

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): Court of Appeals Docket # Pending (Civil Action No.: 16 CV 3207 (AJN) (GWG)

Caption [use short title]

Motion for: Emergency Motion for Stay Pending Petition for a Writ of Mandamus and for a temporary administrative stay to permit full consideration of the Stay Motion and Petition.

Set forth below precise, complete statement of relief sought:

I, Pro Se Petitioner, Candice Lue hereby respectfully request on an emergency basis a stay pending Petition for a Writ of Mandamus and a temporary administrative stay to permit full consideration of the Stay Motion and Petition. I seek relief from a August 11 and a August 21, 2017 Order by Judge Alison J. Nathan prejudicially striking ALL of my July 31, 2017 submissions in Opposition/Response to the NINE (9) Defendants' Motion for Summary Judgment in the civil action # 16 CV 3207.

CANDICE LUE vs. JPMORGAN CHASE & CO., et al

MOVING PARTY: Candice Lue

OPPOSING PARTY: JPMorgan Chase & Co., et al

☒ Plaintiff

☐ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

MOVING ATTORNEY: Pro Se Plaintiff/Petitioner

OPPOSING ATTORNEY: Robert S. Whitman and Anshel Joel Kaplan

[name of attorney, with firm, address, phone number and e-mail]

Seyfarth Shaw LLP

620 Eighth Avenue, New York, New York 10018

(212) 218-5629 - Robert Whitman (212) 218-5271 - Anshel Kaplan

Court- Judge/ Agency appealed from: Judge Alison J. Nathan / United States District Court For the Southern District of New York, County of New York

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes

☐ No (explain):

Opposing counsel's position on motion:

☐ Unopposed

☐ Opposed

☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes

☐ No

☒ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below?

☒ Yes

☐ No

Has this relief been previously sought in this court?

☐ Yes

☒ No

Requested return date and explanation of emergency:

September 8, 2017

Judge Alison J. Nathan has prejudicially stricken ALL of my July 31, 2017 submissions in Opposition/Response to the NINE (9) Defendants' Motion for Summary Judgment and has ordered that I redo and resubmit by 9-8-2017 with the same page limit for NINE (9) Defendants as there is for one (1) Defendant denying me the right to be able to present all my pertinent material to oppose/respond.

Is oral argument on motion requested?

☐ Yes

☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes

☒ No If yes, enter date:

Signature of Moving Attorney:

Candice S.M. Lue

Date: September 1, 2017

Service by: ☐ CM/ECF

☒ Other [Attach proof of service]

CASE NO:

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

IN RE: CANDICE LUE

CANDICE LUE, Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK,
Respondent.

From the United States District Court
For the Southern District of New York,
County of New York
Judge Alison J. Nathan, Presiding
Civil Action No.: 16 CV 3207 (AJN) (GWG)

EMERGENCY MOTION FOR STAY PENDING PETITION FOR A WRIT
OF MANDAMUS AND FOR A TEMPORARY ADMINISTRATIVE STAY
PENDING FULL CONSIDERATION OF THIS MOTION

Pursuant to 28 U.S.C. §1651 and Rules 21 and 27 of the Federal Rules of Appellate Procedure, I, Pro Se Petitioner, Candice Lue, respectfully request an emergency stay pending the outcome of the Petition for Issuance of a Writ of Mandamus I have contemporaneously filed. The Petition seeks a review of District Court Judge, Judge Alison J. Nathan's biased and grossly prejudicial Orders of August 11 and August 21, 2017 (Exhibit 4 attached) whereby she granted the Defendants, JPMorgan Chase & Co., et al attorney's August 1, 2017 Letter Motion (Docket # 113) to STRIKE my submissions in Opposition/Response to the NINE Defendants' Motion for Summary Judgment to dismiss my lawsuit WITH PREJUDICE (I respectfully refer the Court to Docket #s 106-112, 114-118 in the above-referenced civil action – Exhibit 4 attached) because the said alleged perpetrators/tortfeasors' attorney claims that my said Opposition/Response is "overly burdensome" for the NINE (9) Defendants to read and to reply to. Then, on August 21, 2017 in Response to my requests (Exhibits 1 and 2) that the Court reconsiders this August 11, 2017 Order, Judge Alison J. Nathan denied these reconsideration requests and ruled that I "*submit opposition to Defendants' Motion for Summary Judgment in accordance with the Court's [Judge Alison J. Nathan's] Individual Practices in Civil Cases by September 8, 2017 or the Court will consider the motion unopposed and fully submitted*" – Bearing in mind that Civil Pro Se Cases are exempt from Judge Alison J. Nathan's Individual Practices as per

Exhibit 5 attached - *“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. What is more troubling as it relates to the integrity of the Judicial system is that Judge Alison J. Nathan updated her “Special Rules of Practice in **Civil Pro Se Cases**” on August 10, 2017¹, TEN (10) DAYS AFTER I submitted my Opposition/Response to the Defendants’ Motion for Summary Judgment and one day before her August 11, 2017 ruling so that she could prejudicially rule against me and in favor of the multi-billion dollar Defendants, JPMorgan Chase & Co., et al.

Further, it is not reasonable to have the same page limit for NINE (9) Defendants as there is for one (1) Defendant because such limit denies me the right to be able to present all my pertinent material to oppose/respond to the NINE (9) Defendants’ Motion for Summary Judgment to dismiss my lawsuit with prejudice.

PARTIES

1. I, CANDICE LUE, Petitioner, am the pro se Plaintiff in the above-referenced employment racial discrimination and retaliation civil action and as such, is a proper party to bring this action.

¹ Judge Nathan’s “Special Rules of Practice in Civil Pro Se Cases” claims that it was updated with the new page limit for Pro Se cases on August 10, 2017. However, I went on the said Individual Practices - “Special Rules of Practice in Civil Pro Se Cases” on August 12, 2017 and it was NOT updated as such. I submitted my Opposition/Response to the Defendants’ Motion for Summary Judgment by JULY 31, 2017.

2. JUDGE ALISON J. NATHAN, Respondent, is a District Judge of the United States District Court for the Southern District of New York, County of New York and the District Judge presiding over the above-referenced civil action.
3. Judge Gabriel W. Gorenstein, is a Magistrate Judge of the United States District Court for the Southern District of New York, County of New York and the Magistrate Judge presiding over the above-referenced civil action.
4. Robert S. Whitman - Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018 – Tel: (212) 218-5629 (Attorney for the Defendants in the above referenced civil action).
5. Anshel Joel Kaplan - Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018 – Tel: (212) 218-5271 (Attorney for the Defendants in the above referenced civil action).

FACTS

1. As reflected on the docket of the above-referenced civil action as Docket # 20 and # 23, as of June 28, 2016 and July 11, 2016, respectively, I had previously filed a “Motion for the Recusal of Judge Alison J. Nathan Due to Incompetence and Bias” dated June 24, 2016 and an “Affidavit in Support of Motion for Recusal of Judge Alison J. Nathan” dated July 5, 2016. However, Judge Nathan denied this motion in her September 15, 2016 Order (Docket # 43 on

the above-referenced civil action). In response to Judge Nathan's said September 15, 2016 Order, I requested a reconsideration of her denial of my request for her recusal (Docket # 47 on the above-referenced civil action) and on November 2, 2016, she also denied that request (Docket # 52 on the above-referenced civil action). Having been unsuccessful with getting Judge Nathan to recuse herself from the above referenced civil action due to Bias and Incompetence, on November 16, 2016, I filed in this Court, the Second Circuit Court (Docket # 16 – 3873), a Petition for the Issuance of a Writ of Mandamus to compel Judge Alison J. Nathan to recuse herself or be disqualified as presiding judge pursuant to 28 U.S.C. §144 and/or 28 U.S.C. § 455(a). This Petition for the Issuance of a Writ of Mandamus for Judge Alison J. Nathan's recusal was denied by this Court "*because Petitioner has not demonstrated that she lacks an adequate, alternative means of obtaining relief*" and now as articulated in this Petition, Judge Alison J. Nathan, who has been nothing but biased against me in this lawsuit, is denying me my Fifth and Fourteenth Amendment Rights to Procedural Due Process.

2. The filings in Opposition/Response to the Defendants, JPMorgan Chase & Co., et al's Motion for Summary Judgment to dismiss my lawsuit with prejudice that I submitted to the Court by July 31, 2017, which Judge Alison J. Nathan has since prejudicially stricken from the Court's docket for a reason that does not "pass the smell test" (Docket # 120) and which included eight (8)

Affidavits in Opposition/Response to the Defendants' eight (8) Declarations along with almost 500 pages of Evidence in the form of Exhibits, contain solid proof that the said Defendants LIED under Penalty of Perjury – A CRIME and that my Claims of Employment Racial Discrimination and Retaliation against the Defendants are valid.

3. Judge Alison J. Nathan's prejudice is most evident in the fact that TEN (10) DAYS AFTER I submitted my aforesaid Opposition/Responses to the Defendants' Motion for Summary Judgment, she updated her "Special Rules of Practice in Civil Pro Se Cases" as it relates to "page limits" so that she could grant the "favored" multi-billion dollar Defendants, JPMorgan Chase & Co., et al's August 1, 2017 Letter Motion which resulted in her prejudicially striking ALL my July 31, 2017 filings in Opposition/Response to the said Defendants' Motion for Summary Judgment and my almost 500 pages of Evidence in the form of Exhibits from the Court's docket (I respectfully refer the Court to Exhibit 3 and Exhibit 5 - docket #s 106-112 and 114-118 attached).

3. My lawsuit has TEN Causes of Action and NINE Defendants, all of which have filed a Motion for Summary Judgment to dismiss my lawsuit with prejudice. With that said, Judge Nathan limiting my page submission to the same page limit as that of one (1) Defendant with significantly less causes of action, pursuant to her Orders of August 11 and August 21, 2017 (Docket #s 120 and 125,

respectively) would be denying me my Right pursuant to the Fifth and Fourteenth Amendments to present ALL my evidence to support my Claims in the above-referenced civil action (I respectfully refer the Court to Exhibit 3). Case in point, the "Summary of Arguments" I provided for each of the nine (9) Defendants in my Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment and which are pertinent to my said Opposition add up to about 31 pages representing on average three and a third pages per Defendant which formed a part of my 198 page Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment. When I had to respond to the Defendants' statement in their Memorandum of Law in Support of their Motion for Summary Judgment requesting that the Court dismiss my Aiding and Abetting Claim against three (3) of the nine (9) Defendants, I had to provide Opposition/Response for each of those three individual Defendants which also formed a part of my 198 page Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment, so again, it is not reasonable to have the same page limit for nine (9) Defendants as there is for one (1) Defendant because such limit denies me the right to be able to present all my pertinent material to oppose/respond to the NINE (9) Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice.

It was JPMorgan Chase & Co.'s decision to provide legal representation through the same (one) attorney for all of the NINE (9) Defendants, JPMorgan

Chase & Co., et al. So, just as if each of those said Defendants had a different attorney it would mean that I would have to file an Opposition/Response to each of the NINE (9) Defendants attorneys' Memorandum of Law in Support of their Summary Judgment, with a "25 pages limit" in force, then the fair page limit for all NINE (9) Defendants would be 9 (# of attorneys filing a Memorandum of Law in Support of their Summary Judgment) x 25 (page limit for each of my Opposition/Response) = 225 pages and the Memorandum of Law in Opposition to the Defendants' Motion for Summary Judgment for the said NINE (9) Defendants that I filed on JULY 31, 2017 and that Judge Nathan has since stricken from the Court's Docket as being "*overly burdensome*" for the said NINE (9) Defendants to read and reply to, compared to 225, is only 198 pages - Bearing in mind that prior to my JULY 31, 2017 submission of my Opposition/Responses to the NINE (9) Defendants' Motion for Summary Judgment, this page limit for Pro Se Cases was NOT in force. So, how could it be fair for all the work that I had done and all the expenses I had incurred (Exhibits 1, 2 and 3) to respond to the NINE (9) Defendants' Motion for Summary Judgment to Dismiss my case with prejudice be stricken from the Court's docket for a rule that was NOT in force? No Court case is decided on a "future rule of law". The "rule of law" would have to be in effect for a Court case to be decided based on it.

Additionally, what is clearly stated in Local Civil Rules 56.2 and 12.1 as it relates to evidence 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 since prejudicially ordered be “STRICKEN” from the Court’s Docket.

Further, Rule 12(d) of Federal Rules of Civil Procedure further states that: *“....All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion”*.

4. Judge Alison J. Nathan’s “Special Rules of Practice in Civil Pro Se Cases - Filing of Papers # 3” states that: *“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**”*, yet, to date, I have not received a paper copy of the Defendants’ August 1, 2017 Letter Motion (see Exhibit 1 attached) and it was only on August 15, 2017 (TWO WEEKS AFTER the Defendants filed the said Letter Motion with the Court), due to my report of inadequate service of the said Letter Motion in my August 12, 2017 Response to Judge Nathan’s August 11, 2017 Order (Exhibit 1 attached), that the

Defendants' attorney, Anshel Kaplan filed a Certificate of Service claiming that he served the said Letter Motion by mail on August 1, 2017 (Docket # 122) – Meaning that on August 11, 2017 when Judge Nathan granted the said Defendants' attorney's August 1, 2017 Letter Motion, the Letter Motion was not in compliance with Judge Alison J. Nathan's "Special Rules of Practice in Civil Pro Se Cases - Filing of Papers # 3".

To date, September 1, 2017, I have still not received a paper copy of this Letter Motion from the Defendants' attorney. After informing the said attorney on August 4, 2017 via an email correspondence I was having with him that I had not received a copy of the Letter Motion he filed with the Court, he copied and pasted what is assumed to be a copy of the said Letter Motion in the body of his email response (I respectfully refer the Court to Exhibit 6 to see the full email trail).

5. The Fifth and Fourteenth Amendments DUE PROCESS CLAUSE states that no one shall be "*deprived of life, liberty or property without due process of law*". One of the four protections that this Due Process Clause provides is Procedural Due Process in Civil proceedings.

5a. As it relates to Procedural Due Process, GetLegal.com states: "*Procedural due process is based on the concept of fundamental fairness. It means that a [Party] must be notified of the charges or proceedings.... and have an adequate opportunity to respond.... Additionally, throughout [litigation], the*

judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings."

5b. I have only been able to respond to Judge Alison J. Nathan's Orders of August 11 and August 21, 2017 because of the results of a Google search at (https://www.pacermonitor.com/public/case/11334510/Lue_v_JPMorgan_Chase__Co_et_al#) as to date, September 1, 2017, I have not received a copy of Judge Alison J. Nathan's August 11, 2017 Order (I respectfully refer the Court to the caption of Exhibit 3), I have not received a copy of Judge Alison J. Nathan's Order of August 21, 2017 and as for my Response to Judge Alison J. Nathan's Order of August 21, 2017 (Exhibit 3/Docket # 126), pursuant to my Fifth and Fourteenth Amendment Rights as it relates to Procedural Due Process - "*the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", I have not received a Response from the Court for the clarity I seek for Judge Alison J. Nathan's said Orders.

6. As is further articulated in "Issues" below, Judge Alison J. Nathan has not only denied me my Right pursuant to the Fifth and Fourteenth Amendments to receive proper notification throughout the litigation and so far my Right to understand every phase of the proceedings but Judge Nathan's Orders of August 11 and August 21, 2017 are also denying me my Right to present all the material that is pertinent in opposing the NINE (9) Defendants' Motion for Summary

Judgment to dismiss my case WITH PREJUDICE which will pretty much result in me “incriminating”/prejudicing myself as the Claims I asserted in my Amended Complaint would be dismissed for lack of evidence which in and of itself is an infringement of my Fifth Amendment Right.

6a. As it relates to “Procedural Due Process”, the Legal Information Institute – Cornell Law School states: *“The procedural due process aims to ensure fundamental fairness by guaranteeing a party the right to be heard, ensuring that the parties receive proper notification throughout the litigation.”*

6b. As it relates to “Civil Procedural Due Process”, Wikipedia further states that: *“As construed by the courts, it includes an individual’s right to be adequately notified of charges or proceedings, the opportunity to be heard at these proceedings, and that the person or panel making the final decision over the proceedings be impartial in regards to the matter before them. To put it more simply, where an individual is facing a deprivation of life, liberty, or property, procedural due process mandates that he or she is entitled to adequate notice, a hearing, and a neutral judge.”*

In light of the aforesaid, Judge Alison J. Nathan should not have granted the Defendants’ August 1, 2017 Letter Motion to strike my Opposition/Responses to their Motion for Summary Judgment because it is “*overly burdensome*” for them to read and to reply to without the said Defendants providing to the Court excerpts

from my said Opposition/Responses which can be deemed NOT PERTINENT to my Opposition/Response to the Defendants' said Motion for Summary Judgment to dismiss my lawsuit with prejudice.

ISSUES

As articulated in "Facts" above, in violation of my Fifth and Fourteenth Amendment Right to Procedural Due Process, Judge Alison J. Nathan has prejudicially stricken ALL of my Opposition/Responses to the Defendants', JPMorgan Chase & Co., et al Motion for Summary Judgment and my almost 500 pages of Evidence to back up my Claims ruling that my said Opposition/Responses are "*overly burdensome*" for the said Defendants to read and to reply to. Then, in her August 11, 2017 Order, Judge Alison J. Nathan prejudicially and inhumanely ordered that I redo and resubmit, initially, in approximately **10 days**, by August 25, 2017, my said hundreds of pages of Opposition/Responses to the Defendants' Motion for Summary Judgment in accordance with her "Special Rules of Practice in Civil Pro Se Cases" in which she implemented a 25/50 or less page limit for Memorandum of Law/Rule 56.1 statements on AUGUST 10, 2017 (10 DAYS AFTER I filed my Opposition/Responses). However, after my Addendum to my August 12, 2017 Response to her said August 11, 2017 Order (Exhibit 2) in which I embarrassingly detailed how inhumanely and financially burdensome it would be

for me to redo and resubmit my said Opposition/Responses to the NINE Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice, which, with having a full-time job, had taken me two and a half months to complete, she reset the deadline to September 8, 2017 in her August 21, 2017 Order – Bearing in mind that to date, September 1, 2017, I have not received either of Judge Alison J. Nathan's Orders of August 11 and August 21, 2017 in the mail from the Court and I only became aware of them and was able to respond to them solely based on their captions² only as shown via a Google search at (https://www.pacermonitor.com/public/case/11334510/Lue_v_JPMorgan_Chase__Co_et_al#).

As my Addendum to my Response to Judge Alison J. Nathan's August 11, 2017 Order (Exhibit 2 attached) shows and as articulated in the Seventh Cause of Action of my Amended Complaint, I have developed severe ailments caused from the mental, emotional and physical stress of being racially discriminated and retaliated against by JPMorgan Chase & Co., et al. After visits to different doctors and much personal research as to my ailments which started during my tenure at JPMorgan Chase (my medical records which the Defendants have permission to receive reflect this) due to the undue stress I went through being condescendingly, unapologetically and unrepentantly treated as a second class citizen/three-fifths of

² I do not have an ECF account, of which the Court is aware, to read the full content of the Orders.

a person/the help/house slave and being denied equal rights on the basis of my race to pursue the career I had worked so hard to pursue at the said company as is explicitly outlined and evidenced in my Opposition/Responses to the Defendants' Motion for Summary Judgment which Judge Alison J. Nathan has since prejudicially STRICKEN from the Court's docket, I finally, by a twist of fate, found out on or around May 29, 2017 that I suffer from Somatisation/Somatoform and Psychosomatic Disorders (I respectfully refer the Court to Exhibit ZZ which is included as an attachment in Exhibit 2 attached).

With that said, as it relates to Judge Alison J. Nathan's Orders of August 11 and August 21, 2017 being inhumanely burdensome for me to execute, in anticipation of being served on or around May 9, 2017 with the Defendants' Motion for Summary Judgment, I became so overwhelmed with anxiety that I had to be out of work for two days **without pay** (I respectfully refer the Court to the attachments in Exhibit 2) due to weakness/numbness in my legs, tingling all over my body and pain in my abdomen due to my said Somatisation/Somatoform and Psychosomatic disorders. Then, having to suffer through the mental TORTURE of reading all the LIES contained in the said Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice, my ailments became so severe that I had to seek medical attention which included having to do an abdominal ultrasound which for the fourth time shows nothing abnormal (I respectfully refer

the Court to the attachments in Exhibit 2) that is why it is safe to say that my condition is due to Somatisation/Somatoform and Psychosomatic Disorders brought on by undue stress as shown in Exhibit ZZ which is included as an attachment in Exhibit 2 attached.

However, from the receipt of the Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice up to my filings in Opposition/Response to the said Motion for Summary Judgment by July 31, 2017, two and a half months later, I never once complained, even through the mental TORTURE of reading all the LIES contained in the said Motion, that the said Motion for Summary Judgment and its overwhelming amount of supporting documents which consisted of EIGHT (8) Declarations aka LIES under Penalty of Perjury were overly burdensome for me to oppose/respond to, because I fully understand that just as how it was the Defendants' attorneys choice to represent all NINE individual Defendants, it was totally my choice to make those said NINE individuals Defendants, Defendants in this lawsuit.

Because I have a full-time job, for two and a half months, 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 its supporting documents and again, never once did I complain that the said Motion for Summary Judgment and its overwhelming supporting documents which

consisted of EIGHT (8) Declarations aka LIES under Penalty of Perjury were overly burdensome for me to oppose/respond to.

As it relates to Judge Alison J. Nathan's Orders of August 11 and August 21, 2017 being financially burdensome for me to execute, the attachments in Exhibit 2 show the medical bills³ I incurred due to my Somatisation/Somatoform and Psychosomatic Disorders condition (I respectfully refer the Court to Exhibit ZZ which is included as an attachment in Exhibit 2 attached). In conjunction, I had to take off two sick days, May 8 and May 9, 2017 (I respectfully refer the Court to emails in Exhibit 2) **without pay**, causing me loss of income, for my said disorders caused from the trauma that still comes over me every time I am reminded of being racially discriminated and retaliated against by Defendants, JPMorgan Chase & Co., et al during my tenure at the said company. I also had to take two days off from work **without pay** to complete my said Opposition/Response to the Defendants' Motion for Summary Judgment (see emails dated July 25 and July 28, 2017, respectively in Exhibit 2).

The notary stamps on the last page of ten of the documents I submitted to the Court by July 31, 2017, the said documents which Judge Alison J. Nathan has prejudicially ordered "STRICKEN" from the Court's docket for being "*overly burdensome*" for the alleged perpetrators/tortfeasors to read and to reply to, were

³ I currently do not have health insurance so I have to be paying for these medical bills out of pocket.

not for free. I had to pay for each and every one of those notary stamps regardless of my loss of income due to the undue stress of having my civil and constitutional rights violated. The costs of all the printer ink I had to purchase to print three (3) copies of the hundreds of pages in Opposition/Response to the Defendants' Motion for Summary Judgment, which included almost 500 pages of Evidence in the form of Exhibits, for me, were astronomical. Then, to ensure that my filings were received in the Pro Se Intake Unit of the Southern District Court by July 31, 2017, even with my loss of income, I paid for priority postage.

The truth is, it is not that my Opposition/Response to the Defendants' Motion for Summary Judgment to dismiss my lawsuit is "*overly burdensome*" for the said Defendants to read and to reply to as I have subsequently outlined, it is because my said Opposition/Response has not only made it as CLEAR AS DAY that my civil and constitutional rights were violated by JPMorgan Chase & Co., et al but it has made it as clear as day that my Claims of Employment Racial Discrimination and Retaliation are valid and that the Defendants LIED under Penalty of Perjury which is A CRIME pursuant to 18 USC § 1621 and the sad thing is, these are the said LIES **under Penalty of Perjury** that the said Defendants are using in their quest to have my lawsuit dismissed with prejudice.

I was very cognizant to make ALL of the arguments and evidence I presented be pertinent to my Opposition/Response to the Defendants' Motion for

Summary Judgment to dismiss my lawsuit with prejudice. Case in point, my 198 page Memorandum of Law in Opposition/Response to the Defendants' Motion for Summary Judgment represent my arguments for all NINE (9) of the Defendants in this lawsuit for which, if each of those Defendants had separate attorneys, with a 25 page limit, the fair page limit for all NINE (9) Defendants would be $225 - 9$ (# of attorneys filing a Memorandum of Law in Support of their Summary Judgment) $\times 25$ (page limit for each of my Opposition/Response) = 225 pages - Bearing in mind that prior to my JULY 31, 2017 filing of my Opposition/Responses to the NINE (9) Defendants' Motion for Summary Judgment, this page limit for Pro Se Cases was NOT in force. And, the almost 500 pages of evidence I presented in the form of Exhibits are a mere fraction of the thousands of copies of emails I received from the Defendants' attorneys on March 21, 2017. If I am denied the opportunity to articulate clear explanations and provide evidence to back up those said explanations, my case will be dismissed for lack of substance and evidence, again denying me my Fifth and Fourteenth Amendment Right to Procedural due process which state clearly that no one shall be "*deprived of life, liberty or property without due process of law*".

With that said, Judge Alison J. Nathan should not have granted the Defendants' August 1, 2017 Letter Motion to strike my Opposition/Responses to their Motion for Summary Judgment because it is "*overly burdensome*" for them to

read and to reply to without the said Defendants providing to the Court excerpts from my said Opposition/Responses which can be deemed NOT PERTINENT to my Opposition/Response to the Defendants' said Motion for Summary Judgment to dismiss my lawsuit with prejudice.

Further, just as how Judge Alison J. Nathan can extend/reset the time to September 8, 2017 for me to redo and resubmit my hundreds of pages of Opposition/Responses to the Defendants' Motion for Summary Judgment which she ruled as "*overly burdensome*" for the Defendants to read and to reply to, instead of prejudicially updating her "Special Rules of Practice in Civil Pro Se Cases" TEN DAYS AFTER I submitted my Opposition/Response to the Defendants' Motion for Summary Judgment so that she could prejudicially rule against me and appease and rule in favor of the multi-billion dollar Defendants, JPMorgan Chase & Co., et al, Judge Alison J. Nathan could have extended the time to September 8, 2017 (one month and one week after the July 31, 2017 filing of my Opposition/Response) for the said Defendants to read and to reply to my Opposition/Responses to their Motion for Summary Judgment (I would not even care if Judge Nathan extended the said time to January 2018 for the said Defendants to read my Opposition/Responses to their LIES **under Penalty of Perjury** as slowly as they like).

To show how Judge Alison J. Nathan's August 11 and August 21, 2017 Orders are prejudicial and violate my Fifth and Fourteenth Amendment Right to Procedural Due Process, first off, Judge Alison J. Nathan's newly implemented, August 10, 2017, "page limit" update to her "Special Rules of Practice in Civil Pro Se Cases" only covers page limits for Memorandum of Law and Rule 56.1 statements as it relates to "opposition" with these limits being 25 and 50, respectively. With that said, there are no page limits for Affidavits and Exhibits. Further, Rule 56(c)(4) provides that a formal affidavit or a written unsworn declaration that complies with 28 U.S.C. § 1746 can be used to support or oppose a motion for summary judgment and pursuant to Federal Rules of Civil Procedure 56(c)(1)(A):

"(1) Supporting Factual Positions - A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(a) Citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials."

That is why I am flabbergasted as to why Judge Alison J. Nathan has stricken my eight (8) sworn Affidavits which were direct Opposition/Responses to the Defendants, eight (8) Declarations aka LIES under Penalty of Perjury and my

almost 500 pages of PERTINENT Evidence in the form of Exhibits from the Court's docket. Again, this action my Judge Alison J. Nathan is in violation of my Fifth and Fourteenth Amendment Right to Civil Procedural Due Process.

My Opposition/Responses consisted of eight (8) sworn Affidavits which again were direct responses to the eight (8) Declarations aka LIES under Penalty of Perjury that the Defendants filed in support of their Motion for Summary Judgment and in four of the cases had less pages than the Declarations filed by the Defendants. The breakdown of the Defendants eight (8) Declarations and my eight (8) sworn Affidavits in Opposition/Response to those said Declarations as it relates to number of pages are as follows:

- 1) "Declaration of Defendant Fidelia Shillingford": SEVENTY EIGHT (78) pages; 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; my Opposition/Response to that said "Declaration" consists of only TWENTY SEVEN (27) pages.
- 3) "Declaration of Defendant Helen Dubowy": THIRTY TWO (32) pages; my Opposition/Response to that said "Declaration" consists of only TWENTY TWO (22) pages.

- 4) "Declaration of Defendant Chris Liasis": THIRTY ONE (31) pages; my Opposition/Response to that said "Declaration" consists of only TWENTY TWO (22) pages.
- 5) Declaration of Defendant Alex Khavin/one of the main perpetrators: NINE (9) pages; my Opposition/Response to that said "Declaration" consists of TWENTY SEVEN (27) pages.
- 6) Declaration of Defendant John Vega/biased "investigator": TWO (2) pages; my Opposition/Response to that said "Declaration" consists of TWELVE (12) pages.
- 7) Declaration of Declarant Kimberly Dauber/Sad: FIVE (5) pages; my Opposition/Response to that said "Declaration" consists of NINE (9) pages.
- 8) Declaration of Declarant Baruch Horowitz/The Defendants' "star" witness: TWO (2) pages; my Opposition/Response to that said "Declaration" consists of TEN (10) pages.

In addition, my Affidavit in Response/Opposition to the Defendants' Statement of Undisputed Material Facts under Local Civil Rule 56.1 consists of eighty (80) pages that cover Response/Oppositions to all NINE (9) Defendants' Statement of "Undisputed" Material Facts. Judge Alison J. Nathan's AUGUST 10, 2017 implemented page limit for Pro Se cases as it relates to Rule 56.1 statements is

“50”. Just like in the case of Interrogatories, the “25 Interrogatories” limit is “25” per Party, not “25” for all Parties regardless of how many Parties there are.

Judge Alison J. Nathan has stricken from the Court’s docket ALL of my above SWORN Affidavits that I had to pay to get notarized and which provided solid proofs that my Claims of Employment Racial Discrimination and Retaliation are valid and that the Defendants **lied under Penalty of Perjury**.

As it relates to the Subpoena that was served for JPMorgan Chase & Co. to produce documents for Declarant Baruch Horowitz by August 14, 2017, to date I have not received such documents and because to date, September 1, 2017, I have also not received a copy of Judge Alison J. Nathan’s Orders of August 11 and August 21, 2017 and nothing about this Subpoena was noted in the caption I saw at https://www.pacermonitor.com/public/case/11334510/Lue_v_JPMorgan_Chase__Co_et_al#, I am not aware of what is or what should be the status of the said Subpoena as to whether or not Judge Alison J. Nathan also prejudicially granted the “favored” multi-billion dollar Defendants’ request to strike this Subpoena which again violates my Fifth and Fourteenth Amendment Right to Procedural Due Process.

REASONS FOR ISSUANCE OF WRIT

The reasons for issuance of a Writ of Mandamus include but are not limited to the following:

1. By prejudicially striking my July 31, 2017 filing of my Opposition/Response to the Defendants' Motion for Summary Judgment from the Court's docket and unfairly ordering that I redo and resubmit my said Opposition/Responses using the same page limit for one (1) Defendant for the NINE (9) Defendants in the above-referenced civil action, Judge Alison J. Nathan has essentially denied me my Fifth and Fourteenth Amendment Right to Procedural Due Process which clearly states that no one shall be "*deprived of life, liberty or property without due process of law*" as it relates to my Right to have an adequate opportunity to respond to the NINE (9) Defendants Motion for Summary Judgment by way of producing ALL the arguments and evidence pertinent to all NINE (9) Defendants in this lawsuit.

2. Judge Alison J. Nathan's bias, deep-seated favoritism and antagonism against me as is obvious in her August 11 and August 21, 2017 Orders, whereby, in order to prejudicially grant the multi-billion dollar Defendants, JPMorgan Chase & Co., et al attorney's August 1, 2017 Letter Motion (Docket # 113) to strike my Opposition/Responses to the NINE (9) Defendants' Motion for Summary Judgment to dismiss my lawsuit with prejudice, she updated her "Special Rules of Practice in **Civil Pro Se Cases**" on August 10, 2017⁴, TEN (10) DAYS AFTER I

⁴ Judge Nathan's "Special Rules of Practice in Civil Pro Se Cases" claims that it was updated with the new page limit for Pro Se cases on August 10, 2017. However, I went on the said Individual Practices - "Special Rules of Practice in Civil Pro Se Cases" on August 12, 2017 and

submitted my Opposition/Response to the Defendants' Motion for Summary Judgment to rule against me and to appease and rule in favor of the said multi-billion dollar Defendants. No Court case is decided on a "future rule of law". The "rule of law" would have to be in effect for a Court case to be decided based on it.

3. Judge Alison J. Nathan's Orders of August 11 and August 21, 2017 have caused me severe mental, emotional and physical stress as they are not only grossly prejudicial to my lawsuit against Defendants JPMorgan Chase & Co., et al but, as articulated above, they are inhumanely and financially burdensome.

4. Once again, I, Pro Se Petitioner, Candice Lue have to seek the intervention of the Second Circuit Court for an obvious biased and grossly prejudicial ruling ordered by Judge Alison J. Nathan, who I have twice previously requested that she recuse herself from presiding over the above-referenced civil action and I even went as far as to petition for the Issuance of a Writ of Mandamus (Docket # 16 – 3873) to have her recused from the said civil action due to her said blatant bias in addition to her incompetence.

It is not fair that I have to be consistently **paying** the Court to demand the right to Procedural Due Process which includes the right to an impartial judge when pursuant to the Fifth and Fourteenth Amendments, no one shall be "*deprived of life, liberty or property without due process of law*".

it was NOT updated as such. I submitted my Opposition/Response to the Defendants' Motion for Summary Judgment by JULY 31, 2017.

5. I have to seek the Court's intervention because pursuant to the Fifth and Fourteenth Amendments as they relate to Procedural Due Process: "*throughout litigation, the judge must protect the [Party's] due-process rights by ensuring the [Party] understands every phase of the proceedings*", to date, September 1, 2017, Judge Alison J. Nathan has not responded to my request via my Response to her August 21, 2017 Order (Docket # 126) for clarity of her August 11 and August 21, 2017 Orders whereby on August 10, 2017, TEN (10) DAYS AFTER I submitted my Opposition/Response to the Defendants' Motion for Summary Judgment, she prejudicially updated her "Special Rules of Practice in **Civil Pro Se Cases**" in order to grant the multi-billion dollar Defendants' August 1, 2017 Letter Motion then strike ALL of my filings in Opposition/Response to the said Defendants' Motion for Summary Judgment which not only made it AS CLEAR AS DAY that my civil and constitutional rights were violated by JPMorgan Chase & Co., et al but made it as clear as day that my Claims of Employment Racial Discrimination and Retaliation are valid and that the Defendants LIED under Penalty of Perjury which is A CRIME pursuant to 18 USC § 1621. Anyone of reasonable mind can see that these prejudicial actions were taken by Judge Alison J. Nathan to shelter the said favored multi-billion dollar Defendants and rule against me, the poor, Black Plaintiff.

6. As a Pro Se Plaintiff/Petitioner who had never studied law, having the added burden of demanding my Right, afforded me by the Fifth and Fourteenth Amendments, to justice/Procedural Due Process in a U.S. Court of Law has been taking a toll on me because it takes so much extra research of the Constitution to present to the Court basic knowledge of the law that any FAIR judge appointed to the Bench of a U.S. District Court should know. That is why I contend that Judge Alison J. Nathan is either very biased and/or severely incompetent.

RELIEF REQUESTED

WHEREFORE, I, Candice Lue, Petitioner, request that the United States Court of Appeals for the Second Circuit issue the following relief:

- (a) On an emergency basis, a stay of District Court Judge, Judge Alison J. Nathan's August 11 and August 21, 2017 Orders pending the outcome of my Petition for an Issuance for a Writ of Mandamus;
- (b) A temporary administrative stay of the said Orders until the Court rules on this Stay Motion;
- (c) A ruling on the requested Stay Motion or enter a temporary Administrative Stay before September 8, 2017, the date set by Judge Alison J. Nathan to unfairly rule against me by considering the Motion unopposed and fully submitted (I respectfully refer the Court to docket #

125 of the above-referenced Civil Action) when my July 31, 2017 filings of clear and well articulated OPPOSITION to the said Motion were prejudicially stricken from the Court's docket by her;

- (d) An order vacating Judge Alison J. Nathan's Orders of August 11 and August 21, 2017;
- (e) An Order restoring to the Court's docket my Opposition/Responses to the Defendants' Motion for Summary Judgment (Docket #s 106-112 and 114-118) which were properly submitted and filed by July 31, 2017;
- (f) Such other and further relief as the Court deems just and proper to ensure that my Fifth and Fourteenth Amendment Right to Procedural Due Process in this Civil Proceeding is not violated.

Respectfully Submitted,

DATED: September 1, 2017

CANDICE LUE

Candice S.M. Lue
Signature

[REDACTED]
Address

[REDACTED]
City, State, Zip Code

STATEMENT OF RELATED CASES

I, Candice Lue, Petitioner, state that this case is related to the case of CANDICE LUE 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, Civil Action No.: 16 CV 3207 (AJN) (GWG), that is currently pending before the U.S. District Court for the Southern District of New York, County of New York.

CERTIFICATION OF COMPLIANCE

I certify that this petition complies with the page limitation of Federal Rules of Appellate Procedure 21(d) and that this petition complies with the typeface requirements of Federal Rules of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rules of Appellate Procedure 32(a)(b) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman style.

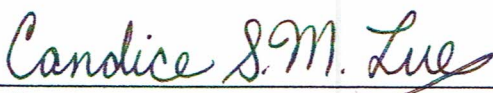
PROOF OF SERVICE

A copy of the foregoing Emergency Motion for Stay and Petition for the Issuance of a Writ of Mandamus were served to the following in the manner indicated:

Hon. Alison J. Nathan
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
Courtroom: 906
New York, NY 10007
(Service via United States Mail with Certificate of Mailing – see attached)

Hon. Gabriel W. Gorenstein
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
Courtroom: 6B
New York, NY 10007-1312
(Service via United States Mail with Certificate of Mailing – see attached)

Messrs. Robert Whitman and Anshel Kaplan
Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
(Service via United States Mail with Certificate of Mailing – see attached)



Candice Lue
Petitioner




EXHIBITS

- To view Exhibit 1:

<http://candicelue.com/Response%20to%20AJN%20August%2011%202017%20Order.pdf>

- To view Exhibit 2:

<http://candicelue.com/Addendum%20to%20Response%20to%20AJN%20August%2011%202017%20Order.pdf>

- To view Exhibit 3:

<http://candicelue.com/Response%20to%20AJN%20August%2021%202017%20Order.pdf>

- To view Exhibit 4:

<http://candicelue.com/August%2011%20and%20August%2021%202017%20Orders.pdf>

- To view Exhibit 5:

<http://candicelue.com/Judge%20AJN%20Prejudicial%20Indiv%20Practices%20Updates.pdf>

- For Exhibit 6, a portion is in Exhibit 1:

<http://candicelue.com/Response%20to%20AJN%20August%2011%202017%20Order.pdf>