

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

CANDICE LUE, an individual,

Plaintiff,

V.

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

Defendants.

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

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

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I. PRELIMINARY STATEMENT

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

II. INTRODUCTION

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

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

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

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

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

III. BACKGROUND

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

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

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

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

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

IV. ARGUMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Because The Defendants Have No Evidence of Pertinency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alex Khavin

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

Fidelia Shillingford

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

Chris Liasis

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

Michelle Sullivan

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

Kimberly Dauber

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

Baruch Horowitz

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

Defendants' Statement of Undisputed Material Facts under Local Civil Rule

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

Defendants' Memorandum of Law in Support of Their Summary Judgment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. CONCLUSION

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

DATED: April 23, 2020

Respectfully Submitted,

CANDICE LUE
Pro Se Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CANDICE LUE

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

19 Civ. 9784 (KPF)(SDA)

- against -

AFFIRMATION OF SERVICE

JPMORGAN CHASE & CO., ET AL
(see attached for names of
All Defendants)

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

I, (print your name) Candice Lue, declare under penalty of perjury that I
served a copy of the attached (list the names of the documents you served): Plaintiff's

Memorandum of Law and Plaintiff's Exhibits in
Opposition to Defendants' Motion to Dismiss (Docket #s 28 & 29).

upon all other parties in this case by (state how you served the documents, for example, hand delivery,
mail, overnight express) U.S.P.S. Priority Mail to the

following persons (list the names and addresses of the people you served): Attorneys for the
Defendants, Robert Whitman and Anshel Kaplan,
Seyfarth Shaw LLP, 620 Eighth Avenue, New York,
New York 10018

on (date you served the document(s)) April 23, 2020

4/23/2020

Dated

Signature

Address

City, State

Zip

Telephone Number

E-Mail Address

CANDICE LUE v. JPMORGAN CHASE & CO., ETAL

PRO SE PLAINTIFF:

CANDICE LUE

19 CV 9784 (KPF)(SDA)

DEFENDANTS:

JPMORGAN CHASE & CO.

ALEX KHAVIN

FIDELIA SHILLINGFORD

KIMBERLY DAUBER

BARUCH HOROWITZ

CHRIS LIASIS

MICHELLE SULLIVAN