

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; 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

Civil Action No.: 16 CV 3207 (AJN) (GWG)

Response to Judge Alison J. Nathan's Order of August 11, 2017 – Docket # 120

This Order by Judge Alison Nathan is not in Compliance with her own Individual Practices which states in BOLD at the top of her Individual Practices page that "Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES (see Rules for Pro Se Cases)." I AM A PRO SE PLAINTIFF.

I. ARGUMENT

Judge Alison J. Nathan's Order of August 11, 2017 is not only prejudicial to my lawsuit against Defendants JPMorgan Chase & Co., et al but it is humanely and financially burdensome¹, has caused me mental, emotional and physical stress and it is not in Compliance with her own Individual Practices which states in BOLD at the top of her Individual Practices page that "*Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES (see Rules for Pro Se Cases)*". With that said, I respectfully refer Judge Nathan to the top of her own Individual Practices page for which I have a copy attached.

¹ Because I have a full-time job, I had to burn the midnight oil, pull all nighters and work throughout the weekends to complete my Opposition/Response to the Defendants' Motion for Summary Judgment. In addition, I had to take days off from work **without pay** to complete my said Opposition/Response to the Defendants' Motion for Summary Judgment. I also had to pay Notary fees, purchase a lot of ink and paper for my printer and pay for priority postage to get my filings with the Court done on time.

I would also respectfully remind Judge Nathan that I am a Pro Se Plaintiff and as such her Individual Practices Rules would not apply to me and pursuant to “*Rules for Pro Se Cases*”, there is nothing regarding page limitation in the submission of Opposition/Response to Motion for Summary Judgment for Pro Se Plaintiffs. As a matter of fact, what is clearly stated in Local Civil Rules 56.2 and 12.1 is: “*if you have proof of your claim, now is the time to submit it*” and that was exactly what I did in my Opposition/Response to the Defendants’ Motion for Summary Judgment to dismiss my lawsuit WITH PREJUDICE (I submitted Affidavits under sworn oath along with approximately 493 pages in the form of Exhibits as proof for my Claim which Judge Alison Nathan has ordered “STRICKEN” from the Docket).

Further, besides the fact that there is nothing immaterial and/or not pertinent in my Opposition/Response to the Defendants’ Motion for Summary Judgment, Rule 12(d) of the Federal Rules of Civil Procedure – “Result of Presenting Matters Outside the Pleadings” states: “*If, on a motion under Rule 12(c)², matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion*”

I would also respectfully like to note that even if Judge Alison J. Nathan’s Individual Practices did not preclude Civil Pro Se Cases, the only filings that I made with the Court that would apply to her page limit rule would be that of my Memorandum in Opposition to Defendants’ Motion for Summary Judgment and my Affidavit in Response/Opposition to “Defendants’ Statement of Undisputed Material Facts under Local Civil Rule 56.1 as there is nothing with regards to my Affidavits in Opposition/Response³ to the Defendants’ Declarations and my Exhibits about page limits.

² (c) MOTION FOR JUDGMENT ON THE PLEADINGS. After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings.

³ Some of which as noted below have less pages than the Declarations submitted by the Defendants

Pro Se Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment

As it relates to my, Pro Se Plaintiff, Candice Lue's Memorandum in Opposition to Defendants' Motion for Summary Judgment, I respectfully remind the Court that there are nine (9) Defendants in this lawsuit and besides the fact that Judge Nathan's "*Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES*" and I am a Pro Se Plaintiff, having the same page limit for nine Defendants as there is for one Defendant is not reasonable. Case in point, the "Summary of Arguments" I provided for each of the said nine Defendants in my said Opposition to Defendants' Motion for Summary Judgment and which are pertinent to my said Opposition adds up to about 31 pages representing on average three and a third pages per Defendant. When I had to respond to the Defendants' statement requesting that the Court dismiss my Aiding and Abetting Claim against three Defendants, I had to provide Opposition/Response for each of those three individual Defendants, so again, it is not reasonable to have the same page limit for nine (9) Defendants as there is for one Defendant because such limit denies me the right to be able to present all my pertinent material to oppose/respond to the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice.

I will also respectfully note that instead of simply just referring the Court to Exhibits, etc., to make it easier for the Court, I copied and pasted statements, etc. into my Memorandum in Opposition to Defendants' Motion for Summary Judgment so there would be less need for back and forth reference lookup by the Court.

Pro Se Plaintiff's Affidavit in Response/Opposition to "Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1

I respectfully refer the Court to "Pro Se Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment" above.

Pro Se Plaintiff's Affidavits in Opposition/Response to Declarations Submitted by the Defendants

The Affidavits that I, Pro Se Plaintiff, Candice Lue filed are in direct Opposition/Response to the separate "Declarations" aka LIES under Penalty of Perjury submitted by the Defendants/Declarants and there is no where in Judge Alison Nathan's Individual Practices where it is stated that pages for such Affidavits should be limited. As a matter of fact, the number of pages for four of the Declarations the said Defendants submitted and the number of pages for my Opposition/Response to those said Declarations are as follows:

- 1) "Declaration of Defendant Fidelia Shillingford": SEVENTY EIGHT (78) pages submitted by Defendants; my Opposition/Response to that said "Declaration" consists of only FORTY (40) pages.
- 2) "Declaration of Defendant Michelle Sullivan": FIFTY SIX (56) + THIRTY THREE (33) REDACTED pages - Total of 89 pages submitted by Defendants; my Opposition/Response to that said "Declaration" consists of only TWENTY SEVEN (27) pages.
- 3) "Declaration of Defendant Helen Dubowy": THIRTY TWO (32) pages submitted by Defendants; my Opposition/Response to that said "Declaration" consists of only TWENTY TWO (22) pages.
- 4) Declaration of Defendant Chris Liasis: THIRTY ONE (31) pages submitted by Defendants; my Opposition/Response to that said "Declaration" consists of only TWENTY TWO (22) pages.

With that said, Judge Nathan's Order that my Affidavits in Opposition/Response to the Defendants' Declarations aka LIES under Penalty of Perjury be "Stricken" have left me flabbergasted.

Also, Judge Nathan's Order states that "*The Court hereby strikes Plaintiff's submissions in opposition to summary judgment at Dkt. Nos. 106-112, 114-118 as overly burdensome* [for the Defendants to read/reply to]", however, I would respectfully bring to the Court's attention that it is

because of the superfluity of LIES stated **under Penalty of Perjury** in the Defendants' Motion for Summary Judgment that required the reasonable amount of pages of Opposition/Response for NINE Defendants that I submitted to the Court. With that said and pursuant to footnote # 1, any one of reasonable mind would see that it would be overly burdensome for me to remove all the pertinent evidence I have provided to refute those said lies which were made under penalty of perjury by the Defendants. As, doing so would be tantamount to me being denied my Fifth Amendment Right whereby if I am denied the opportunity to present all the material that is pertinent in opposing the Defendants' Motion for Summary Judgment to dismiss my case WITH PREJUDICE, I would pretty much be "incriminating"/prejudicing myself as the Claims I asserted in my Amended Complaint would be dismissed for lack of evidence (*"if you have proof of your claim, now is the time to submit it"* - Local Civil Rules 56.2 and 12).

Why it is Prejudicial and More Overly Burdensome for me to "revise and resubmit [my] papers in opposition to Defendants' motion for summary judgment by August 25, 2017" than it is for the Defendants to Read and Reply to my Opposition/Response to the Defendants' Motion for Summary Judgment

First off, the only reason for the Defendants filing this Motion for my Opposition/Response to their Motion for Summary Judgment to be stricken from the Court's docket is because my said Opposition/Response has made it as CLEAR AS DAY that my civil and constitutional rights were violated by JPMorgan Chase & Co., et al and I have provided an OVERWHELMING amount of EVIDENCE to prove that.

In any event, with regards to Judge Alison J. Nathan's Order being prejudicial and more overly burdensome for me than it is for the Defendants to read and reply, because I have a full-time job, I had to burn the midnight oil, pull all nighters and work throughout the weekends to complete my Opposition/Response to the Defendants' Motion for Summary Judgment and their Supporting Documents. In addition, I had to take days off from work without pay to complete my said

Opposition/Response to the Defendants' Motion for Summary Judgment. I also had to pay Notary fees, purchase a lot of ink and paper for my printer and pay for priority postage to get my filings with the Court done on time.

I would also use this opportunity to let the Court know (does this even matter? I am drained, weary and tired. My experience with this Court is just as bad and even worst than what I went through being racially discriminated and retaliated against while working at JPMorgan Chase) that pursuant to my email dated August 8, 2017 - page 2 (see attached), to date I have not received a paper copy of the Defendants' August 1, 2017 Letter Motion. And, pursuant to "*Filing of Papers # 3*" for the Court's "*Special Rules of Practice in Civil Pro Se Cases*": "*Counsel in pro se cases shall serve a pro se party with a paper copy of any document that is filed electronically and file with the Court a separate Affidavit of Service. Submissions filed without proof of service that the pro se party was served with a paper copy will not be considered.*"

II. CONCLUSION

In light of the foregoing, I respectfully ask that Judge Alison J. Nathan reconsider her August 11, 2017 Order as I am extremely confused and baffled as to what exactly I am to remove from my Opposition/Response to the Defendants' Motion for Summary Judgment as I was very cognizant to make ALL of what I presented be pertinent to my Opposition to the Defendants' Motion for Summary Judgment to dismiss my lawsuit WITH PREJUDICE.

This Order by Judge Alison Nathan has caused me severe mental, emotional and physical stress as I think that it is not only grossly prejudicial to my lawsuit against Defendants JPMorgan Chase & Co., et al but it is humanely and financially burdensome⁴ and most of all, not in Compliance with Judge Nathan's own Individual Practices which states in BOLD at the top of her

⁴ Because I have a full-time job, I had to burn the midnight oil, pull all nighters and work throughout the weekends to complete my Opposition/Response to the Defendants' Motion for Summary Judgment. In addition, I had to take days off from work **without pay** to complete my said Opposition/Response to the Defendants' Motion for Summary Judgment. I also had to pay Notary fees, purchase a lot of ink and paper for my printer and pay for priority postage to get my filings with the Court done on time.

said Individual Practices page that *“Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters EXCEPT FOR CIVIL PRO SE CASES (see Rules for Pro Se Cases)”* and I am a Pro Se Plaintiff.

With all due respect, this Order by Judge Nathan is also tantamount to me being denied my Fifth Amendment Right whereby if I am denied the opportunity to present all the material that is pertinent in opposing the Defendants’ Motion for Summary Judgment to dismiss my case WITH PREJUDICE, I will pretty much be “incriminating”/prejudicing myself as the Claims I asserted in my Amended Complaint would be dismissed for lack of evidence.

Again, I respectfully ask that the Court reconsiders this Order as it will be grossly prejudicial to my lawsuit.

DATED: August 12, 2017

CANDICE LUE

Candice S.M. Lue

Signature

Address

City, State, Zip Code

INDIVIDUAL PRACTICES IN CIVIL CASES
ALISON J. NATHAN, United States District Judge

Chambers

United States District Court
Southern District of New York
40 Foley Square, Room 2102
New York, NY 10007

Courtroom

Quadri Scott, Courtroom Deputy
Courtroom 906
40 Foley Square
(212) 805-0142

* **Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters except for civil *pro se* cases (see Rules for *Pro Se* Cases).*** In cases designated to be part of one of the Court's pilot programs or plans (e.g. the Section 1983 Plan or Initial Discovery Protocols for Employment Cases Alleging Adverse Action), those procedures shall govern to the extent that they are inconsistent with these Individual Practices.

1. Communications with Chambers

- A. Letters.** Except as otherwise provided below, communications with the Court shall be by letter filed on ECF. Letters may not exceed three pages in length (exclusive of exhibits or attachments). Letters solely between parties or their counsel or otherwise not addressed to the Court may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document). Unless otherwise noted, parties should not submit courtesy copies of letters filed on ECF.
- B. Letters Containing Sensitive or Confidential Information.** Letters that include requests to be filed under seal or that include sensitive or confidential information shall be emailed to the Court (NathanNYSDChambers@nysd.uscourts.gov) as .pdf attachments. Refer to Rule 4 for further instruction regarding requests for redactions and filing under seal.
- C. Letter-Motions.** Letter-motions may be filed via ECF if they comply with the S.D.N.Y. Local Rules and the S.D.N.Y. "Electronic Case Filing Rules and Instructions" (the "ECF Rules"). All requests for adjournments, extensions, and pre-motion conferences (including pre-motion conferences with respect to discovery disputes) shall be filed as letter-motions.
- D. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions, or submitted pursuant to Rule 1.B, if appropriate. Such requests must state: (i) the original date(s); (ii) the number of previous requests for adjournment or extension; (iii) whether these previous requests were granted or denied; and (iv) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent. If the parties are requesting adjournment of a conference, they must also provide three mutually agreeable alternate conference dates. If the parties are

INDIVIDUAL PRACTICES IN CIVIL CASES
ALISON J. NATHAN, United States District Judge

Chambers

United States District Court
Southern District of New York
40 Foley Square, Room 2102
New York, NY 10007

Courtroom

Sayra Nuñez, Courtroom Deputy
Courtroom 906
40 Foley Square
(212) 805-4505

* Unless otherwise ordered by Judge Nathan, these Individual Practices apply to all civil matters except for civil *pro se* cases (see Rules for *Pro Se* Cases). * In cases designated to be part of one of the Court's pilot programs or plans (e.g. the Section 1983 Plan, the Case Management Plan for Complex Civil Cases, or Initial Discovery Protocols for Employment Cases Alleging Adverse Action), those procedures shall govern to the extent that they are inconsistent with these Individual Practices.

1. Communications with Chambers

- A. Letters.** Except as otherwise provided below, communications with the Court shall be by letter. Unless there is a request to file a letter under seal or a letter contains sensitive or confidential information, all letters shall be filed electronically on ECF. Letters may not exceed three pages in length (exclusive of exhibits or attachments). Letters solely between parties or their counsel or otherwise not addressed to the Court may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document). Unless otherwise noted, parties should not submit courtesy copies of letters filed on ECF.
- B. Letters Containing Sensitive or Confidential Information.** Letters to be filed under seal or containing sensitive or confidential information shall be emailed to the Court (NathanNYSDChambers@nysd.uscourts.gov) as .pdf attachments. Refer to Rule 4.A for further instruction regarding requests for redactions and filing under seal.
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SPECIAL RULES OF PRACTICE IN CIVIL PRO SE CASES
ALISON J. NATHAN, UNITED STATES DISTRICT JUDGE

Pro Se Office

United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007
(212) 805-0175

COMMUNICATIONS

1. All communications with the Court by a *pro se* party should be mailed to the Pro Se Office, and must include an Affidavit of Service or other statement affirming that the *pro se* party sent copies to all other parties or to their counsel if they are represented. No document or filing should be sent directly to Chambers.

FILING OF PAPERS

2. All papers to be filed with the Court by a *pro se* party, along with any courtesy copies of those papers, should be sent to the Pro Se Office, Room 230, United States Courthouse, 500 Pearl Street, New York, New York 10007. All papers must be accompanied by a proof of service affirming that the *pro se* party sent copies to all other parties or to their counsel if they are represented.
- * 3. Counsel in *pro se* cases shall serve a *pro se* party with a paper copy of any document that is filed electronically and file with the Court a separate Affidavit of Service. Submissions filed without proof of service that the *pro se* party was served with a paper copy will not be considered. *
4. Counsel in *pro se* cases designated to the ECF system may waive paper service upon themselves and rely on service through the ECF system by electronically filing a Notice of Waiver of Paper Service and delivering a paper copy of such Notice to the *pro se* party (the form is available on the Court's Forms page on the website or at the Pro Se Office). Where such waiver is filed, the *pro se* party will no longer be required to (i) serve paper documents on the counsel who filed the waiver or (ii) file proof of service of such document. Counsel in *pro se* cases designated to the ECF system are strongly encouraged to file a Waiver of Paper Service.

DISCOVERY

5. All requests for discovery should be sent to counsel for the party. Discovery requests should not be sent to the Court.

MOTIONS

6. **Filing and Service:** Unless otherwise ordered by the Court, papers filed in opposition to a motion must be served and filed within four weeks of the service of the motion papers, and reply papers, if any, must be served and filed within two weeks of receipt of opposition papers.
7. All motion papers should include one courtesy copy for the Court. All courtesy copies shall be clearly marked as such.
8. **Pro Se Notices.** Parties who file a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment must provide the *pro se* party with a copy of the notices required under Local Civil Rules 12.1 or 56.2
9. **Oral Argument:** Unless otherwise ordered by the Court, argument will not be heard in *pro se* matters.

INITIAL CASE MANAGEMENT CONFERENCE

10. The Court will generally schedule an initial case management conference within two months of the filing of the Complaint. Incarcerated parties may not be able to attend this or other conferences. If incarcerated parties do not have counsel, arrangements will be made for them to appear by telephone.

TRIAL DOCUMENTS

11. Within 30 days of the completion of discovery unless otherwise ordered by the Court, a *pro se* party shall file a concise, written Pretrial Statement. This Statement need take no particular form, but it must contain the following: (1) a statement of the facts the *pro se* party intends to prove at trial; (2) a list of all documents or other physical objects that the party plans to put into evidence at trial; and (3) a list of the names and addresses of all witnesses that the party intends to have testify at trial. The Statement must be sworn by the *pro se* party to be true and accurate based on the facts known by the party. The *pro se* party shall file an original of this Statement with the Pro Se Office and serve a copy on all other parties or their counsel if they are represented. The original Statement must include a certificate stating the date a copy was mailed to the other parties or their attorneys. Two weeks after service of *pro se* party's Statement, the other parties must file and serve a similar Statement of their case containing the same information.
12. Within 30 days of the completion of discovery, if the case is to be tried before only a Judge without a jury, any parties represented by counsel must submit proposed findings of fact and conclusions of law. If the case will be tried before a jury, any parties represented by counsel must submit a proposed jury charge. The *pro se* party may also file either proposed findings of fact and conclusions of law or a proposed jury charge within 30 days of the close of discovery, but is not required to do so.

Local Civil Rule 56.2. Notice to Pro Se Litigant Who Opposes a Summary Judgment

Any represented party moving for summary judgment against a party proceeding *pro se* shall serve and file as a separate document, together with the papers in support of the motion, the following “Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment” with the full texts of Fed. R. Civ. P. 56 and Local Civil Rule 56.1 attached. Where the pro se party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment

The defendant in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the Court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME by filing sworn affidavits and/or other documents as required by Rule 56(c) of the Federal Rules of Civil Procedure and by Local Civil Rule 56.1. The full text of Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1 is attached.

In short, Rule 56 provides that you may NOT oppose summary judgment simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. ✱ If you have proof of your claim, now is the time to submit it. ✱ Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant’s motion for summary judgment.

If you do not respond to the motion for summary judgment on time with affidavits and/or documents contradicting the material facts asserted by the defendant, the Court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

COMMITTEE NOTE

Local Civil Rule 56.2 plays a valuable role in alerting pro se litigants to the potentially serious consequences of a motion for summary judgment, and to the requirements for opposing such a motion. The Committee recommends certain changes in the text of the notice required by the rule in order to make it more understandable to non-lawyers.

Local Civil Rule 58.1. Remand by an Appellate Court

Any mandate, order, or judgment of an appellate court, when filed in the office of the Clerk of the District Court, shall automatically become the order or judgment of the District Court and be entered as such by the Clerk without further order, except if such mandate, order, or judgment of the appellate court requires further proceedings in the District Court other than a new trial, an order shall be entered making the order or judgment of the appellate court the order or judgment of the District Court.

COMMITTEE NOTE

The Committee recommends that the word "mandate" be added to Local Civil Rule 58.1 in order to clarify that the mandate of the Court of Appeals, when filed in the Clerk's Office of the District Court as provided in Local Civil Rule 58.1, automatically becomes the judgment of the District Court. The mandate, which consists of "a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs," Fed. R. App. P. 41(a), is the normal means by which the judgment of the Court of Appeals is transmitted to the District Court.

Local Civil Rule 65.1.1. Sureties

(a) Whenever a bond, undertaking or stipulation is required, it shall be sufficient, except as otherwise prescribed by law, if the instrument is executed by the surety or sureties only.

spaced.

COMMITTEE NOTE

The provisions of Local Civil Rule 11.1 deal with topics that are not covered in Fed. R. Civ. P. 11. Recommended Local Civil Rule 11.1(b), which is based upon similar provisions in other local rules, is intended to set simple and easily followed minimum standards for legibility of documents filed with the Court.

Local Civil Rule 12.1. Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding pro se, who refers in support of the motion to matters outside the pleadings as described in Fed. R. Civ. P. 12(b) or 12(c), shall serve and file the following notice with the full text of Fed. R. Civ. P. 56 attached at the time the motion is served. If the Court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment pursuant to Fed. R. Civ. P. 56, and the movant has not previously served and filed the notice required by this rule, the movant shall amend the form notice to reflect that fact and shall serve and file the amended notice within fourteen days of the Court's ruling.

Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings

The defendant in this case has moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the Court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME by filing sworn affidavits as required by Rule 56(c) and/or other documents. The full text of Rule 56 of the Federal Rules of Civil Procedure

is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. *If you have proof of your claim, now is the time to submit it.* Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits and/or documents contradicting the facts asserted by the defendant, the Court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

COMMITTEE NOTE

Local Civil Rule 12.1 plays a valuable role in alerting pro se litigants to the potentially serious consequences of a motion to dismiss based upon evidence outside the pleadings, and to the requirements for controverting such evidence. The Committee recommends certain changes in the text of the notice required by the rule in order to make it more understandable to non-lawyers.

Local Civil Rule 16.1. Exemptions from Mandatory Scheduling Order

Matters involving habeas corpus petitions, social security disability cases, motions to vacate sentences, forfeitures, and reviews from administrative agencies are exempted from the mandatory scheduling order required by Fed. R. Civ. P. 16(b).

COMMITTEE NOTE

Subj: **Re: Extension for Reply and August 1, 2017 Letter Motion**
Date: 8/8/2017 8:26:29 P.M. Eastern Daylight Time
From: CandiceLue [REDACTED]
To: AKaplan@seyfarth.com
CC: RWhitman@seyfarth.com

Mr. Kaplan:

And I'm supposed to believe that after your Summary Judgment filing? Please provide true and correct copies of the said Letter Motions pursuant to THE LAW via MAIL (USPS, UPS, FedEx, etc.).

Also, please be advised that I have USPS confirmations for every document I've served you. Therefore, you wouldn't have to just take my word for it.

Respectfully,

Candice Lue

In a message dated 8/8/2017 7:30:53 P.M. Eastern Daylight Time, AKaplan@seyfarth.com writes:

I've confirmed both letters were properly served via first class mail. If you want another copy, I'd be happy to email or fax you.

Anshel Joel "AJ" Kaplan | Associate | Seyfarth Shaw LLP
620 Eighth Avenue | New York, New York 10018-1405
Direct: +1-212-218-5271 | Fax: +1-917-344-1231
akaplan@seyfarth.com | www.seyfarth.com

SEYFARTH
SHAW

The information contained in this transmission is attorney privileged and/or confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited.

From: CandiceLue [REDACTED] [mailto:CandiceLue [REDACTED]]
Sent: Tuesday, August 08, 2017 6:07 PM
To: Kaplan, AJ <AKaplan@seyfarth.com>
Cc: Whitman, Robert S. <RWhitman@seyfarth.com>
Subject: Re: Extension for Reply and August 1, 2017 Letter Motion

[REDACTED]

Dear Mr. Kaplan:

Please be advised that to date and time I have not received in the mail a copy of the Letter Motion you filed with the Court on August 1, 2017 and which is referenced in this email trail. With that said, I am respectfully demanding pursuant to THE LAW that you properly serve me with a copy of the said Letter Motion.

I would also like to add that despite your "assurance", to date I have also not received in the mail a copy of the Letter Motion you filed with the Court on March 7, 2017 and which is referenced in email correspondence dated March 15, 2017.

Respectfully,

Candice Lue