SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU
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ERL PARTNERS LLC and ERIC LEARNER,

Index No. 602710/17

VERIFIED COMPLAINT

Plaintiffs,

-- against --

JESSICA N. PELLETIER

Defendant.

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Plaintiffs, ERL PARTNERS LLC ("ERL") and ERIC LEARNER ("Plaintiff" or "Eric") (Collectively, the "Plaintiffs"), by and through their attorneys, EDELSTEIN & GROSSMAN, complaining of defendant JESSICA N. PELLETIER, allege, upon information and belief, as follows:

THE NATURE OF THE CASE

1. This is an action for damages and declaratory and injunctive relief, including, without limitation, as appropriate, permanent, preliminary and interim injunctive relief, brought by a respected member of the New York Bar against JESSICA N. PELLETIER, for defamation (slander and libel *per se*), tortious interference with a contract and/or prospective business relations, prima facie tort, and intentional infliction of emotional distress, caused by a 19-month campaign to deliberately, intentionally and willfully cause the revocation of Plaintiff's presidency, denial of his employment agreement and/or the termination of his employment, with the intent that such revocation, denial and/or termination, would cause Plaintiff serious harm in his professional career, both immediately and far into the future. Upon learning of her own

imminent termination, Pelletier demanded a payout from Plaintiff, and said if the Company didn't comply, she would launch a public smear campaign against him, having "slam articles" published in the New York Daily News and the New York Post that would paint him as a drug addict and ruin him personally and professionally. After rejecting Pelletier's demand, she made good on her threat, maliciously and deliberately naming Plaintiff in a lawsuit, and perverting the intent of the judiciary by using the pleadings to make false and inflammatory personal attacks and accusations against him that were not pertinent to the lawsuit, and prior to serving the complaint, communicating these inflammatory personal attacks and false accusations to the press causing their widespread public dissemination, for the sole purpose of punishing Plaintiff and shocking him into exacting a financial settlement.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, ERIC LEARNER ("Eric" or "Plaintiff"), is an attorney-at-law admitted to practice by the Appellate Division of the Supreme Court in and for the First Department in February 2005. He is also a part owner of a drug company, T.O. Global LLC, a New York limited liability company ("TOG"), which operates through a subsidiary, TO Holding Group LLC, a Delaware limited liability company ("TOH") (Collectively, the "Company"), which is Plaintiff's employer. Plaintiff is, and was at all times relevant to this lawsuit, a resident of Nassau County, NY.

3. Plaintiff, ERL PARTNERS ("ERL"), is a New York limited liability company, the Manager of which is Eric, with its principal place of business in Nassau County, NY. ERL is the holding company for Eric's equity in TOG.

4. Defendant, JESSICA N. PELLETIER ("Defendant" or "Pelletier"), at all times relevant to this lawsuit, has had a residence at 69-26 Nansen Street, Forest Hills, NY 11375. She

is President and Co-Founder of cannabis consulting company, MJ&CO, which is headquartered at 39 Broadway, Suite 1740, New York, NY 10006 ("MJ&CO"), Principal, Chief Executive Office and President of cannabis consulting company, Biorelief Pharmaceuticals LLC d/b/a Biorelief LLC, a Connecticut limited liability company ("Biorelief"), President of the Connecticut Chapter of American for Safe Access Foundation, a California nonprofit corporation ("ASA CT"), Board of Directors Treasurer of Northeast Coalition, Inc., d/b/a Northeast Cannabis Coalition, a Massachusetts nonprofit corporation ("NECC"), and was a partner in a Rhode Island medical cannabis dispensary.

5. Venue is properly laid in the County of Nassau because the Plaintiffs reside and have a principal place of business therein.

STATEMENT OF FACTS

6. Plaintiff Eric is a respected member of the New York State Bar since 2005. He worked as an associate at the prestigious NYC law offices of Kasowitz, Benson, Torres & Friedman LLP, and Pryor Cashman LLP for the majority of his legal career.

7. Despite being an attorney, and a former litigator, who is forty one (41) years old, prior to being sued by the Defendant, Plaintiff Eric had never been involved in a lawsuit, as either a plaintiff or a defendant; yet, in just the short time he's known the Defendant Pelletier, who is just twenty five (25) years old, by her own admissions, she has been involved in five (5) active or threatened lawsuits.

8. Prior to being sued and publically smeared in the press by Defendant, Plaintiff Eric was known in his community as a humanitarian, and had spent his entire adult life working on health-based initiatives, including acting as liaison to the fifth committee secretariat at the United Nations, working on a transnational endeavor to curb the spread of HIV in Africa, serving

on the Board of Directors of Gabrielle's Angel Foundation for Cancer Research, and working with the Nelson Mandela family.

9. Plaintiff Eric suffers from a permanent disability due to an L5-S1 herniated disc injury he sustained on or about January 2014, which causes him severe and chronic pain. He has been under the care of a neurologist, since his injury, and has undergone two surgical procedures for the condition. Plaintiff's injury causes him a large degree of pain and discomfort requiring him to periodically have to take prescription painkillers or medical cannabis. Plaintiff reinjured his herniated disc in August 2015, and had to undergo intensive treatment.

10. Plaintiff Eric became a highly respected member of the medical cannabis community when he co-founded TOG in July of 2015, and raised approximately Five Million ($5,000,000.00) Dollars in financing, whereby TOG used the funds to perpetually license one of the leading brands in the medical cannabis industry (the "Industry" or "Plaintiff's Industry").

11. In August of 2015, TOH went operational, and Plaintiff Eric became a full-time employee, serving as head of business development, fundraising, and did legal work on a project-by-project basis. He was highly respected and had the full faith and confidence of his employers, all of the TOG's investors and shareholders, and had been promised the position of President and In-House Counsel with a guaranteed employment contract, salary increase, annual profit-sharing bonuses, as well as health insurance and other benefits.

12. At this point, TOH was a brand new startup and had no support staff, so on or about the same time, it hired The Advance Group, Inc. ("TAG"), a New York corporation, to manage projects, and to source and oversee all staff, under the leadership of its President, Scott Levenson ("Levenson").

13. TAG had just spent the previous seven (7) months as the lobbyist and full-time

consultant for a now-defunct company (the "NY Applicant"), which was partly owned by Plaintiff and Levenson, that had applied and been rejected, for a New York State medical cannabis license.

14. At around the same time, Defendant Pelletier, whose consulting company, Biorelief, had done two previous consulting assignments, in February and May of 2015, for a the NY Applicant, where she worked exclusively out of her Connecticut ("CT") office, was vying for a consulting position with TOH, and was making introductions to potential licensing partners.

The Subtle Threats Against Plaintiff Begin

15. On September 1, 2015, Levenson scheduled a last-minute trip to Arizona to meet with a prospective partner that Pelletier introduced, which caused her to call Plaintiff making threats because TOH did not offer to pay for her trip due to budgetary concerns.

16. On September 2, 2015, after discovering that Plaintiff did not know about the meeting until she found out, she wrote the following message, which was her version of an apology, but contained a subtle threat:

> "I am still very unhappy with Barry and Scott regarding yesterday. Huge violation of general business courtesy and we need to figure out how to solve this because I don't want this to turn into something bigger. With that being said I know you are my biggest advocate and I truly appreciate you having my back Eric."

17. Upon information and belief, at all time herein, Pelletier's consulting firm, Biorelief, was a paid consultant of Michael Latulippe ("Latulippe"), who is the Co-Founder & Vice President of her new cannabis consulting company, MJ&CO, and sits along side her on the board of directors of NECC.

18. On September 3, 2015, Pelletier asked Plaintiff to come to Latulippe's conference in Boston where she was scheduled to speak in her capacity as President of Biorelief.

19. On September 4, 2015, Plaintiff met Pelletier at Latulippe's conference, and while

there, Pelletier expressed frustration over the fact that TOH had not yet retained Biorelief as its application consultant in CT (the "CT Application"), and complained about not being paid anything for making the previous introductions. Plaintiff said that there would be no problem paying her for the introductions, but said it looked like the Board was not going to move forward with the CT Application.

20. In response, Pelletier got angry and said that Plaintiff promised they would retain her and give her contract, that she was not going to have her time wasted, and if he "screw[ed]" her, she would do the same to him. She said, "You wouldn't want me telling the press that you guys hate Cancer patients and think the disease is boring?" To back up the threat, she sent Plaintiff the following message (copy annexed hereto as "Exhibit A" and incorporated by reference herein):

> "Headline: Tikun Olam execs quoted saying 'they hate cancer patients and think the disease is boring.'"

Plaintiff Saw Pelletier Use Her CTASA Presidency as a Bully Pulpit to Smear Others in Plaintiff's Industry

21. As President of CTASA,[1] Pelletier had, and has, a bully pulpit from which she is able to use her presidency to speak out on any issue and quickly disseminate information to journalists, government officials, lobbyists, law firms and industry professionals within Plaintiff's Industry and trade.[2]

22. Furthermore, Pelletier often talked about her contacts high up in the media through her ex-boyfriend at the New York Daily News and New York Post (the same two publications she

[1] ASA is the largest and most influential patient advocacy non-profit corporation for medical cannabis in the nation.

[2] When Plaintiff first met Pelletier over the phone in February of 2015, she told him all about her involvement with CTASA. Because of confidentiality concerns, Plaintiff needed to know that she had independence from ASA National, and even incorporated this concern into the confidentiality agreement that Pelletier signed. It was during these discussions that Pelletier told Plaintiff how it works, how CTASA leadership is a team of one, which is just her, and that she created the CTASA Twitter account in 2014, and is the only one with access.

would later speak to and slander Plaintiff), and touted how she could get "slam articles" published, and how she used the media and threats of litigation to exact settlements from companies.

23. For example, she threatened one company (copy annexed hereto as "Exhibit B" and incorporated by reference herein), writing:

> "My fiancé is high up with the papers here in New York (daily news, the post) and I have already started writing an article to be released in Saturday's paper about how HORRIBLE and ineffective your customer service is."

24. In fact, Plaintiff had just seen Pelletier do a public media smear campaign against a company and professional and in the same industry, Mercury Public Affairs ("Mercury") and its client, Josh Stanley ("Stanley"), in order to exact a settlement from Mercury.

25. On March 31, 2015, Pelletier wrote Plaintiff that the lobbying group Mercury was representing 8 different medical cannabis groups in NY, and that they were "grimey" and "knew nothing about medical cannabis." She said that she was going to take them to court for failing to fulfill their contract with her, and that she wanted to write a "slam article" about them.

26. On July 9, 2015, she tweeted a "slam article" about Mercury and its client, Josh Stanley, from her CTASA Twitter handle, under the guise of her position as a patient advocate and President of CTASA, circulating it to her contacts in the government, media, legal, and cannabis industries, so it would be disseminated further, stating the following:

> "Plans to Grow Medical Marijuana at Seneca Army Depot May go up in Smoke." "Josh Stanley and Mercury Public Affairs orchestrated extensive NY press coverage despite suspended CO MMJ license."

27. Following the posting, Pelletier called Plaintiff and said that Mercury had just called her and asked her to take it down. In response to their phone call, under the guise of speaking for the largest cannabis patient advocacy group in the nation, using her bully pulpit, she tweeted the following from her official CTASA Twitter handle as if she was speaking for the entire national

organization:

> "Mercury, Josh Stanley's supposed 'independent' rep called up CTASA volunteers demanding the article be deleted. As MMJ advocates we have a Duty to report pertinent MMJ news that has the capacity to affect patients and MMJ activists. Until this info is proven wrong CTASA and our Social media team reserve the right to keep this article posted for other patients' and potential NY MMJ patients awareness. Our group Lobbies for SAFE ACCESS, and if we have individuals convicted of manipulating measures taken to increase safe access it is our duty 2 report."

28. It worked and intimidated Mercury into settling with Pelletier. On August 22, 2015, she texted Plaintiff, "Guess who just sent me my 10k back?" When Plaintiff asked her how, Pelletier said that they were intimidated by ASA, and she "had [her] ex BF (who's a lawyer) write a serious demand letter and they complied." She even sent Plaintiff a picture of the check. (Copies of the messages in Paragraphs 25-28, and the settlement check from Mercury, are annexed as "Exhibit C" and incorporated by reference herein.)

29. More recently, in June of 2016, Pelletier used her CTASA Twitter handle, to disseminate a 2013 article about cannabis entrepreneur, Cheryl Shuman ("Shuman"), who she did not like,[3] writing, "Cheryl Shuman is Full of Shit...".

30. Finally, in August of 2016, Pelletier would do the same thing that she had done to Mercury and Stanley, to TOG, after it turned down her monetary demands, disseminating a disparaging article about TOG from her CTASA Twitter handle.

Pelletier Made Threats of Future Blackmail (as she called it) Against Others

31. Pelletier would take pictures and video recordings of people, and say that it was for future blackmail, such as:

32. On November 13, 2015, two (2) days after meeting one of the Company's investors at the Nevada Conference, Pelletier took a video recording of him being paranoid after

[3] In order to discredit Shuman to the Seneca Nation in June of 2015, she told Plaintiff, "I took care of the Cheryl Shuman thing I told them a horror story from my boys out west."

consuming cannabis, and when Plaintiff asked her why she recorded him, she said, "You never know, future blackmail."

33. On May 19, 2016, Pelletier sent Plaintiff a picture of dildos that Founder of Women Grow, Jane West, had posted and wrote, "Leader of women grow :) :)" Plaintiff responded, "No?!" "She posted that?" Pelletier replied, "Yes!!!!" "I've NEVER seen a dildo that size!!!! Wtf is that?????!!!!" "Screen shotted for future blackmail." (Copies of these messages are annexed as "Exhibit D" and incorporated by reference herein).

Pelletier's Subtle Threats Toward Plaintiff Continue

34. On September 8, 2015, Pelletier sent a message to Plaintiff and TOG Board member, Barry Farkas ("Farkas") stating:

> "I'm getting very irritated. If we're doing this ct thing we have exactly one week. SOMEONE needs to get back to me ASAP so that we can debrief a plan and get everything done in time. I'm not going to keep doing everything last minute it is ineffective."

35. Intimidated by Pelletier's previous threat coupled with her tone of voice, Plaintiff immediately wrote to both Pelletier and Farkas on a chain message: "Barry what time can you speak with Jessica? She badly needs to talk w u."

36. In response, Farkas spoke to Pelletier and met with her at his family office in Brooklyn on September 9, 2015, where he agreed she would be compensated for the introductions she had made, and said he would pitch the CT Application to the Board, as long as she identified properly-zoned properties that could be immediately secured.

Pelletier Was Adversarial Toward Staff & Associates

37. Pelletier, who had not previously met any of TAG's or TOH's staff prior to this point, targeted, made fun of and/or tried to discredit, anyone she perceived as a potential threat,

personally or professionally,[4] as follows:

38. On September 10, 2015, Levenscn sent one of TAG's female consultants, Rachel Naylor ("Naylor"), to CT to help Pelletier look at real estate for the CT Application. She saw Naylor as a threat, as she was another attractive woman. While with Naylor, Pelletier wrote Plaintiff, "Rachel is driving me crazy…She keeps saying she's a tikun Olam rep…Like no you're not…She keeps trying to negotiate shit".

39. On September 12, 2015, Pelletier wrote Plaintiff, "Harry is not helpful whatsoever…".

40. On September 17, 2015, Pelletier wrote Farkas, "It looks like [Katie] just copied and pasted questions and info from the website." (bracket added).

41. On October 20, 2015, in response to TAG employee, Michael Gaspard, trying to be helpful and writing a Company business plan that Plaintiff thought was excellent, Pelletier emailed Farkas stating:

> "No offense, but this is horrible. The rhetoric itself is horrible. I wouldn't present this for my own company. Tell him to stop working on this… Look at my rhetoric in comparison to his please.

42. On March 23, 2016, Pelletier wrote Markovitz, "Coming in for the lesbian meeting we can go over beforehand."

43. Plaintiff, who had just turned forty (40) years old on August 25, 2015, was insecure about his age, since he was single, without children, and never married. Pelletier knew this, and taunted him over it regardless, as follows:

> On March 25, 2016, Pelletier sent Plaintiff a picture of himself sleeping at his desk and said, "Not bad for 45!"

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[4] Pelletier openly admitted to this on multiple occasions and blamed it on what she called her "Italian demons." She wrote co-worker, Harold Markovitz ("Markovitz"), on one occasion," I killed them all [attractive women] before the event just in case. I can't restrain the Italian demons in me". (bracket added).

In an exchange with Pelletier in April of 2016, Plaintiff was referring to a friend he's known for 25 years, and Pelletier responded: "Oh I forgot ur 85." Plaintiff corrected her stating, "I'm 40." "He's 39." Pelletier responded "Lmao." "I'm joking" "Ur 42."

In an exchange with Plaintiff and Levenson, on April 25, 2016, Pelletier wrote Plaintiff: U are 42 years old figure it out…" Plaintiff responded, "I am 40, born August 25, 1975, and u know that…"

44. On May 4 and May 6, 2016, Pelletier wrote Markovitz the following messages regarding TAG employee, Jennifer Blatus ("Blatus"):

"That's my fuckin boo she better not try anything I'm from the hood I'll beat her in the office ldgaf [like I don't give a fuck]…She giving me looks…I ain't fuckin with jen…she was giving me dirty looks I don't like it…Did that ho go near my man today…she probably knew I had a doctor's appointment". (bracket added).

45. On May 10, 2016, Pelletier wrote Farkas, "[A]m I just Jewish because I hang with you guys all day?"

46. On May 11, 2016, Pelletier wrote Markovitz the following message making fun of a TAG employee:

"Where are u…Yooo u left with jen!!! Lmaooo…Niggaaaa…Did u get a cab together? David is absolutely crushed…Your gay admirer"

47. On May 25, 2016, Pelletier wrote Plaintiff the following statements concerning Markovitz:

"Dude where the fu k r u Harry is sitting in ur desk…and he's snitching I rather u here even tho I'm pissed @ u…He's not good for coming out of the depression plus scott kicked him off his pedestal so he's being a dick…Harry was hating on our teamwork but scott was supporting it."

48. On May 26, 2016, Pelletier wrote Plaintiff the following messages concerning Markovitz and another co-worker, Andrew Defries:

"I can't believe ur not coming to work…How could u leave me...u still left me with the ego crew and scott…Ego crew (Harry + Andrew)"

49. On August 1 and August 2, 2016, Pelletier wrote Markovitz the following

messages concerning a new female employee at TOH:

> "[T]hat lady is gonna try and get my mans…plus she talks to herself…she's nuts…Those are not her interns…she was doing shit I did 6 months ago…she sucks at her job…why r we spending money on shit I can do…she's so annoying."

Biorelief's Engagement with TOH Begins

50. On September 10, 2015, Pelletier told Farkas, Levenson and Plaintiff, that she found a property that worked, and said that she "[c]an get an LOI and letter from owner for this space today," so as agreed, Farkas pitched the CT Application to the Board. Despite much resistance, the Board approved the project, and TOH hired Biorelief for an initial engagement as its application consultant for the CT Application with a start date of September 11, 2015, and would continue to do consulting work with Biorelief over the course of the next year, until TOH's Chief Executive Officer ("CEO") ultimately terminated the relationship for cause on September 15, 2016 ("Tenure").

51. Even prior to the termination of Biorelief's consultancy with TOH, Pelletier had a long-standing animus against Plaintiff, which built up and intensified over time.

52. Pelletier was often absent from work without leave for weeks and months at a time, often attempted to excuse her unauthorized absences by falsely claiming that she was unable to come in due to illness and/or injury.

53. Pelletier accepted assignments from other companies while claiming that to be exclusive to TOH,[5] including some of these assignments occurring on days when she claimed to

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[5] For example, on March 30, 2016, referring to Levenson and TAG, Pelletier wrote Markovitz:

> "[T]hat was supposed to be a non-Tikun related meeting with my friend….Different rules…U have to realize that I also help out with advance group shit too. Who do u think goes to all his dinners? And entertains people at our house? And goes to those dumb political events? I do. So we work together on more than the level of Tikun. We do a lot, just negotiated the north shore contract with him and all the new advance group employees. So it is sometimes difficult to do so because we work together on many levels."

be too ill to work.

54. As a fiduciary of the Company, and a part owner, who had a common interest in ensuring its success, Plaintiff critiqued Pelletier's work and working habits.

55. However, every time Plaintiff would have legitimate critique of Pelletier's work or working habits, she would purely out of spite, hatred or ill will, make intentionally false, misleading, deceptive and/or gratuitous comments about him to decision makers at the Company, outside the scope of her authority, purely to injure Plaintiff at the Company.

56. On September 11, 2015, Pelletier's first day of work, despite Pelletier's insistence that everyone be on time, she arrived over four (4) hours late, and Plaintiff was critical of her for being late.

57. On September 12, 2015, Plaintiff arrived late due to a back injury. At 12:52pm, Pelletier wrote Plaintiff that, "Harry is not helpful whatsoever I need u to focus today". At 1:31pm, Plaintiff responded, "On my way…". At 1:32pm, Pelletier replied, "Harry spoke to Barry [he] said get in here." Yet, just four (4) minutes later, she deceptively wrote Farkas that Plaintiff was "the most incompetent person in the world," insinuated that he didn't take his job seriously, made fun of him for being over forty (40), mocked him for his back injuries, and insinuated that she was doing both her of their jobs.

Pelletier's Campaign Against Plaintiff Begins

58. There followed a course of action by Pelletier, initiated and carried on out of hatred, spite or ill will, intended to destroy Plaintiff's career at the Company and rob him of his promised positions as President and In-House Counsel. Such course of action included, but was not limited to, the following:

59. On September 12, 2015, Pelletier made the following false, deceptive and/or

misleading statements to Farkas concerning Plaintiff's performance, stating as follows:

> "You left me with the most incompetent person in the world & he's driving me fucking crazy and not doing his work. I take my job and role seriously, and do not operate my business like this…I can't do both Eric's job and my job. He's absolutely a mess without Katie, which is sad as he is 40. He's blaming his back pain meanwhile, I've had 7 surgeries and 4 herniated discs and don't use that as an excuse not to do my work or come in here and get shit done when need be."

60. It soon became apparent to Plaintiff that Pelletier had not done her homework, and that none of the properties she had identified for the application were properly zoned. Furthermore, she missed the fact that the application required them to have a licensed CT pharmacist as part of the application, even though she had already applied and should have known this from last time.

61. In light of Plaintiff's discoveries, Pelletier went back to CT on September 13, 2015, to try to secure properties and get a licensed pharmacist on board. With not enough time to secure a properly zoned property, Plaintiff decided they could not proceed when she came back to the TAG on September 15, 2015.

62. Pelletier took it personally against Plaintiff, and accused him of trying to find things wrong with the application; however, as the attorney on the project, it was Plaintiff's job to make sure they were compliant, as it would have been very damaging to the Company if it applied for a license in CT and was disqualified.

63. Continuing with her campaign to injure Plaintiff, Pelletier, out of the blue, at 2am on September 16, 2015, made another false, deceptive and/or misleading statement to Farkas about Plaintiff's work performance, stating as follows: "I've been working hard. I'm not sure what Eric's been doing."

64. On the morning of September 16, 2015, Pelletier met with Farkas and Plaintiff at Farkas' family office in Brooklyn to discuss the CT Application. Farkas said that they couldn't

go forward with the application without a properly zoned property secured, and it was as simple as that, but that she would still be paid for her work. Then, a monthly consulting fee for Pelletier coming in three (3) days a week was discussed, and Farkas suggested she put together a proposal.

65. On September 17, 2015, from her CT office, Pelletier emailed Farkas a proposal with the monthly consulting fees discussed, and a proposed finder's fees that was not discuss. Thereafter, she used the fact that Farkas was leaving town for three weeks, to try to create a false sense of urgency that they meet and close a deal before he left, using Plaintiff as her pawn.

66. There continued a course of action by Pelletier, initiated and carried on out of hatred, spite or ill will, intended to destroy Plaintiff's career at the Company and rob him of his promised positions as President and In-House Counsel. Such course of action included, but was not limited to, the following:

67. On September 20, 2015, Pelletier made the following false, misleading and/or deceptive statements about Plaintiff to Farkas, as follows:

> "Okay I want a solid agenda for the time you're gone so that I can direct both Eric and Katie, Harry, etc…three weeks is a long time and you know that without your guidance Eric is lost…if I am coming on board full time, I need to know before you leave as I need to reject pending application contracts."

68. Pelletier next came to NYC on the evening of September 21, 2015, to meet Plaintiff and his assistant at a cannabis conference. Prior to arriving, Pelletier made the following false, misleading and/or deceptive statements about Plaintiff to Farkas, as follows:

> "Barry, if we're not doing dinner tonight we need to meet first thin[g] tomorrow I need an agenda while you're gone to keep Eric on task…Do you not realize that Eric needs you? Without a solid plan in place, things will not go well in both you and Katie's absence?"

69. While at the conference, Pelletier got extremely jealous and angry with Plaintiff for asking his assistant to come with him to a networking event after the conference instead of asking her.

70. At approximately 6:30pm, Pelletier sent Plaintiff the following message: "Wouldn't you and I need to go vs. you and Katie?" Yet, at approximately 8:15pm, Pelletier sent Farkas the following false and misleading message: "Eric seems to want me to stay but from a professional standpoint there isn't much potential for a partnership with anyone in this crowd beside the two I solidified."

71. While at the conference, Pelletier made a big deal out of that fact that Plaintiff did not invite her to the networking event. Plaintiff told her that she needed to start acting more professionally, that Farkas was focused on his real estate practice, that he did not oversee staff, that TAG was acting human resources for TOH, and that she needed to start reporting to Levenson.

72. Pelletier's unprofessional behavior would continue, including calling up Plaintiff in October to ask if she could live with him. When he said that it was out of the question, she sent him a text message stating:

> "I don't understand why your place is out of the question." "I'll take your bed u sleep on the couch. The investors will totally dig your commitment to save them money!"

73. After the conference, Plaintiff did not see Pelletier again until the afternoon of September 29, 2015; yet, on September 22, 2015, in continuation of her campaign to get Plaintiff fired or demoted, she sent Farkas the following false, deceptive and/or misleading statements concerning Plaintiff:

> "Eric's already going to drive me off the ledge. Or just make me jump off the ledge…he's just already starting to be extra Eric-y. Just pray for my sanity in you and Katie's absence."

Pelletier Manipulates – Levenson Becomes a Target

74. Pelletier did not want to report to Levenson, who was strict and kept staff accountable. In her notes from September 22, 2015, prior to meeting with Farkas, which she emailed herself, she wrote the following self-serving questions to ask Farkas regarding Levenson (copy is annexed hereto as "Exhibit E" and incorporated by reference herein):

> "[W]hat is Scott levensens role in the company?" What are his limitations in decision making and what am I supposed to listen to him on? ** what am I supposed to, and not supposed to disclose to Scott"

75. Plaintiff and Levenson were both insistent that Pelletier report directly to Levenson and coordinate her schedule with him, as that was TAG's role. On September 25, 2015, at 10:28pm, Pelletier wrote herself a note (which she emailed herself) entitled, "Stuff Barry is going to be pissed about," stating, "-Eric and Scott thinking all employees should answer to Scott". She then drafted a self-serving agenda, which she dated September 22, 2015, and instead of sending it to Farkas (she never sent to him), she sent it to Plaintiff in a taunting email at 11:33pm, stating:

> "Please see agenda dated Tuesday September 22nd. I Find It Interesting that among Barry's specific instructions were 'do not need to report to Scott.' Regardless, this is my agenda for the next few weeks. Let's speak about this further on Sunday. Enjoy global citizen. Best/ love, JP".

76. In Pelletier's messages to Farkas on September 20 and September 21, 2015, she made it seem imperative that she met with him in order to prepare an agenda for Plaintiff and the others, so she could keep him on task while Farkas was out of town; yet, her agenda dated September 22nd had no mention of Plaintiff or the others.

77. In fact, subsequent to her assignments, on September 22, 2015, Plaintiff saw Pelletier only once during the afternoon of September 29, 2015, at TAG, and would not see her again until November 11, 2015, at the Nevada Conference. Yet, on September 30, 2015, when Farkas asked Pelletier what she was working on, she said "the business plan," and mislead him by blaming Plaintiff for her lack of progress, stating:

> "I've just had a hard time because I keep explaining to Eric that I have an agenda you need me to finish and he sidetracks me with other bullshit and then pulls me into his scott drama." "Yesterday I was pissed because he keeps fucking with me regarding scott which produces miscommunication and I can't work like that. I just do work, I don't get involved in all the distractions. Then he gives me other projects to do."

Farkas asked her, "What other project," to which she responded:

> "Yesterday he tried to get me to leave office and find a vape pen [vaping device with no active ingredients] because he broke his…Told him no way in hell[6]…Then Random calls with people it's just distracting.[7] But I'm handling him well, it's just the scott thing I can't deal with."

78. Further, Pelletier blamed the fact that Plaintiff was asking her to report to Levenson as the reason she "fucked up" on an assignment the day before, even though she wasn't with Plaintiff at the time she made the mistake, stating:

> "Just yesterday and last week he was messing with me regarding scott, and I fucked up and accidentally added him to the call then I was pissed because if he wasn't messing with me it wouldn't have happened."

79. As part of her efforts to avoid reporting to Levenson, Pelletier sent Plaintiff a message on October 12, 2015 (copy annexed hereto as "Exhibit F" and incorporated by reference herein), stating, "Please keep this between u and I, but if scott asks me for drugs one

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[6] This statement is misleading. While Pelletier was out of the office at meeting with James Esposito, Plaintiff asked her if she would pick him up a battery for him on the way back, which she said "no." He did not ask her to leave the office at any point to do an errand.

[7] This statement is untrue. There were no random calls with people on October 29, 2015.

more time I'm going to fucking lose it." She also said that Levenson kept hitting on her, so Plaintiff would stop asking her to report to him.

80. Just weeks after having mocked Plaintiff to Farkas for "blaming his back pain" as the reason for being delayed coming to the office on September 12th, and saying she would never "use that as an excuse not to…come in," Pelletier took a week off claiming back pain under suspicious circumstances.

81. On October 5, 2015, at 10:44am, Pelletier sent an email to Farkas and Plaintiff asking them, "What days work best for this week?". Then at 11:20am, Pelletier sent Plaintiff a text message stating:

> "I pinched a nerve in my back where my herniations are. Please don't tell anyone. I'm On my way the doctor right now, I'm just letting you know in case things don't go well. He said he can fix it though so fingers crossed."

82. Plaintiff found it suspicious that Pelletier asked him not to tell anyone (the next day, she also asked Plaintiff's assistant not to tell Levenson or Farkas), and that within a half hour of asking him and Farkas what days she should come in that week, she had injured herself and was able to get her doctor on the phone to remotely diagnose her injury, and that she was already on her way to see him. He called Pelletier to see if she was okay, and she now claimed that she pulled a muscle in her back reaching into the closet, and should be okay.

83. On October 6, 2015, Plaintiff's assistant emailed Pelletier asking her if she was okay, and Pelletier responded:

> "It's nothing serious, I just spraired a muscle in my back which in turn pinched a nerve. Going back to doctors right now, he said I should be fine in another day…I'll definitely make it into New York this week…If worse comes to worse I'll come in Thursday-Friday or tomorrow afternoon…Please don't bring up to Barry or Scott."

84. On October 7, 2015, Plaintiff came up with an idea of screening the Company's

partner's film, "The Scientist" at the National Cannabis Expo in Las Vegas, with a booth and a panel of their clinical researchers from Israel (the "Nevada Conference"), and needed Pelletier's help. His assistant emailed Pelletier to see if she was making it to the city that afternoon, as she had suggested, but her story changed again, responding, "Back is still in spasm, my doctor said it seems to be stress related…[i]n terms of coming to the city, it's already 1 pm and I wouldn't get there until 4/4:30." That evening, Pelletier's story changed again, emailing Farkas, "As Eric knows, [I] sprained my neck on Monday and will not be cleared to drive until Sunday…". In response, Plaintiff emailed Farkas that "Her story is inconsistent. It began with her telling me reaching into her closet and she said she pulled a muscle in her back. Now it's a neck sprain??"

Decision to Premiere the Film at the Nevada Conference

85. On October 15, 2015, the Board approved Plaintiff's initiative at the Nevada Conference. He had a monumental task ahead of him, and needed all of the support he could get. Levenson and TAG were put in charge of organizing the conference, and all of the staff were working around the clock. Pelletier was asked to help.

86. However, Pelletier did practically everything she could to avoid helping, despite repeated requests, and continued not showing up to the Manhattan office and making weekly excuses. She was preoccupied with her finder's fee agreement, and the one day she came to the office, chose to work on a business plan she had been working on for six (6) weeks, which was not a priority with the conference days away.

87. The bookings of the flights and hotel rooms for the conference was a monumental task in itself, as the company was flying out and putting up over twenty (20) people in Las Vegas; thus, staff were all sharing rooms due to the enormous expense. Rather than helping with the bookings, Pelletier was difficult and added complications to the room bookings, sending

Plaintiff and Farkas the following email on October 19, 2015, stating:

> "Due to personal and disability (ADA 1990) reasons, I am unable to share a room at the Las Vegas conference as Eric suggested. (With Katie OR scott Levinsen)"

88. Pelletier continued to make excuses for not coming to work, despite being badly needed for help with the Nevada Conference. On October 20, 2015, Plaintiff's assistant emailed Pelletier, "Which days are you coming in this week?" Plaintiff responded, "As discussed with Barry yesterday, I have meetings in CT both Thursday and Friday. so unless it's absolutely necessary for me to come in tomorrow, it's more effective if I stay here"; yet, she didn't tell Farkas until October 21, 2015, that she was "[h]elping mark gare and klaus tomorrow at arrow."

Pelletier's Threats Intensify

89. On October 21, 2015, Pelletier began threatening Plaintiff and the Company for not having a written agreement in place, sending an email to Farkas, Plaintiff and his assistant (copy annexed hereto as "Exhibit G" and incorporated by reference herein), that she expected a counteroffer to her September 17th proposal by the end of the day, and said that she was "currently taking someone to court for some other compensation issues…"

90. Plaintiff, who was never sent the proposal, asked Pelletier to send it to him. Upon seeing it, he called her to say that it was "way too rich," and criticized her for making the subtle threat to the company, and said it was not a way to negotiate. Pelletier responded that she was not going to have her time wasted, and that he would regret it if they didn't respond to her by day's end.

91. Concerned, Plaintiff told Farkas that is was imperative that he respond to Pelletier by the end of the day, and Farkas did so by sending her an email stating that he reviewed the proposal with Plaintiff and that "[t]he extra compensation for bringing in deals is way to aggressive…" Pelletier blamed Plaintiff for being her barrier to finalizing a deal and started

obsessively asking Farkas to meet and come to terms.

92. After weeks of not coming to the office and coming up with constant excuses, Farkas emailed Pelletier on October 28, 2015, "You alive????" The next day, Pelletier responded that Farkas hadn't gotten back to her earlier in the week, and that Levenson and Plaintiff told her there was nothing to do. Plaintiff responded to Pelletier stating:

> "Didn't say there was nothing to do, Jessica…I said to call Barry and that you should completely immerse yourself into the conference…There is so much to do, we are working around the clock, and could have used your help."

Farkas Proposes to Appoint Plaintiff President of the Company

93. On or about October 28, 2015, Farkas decided to move forward with his earlier plan to put Plaintiff at the helm of the Company, and appoint him President, which the Board and the Company's investors all supported and advocated.

94. On October 30, 2015, Plaintiff and Pelletier had a long talk, during which he informed her of Farkas' proposal to appoint him President of the Company, and said that the terms were being negotiated with the Board, but that he was going to get a guaranteed employment contract with a salary increase and annual profit-sharing bonuses. She told him that she was proud of him, and agreed to work hard at the Nevada Conference and stay at the MGM with everyone else and fly coach.

95. Pelletier finally came to the Company's NYC office at the World Trade Center for the first time (and only time) on Monday November 2, 2015 (a day Plaintiff was not there), and prior to her arrival (after having not seen Plaintiff for over a month), having just learned about Farkas' proposal to appoint Plaintiff President of the Company, acting purely out of hatred, spite or ill will, with a desire to injure Plaintiff and prevent the deal from being consummated, she sent Farkas the following false, deceptive and/or misleading statements concerning

Plaintiff's work performance:

> "Listen, based off my conversaticns with Eric[8] I can tell things are very hectic and that he's not necessarily doing what he should be at this time. Can you please provide some sort of guidance…so that we can remain efficient while he goes off the deep end…I want this company to succeed, and Eric's lack of competence is effecting everyone."

96. On November 2, 2015, the feedback about Pelletier from Plaintiff's assistant was that "she was useless today" and that she "couldn't even deal with her honestly". Plaintiff wrote his assistant, "I called Jessica to ask her to help tomorrow with the brochure and all she did is yell my ear off..." Plaintiff's assistant responded, "Yell your ear off about what? Are you kidding me?" Plaintiff responded, "I asked her to inject herself into helping with the conference and everything is falling on us," but she said, "Barry and I didn't answer her call today and she feels like she's getting fucked bc she has nothing on paper." Despite this, Pelletier assured Plaintiff that she would be there in the morning to help with the brochure.

97. However, on November 3, 2015, instead of going to work, she played hooky and tried to track down Farkas, who was at a closing and unreachable, to get her paycheck for the month of November and try to get her proposed commission agreement signed. Throughout the day, she repeatedly deceived Plaintiff and his assistant saying that she was coming to the office after she was done meeting with Farkas, but, in fact, she was never scheduled to meet with Farkas, and did not meet with him, on November 3, 2015.

98. On November 4, 2015, in an email entitled, "Are you coming to the office today?," Plaintiff's assistant emailed Pelletier at 9:52am, "Jessica, where are you?". Pelletier deceptively responded, "Once again, I am meeting with Barry…will come right over when I am

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[8] Pelletier is referring to the call she had with Plaintiff on Friday, October 30, 2015, where he informed her of Farkas' proposal to appoint him President of the Company, and said that the terms were being negotiated with the Board, but that he was going to get guaranteed employment contract with a salary increase and annual profit-sharing bonuses.

through," as she did not meet with Farkas on the day before, and was never scheduled to do so.

99. Plaintiff emailed Pelletier, " Last night, I asked u to meet me at one world trade this morning and u said okay. Are u on your way?" She responded, "Once again, I need to speak with barry before I leave for the week and before Vegas. I will leave when we are through." Plaintiff responded, "[W]e need you to come to the office and work on the brochure…if we don't get it in by 1pm, we are going to have no brochure at the conference."

100. Plaintiff's assistant finally emailed Pelletier, "That's enough. Jessica - please come to the Tikun Olam offices at One World Trade Center immediately. This is where you work from…"

Pelletier Makes a Threat of a Smear Campaign Against Plaintiff

101. In response, on November 4, 2015, Pelletier finally called Plaintiff. Fed up with a month of excuses for not showing up to work, Plaintiff told Pelletier that he couldn't work with her. In response, Pelletier told Plaintiff that she had the ability to ruin his career, and if she was fired, she would sue the Company and launch a public smear campaign against him. Visibly nervous and distraught over Pelletier's threat, Plaintiff's assistant called Pelletier back from her phone and told Plaintiff to just tell her she wasn't fired to calm her down, which he did.

102. Later that day, Farkas asked Plaintiff if he wanted "to cancel Jessica's flight" to the Nevada Conference. Plaintiff responded that "it's not worth the aggravation," but that "she has to come to the office and answer to [S]cott Levenson. She cannot stay with him and at the same time claim he sexually harasses her."

Board Resolution to Appoint Plaintiff President of the Company

103. On November 5, 2015, the Board approved a resolution brought forth by Farkas, to appoint Plaintiff President of the Company. Certain terms were still being negotiated, as can

be seen from Board member, Glen Larner's ("Larner") correspondence, but Plaintiff was to receive a guaranteed employment agreement, which would also make him in-house counsel, a raise of One Hundred and Twenty Thousand ($120,000.00) Dollars per year, annual profit-sharing bonuses estimated at One Million ($1,000,000.00) Dollars or more per year beginning in 2018, as well as health insurance and an expense budget.

104. Everyone at TOH knew about Plaintiff's promotion, and that the terms were still being finalized, including, Levenson, an Advisor to the Board, who emailed Plaintiff on November 4, 2015, regarding TAG's consulting agreement with TOH, stating: "Eric aren't you signing as president?"

The Nevada Conference

105. Prior to the conference, on October 29, 2015, Plaintiff notified Pelletier that "Scott is running things for the conference" and said that she "should call him tomorrow and ask him how [she] can help, and request that he should assign [her] tasks that need to be completed."

106. On November 11, 2015, the first day of the Nevada Conference starting, during setup, Plaintiff text messaged Levenson (with Farkas on the chain) stating that, "Scott, u are in charge of the staff, where they need to be, including Jessica. I'm working on term sheets."

107. From the second Pelletier arrived at the Nevada Conference, she continued her widespread campaign, purely out of hatred, spite and/or ill will, to get Plaintiff fired or demoted, spreading rumors about his sanity to staff, Board members, vendors and Company investors, whom she was now meeting for the first time, while Plaintiff was at hotel working on term sheets and the Company's press release.

108. In order to bolster her claims, after cohabitating with Levenson, she told him that Plaintiff said he was "on the way out." With Levenson fueled over this, she was able to get him

to corroborate the things she said about Plaintiff, while deceptively hiding the fact that they were now an item, and were both acting purely out of hate, spite or ill will toward Plaintiff, in an effort to get him fired or demoted.

109. On the second day of the conference, when Pelletier found out that Plaintiff's assistant had made $9,000 in color laser copies, she told Larner, who was the Board member negotiating the remaining terms of Plaintiff's employment agreement, that Plaintiff had authorized the charges (and got Levenson to corroborate her story), even though Plaintiff only authorized regular copies at $.3 a page, and not color laser copies at $.50 a piece.

110. With Larner upset about the charges, Pelletier had an opening, and told Larner that Plaintiff was "incompetent" a "drug addict," was "mentally unfit" for the job, and was "not deserving of a salary." Furthermore, she said that he was "dishonest," "bad natured," and questioned whether anyone would want to work with him.

111. In continuation of her campaign, on November 17, 2015, Pelletier's first day back to NYC after the Nevada Conference, she was entertaining the TOG's partners from Israel, and acting purely out of hatred, spite or malice, with a desire to get Plaintiff fired or demoted, she sent Farkas the following gratuitous and misleading message concerning Plaintiff, stating: "I got everyone packed up, smoked up, and in an uber. All is well and they are happy (they also noted I was much more accommodating than Eric)".

Plaintiff Stripped of Presidency as Pelletier's Boyfriend is Appointed COO

112. As a direct result of Pelletier's intentionally false, deceptive and/or misleading statements about Plaintiff to Larner and other investors, and months of false job reports about Plaintiff to Farkas, as well as using her new-found influence over Levenson, an insider and advisor to Board, who was now Pelletier's live-in boyfriend and she got to corroborate her

statements (while keeping a secret the fact that they were dating), on November 17, 2015, the Board of Directors stripped Plaintiff of his agreed-to position as President, and denied him an employment agreement (that would also have made him In-House Counsel) with an increase in salary of One Hundred and Twenty Thousand ($120,000.00) Dollars per year and profit-sharing bonuses estimated at One Million ($1,000,000.00) Dollars or more per year beginning in 2018, based on Company projections.

113. Moreover, as a direct result of Pelletier's intentionally false, deceptive and/or misleading statements about Plaintiff, by Board resolution, he was required to take leave for weeks (4) weeks[9] ("Leave") where he was unable to continue his legal practice or conduct any Company business, or communicate with any employees, staff or vendors, until that period was finished. During this period, Plaintiff was not informed on Company happenings and was not involved with any Company decisions.

114. After November 13, 2015, at the Nevada Conference, Plaintiff did not see or speak to Pelletier again until December of 2015, except for one call on evening on the evening of November 17, 2015, where Pelletier called to say that she was sorry to hear that he was demoted from President, and that she was there for him, as a friend. Plaintiff responded that he wasn't allowed talk to staff for the next (4) weeks, and would have to hang up, but that while he wasn't given any specifics, he was told that that she threw him under the bus and the Board's decision to demote him was directly related to whatever she told Larner, and that she caused him and the other Board member to completely lose confidence in him. Without giving her a chance to respond, he hung up the phone.

115. While Plaintiff was on Leave, Pelletier continued her campaign to get him fired or

[9] It was later shortened to three (3) weeks due to Plaintiff being needed and lack of staff.

demoted, acting purely out of hatred, spite and/or ill will, she continued spreading false and misleading rumors about him, including telling co-workers he "has a serious drug problem" and that he was at drug rehab.

116. Continuing to be manipulative and deceitful, Pelletier sent an email to Larner and Farkas, with her boyfriend, Levenson, blind copied, on November 20, 2015, saying that she's had forty eight (48) hours to think about it and apologizes for her attitude over the past couple of months, and that she wanted to be exclusive with the company in exchange for an additional Three Thousand ($3,000.00) Dollars per month to pay living expenses.

117. Instead of just saying that she had moved in with Levenson, Pelletier was dishonest and said she needed extra money to pay the girl she's been staying with in the city. On December 14, 2015, Plaintiff sent Farkas the following message: "Am I getting that extra $1K? Because I need to pay the girl been staying with."

118. Upon Plaintiff's return, on December 6, 2015, the offices were officially moved from the World Trade Center to TAG, Levenson was appointed Chief Operating Officer of TOH, and Plaintiff was told to report directly to Levenson, and had lost all influence over Company decisions, including the ability to assign staff. In Levenson's agreement, he was put in charge of all staff, including Plaintiff.

119. On December 7, 2015, Plaintiff forwarded Pelletier a draft of a follow-up email he had prepared for one of her contacts in New Hampshire, and asked her if she would review it. In response, her boyfriend Levenson sent a text message to Plaintiff stating: "You do not assign Jessica Eric. Please." And on December 8, 2015, with Farkas copied, Levenson sent another text message to Plaintiff: "Eric please no assigning staff period. Talk to me. Focus on getting agreements done. Do distractions. Keep a list and call me in two hours. I have a work plan for

staff do not assign to them. Not Harry Jessica or Katie Howard. Thru me please."

120. With Pelletier's boyfriend now in charge of the TOH, Plaintiff faced a very hostile work environment on a daily basis, and was stripped of all influence on Company decisions, and talk of any advancement, or getting an employment contract. Pelletier, on the other hand, was treated with kid gloves. She came and went as she pleased, answered to no one, and was promoted by Levenson to the only position she wanted, in mid to late February of 2016, which was head of product development.

121. Despite Plaintiff's demotion, he was still responsible for fundraising, and his job was dependent on his ability to raise money, but luckily that had never been a problem for Plaintiff, who raised the majority of the financing for the company, and 2013 and 2015 alone, had personally raised from his direct relationships over Twenty-Two Million ($22,000,000.00) Dollars.

122. A decision was made on March 3, 2016, to open a new raise, and Levenson promoted Pelletier to Project Manager of the raise, a position of big responsibility, so significant, in fact, that it caused Markovitz to become worried about his own job security when on April 4, 2016, he asked Farkas if it was "bad that Jessica joined the raise team but [he] didn't".

123. In order to motivate Plaintiff for the upcoming raise, the Board agreed that upon successfully closing out the round of Five Million ($5,000,000.00) Dollars, he would be offered an employment agreement with the same salary increase he was supposed to receive previously of One Hundred and Twenty Thousand ($120,000.00) Dollars per year, and a discretionary annual profit-sharing bonus, as well as health insurance and an expense account.

124. Pelletier knew that Plaintiff had an employment agreement pending with TOH, as it was referenced by Farkas in his March 3, 2016 email introducing her to General Counsel, and

she knew Plaintiff's position and status with the Company were dependent on his ability to raise money in the new round of financing; thus, to ensure he didn't regain his position or influence, and to complete her unfinished campaign of getting him fired permanently, out of hate, spite or ill will, she knowingly and intentionally obstructed him from opening the raise, continued to spread rumors about him and disparage him to co-workers, did anything to make him look bad, and used her new-found influence with Levenson, to try to get him fired outright, as follows:

125. On March 15, 2016, while assigning new office spaces at TAG, Pelletier, who wanted her own office, convinced her boyfriend Levenson to write Farkas, "[W]hy not leave Eric home. I don't know what to do with him. I have a room set up for Sid. [F]uck Eric". Exactly one week later, Pelletier sent a message to Markovitz stating: "Ohhhh perfect. I'm gonna tell [Eric] I have pneumonia then he'll leave (because of germs) and we'll have our kingdom back."

126. Pelletier continued to paint Plaintiff as a drug addict around the office, writing Markovitz, from the hospital, on March 22, 2016, stating: "They actually did give me IV morphine. Threw it up. It's gross. Idk how people do this for fun. Totally gonna rub it his face anyways tho".

127. On March 25, 2016, Pelletier maliciously circulated a picture of Plaintiff sleeping at his desk, sending by email to Levenson assistant, and asking her to print it out.

128. On March 30, 2016, after spending an entire week making hand-written edits to the deck, Plaintiff spent over an hour going over the changes with Pelletier, who was assigned by Levenson to liaise between him and the graphic artist, to explain Plaintiff's shorthand edits to the deck, so the changes could be made. Instead of listening, Pelletier, in an effort to obstruct Plaintiff from opening the offering, spent the entire time mocking him, calling the deck was "sophomoric," and saying she "could do it better," and merely handed Plaintiff's short-hand edits

to the graphic artist without explaining it.

129. On March 30, 2016, after corresponding with Markovitz about her efforts to actively conceal from Plaintiff the fact that she was living with and dating Levenson, Pelletier suggested that Plaintiff was a thief, in response to Markovitz asking her if she had a lighter. She wrote him, "I put one in my desk someone took it." He asked if she was referring to Plaintiff, and she said, "Most likely." (Copies of messages referred to in this paragraph are annexed as "Exhibit H" and incorporated by reference herein).

130. Thereafter, on March 30, 2016, Pelletier wrote the following false and defamatory messages concerning Plaintiff to Markovitz (copy annexed hereto as "Exhibit I" and incorporated by reference herein), stating as follows:

> "He needs to go. I can't fucking stand him he's a horrible person I've met very few people who are just inherently bad natured like him." "Not a good auroa…He's just unreasonable, doesn't do anything to justify his paycheck, (I can do his shit better) when he was writing legal I was writing it and he passed it off as his own". "He's just evil I'm going to start wearing an evil eye".
>
> "Like ur a fucking lawyer my nigga I have a bachelors in Econ and governance and I do better". "Fucking clown. And I'm sick of his webs he spins. Nothing is the truth with him it's gross."

131. On March 31, 2016, Pelletier wrote Markovitz (copy annexed hereto as "Exhibit J" and incorporated by reference herein), "I fucking hate Eric," "Do you want to smoke before scott gets here," "Come here," and while they grabbed a smoke, she repeated the sum and substance of the false and disparaging statements from March 30, 2016, specifically repeating the false allegation of plagiarism against Plaintiff stating that "when he was writing legal, [she] was writing it and he passed it off as his own."

132. Also, on March 31, 2016, after Plaintiff complained about Pelletier for not doing her work assignment on March 30, 2016, she admitted to Farkas that she didn't review the deck,

but maliciously wrote that Plaintiff brings "bad energy to the team (Harold and I)," and knowingly and falsely stated, "Also caught him going through my bag 2 times," which never occurred.[10]

133. On May 2, 2016, Pelletier wrote the following false and defamatory messages concerning Plaintiff to Markovitz (copy annexed hereto as "Exhibit K" and incorporated by reference herein), stating as follows:

> "He's such a piece of shit....he's such a fucking ass I daydream about hurting him...he pulled the shadiest shit ever...forced Christine to call me and find scott...fuc[k]ing retard...FUCKIN[G] monkey yo."

134. On May 4, 2016, Pelletier wrote the following false and defamatory messages concerning Plaintiff to Markovitz (copy annexed hereto as "Exhibit L" and incorporated by reference herein), stating as follows:

> "I hate Eric...He flat out lied to Barry....Remember I told you he forced Christine to call me looking for scott?...Well when he said I need to speak to scott, pas[s] the phone to scott I hung up on him because I didn't want to validate anything right...Well he told Barry the only way he could reach scott was through me...Anyways now he spun it like I handed the phone to scott...He is like trying to bring me down with him."

135. The March 30, March 31, May 2 and May 4, 2016, statements are actionable "per se" as they disparaged Plaintiff in his profession as an attorney, and falsely accused him of plagiarism, passing his legal work on others, and poor work performance. The statement also accuse him of being shady, a thief, a liar, "evil," "inherently bad natured," "bad energy," "not a

[10] Pelletier's claim to Farkas that she caught Plaintiff going through her bag two (2) times is patently untrue, and was made purely out of malice, in order to disparage him. Pelletier never caught Plaintiff going though her bag, but accused him of doing so once several days earlier after Plaintiff saw a pack of cigarettes clearly visible coming through the top opening of her bag from across the room, and asked her when she started smoking. She called out to Levenson and said that Plaintiff went into her bag. In response, Levenson came running into the office, and asked Plaintiff if that was true. Plaintiff responded that he saw a pack of cigarettes visibly coming through the top opening of Pelletier's bag from across the room, and asked her when she started smoking, but that he never touched her bag. Levenson looked over at her bag, saw the cigarettes coming through the top, shook his head at Pelletier, and walked back into his office.

good auroa," "unreasonable," a "horrible person," a "piece of shit," a "nigga," an "ass," a "clown," a "retard" and a "monkey," not doing "anything to justify his paycheck," and of criminal or unethical behavior.

136. The March 30, March 31, May 2, and May 4, 2016, statements were not privileged and were made without the consent or permission of Plaintiff.

137. The March 30, March 31, May 2, and May 4, 2016, statements were known by Pelletier to be false at the time she transmitted them to Markovitz and Farkas, and/or was transmitted by her with reckless disregard for the truth.

138. The March 30, March 31, May 2, and May 4, 2016, statements were communicated out of common-law malice, that is to say, hatred, ill will, and/or spite, toward Plaintiff.

139. The March 30, March 31, May 2, and May 4, 2016, statements also show that Pelletier was actively hiding her relationship with Levenson from Plaintiff, and show clear evidence of malice and motive in her actions against Plaintiff.

140. On April 15, 2016, Pelletier's conduct to interfere with Plaintiff successfully opening the raise became so extreme and outrageous, that it caused her boyfriend Levenson to lose his temper and physically assault Plaintiff while discussing changes to the deck. With all of his might and strength, he threw his office phone directly at Plaintiff making contact with his kneecap, causing the entire area became inflamed and bruised. (Copy of the original report filed by Plaintiff and the pictures are annexed hereto as "Exhibit M" and incorporated by reference herein.)

141. As a result of the aforesaid assault, Plaintiff was required to walk on crutches for several weeks, and the injury to his knee has affected his gait, causing further injury to his pre-

existing herniated disc, and he has thus been permanently injured by this incident, physically, and has been permanently scarred, emotionally.

142. On April 26, 2016, Pelletier continued with her campaign to intentionally and maliciously obstruct Plaintiff from opening the raise, hoping to cause his imminent termination, stating that she was on medical leave and couldn't do any of her duties as Project Manager of the raise, or get Plaintiff her files so he would know what was outstanding.

143. When Farkas questioned Pelletier about this unannounced "sick leave," she claimed to be at a "Harford Hospital," but told Farkas she would come in if he really needed her, but that she had to look after her health, etc.

144. It turned out that Pelletier was being deceitful during the entire time she wrote the above messages to Plaintiff and Levenson. She was not really "at the doctors" like she told Plaintiff and Levenson or at Hartford Hospital like she told Farkas, but was away with Levenson on vacation in Florida.

145. On May 4, 2016, Farkas asked Markovitz, "Do you know if Jessica went away? I meant where she went last week? Walk into her office ask her how where she stayed in florid[a]. Act casual as if you know. Markovitz responded, "She was in Florida."

146. Upon discovering this, Farkas discussed it with the Board, and a decision was made to terminate the relationship with Biorelief; however, Plaintiff convinced the Board to wait until after he completed the upcoming raise, considering Pelletier past threat of a public smear campaign against Plaintiff, which seriously impact his ability to raise capital for the Company.

147. On May 14, 2016, after forgetting her email password (and remembering it later), Pelletier falsely claimed to company management that Plaintiff changed her Tikun Olam email

password. In a message to Plaintiff, she stated: "Really? You changed my Tikun olam password? Is this my way of getting fired?" Plaintiff responded, "No I didn't."

148. On June 5, 2016, Pelletier falsely accused Plaintiff of stealing her 24K gold pen when it turned out to be Levenson who took it, and sent him a text message (copies of messages referenced in this paragraph annexed hereto as "Exhibit N" and incorporated by reference herein) stating:

> "Eric I'm going to say this before I flip out. I accidentally left my dan fung pen in our office on Thursday. It is #98 and if you touched it or if it is not there k. Monday I am going to FREAK OUT. 1) i am head of product development and I need them for company research and 2) it was not your pen to touch. I hope that our friendship is valuable and would not want to hurt me or cause me distress". "Because I'm EXTREMELY stressed about it once I realized I left it and u said u cleaned the office".

Plaintiff replied:

> "U have to stop accusing me of shit bc it's not cool." "Ask." "Say have u seen my pen?" "Or do u know who may have taken my pen?" "Your barking up the wrong ally." "In the meantime, don't accuse me of shit anymore. You're the only one who takes things that aren't yours."

Pelletier replied:

> "Sorry thanks I love u and I don't take ur stuff".

149. Pelletier then called Markovitz, and when he said he didn't take her pen, she committed slander against Plaintiff saying that "she knew it, she knew Plaintiff took it." She responded to Plaintiff with the following message (copy annexed above as "Exhibit O"):

> "Harry did not take it. It was in the corner cubbie. Please bring it in tomorrow it is #98 and I will be devasted if it isn't..."

150. On June 6, 2016, Pelletier came to the office and said "Fuck you" to Plaintiff, that she "kn[ew] he took it," which Plaintiff reported to Farkas, who intervened and discovered that, in fact, Levenson took Pelletier's pen. Moreover, it turned out that pen #98 was defective, and

when the package was opened, there was no pen. Farkas told this to Pelletier, who felt very stupid, considering Levenson was her boyfriend. (Copies of the messages referred to in this paragraph are annexed as "Exhibit O" above.)

151. To show that he was a bigger person, Plaintiff sent a picture of the empty pen to the manufacturer, which was his relationship, and asked him to send Pelletier another 24K gold pen, which he did.

153. Ironically, a couple days later, Plaintiff was in Levenson's office and saw the original shipping box that the pens arrived in. Written on the box in Pelletier's handwriting, it said, "Do not give one to Eric." This was Plaintiff's relationship, and one of the original pens was supposed to go to him, per the manufacture's letter to the Company, and Pelletier, in fact, originally stole Plaintiff's 24K gold pen, and got Levenson to go along with it.

154. During the week of June 13, 2016, Sucher, who would officially become the TOH's CEO in July of 2016, was at TAG observing and evaluating staff, and getting up to speed. After observing Pelletier on a couple different occasions and inquiring into what she actually did, he determined that she would be terminated, and wrote in his hand-written notes that she was to be fired by the end of the week. Again, Plaintiff intervened, and convinced the Board to wait until after he completed the upcoming raise, considering Pelletier past threats of a public smear campaign against him in the event of her firing, which would seriously impact his ability to raise capital for the Company.

155. On June 20, 2016, TOH's offices were moved from TAG to Regus at 77 Water Street ("77 Water Street"). Pelletier wanted to be near Levenson and wanted to stay in an office with his assistant Pardip. She sent a text message to Plaintiff (copy annexed hereto as "Exhibit P" and incorporated by reference herein) stating:

> "Pardip and I need to share offices I'm not going to be in a room with 5 20 year old dudes". "Fuck that". "I need a klonopin".

156. On June 22, 2016, Plaintiff texted Farkas, "I think Jessica has made Scott's office her office". Farkas responded, "please explain". Plaintiff said, "everytime I am not here, she's sitting [i]n there. That's all." Farkas responded, "You asked me to wait". If it was up to me, she would already be gone." Plaintiff responded, "No problem."

157. As previously stated above, Plaintiff had asked the Board to hold off from terminating the relationship with Biotech until after the raise was open and successfully completed, because Pelletier had previous made threats of launching a public smear campaign, which could strangle his ability to raise money and potentially starve the Company.

158. June 22, 2016, was the last day Pelletier showed up at 77 Water Street until August 1, 2016. She claimed to Farkas and Markovitz that she had to get an "emergency shot of chemo," and then continued to claim through the rest of the months of June and all of July, that she was undergoing daily chemotherapy treatment and was on a morphine drip; yet, in the complaint she filed in October of 2016, she claimed to have a condition called Pseudoangiomatous Stromal Hyperplasia ("PASH"), which according to International Journal of Surgery, is a non-malignant condition. *See* http://www.journal-surgery.net/article/S1743-9191(10)00445-0/fulltext ("PASH is not considered premalignant; invasive or in situ carcinoma has not been reported within a PASH nodule, nor is it considered a risk factor for cancer or is it associated with synchronous cancer.")

159. Due to Pelletier's extended absence, Levenson had to hire a new project manager for the raise in early July of 2016, Amelia Brown ("Brown").

160. Fed up with her continuing record of poor performance, dishonesty and absenteeism, on July 20, 2016, Farkas revoked Pelletier access to the investor relation's email,

constructively informing her of her imminent termination. In response, Pelletier texted Farkas, "Did you change investor relations password?" "Why? I was working on an email to go out." "Am I getting fired?" Farkas replied, "Yes." "I changed it." "I'll explain soon." Pelletier replied, "I'm getting fired?!!!!!" "What? I've been getting chemotherapy for the last month …"

161. Pelletier, knowing how to manipulate Farkas, in an effort to delay Biorelief's inevitable termination, sent him the following message, which worked like a charm:

> "Barry, I just wanted to say thank you for showing compassion and understanding throughout the last few months. That is the most kindness I have received from anyone in a very long time. Your ability to do the right thing time and time again is a testament to both your character and the way you represent your faith. You made a terrible situation much easier for me [referring to her alleged illness], and I have the upmost respect for both you as a businessman and an individual. I am starting to feel better and no longer have to do chemo. I promise you your kindness will not be taken for granted and I will step my game up for the company as I continue to improve. Best, Jessica." (brackets added).

162. On August 1, 2016, Plaintiff returned to the office and sent the following Whatapp message to Markovitz, stating, "I've been absent for months I need to get on shit."

163. On August 1, 2016, Plaintiff was working in his office with Brown on the raise, and Pelletier knocked on Plaintiff's door and asked him to come into the hallway to speak to her, which he did. Pelletier was visibly high on morphine, which she admitted, and said that she couldn't believe he had replaced her, but Plaintiff said that she disappeared for five (5) weeks and they didn't have a choice.

164. Plaintiff went back to his office, and as he opened the door, Pelletier shouted, "Is that my mouse?" Plaintiff said that he had no clue, but that a couple weeks earlier, his mouse broke and Levenson's assistant gave him the mouse to use. Pelletier said it was hers and demanded it back immediately. Plaintiff asked her for a couple minutes, but she refused and got extremely angry, and stormed out.

165. The next day, on August 2, 2016, without knocking, Pelletier swung open the door to Plaintiff's office and told Brown to "get out." She closed the door, and said how dare he fuck with her, that she was the wrong person to fuck with, and he's the last person that should be fucking with her, that she has the ability to make his life a living hell. Plaintiff said that if using a mouse that Levenson's assistant had given him while she was gone, without knowing it was hers, was fucking with her, then she should consider herself fucked with.

166. In response, Pelletier demanded a payout, and said if they didn't comply, she would launch a negative public relations campaign against the Company, but especially him, having "slam articles" published in the New York Daily News and the New York Post that would paint him as a drug addict and ruin him personally and professionally. Moreover, she said, "Good luck raising money for the company," as she slammed the door to his office and exited.

167. Plaintiff told Brown that he had been threatened by Pelletier, and immediately reported the incident to Farkas, and they reported it together to Sucher, who was now CEO of TOH. Sucher had only started officially as CEO in the beginning of July 2016, but based on his notes, and thought Pelletier had already been terminated in June, prior to TOH moving to the new offices.

168. On or about Friday, August 12, 2016, Levenson was constructively informed of his imminent termination, when Sucher cut his responsibilities, and tried to convince him to voluntarily step down as COO and instead be the Company's spokesperson.

169. On August 16, 2016, in order to pre-empt her imminent termination, upon the advice of her boyfriend, Levenson (who admitted this to Farkas), Pelletier retained personal injury attorney, Maya Risman ("Risman"), who sent Farkas a boilerplate letter (copy annexed

hereto as "Exhibit Q" and incorporated by reference herein) claiming that she was the "victim of sexual harassment, discrimination, as well as prohibited retaliation," but it contained no specific allegations.

170. On or about August 19, 2016, the Company's defense attorney, Rick Ostrove ("Ostrove") spoke to Pelletier's attorney Risman, who said that Pelletier would sue the Company unless it paid her $200,000, but was unable to allege any specific claims. Since the Company knew that any claims were meritless, and Risman wouldn't agree to send a position statement for a settlement discussion, no offer of settlement was made.

171. On or about August 23, 2016, upon being terminated as TOH's COO by its CEO Sucher, clearly knowing what Pelletier had planned for Plaintiff, Pelletier's boyfriend Levenson's departing words to Plaintiff were, "Don't worry, you'll get yours!" Plaintiff has not spoken to or seen Levenson since;[11] however, he is currently an outside consultant for TOH.

172. Thereafter, Pelletier went to her bully pulpit, as President of CTASA, and just as she had done to Mercury and Stanley one year earlier, in an attempt to intimidate the Company into acquiescing to her demands, she tweeted the following threatening statement from her from her CTASA Twitter handle (see "Exhibit R"):

> Heard @tikunolamusa is launching soon, Wonder which states? Will keep posted, as story is developing #erez #avicekel #TOtruth@TikunOlam_mgc

173. Concerned, Plaintiff sent an email to Farkas and Sucher notifying them and wrote, "Was Jessica Pelletier authorized to tweet this? What is #TOtruth?"

174. Plaintiff followed up with an email to Ostrove (see "Exhibit S"), stating:

> "Bernie asked me to forward this to you, so we could discuss the most appropriate way to handle. Ms. Pelletier is head of the CT chapter of an organization called Americans for Safe Access. It is the largest and most prominent national patient advocacy organization for medical cannabis. Ms. Pelletier has never tweeted

[11] Other than an accidental pocket dial and text informing Levenson that it was a pocket dial.

> about the company before and was not authorized to do so now. By adding the hashtag #TOtruth, one could interpret that as a threat."

175. Following through with her threat, on August 29, 2016, Pelletier disseminated a negative article about the Company from her CTASA Twitter handle (see "Exhibit T"):

> Wonder what this means for @tikunolamusa? Contaminants in their Israeli counterparts production? themedialine.org/top-stories/me…

176. On August 29, 2016, Farkas emailed Pelletier asking her to delete the two tweets. She did not admit to making the tweets (even though it's her account, and she's said in the past that she is the only one with access), but offered to delete them (see "Exhibit U"); however, she deleted the first tweet, but left the second tweet, which was the most damaging, despite repeated requests.

177. When the tweets did not cause the Company to cave to her demands, working under the advice and guidance of her attorney Risman (see "Exhibit V" of Pelletier sending emails to Risman the night before saying she just missed her call, and forwarding communications with the company related to her negotiations for commissions), who had already informed the Company's defense attorney Ostrove that Pelletier was preparing a lawsuit against the Company if it didn't pay her Two Hundred Thousand ($200,000.00) Dollars, or make her an offer, Pelletier sent a self-serving email on September 8, 2016 (see "Exhibit V"), to Farkas and Sucher, and two prospective partners of the Company, Nat Averill ("Averill") and Chip Boyden, who don't know one another, and wrote that Farkas said on many occasions that "if deals materialized, that [she] would be compensated, however, Barry lied and told [her] that nothing had materialized," and that she was "[s]o disappointed in all parties, and will not hesitate to get a lawyer involved unless all parties come to an agreement."

178. Since Pelletier had nothing in writing regarding any complaints of sexual

harassment, discrimination or retaliation, it is believed that Pelletier's attorney also counseled her to include in the aforementioned email, a self-serving, untrue and disparaging comment about Larner, concerning internal matters of company affairs to everyone, stating, "Seems as if after our little incident with Glen Larner, I was cut out of all deals, despite me being solely responsible for their inception."

179. The fact was that no deals had materialized with either of the prospective partners Pelletier emailed, and it is believed that by Pelletier's maliciously sending these defamatory and threatening emails, it tortiously interfered with any agreement being materialized with Averill, which has severely affected the value of Plaintiffs' ownership shares of the Company.

180. As a result of all of the aforementioned, on September 15, 2016, TOH terminated its relationship with Biorelief by letter to Pelletier from its CEO, Sucher (see "Exhibit W").

181. Even after being terminated, where she could now add a claim of retaliation to her lawsuit, Risman still did not feel Pelletier had a case worth pursuing, so to make good on her threat against Plaintiff, Pelletier contacted her attorney ex-boyfriend (the same ex-boyfriend who sent a demand letter on Pelletier's behalf to Mercury in August of 2015, when she launched a public smear campaign against them to exact a settlement), who she always claimed was connected high up at the New York Daily News and New York Post, and he referred her to a much more aggressive personal injury attorney named Daniel Kaiser ("Kaiser"), who through as excess of zeal (acting as her agent), maliciously and deliberately named Plaintiff in a lawsuit, perverting the intent of the judiciary by using the pleadings to make false and inflammatory personal attacks and accusations against him that were not pertinent to the lawsuit, and were purely designed to punish him and shock him into exacting a financial settlement.

182. In the pleadings, Pelletier stated that Plaintiff "has a serious drug addiction," not

as an opinion, but as a fact, and falsely accused him of a litany of serious felony crimes and misdemeanors, and other unethical conduct, which are libelous per se, including but not limited to, multiple counts of robbery, attempted robbery, grand larceny, petit larceny, false imprisonment, coercion, bribery and criminal diversion of prescription medications. She published the lawsuit on October 6, 2016, by filing it with the Clerk at New York County, and published it again on October 17, 2016, by serving the Plaintiff's employer, coworker, investor and clients. (Copy of the complaint is annexed hereto as "Exhibit X" and incorporated by reference herein.)

183. The Complaint also names TOG, two of its Board members, TOH's CEO, and another TOH employee, as defendants; yet it leaves out Pelletier's current boyfriend Levenson, who was the only officer of the company she worked for, TOH, during her engagement (until July 2016), and oversaw all staff, including her, and would have had a fiduciary duty to report if she was being sexually harassed or discriminated against. Moreover, the only known written (and verbal) complaints made by Pelletier involving anyone harassing her for drugs was against Levenson, the only known complaint she made involving someone hitting on her was against Levenson, and the only known written (and verbal) complaint she made involving anyone telling her to wear more revealing clothes was against Levenson.

184. The complaint is replete with disparaging and false allegations of robbery, grand larceny, bribery, extortion and serious drug addiction against Plaintiff, and was recklessly and maliciously asserted and designed to injure Plaintiff in his professional standing, as an attorney and as the Vice President of a drug company, while at the same time calculated to avail Pelletier of the common law privilege against claims for defamation granted to statements of participants in judicial proceedings. The allegations of "serious drug addiction," robbery and multiple counts

of larceny by Plaintiff, which were made with reckless disregard of whether they were true or false, are completely immaterial and impertinent to the lawsuit, and were intentionally and solely designed and published to defame and discredit him in his trade and profession.

185. At the time the complaint was filed by Pelletier, she knew or had reason to know that the allegations charging Plaintiff with multiple counts of robbery, grand larceny, petit larceny, bribery and extortion. Moreover, as neither a physician nor nurse practitioner, or a specialist in the field of drug addition, Pelletier has no legally recognized ability or authority to diagnose Plaintiff as having "a serious drug addition."

186. The personal attack of Plaintiff having a "serious drug addiction" was impertinent and irrelevant to any legitimate causes of action that may have existed at the time the pleading was filed, and was not cognizable at law, and the defamatory allegations of robbery, grand larceny, petit larceny, bribery and extortion, were not cognizable in civil law, and were impertinent and irrelevant to any of the underlying causes of action contained in the complaint, which consisted of the following four causes of action: (1) Gender, disability, and religious discrimination, and retaliation for objections to the gender, disability, and religious discrimination; (2) violation of New York City Administrative Code §8-502(a), which defines 'unlawful discriminatory practice' as discrimination by an employer "because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation or alienage or citizenship status of any person," and defines an 'act of discriminatory harassment or violence' as when an "injury, intimidation, oppression or threat [or "defacement, damage or destruction of real of personal property"] is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual oration, age, marital status, partnership status, or whether children are may be, or would be residing with

such victim, disability or alienage or citizenship status..."; (3) unpaid commissions; and (4) breach of contract.

187. The absolute privilege afforded statements made in judicial proceedings is limited to statements, which are not only pertinent to the subject matter of the lawsuit, but are made in good faith and without malice. The privilege is lost if abused, as in this case. Not only are the inflammatory statements about Plaintiff not relevant to the lawsuit, but the level of malice of Pelletier, in following through with her threats against Plaintiff, has exceeded any privilege which statute or case law would attach to legal proceedings, and therefore, Pelletier is estopped from asserting either absolute or qualified privilege as a defense to this action.

188. In following through with her threat of a public smear campaign against Plaintiff, on October 6, 2016, before or at about the same time that Pelletier maliciously instituted the aforementioned judicial proceeding, and prior to serving any of the parties, she and her attorney Kaiser, acting as her agent, contacted the news media, purposely and maliciously stimulating press coverage and wide publicity of the complaint.

189. For Pelletier to purposely and maliciously stimulate press coverage and wide publicity of the complaint with its false and malicious personally attacks against Plaintiff intended to publically smear him, is beyond the pale of protection of the common law privilege afforded statements made during the course of judicial proceedings, and must be considered separately and apart from the complaint filed by Pelletier.

190. Liability for disseminating defamatory statements contained in a pleading to the press, under New York law, is barred neither by the absolute privilege afforded statements made in pleadings, nor by the statutory privilege afforded fair and true reports of such statements. Moreover, the courts indeed have an interest in providing redress for extraneous character

assassinations directed against members of the Bar.

191. But first, the following are examples of the libels against Plaintiff published by Pelletier in the complaint, each of which are false, not pertinent and material to the underlying causes of action contained in the complaint, and were made in bad faith with malice:

A. At paragraphs 16 of the complaint, it is alleged that Plaintiff "has a serious drug addiction…" The foregoing allegation contained in the complaint, which is stated gratuitously as a fact, not an opinion, is false, defamatory and libelous, was made in bad faith with malice, and without pertinence or materiality to the underlying causes of action. Moreover, Pelletier is not a physician or nurse practitioner, or a specialist in the field of diagnosing drug addition. She has no legally recognized ability or authority to diagnose Plaintiff as having "a serious drug addition." Making this assertion is the equivalent of accusing Plaintiff of having a loathsome disease, which is libelous "per se," and actionable against Pelletier without proof of special damages. Furthermore, it libelous "per se," as it imparts to Plaintiff unfitness in his practice as an attorney.

B. At paragraphs 18 of the complaint, it is alleged that "While on a business trip out west in July 2015, [Eric] harassed Pelletier to give him her Dialodid (morphine), claiming that she owed her position to him and if she 'help[ed] [him] out, [he'd] help [her] out.'" (first bracket added). The foregoing allegation of bribery contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. Plaintiff did not see Pelletier in July of 2015. In fact, as of July 2015, Plaintiff had only briefly met Pelletier in person twice (and was never alone with her), once as an introductory meeting at Levenson's office on February 19, 2015, where Pelletier met with Plaintiff, Farkas and Levenson in the conference room, and departed alone, and once with

Farkas in Brooklyn, on April 2, 2015, to discuss prospective work, where she arrived before Plaintiff, and departed alone. While the complaint makes it ambiguously appear as if the alleged bribery were words quoted from a text message or email, no such writing exists, and no such statements were made.

C. At paragraph 19 of the complaint, it is alleged that "[a]t the end of the trip, [Eric] cornered Pelletier while she was gathering her belongings from the trunk of the rental car at the airport drop off area and demanded she hand over her prescribed Dialodid. Farkas plead with [Eric] from the front to leave Pelletier alone and let her go; however [Eric] did not listen. Pelletier refused and only after the Police walked over to investigate what the commotion and hold up was, did she escape into the airport." (brackets added). The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence or materiality to the underlying causes of action. By falsely charging Plaintiff with the commission of the serious crime of attempted robbery in the third degree, a class E felony under NY Penal Law §160.05, punishable by up to four (4) years in prison, these words are libelous "per se" and actionable against Pelletier without proof of special damages. As stated above, Plaintiff did not see Pelletier in July of 2015, and as of that time, had only met her in person on two occasions, once in Levenson's office and once by Farkas' office for meetings that lasted for less than an hour, and Farkas was present at all times during both of those meetings.

E. At paragraph 22 of the complaint, it is alleged that "[d]uring the entire tenure of her employment, [Eric] would harass [Pelletier], in person, on the phone and in text messages, to give him her prescribed morphine or medical cannabis." (brackets added). The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith

with malice, and without pertinence and materiality to the underlying causes of action. Pelletier claims her tenure was from February 2015 to August 2016, when it in fact was from September 11, 2015, to September 15, 2016. During her Tenure (9/11/15-9/15/16), Plaintiff never once asked her for prescribed morphine or medical cannabis. Plaintiff only asked Pelletier for Dilaudid in August of 2015, after a back injury, and asked her for medical cannabis only on September 10, 2015.

F. At paragraph 33 of the complaint, it is alleged that Pelletier "consistently objected" to Plaintiff "harassing her for her prescriptions," and that "[w]hen she complained to T.O. management, she was ignored and [Eric's] behavior was brushed off or excused for." (brackets added). The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. This allegation is demonstrably false, as shown by "Exhibit E" above, which is Pelletier's personal notes from the morning of September 22, 2015, for her big meeting with Farkas, which she planned for a week, and the first time she met with him alone without Plaintiff in his office. In fact, the only known written (and verbal) complaint(s) Pelletier ever made about being harassed for drugs was on October 12, 2015, against Levenson, as shown by "Exhibit F" above, where she text messaged Plaintiff, "Please keep this between u and I, but if scott asks me for drugs one more time I'm going to fucking lose it." "Inappropriate. He isn't you and we're not close like that." This would also suggest that the requests Plaintiff had made in August and on September 10, 2015, were not unwelcome.

G. At paragraph 34 of the complaint, it is alleged that "During the Boston trip, when [Pelletier] had gotten out of the car at a rest stop, Plaintiff went through [Pelletier's] purse and discovered her painkillers." (brackets added). The foregoing allegation contained in the

complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. It was not alleged that Pelletier saw Plaintiff go through her purse; yet, this was stated as a fact. This allegation is demonstrably false. Two days before the Boston trip, on August 25, 2015, which was Plaintiff's birthday, Pelletier sent him a message stating the following (copy annexed hereto as "Exhibit Y" and incorporated by reference herein): "Are you coming with me to mass Thursday & Friday? I think one of you should come.... I got you a card and [picture of a pill]". When Plaintiff picked up Pelletier on August 27, 2015, she handed him a birthday card and a bottle of Dilaudid with approximately 12 pills for his birthday. Moreover, a week earlier, she texted Plaintiff a picture of her prescription, and said, "All you." (copy annexed hereto as "Exhibit Z" and incorporated by reference herein).

H. At paragraphs 35-36 of the complaint, it is alleged that "For the remainder of the trip, [Eric] harassed her for painkillers; when [Pelletier] would not comply, [Eric] threatened her job and her role in the company," that "[w]hen Ms. Pelletier refused, [Eric] stole them from her purse when she was not present," and that "[w]hen Ms. Pelletier objected, [Eric] threatened her job." (brackets added). The foregoing allegations contained in the complaint are false, defamatory and libelous, were made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. By falsely charging Plaintiff with the commission of the serious crime of grand larceny in the fourth degree, a class E felony under NY Penal Law §155.30, which carries a sentence of up to four years in prison, these words are libelous "per se" and actionable without proof of special damages. This allegation is demonstrably false, as shown by "Exhibit Y" and "Exhibit Z" above.

I. At paragraph 48 of the complaint, it is alleged that "on the car ride home the next

day, [Eric] continued to harass Pelletier for the rest of her Dialodid (Morphine)." (bracket added). The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. This allegation is demonstrably false, as shown by "Exhibit Y" and "Exhibit Z" above.

J. At paragraph 49 of the complaint, it is alleged that "Indeed, [Eric] insisted that [Pelletier] buy him medical marijuana with her medical card. Pelletier refused but eventually succumbed to the pressure, as [Eric] said it would please the guys." The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. This allegation is demonstrably false. During the car ride home from Boston, Pelletier asked Plaintiff to stop at Arrow Dispensary, so she could pick up her weekly supply of medical marijuana. On the way there, Levenson texted Plaintiff to see how it was going, and when Plaintiff said that they were stopping at a dispensary, Levenson responded, "already put in an order," which contradicts Pelletier's aforesaid claim. (Copy annexed hereto as "Exhibit AA" and incorporated by reference herein.) Furthermore, Pelletier did not buy anything for Plaintiff, as he does not consume the flower of the cannabis plant, which was all the dispensary had in stock.

K. At paragraphs 56 and 58-60 of the complaint, it is alleged that while in Pelletier's home, "she saw [Eric] going through her refrigerator and her cabinets in her living room, presumably searching for more drugs," that "within the next day or two, [Pelletier] went to her medicine cabinet to grab some Tylenol, and realized some things were missing – an entire pint of Codeine cough syrup (leftover from her episode of legionnaires) and another bottle containing a few morphine pills," that "Pelletier immediately called [Eric] and asked if he took the

medications," and that "[a]lthough he initially denied it, eventually [Eric] confessed to stealing the medications from her medicine cabinet." The foregoing allegations contained in the complaint is false, defamatory and libelous, were made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. By falsely charging Plaintiff with the commission of the crime of petit larceny, a class A misdemeanor under NY Penal Law §155.25, these words are libelous "per se" and actionable against Pelletier without proof of special damages.

L. At paragraphs 61-62 of the complaint, it is alleged that during the week of September 11 – September 14, 2015, when "Pelletier was required to stay in New York at a Hotel for a project with [Eric] and other TO members," that Plaintiff "repeatedly stole prescription pills from Ms. Pelletier's bag." The foregoing allegations contained in the complaint are false, defamatory and libelous, were made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. It is not alleged that Pelletier saw Plaintiff stealing prescription pills from her bag or that he admitted to doing so, or ever that she questioned him about it, but simply states that Plaintiff committed the larceny, as if it were a fact. By falsely charging Plaintiff with the commission of the crime of petit larceny, a class A misdemeanor under NY Penal Law §155.25, these words are libelous "per se" and actionable against Pelletier without proof of special damages. Furthermore, the words impute Plaintiff in his role as the attorney for this project. Pelletier was not required to stay in NY at a hotel for the project, and, in fact, on September 13, 2015, chose not to stay and went home to CT, and was not in NY on September 14, 2015. Furthermore, Plaintiff was never alone with Pelletier's bag and would not have had the opportunity to steal from it. The complaint does not allege that Plaintiff was in her hotel room.

M. At paragraphs 63 of the complaint, it is alleged that "[w]hen he had no other prescriptions to steal, [Eric] tried to convince Pelletier to have her cousin, who is a doctor, provide her with prescriptions for [Eric]." The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. By falsely charging Plaintiff with attempted prescription drug fraud, a serious crime in NY, with penalties ranging from a class A misdemeanor to a class C felony, these words are libelous "per se" and actionable against Pelletier without proof of special damages.

N. At paragraphs 67 of the complaint, it is alleged that "Indeed, [Eric] behavior became so bad that on September 21, 2015 [Richard], [Eric's] father, asked [Pelletier] to provide him with secret updates regarding his behavior." The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. This allegation is demonstrably false and misleading. In fact, Pelletier texted Farkas on September 21, 2015 (copy annexed hereto as "Exhibit BB" and incorporated by reference herein), that "[Richard] asked me to give him secretive updates regarding progress, initiative pushing deals through, etc. Please don't tell [Eric]." It should also be noted that, at the time, Richard was a board member and a major shareholder of the Company. He was simply asking for updates regarding Company progress, as Pelletier told Farkas, and not updates regarding Plaintiff's behavior.

O. At paragraphs 73 of the complaint, it is alleged that "[b]y November 2nd, [Eric's] behavior became severely disturbed. He had stolen numerous bottles of pills and other legal prescriptions from [Pelletier], and continued with extremely lewd behavior toward plaintiff while on drugs." The foregoing allegation contained in the complaint is false, defamatory and libelous,

made in bad faith with malice, and made without pertinence or materiality to the subject matter of the lawsuit. Besides for a couple hours at the NYC conference on September 21, 2015 and an afternoon at Levenson's office on September 29, 2015, Plaintiff did not see Pelletier from September 16, 2015, until the conference in Las Vegas on November 11, 2015, making this allegation impossible.

P. At paragraphs 77 of the complaint, it is alleged that Plaintiff had an "essential meltdown" and "on one day in November [Eric] fired [Pelletier] 4 times because he was on a drugged rampage, then repeatedly called her back from his assistant's phone to say that she was not fired." (brackets added). The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. Falsely asserting as fact, not opinion, that Plaintiff had an "essential meltdown" on one day in November while he was doing legal work for the Company and fired Pelletier four (4) times because he was on a "drugged rampage," clearly imputes professional incompetence to him in his capacity as an attorney, and addresses the subject of plaintiff's ability to practice his profession and were disparaging of his mental capacity and competence as a lawyer. As reflected in this pleading, Plaintiff told Pelletier on November 4, 2015, that he couldn't work with her after a month of her repeated failure to show up to the company office." She was not with Plaintiff on November 4, 2015, and would have had no way of knowing if he was under the influence of drugs. Moreover, he fired her once, and rehired her immediately.

Q. At paragraphs 97 of the complaint, it is alleged that around November 19, 2015, Plaintiff "inadvertently threatened to terminate [Pelletier] if she continued to inform the Company of his drug use and his theft of her prescriptions." The foregoing allegation contained

in the complaint is false, defamatory and libelous, made in bad faith with malice, and made without pertinence or materiality to the subject matter of the lawsuit. During her entire time of her engagement with the Company, Pelletier never made a complaint to the Company about Plaintiff's alleged drug use or theft of her prescriptions, and Plaintiff did not threaten Pelletier not to do so. In fact, as alleged in the preceding paragraphs, Plaintiff only saw Pelletier at the Nevada Conference from November 11 to 13, 2015, and did not see her thereafter until December of 2015. Moreover, he was not permitted to communicate with staff from November 17, 2015 until his return to work on December 6, 2015, making this allegation impossible.

R. At paragraphs 129 of the complaint, it is alleged that Plaintiff's "conduct, however, continues in April and he harasses [Felletier] for vaporizer pens, saying that he will promote her to Chief Marketing Officer if she complies with his requests for drugs." The foregoing allegation contained in the complaint is false, defamatory and libelous, was made in bad faith with malice, and without pertinence and materiality to the underlying causes of action. Since the value of the benefit exchanged for the prescription medications (being promoted to Chief Marketing Officer) would be in excess of One Thousand ($1,000.00) Dollars, Pelletier has falsely charged Plaintiff with the serious crime of criminal diversion of prescription medications and prescriptions in the third degree, a class E felony under NY Penal Law §178.15, and thus, these words are libelous "per se" and actionable against Pelletier without proof of special damages. This allegation is demonstrably false. On April 18, 2016, unsolicited, Pelletier surprised Plaintiff with a pen as a congratulations ("a present", as she calls it) for closing a deal in Oregon. In a text messages over the next two days, she wrote Plaintiff (See messages annexed as "Exhibit CC"), stating:

> "Got u a pen. Bring 60$ & if u tell Scott I will beat u up…I got u a present that's why…R u coming in or no. Ido t care I just need to bring ur present with me if ur

not coming…Ok I'm taking ur present then and assuming you're not coming in today I'll bring it tomorrow."

192. Each of the aforesaid allegations were false and were known by Pelletier to be false at the time she made them, or else were made with reckless disregard for the truth.

SLANDER IS THEN ADDED TO THE LIBEL

193. In following through with her threat of a public smear campaign against Plaintiff, prior to serving the complaint, and before or around the same time as she filed it, on October 6, 2016, contemporaneously with the filing of the complaint annexed as "Exhibit X", Pelletier and/or her attorney Kaiser, acting as her agent, disseminated or caused to be disseminated, a copy or report of the complaint to Barbara Ross ("Ross"), a reporter at the New York Daily News, and Rebecca Fay Rosenberg ("Rosenberg"), a reporter at the New York Post, and upon information and belief, other reporters.

194. In addition, Pelletier and/or her attorney Kaiser, acting as her agent, communicated or caused to be communicated her false and defamatory allegations against Plaintiff to Ross and Rosenberg, and upon information and belief, to other reporters, and additionally advised or caused to be advised such reporters that a complaint had just been filed.

195. Pelletier and her attorney Kaiser, acting as her agent, supplied Ross with Plaintiff's company email, as well as the personal emails of Farkas, Larner, Markovitz and Bernard Sucher, all of which were not publically available. Pelletier also provided Ross with her picture for the article and directed Ross to where she could find a picture of Plaintiff to use for the article.

196. Pelletier and her attorney Kaiser, acting as her agent, supplied Rosenberg with Plaintiff's private cell phone number, which was not publically available, and he is the only defendant she called and texted, and she submitted an article to her editor to be published, but the

New York Post's editors would not to publish it.

197. The transmission of the false allegations in the complaint to the press, and the communication with the press concerning such allegations, were not privileged and were not done with the consent or permission of Plaintiff.

198. The false and defamatory communications by Pelletier and/or her attorney Kaiser, acting as her agent, directed to persons in the media, who were wholly unconnected to the lawsuit in question, were not statements made in the course of judicial proceedings, and do not fall within the purview of the common law privilege.

199. The aforesaid transmission and/or communication was done with common-law malice, i.e., hatred, ill will and/or spite, toward Plaintiff.

200. Pelletier's attorney Kaiser and Ross have worked together on articles in the past about his client's adversaries, and this tactic of going to the press before litigating in court appears to be his *modus operandi*.

201. For example, Kaiser filed the case, *Hector Prowse vs. MTA-New York City Transit, et. al.* (Index Number 154232/14), on behalf of his client, Hector Prowse, in New York County Supreme Court on April 30, 2014, and on May 1, 2014, Ross wrote the following slash piece for Kaiser against his adversary that was published in the New York Daily News: Former New York City Transit exec makes graphic claims that boss sexually harassed him ("Ex-NYC Transit executive Hector Prowse, in a graphically detailed Manhattan lawsuit, said his supervisor masturbated in his presence, grabbed his buttocks and massaged his neck and back.") (copy annexed as "Exhibit DD" and incorporated by reference herein).

202. Just six (6) weeks after the slash piece against Plaintiff was published in the New York Daily News, Kaiser filed the case, *Tom Corcoran v. Siebert Cisneros Shank & Co., et. al.*

(Index Number 159868/16), on behalf of his client, Tom Corcoran, in New York County Supreme Court on November 22, 2016, and on November 23, 2016, Ross wrote the following slash piece for Kaiser against his adversary that was published in the New York Daily News: Wall Street firm sued over alleged sexist environment (copy annexed as "Exhibit EE" and incorporated by reference herein).

203. In order to make sure the article would be published, Pelletier and her attorney Kaiser, acting as her agent, made false and outrageous statements to Ross and Rosenberg, and upon information and belief, to other reporters, and in an effort to create public interest, pitched it as a lawsuit sounding in "sexual harassment and discrimination on the basis of religion and disability," as Ross wrote to Plaintiff (copy of email annexed hereto as "Exhibit FF" and incorporated by reference herein), but then used her time with Ross to single-out Plaintiff, making personal attacks to publicly humiliate him about matters unrelated to the causes of action in the underlying complaint.

204. In fact, the print version of the article (*see* "Exhibit GG") dedicates 5 of its 8 paragraphs to false and disparaging claims against Plaintiff for robbery, grand larceny, and claims that he is a drug addict, all of which are not material and pertinent to the subject matter of a lawsuit sounding in sexual harassment and discrimination on the basis of religion and disability, and were not remarks made for the benefit of the general public, but remarks made for a few select ears that Pelletier was targeting – individuals in the medical cannabis and legal industries. Moreover, the remark referring to Plaintiff as "house counsel," who "was himself addicted to drugs," which is slanderous *per se*, as it clearly imputes professional incompetence to Plaintiff in his capacity as an attorney, is a personal comment about the Plaintiff solely intended to malign and injure him in his profession, as an attorney, and his trade as the Vice President of a

medical cannabis company, which needs to get a license in each state it applies, and having a large shareholder, officer or director, with allegations of drug abuse and drug-related thefts and crimes, is reason enough for disqualification in many states, and Pelletier knows that did this to exact punishment and make sure Plaintiff could not operate in the Industry.

205. In the course of Pelletier's and Kaiser's interview with Ross, speaking of and concerning Plaintiff, and intending the same to be published in the New York Daily News and elsewhere, Kaiser uttered the following false and libelous outrageous statement: "In 25 years of doing this, I've never seen a more serious harassment case," which was published in the online version of the article on October 7, 2016. Both Kaiser and Ross, acting as Pelletier's agents, knew, or had reason to know, that this statement was false at the time it was stated, considering the last story Kaiser and Ross had worked on together was about a sexual harassment suit he brought forth in 2014 with a graphically detailed complaint alleging a supervisor masturbated in his client's presence. Considering all but one of the allegations written about are against Plaintiff, this slanderous statement made by Kaiser, acting as Pelletier's agent, imputes Plaintiff personally.

206. As a direct result of the aforesaid communications with Ross, statements summarizing certain of the false and defamatory allegations, made by Pelletier and/or her attorney Kaiser, acting as her agent, to Ross, were published in a New York Daily News article authored by Ross and appearing on Google News on October 7, 2016. A copy of the online article (which originally included Plaintiff's and Pelletier's pictures), entitled "Conn. Woman Sues Drug Store in Sexual Harassment Case," is annexed hereto as "Exhibit HH" and incorporated by reference herein.

207. As a direct result of the aforesaid communications with Ross, on October 8, 2016, an additional publication of the article with Plaintiff's picture was made in the Saturday print edition of the New York Daily News. A copy of the print article, entitled "Harass Slap vs. Ganja Biz," is annexed hereto as "Exhibit II" and incorporated by reference herein.

208. Further evidence that Pelletier and her attorney Kaiser, acting as her agent, had (and have) design and influence over the article in the New York Daily News is illustrated by the fact that for the online version of the article, which came out after Ross had already submitted the article with pictures for the print version to her editor, a different picture of Pelletier was used, which was incorrectly attributed to being from Twitter (the picture that was originally posted online can be found on the New York Daily News' Facebook page, which is annexed as "Exhibit JJ", and incorporated herein by reference). The picture that was used in the original print version of the article was correctly attributed to Pelletier's CTASA Twitter page (copy annexed hereto as "Exhibit KK", and incorporated herein by reference). Ross emailed Plaintiff for a statement following her interview with Pelletier and Kaiser, but did not ask him for a picture, or offer him the courtesy of choosing what picture was used for the print or online edition of the article.

209. Furthermore, after the article was first published online, Pelletier continued to publish her slanderous and libelous statements on October 7, October 8, 2016, and thereafter, by texting links of the New York Daily news article around to members of Plaintiff's industry and profession, including, but not limited to, Scott Levenson, Michael Latulippe, Shanel Lindsay, Chris Bhairam and Michael Kahn, and upon information and belief, many others.

210. To assure Farkas that he had nothing to do with the publishing of article, Levenson showed him his text messages with Pelletier, and his reaction when she told him that

she spoke to the media to get the articles published. Levenson claimed to be upset about Pelletier having taken her "personal vendetta" against Plaintiff this far, and told Farkas that he broke up with Pelletier over it, asked her to pack her bags and move out.[12] In response to Levenson's reaction, Pelletier sent him a text message several days later telling him that she had the pictures of herself and Plaintiff removed from the online version the article (the pictures remain on the New York Daily News' Facebook page, and other publications that have reprinted the article).

211. In addition to being the only defendant whose picture was included in all of the publications of the article, Plaintiff was specifically targeted for SEO purposes in the "news_keywords metatag," a copy of which is annexed as "Exhibit LL," and incorporated herein by reference, which lets publishers specify to Google a collection of up to ten (10) search terms that apply to a news article. The search terms submitted to Google by the publisher along with the article were (and still are): (1) connecticut woman sexually harassed; (2) jessica pelletier; (3) rocky hill connecticut; (4) eric lerner; (5) tikun olam; (6) sexual harassment; and (7) medical marijuana. Therefore, this article is the first hit upon any search of Plaintiff and his Company or his business trade. The same is not true for the other male individuals mentioned in the article and complaint, who are not targeted in the metatag.

212. In a quote attributed directly to Pelletier, the article falsely states, "Pelletier says one boss, [Eric] (far right), house counsel to Tikun Olam Inc., was himself addicted to drugs…" (bracket added). The foregoing statement is false, defamatory, slanderous and libelous, made in bad faith with malice, and not pertinent or material to the subject matter of the lawsuit. By referring to him as in-house counsel to the Company, and saying in the same sentence that he

[12] Shortly thereafter, Levenson and Pelletier got back together, and Pelletier current lives with Levenson and operates her new cannabis consulting company, MJ&CO, out of his offices.

"was himself addicted to drugs," the statement is slanderous and libelous "per se," as it clearly imputes professional incompetence to Plaintiff in his capacity as in-house counsel, and thus, actionable against Pelletier without proof of special damages.

213. The article falsely states that "[s]everal times during the 20 months she worked at the firm, court papers say, [Eric] stole drugs from Pelletier, tugging at her handbag in an airport and bullying her until she gave them up." (bracket added). The foregoing statement is false, defamatory, slanderous and libelous, made in bad faith with malice, and made without pertinence and materiality to the causes of action asserted in the complaint.

214. The article falsely states, as a fact, and not as something that was alleged in the complaint, that Pelletier worked at the firm for twenty (20) months (the complaint only alleges that she worked for the firm for eighteen (18) months), when she in fact, did consulting work for a subsidiary of one of the firms being sued for just one year. Furthermore, while the complaint only alleges that Plaintiff took Pelletier's bag from her once in an airport, and committed several other acts of petit larceny over the course of eight (8) months, the article states that Plaintiff was "tugging at her handbag in an airport and bullying her until she gave [her drugs] up," "several times" over the course of "20 months," which would leave the reader with the false impression that Plaintiff is being accused of repeatedly taking Pelletier's purse from her by forceful means, making him a repeated felon being charged with multiple counts of the serious crime of robbery in the third degree, a class D felony under NY Penal Code §160.05, carrying a sentence of up to seven years in prison, and is slanderous and libelous "per se" and actionable against Pelletier without proof of special damages. As the evidence presented with this pleading demonstrates, no such robberies or larcenies occurred, or were ever accused of occurring.

215. In another quote attributed directly to Pelletier, the article falsely states that "[s]he

says another time, [Eric] said he needed to use the bathroom in her home and she found codeine cough syrup and painkillers missing." (bracket added). The complaint alleged that several days after Plaintiff was in Pelletier home where he used her guest bathroom, she found codeine cough syrup and painkillers missing. It was not plead, as this statement asserts, that Pelletier found anything missing from her guest bathroom, or that it was immediately following his use of the bathroom.

216. The online versions of the article falsely states that "[t]he lawsuit says Barry Farkas, Tikun Olam's chairman, initially laughed and shrugged off [Eric's] behavior — but he later retaliated by reducing Pelletier's responsibilities." (bracket added). This is not only untrue, but it is not what was alleged in the complaint, and again singles out Plaintiff and makes it seem like complaints about his behavior, specifically, were the direct cause of the alleged retaliation and reduction of Pelletier's responsibilities. While, in reality, the pleadings allege that it was complaints about sexual harassment, age, gender and religious discrimination from individuals other than Plaintiff that eventually caused Pelletier's responsibilities to be reduced.

217. Again, each of the aforesaid allegations is and was false, known to be false by Pelletier and/or made with reckless disregard for the truth, and made without privilege, consent and/or permission.

218. Additionally, on October 8, 2016, as a result of Pelletier and her attorney Kaiser's communication to Ross, links to the article with an excerpt and a picture of Plaintiff were published on the online and mobile versions of the New York Daily News' Facebook page with a different title and an excerpt. A copy of the Facebook publication, entitled "Conn. Woman sues drug store in sexual harassment case," is annexed above as "Exhibit JJ." It has a big picture of Plaintiff and Pelletier, and says "Jessica Pelletier was fired from drug company,

Tikun Olam, Inc., after she repeatedly complained and reported her employers for making sexual harassment advancements," which resulted in anti-Semitic comments.

219. The statements in the New York Daily News' publications are not a "fair and true" report of a judicial proceeding under Section 74, as it creates false impression as to nature and severity of the claims, as against Plaintiff.

220. Furthermore, because the various reports impute wrongdoing to Plaintiff as an individual, they produce a different effect on the mind of the reader from that which the pleading would have produced.

221. As a direct result of Pelletier's false and defamatory communications, which caused the widespread publication of false and defamatory statements about Plaintiff in print and on the internet, Plaintiff's reputation, previously impeccable, has been tarnished, he has been shunned by former friends, associates and Company investors, and has lost business opportunities and opportunities for career advancement.

222. As a direct result of Pelletier's false and defamatory communications, which caused the widespread publication of false and defamatory statements about Plaintiff in print and on the internet, Plaintiff was terminated and replaced by in-house counsel and a new head of fundraising, and continues to work for the Company in a very limited capacity without any job security, as he cannot have his name associated with the Company for reasons of licensing purposes and money raises.

223. Moreover, the article has forever damaged Plaintiff's business reputation, as an attorney, and he can never get a job with a law frm due to the disparaging internet exposure, and should he lose his current job, he will have a loss of income of Two Hundred and Fifty Thousand ($250,000.00) Dollars per year, plus commissiors, for the rest of his life.

224. The day before these statements were published in the media, Plaintiff met with celebrity publicist Richard Rubenstein ("Rubenstein") and one of his high-net-worth clients, who was planning to fund the Company. After the article, Rubenstein told his client about the article and she pulled from the deal directly because of it.

225. As a direct result of Pelletier's false and defamatory communications, individuals and companies that were going to provide funding to the Company have withdrawn their support, and Plaintiff had to return Fifty Thousand ($50,000.00) Dollars he had raised from an investor at an Eighty Million ($80,000,000.00) Dollar valuation, close the raise, and the Company had to spend over Fifty Thousand ($50,000.00) Dollars in legal fees to open a new raise at a 62.5% reduction in valuation to Thirty Million ($30,000,000.00) Dollars.

226. As a direct result of Pelletier's false and defamatory communications, the valuation of the company has declined from Eighty Million ($80,000,000.00) Dollars to Thirty Million ($30,000,000.00) Dollars, and, in turn, Plaintiffs' equity in the Company has lost approximately 62.5% of its value, which calculates to a loss to Plaintiffs of approximately Fourteen Million ($14,000,000.00) Dollars.

227. As a direct result of Pelletier's false and defamatory communications, which caused the widespread publication of false and defamatory statements about Plaintiff in print and on the internet, Plaintiff has not been able to raise any money for the Company, severely affecting his value to the Company, and causing him to be terminated as head of fundraising.

228. As a direct result of Pelletier's false and defamatory communications, which caused the widespread publication of false and defamatory statements about Plaintiff in print and on the internet, Plaintiff has not been able to raise any money for the Company, and has thus, not received an employment agreement or the One Hundred and Twenty Thousand ($120,000.00)

Dollars per year raise, he would have received upon successfully completing the July 2016 raise, and the estimated One Million ($1,000,000.00) Dollars per year profit-sharing bonus he would have started receiving in 2018.

229. As a direct result of Pelletier's false and defamatory communications, Plaintiff has been suffering from severe migraine headaches that has severely crippled his ability to function normally in society.

230. As a direct result of Pelletier's false and defamatory communications, Plaintiff has undergone severe bouts of depression and hopelessness, and has lost all ability to enjoy life, liberty and the pursuit of happiness.

AS AND FOR A FIRST CAUSE OF ACTION: LIBEL

231. The allegations in paragraphs 1 through 230 of the complaint are repeated and realleged as if fully set forth herein.

232. By reason of the foregoing, Pelletier made and/or caused to be made false allegations of fact against Plaintiff, and published the same and/or caused the same to be published and republished to third parties.

233. The aforesaid allegations were known by Pelletier to be false and/or were made with reckless disregard for the truth.

234. The aforesaid allegations were made without privilege, consent and/or permission.

235. The aforesaid allegations impute professional incompetence to Plaintiff in his capacity as an attorney, address the subject of Plaintiff's ability to practice his profession and were disparaging of his mental capacity and competence as a lawyer, and thus, are libel *per se*, and are actionable without proof of special damages.

236. The aforesaid allegations concern Plaintiff in his role as Vice President of a drug company, and calling the Vice President of a drug company a "drug addict" would tend to injure Plaintiff in his trade or profession, and thus, are libel *per se*, and are actionable without proof of special damages.

237. The aforesaid allegations, which charge Plaintiff with the commission of serious crimes, are libelous *per se*, and actionable without proof of special damages.

238. The aforesaid allegations accusing Plaintiff *inter alia* of being a drug addict, a thief, a robber, an extortionist and a plagiarist, as well as the further crimes of robbery, attempted robbery, grand larceny, petit larceny, coercion, bribery and criminal diversion of prescription medications, are libel *per se* and actionable without proof of special damages.

239. The aforesaid defamatory expressions would tend to expose plaintiff to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons. Thus, the allegation of special damages is not necessary.

240. The aforesaid allegations were made with common-law malice, i.e., hatred, spite and/or ill will, against Plaintiff.

241. Plaintiff is not a public figure.

242. By reason of the foregoing, defendant Pelletier is liable to Plaintiffs for libel under the law of the State of New York for assumed damages in an amount to be determined at trial, and for compensatory damages in an amount to be determined at trial, but believe to be not less than Forty Million ($40,000,000.00) Dollars plus an additional award of punitive damages in the amount of Ten Million ($10,000,000) Dollars.

AS AND FOR A SECOND CAUSE OF ACTION: SLANDER

243. The allegations in paragraphs 1 through 242 of the complaint are repeated and

realleged as if fully set forth herein.

244. By reason of the foregoing, Pelletier made and/or caused to be made false allegations of fact against Plaintiff, and published the same and/or caused the same to be published and republished to third parties.

245. The aforesaid allegations were known by Pelletier to be false and/or were made with reckless disregard for the truth.

246. The aforesaid allegations were made without privilege, consent and/or permission.

247. The aforesaid allegations impute professional incompetence to Plaintiff in his capacity as an attorney, address the subject of Plaintiff's ability to practice his profession and were disparaging of his mental capacity and competence as a lawyer, and thus, are slander *per se*, and are actionable without proof of special damages.

248. The aforesaid allegations concern Plaintiff in his role as Vice President of a drug company, and calling the Vice President of a drug company a "drug addict" would tend to injure Plaintiff in his trade or profession, and thus, are slander *per se*, and are actionable without proof of special damages

249. The aforesaid allegations, which charge Plaintiff with the commission of serious crimes, are slanderous *per se*, and actionable without proof of special damages.

250. The aforesaid allegations accusing Plaintiff *inter alia* of being a drug addict, a thief, a robber, an extortionist and a plagiarist, as well as the further crimes of robbery, attempted robbery, grand larceny, petit larceny, coercion, bribery and criminal diversion of prescription medications, are slander *per se* and actionable without proof of special damages.

251. The aforesaid allegations were made with common-law malice, i.e., hatred, spite

and/or ill will, against Plaintiff.

252. Plaintiff is not a public figure.

253. By reason of the foregoing, Pelletier is liable to Plaintiffs for libel under the law of the State of New York for assumed damages in an amount to be determined at trial, and for compensatory damages in an amount to be determined at trial, but believe to be not less than Forty Million ($40,000,000.00) Dollars plus an additional award of punitive damages in the amount of Ten Million ($10,000,000) Dollars.

AS AND FOR A THIRD CAUSE OF ACTION: TORTIOUS INTERFERENCE WITH CONTRACTUAL/ PROSPECTIVE CONTRACTUAL RELATIONS

254. The allegations in paragraphs 1 through 253 of the complaint are repeated and realleged as if fully set forth herein.

255. Plaintiff had an at-will employment relationship with the Company.

256. The Company agreed to the appointment of Plaintiff as President and in-house counsel with an employment contract, an increase in salary, a profit-sharing bonus, health benefits, and an expense account.

257. Pelletier was aware of Plaintiff's employment relationship with the Company.

258. Pelletier acted in bad faith with malice and intent for the sole purpose of harming the Plaintiff and/or acted by using fraud, misrepresentation, dishonesty, or deceit, or other tortious means, outside the scope of her authority, made false and misleading criticisms about Plaintiff's employment performance to various members of the Company's Board.

259. Prior to Pelletier's campaign against the Plaintiff, the Company was prepared to enter into a business relationship, but was dissuaded from doing so by Pelletier.

260. As a result of Pelletier's knowingly false, deceitful and/or misleading

communications about Plaintiff to the Company, there was a resulting injury to the business relationship.

261. Pelletier was a not a competitor of Plaintiff and her actions were not motivated by economic self-interest.

262. Pelletier was motivated solely by the malicious intent to inflict harm upon the Plaintiff.

263. As a result of Pelletier' acts, Plaintiff has suffered special damages, including the loss of his promised position at TOH and the difference in income derived and to be derived therefrom, the loss of annual bonuses, and the security and income to be derived therefrom, and a diminution in job prospects and future earnings in his chosen profession.

264. By reason of the foregoing, Pelletier is liable to Plaintiff for tortious interference with prospective business relations under the law of the State of New York for compensatory damages in an amount to be determined at trial, but believed to be not less than Forty Million ($40,000,000) Dollars plus an additional award of punitive damages in the amount of Ten Million ($10,000,000) Dollars.

AS AND FOR A FOURTH CAUSE OF ACTION: PRIMA FACIE TORT

265. The allegations in paragraphs 1 through 264 of the complaint are repeated and realleged as if fully set forth herein.

266. Pelletier, through her actions set forth in the foregoing paragraphs, intentionally inflicted harm on Plaintiff.

267. Pelletier's sole motivation for her acts was a malicious intent to injure Plaintiff.

268. Pelletier acted without excuse or justification.

269. As a result of Pelletier' acts, Plaintiff has suffered special damages, including the loss of his promised position at TOH and the difference in income derived and to be derived therefrom, the loss of annual bonuses, and the security and income to be derived therefrom, and a diminution in job prospects and future earnings in his chosen profession.

270. As a result, and based upon the foregoing, Pelletier has engaged in a prima facie tort for which Plaintiff is entitled to judgment against Pelletier, in an amount to be determined at trial of this matter, but believed to be not less than Forty Million ($40,000,000) Dollars plus an additional award of punitive damages in the amount of Ten Million ($10,000,000) Dollars.

AS AND FOR A FOURTH CAUSE OF ACTION: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

271. The allegations in paragraphs 1 through 270 of the complaint are repeated and realleged as if fully set forth herein.

272. Pelletier's conduct, which led to the assault and public humiliation of Plaintiff, was extreme and outrageous.

273. Pelletier acted with the intent to cause, or the disregard of a substantial likelihood of causing, severe emotional distress.

274. Pelletier's conduct caused severe emotional distress in Plaintiff.

275. Pelletier acted willfully, wantonly, maliciously and/or with reckless disregard for the rights of Plaintiff.

276. By reason of the foregoing, Pelletier is liable to Plaintiff for intentional infliction of emotional distress under the law of the State of New York for compensatory damages in an to be determined at trial, but believed to be not less than Forty Million ($40,000,000) Dollars plus an additional award of punitive damages in the amount of Ten Million ($10,000,000) Dollars.

AS AND FOR A FIFTH CAUSE OF ACTION: DECLARATORY RELIEF

277. The allegations in paragraphs 1 through 276 of the complaint are repeated and realleged as if fully set forth herein.

278. The aforesaid false allegations are continuing to harm the Plaintiff's reputation and standing in the community.

279. Monetary damages and other legal remedies are not fully adequate to redress the harm suffered from the aforesaid allegations because the continued existence of the false allegations in a location available to the public will blight their personal and business relationships as long as it remains unrefuted.

280. Accordingly, the Plaintiff respectfully requests a judicial declaration that the aforesaid allegations are false, malicious and defamatory and that he has been wronged by the same.

AS AND FOR A SIXTH CAUSE OF ACTION: INJUNCTIVE RELIEF

281. The allegations in paragraphs 1 through 226 of the complaint are repeated and realleged as if fully set forth herein.

282. The aforesaid Daily News article is harming Plaintiff and will continue to harm him as long as it is available on the Internet.

283. Based on the defendant's behavior patterns to date, there also exists the risk that she will make and publish additional false allegations of fact against Plaintiff.

284. As set forth above, Plaintiff has no adequate remedy at law.

285. Accordingly, Plaintiff respectfully seeks a preliminary and permanent injunction compelling the Defendant to publicly retract the aforesaid allegations, to demand that any article

containing the allegations be removed from the Internet and/or removed from search engine indexing, and to refrain from making and/or publishing any false allegations against the Plaintiff in the future.

CONCLUSION

WHEREFORE, in light of the foregoing, this Court should enter judgment in favor of Plaintiff and against defendant on each cause of action granting compensatory damages in an amount to be determined at trial and exceeding the jurisdictional threshold of this Court; granting punitive damages; granting the preliminary and permanent injunction prayed for herein; granting costs, expenses and/or legal fees to the Plaintiff; and granting such other and further relief as this Court may deem just and proper.

Dated: New York, NY
April 10, 2017

/s/ Jonathan I. Edelstein
JONATHAN I. EDELSTEIN