and content – to the decision in question", anyone of reasonable mind will know that a manager at JPMorgan Chase would not be outright calling a Black employee the "N" word ("*racist comments*") or outright displaying "*other alleged discriminatory behavior*".

4. Plaintiff Cannot Establish Her Other Claims of Discrimination

(Page 16) **Opposition/Response to** "Plaintiff Cannot Establish Her Other Claims of Discrimination"

Employment Racial Discrimination (disparate treatment of an employee on the basis of race) of and in any way, shape and/or form is within the scope of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. Over the years, Employment Racial Discrimination (disparate treatment of an employee on the basis of race) has evolved and unless it is the conviction of Defendants, JPMorgan Chase & Co., et al that annually, every five (5) years, every decade (10 years), every fifty (50) years, etc., Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 should be amended to include the **latest** and/or what is perceived as being the latest ways, shapes, forms and/or techniques of Employment Racial Discrimination (disparate treatment of an employee on the basis of race) which such requirements are not stated in the said statutes, then the said Defendants statement that "*[Plaintiff, Candice Lue] also asserts other causes of action for discrimination, though they are not denominated as such. Each of these lacks merits*" is, and should be moot.

With that said, the acknowledgement of subtle forms of discrimination such as the ones I outlined in my Sixth and Tenth Causes of Action which are not specifically or explicitly outlined in Title VII of the Civil Rights Act of 1964 and/or 42 U.S.C. § 1981 was raised as having a need to combat by Former Equal Employment Opportunity Commissioner, Stuart Ishimaru in a piece he wrote for the New York University Labor & Employment Law newsletter where he said: "*the*

Commission has to become better at combating emerging and nuanced forms of workplace discrimination. We of course must continue to identify and rectify blatant bigotry in the workplace. However, there are new, more subtle types of employment discrimination, or what I call 'second generation' violations to confront. These are harder to detect and therefore harder to prove. Often, unconscious stereotypes or implicit biases are at play. Examples include zip code discrimination (discriminating against applications who live in allegedly 'undesirable' – typically minority-neighborhoods), dialect/accent discrimination (discriminating against someone for "'sounding foreign' or 'sounding Black') and resume discrimination (discriminating against individuals with presumptively 'Black' names or who are affiliated with 'ethnic' organizations)" (Exhibit A-1).

In addition, pursuant and in similarity to "The Code of Conduct for United States Judges - Canon 2A" which states: "....*Because it is not practicable to list all prohibited acts, the prohibition is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code*", anyone of reasonable mind would understand that this said common sense constitutionality should be applied to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 as it relates to acts of Employment Racial Discrimination that are not specifically or explicitly outlined in those said statutes.

I also respectfully refer the Court to my "Affidavit in Opposition/Response to 'Declaration of Michelle Sullivan' – Docket # 95", "Affidavit in Opposition/Response to 'Declaration of Chris Liasis – Docket # 94", Exhibit QQ, Exhibit QQ-1, Am. Compl. - Ninth Cause of Action – "Unwillingness/Failure to Promote to a Managerial Position on the Basis of Race" & Exhibit FF.