

No. 19-6013

ORIGINAL

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

Otis A. Daniel, *Petitioner*

Vs.

T&M Protection Resources, LLC., *Respondent*

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

Otis A. Daniel
P.O Box 1231
New York, NY 10150
(347) 262-6834
pro se plaintiff-petitioner

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QUESTION(S) PRESENTED

(I). Is it lawful for an employer to intentionally terminate the employment of an “AT WILL” employee because he/she has filed or attempted to file a complaint of workplace harassment by a co-worker or supervisor because of his/her race, national origin, sex and/or sexual orientation (known or perceived)?

(II). Is it lawful for an employer to terminate the employment of an “AT WILL” employee for reason(s) its senior management/owner undoubtedly knows to be in large part made-up (a fabrication)?

(III). Aside from the nocuous allegations that were discredited by the district court at trial in this case, is there any other factual evidences and/or statements on the record that proves my supervisor and/or T&M senior management/owner acted unlawfully? And if so, is that unlawful conduct(s) a violation of any federal anti-discrimination laws?

(IV). Is it lawful for an employer who is engaged in a civil litigation in federal court against a former “At Will” employee (whether pro se or represented by counsel) to knowingly submit to the court false and/or misleadingly statements in the form of affidavits, memorandum of law and eyewitness statements (written and verbal)?

(V). Is there a ruling or judgment by the lower courts in this case that can be reverse?

LIST OF PARTIES



All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Daniel v. T&M Protection Resources, LLC., No. 18-2351, United States Court of Appeals 2nd Circuit., summary order entered: July 02, 2019

Daniel v. T&M Protection Resources, LLC., No. 18-2351, United States Court of Appeals 2nd Circuit., order denying re-hearing entered: Aug. 15, 2019

Daniel v. T&M Protection Resources, LLC., No. 15-560, United States Court of Appeals 2nd Circuit., summary order entered: April 25, 2017

Daniel v. T&M Protection Resources, LLC., No. 13 Civ. 4384, U.S. District Court of the Southern District of New York., opinion, order & judgment entered: July 12, 2018 Dkt#175 & 185

Daniel v. T&M Protection Resources, LLC., No. 13 Civ. 4384, U.S. District Court of the Southern District of New York., opinion & order denying motion for reconsideration entered: July 27, 2018 Dkt#195

Daniel v. T&M Protection Resources, LLC., No. 13 Civ. 4384, U.S. District Court of the Southern District of New York., opinion, order & summary judgment entered: February 19, 2015 Dkt#106

Daniel v. T&M Protection Resources, LLC., No. 13 Civ. 4384, U.S. District Court of the Southern District of New York., opinion & order denying motion for reconsideration entered: February 24, 2015 Dtk#114

Daniel v. T&M Protection Resources, LLC., No. 13 Civ. 4384, U.S. District Court of the Southern District of New York., opinion & order granting motion to dismiss entered: January 15, 2014 Dtk#43

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07/02/2019 [18-2351 Dkt#65]**

**APPENDIX B – 2nd Circuit Court order denying petition for rehearing, dated:
08/15/2019 [18-2351 Dkt#68]**

**APPENDIX C – 2nd Circuit Court summary order vacate & remand, dated:
04/25/2017 [15-560-cv]**

APPENDIX D – 2nd Circuit Court order re-instatng appeal, dated: 08/16/2016 [15-560-cv]

APPENDIX E – 2nd Circuit Court order denied & dismissed appeal dated: 04/30/2015 [15-560-cv]

APPENDIX F – S.D.N.Y opinion & order granting judgment to T&M, dated: 07/12/2018 [13 Civ. 4384 Dkt#175 & 185]

APPENDIX G – S.D.N.Y order unseals motion for reconsideration, dated: 08/15/2018 [13 Civ. 4384 Dkt#204]

APPENDIX H – S.D.N.Y opinion & order granting summary judgment to T&M, dated: 02/19/2015 [13 Civ. 4384 Dkt#106]

APPENDIX I – S.D.N.Y opinion & order denied motion for reconsideration dated: 02/24/2015 [13 Civ. 4384 Dkt#114]

APPENDIX J – S.D.N.Y opinion and order granting motion to dismiss, dated: 01/15/2014 [13 Civ. 4384 Dkt#43]

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A, C to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix F, H, J to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 7/21/19 AND 4/25/17

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 8/15/19, and a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

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STATEMENTS OF THE CASE

(01). My name is Otis Daniel and I'm the plaintiff (petitioner) in this case. For the past seven years, I've had to defend myself mostly pro se against what I believe to have been the intentional discriminatory wrong doings of my former employer "T&M." T&M Protection Resources, LLC is a global contract security and investigational company based in New York City. For 15 months starting in February 2011 to May 2012, I was employed "at will" by T&M as a fire/life safety director or security guard at its client Edward J. Minskoff Equities, Inc. managed property at 590 Madison Ave. (a commercial office building in New York City). The building has two lobbies, in the front facing Madison Ave. and the rear facing 56th street. Throughout my employment, I was stationed at a podium in the rear lobby.

SEE: case No. 13 Civ. 4384 Dkt#1-210, **case No.** 15-560, **case No.** 18-2351 Dkt#31,51,68, **my trial testimony:** pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13

(02). On Nov. 05, 2010, in response to an online job posting for a fire safety dir., I was interviewed and hired by T&M personnel recruiter Mr. Tom Dolan at T&M's offices at 230 Park Ave. In the last week of Jan. 2011, before I was assigned to the worksite, I met with Mr. John Melidones and EJME asst. property manager Mr. Bill Wood. During my employment at the worksite, Mr. John Melidones was my direct

supervisor. Throughout my employment, I was intentionally targeted and harassed by him because of my race (Black), national origin (Vincentian), and perceived sexual orientation (gay). On Tues. 5/15/12, before terminating my employment on Fri. 5/18/12, T&M held a disciplinary hearing with myself, my supervisor and four of its executives, Ms. Toni Scarito (HR manager), Mr. Steven Gutstein (in-house legal counsel), Mr. Carl Capponi (VP of operations) and Mr. John Aleles (VP of administration). SEE: case No. 13 Civ. 4384 *Dkt#2*(comp.), 11(amend. comp.), 31(2nd amend. comp.), 73(dep.), 93(sur-reply), 193(motion recon.), SEE: trial exhibits: PX13, DX1, DX35, DX37, DX38, DX39; SEE: trial transcript: pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13; case No. 18-2351 *Dkt#31,51,68*,

(03). On Tues. 5/15/12, during T&M's disciplinary hearing, I was constrained to only talk about my reasons for having packages delivered to the worksite, specifically a BB gun. On T&M employee disciplinary form, which was given to me by my supervisor on 05/09/12, he wrote that I'd the BB gun delivered in May 2012. But, as the evidence on district court record indicates, that package was delivered on March 13, 2012 at 11:57am. It was accepted by my coworker Ms. Sindia Maldanado in the worksite mailroom/messenger center in the lower levels of the building. Everyone that worked in the mailroom/messenger center were employees of T&M.

SEE: 13 Civ. 4384 *Dkt#31-1* pg.19; *Dkt#31-2* pg.66; SEE: trial exhibits: PX4, PX5,

PX13, PX15, DX9, DX35, SEE: trial transcript: pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13; case No. 18-2351 Dkt#31,51,68

(04). During my employment, T&M had no verbal or written policy which prohibited its employees from receiving mail or package deliveries at the worksite. All packages I'd delivered to the worksite were accepted by my coworkers in the mailroom/messenger center. Occasionally, a package or mail was accepted by an employee in Edward J. Minskoff Equities property management office on the 26th floor. I never asked or instructed anyone to accept a package. On Fri. 5/18/12 T&M terminated my employment for reasons my supervisor and its senior management/owner had to have known was mostly made-up (fabricated). T&M has justified their actions to me by using my “AT Will” employee status. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193; SEE: trial exhibit: PX13, DX9, DX10, case No. 18-2351 Dkt#31,51,68

(05). During my employment with T&M at its client EJME site (the worksite), I did absolutely nothing wrong. Their intentional discriminatory conduct towards me before and after my employment, have left me feeling immensely violated. During T&M’s disciplinary hearing, I admitted to having packages delivered to the worksite because I knew I did nothing unlawful or worthy of a disciplinary reprimand. At the disciplinary hearing, I provided to T&M executives copies of my online

Amazon.com purchases, including the BB gun. T&M later used those documents against me in its knowingly false and/or misleading responses to NYSDHR/EOC and the district court. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193; case No. 18-2351 Dkt#31,51,68

(06). During my employment with T&M at the worksite, I did not initiate, provoke or incite a conflict because of my race, national origin and sexual orientation. My supervisor and T&M executives deliberately did that to me. If their intentional discriminatory actions are indeed legal because I was an “at will” employee, I believe that will be a powerful and terrifying indication of how legal discrimination is still being practice in America today. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68, my trial testimony: pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13

(07). I believe my supervisor and T&M executives, as former DA litigators and law enforcement officers, knew that their intentional discriminatory actions toward me before and after my employment violates the law. But by the use and I believe the misapplication of laws such as “at will” employment, their intentional discriminatory actions are made justifiably legal. This has been and continues to be a very discomfiting, frightening thought for me. And I believe it will be equally unnerving for an “at will” employed American who may find him/herself in a similar

situation. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(08) Because of my experiences with T&M and the subsequent district court proceedings, I've now been led to believe that laws such as "at will" employment, although not explicitly discriminatory, is intentionally being used in a very discriminatory method. Based on my own experiences, I know that such discriminatory actions disproportionately affect individuals like myself, families and communities already at a disadvantage. It contributes to the cause of mental illnesses, substance abuse, racial/ethnic divisions, domestic violence, mistrust and resentment of law enforcement personnel especially in communities of color, high unemployment, homelessness, conspiracy theories and criminalization of mostly the working poor. For the past eight years I've repeatedly been asking why?

(A). INCIDENTS OF HARASSMENT BASED ON MY RACE, NATIONAL ORIGIN, SEX (SEXUAL ORIENTATION)

(09). In Feb. 2011, on my first week on the job, Mr. Melidones came to my work podium and said to me, "*building owners in the area prefer to hire white security personnel, you only got this job because Bill Woods liked you. It's mostly Blacks, Indians and Hispanics doing this type of job nowadays.* Beginning in March 2011 and throughout my employment Mr. Melidones repeatedly said to me, "*you're*

not Black." At, first he said to me: "*you're not Black because you don't what's up, you don't swagger or wear your pants down your waist*" and he more than once said to me sneeringly "*man up, be a man.*" I was very offended by his remarks about my level of blackness and my manhood (sexuality). **SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68**

(10). During my employment, Mr. Melidones repeatedly spoke to me in an imitated English accent. He more than once told me to go back to England, repeatedly asked me the definition of large words and about British cultural affairs. He mockingly sang to me the calypso song "day-o, de-e-o." When his discriminatory behavior based on national origin became too intolerable, I showed to him my birth certificate in a failed attempt to halt his harassment. **SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68**

(11). In July 2011, Mr. Melidones asked me if I was gay by whispering in my ear and simultaneously while standing behind me brushed up against my buttocks with "*what had to have been his penis*" or his private area. When I did not respond favorably to his inquiry and inappropriate touching, he tried to appease me by telling me that his son is gay. At the time his son Anthony Melidones was not working at the worksite. Shortly after this incident his son began working at the worksite as a security guard. One day there was an article in either the New

York Post or the Daily News about a new hotel in Time Square (The Out NYC), his son showed me the article and asked: "will you be going to this hotel?" His inquiry confirmed to me that there was a rumor amongst my colleagues including his father about my sexual orientation (sexuality). SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(12). Between July 2011 and Sept. 2011 while working the 8am-4pm shift, after returning from my lunch break, Mr. Melidones repeatedly came to my work podium, he stood either behind or beside me and called me a "homo." Mr. Melidones did this while pretending to be jokingly making fun of my co-worker Mr. Manny Podermo's last name. Mr. Melidones will say out loud to Mr. Perdomo who would be at the adjacent podium roughly 30ft apart from mine, "Manny the homo, Manny the Homo", Mr. Melidones would then lean and whisper in my ear, "homo." Mr. Manny Perdomo was a Hispanic/ Puerto Rican, male, in his 50's, a father and a grandfather who worked as a security guard.

SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(13). During my employment, Mr. Melidones, for reasons unrelated to the job would come to the male locker room in the basement of the building when he knew I was there alone and observed me either changing my clothes or taking a

nap on a bench in the room. His observations made me feel that I was being profiled because of my race and perceived sexual orientation. During one of those locker room encounters, Mr. Melidones said to me, “*I did not hire you to be beautiful, I want a supervisor, not a God.*” SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(14). On January 4th, 2012 Mr. Melidones accusitorially questioned me about a stolen laptop computer from a tenant on the 18th floor (Regis). The culprit was said to be a Black male with a bald head. Mr. Melidones said to me, “*I've a picture of a black male with a bald head. Did you steal the computer? Because after all you're a black male with a bald head.*” Mr. Melidones never showed to me or anyone else a picture of a Black male with a bald head because it was all made up. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(15). In March 2012 while working 4pm-12am shift, Mr. Melidones called me just to tell me that he was at the Broadway show “Mary Poppins.” He said to me, “*I can see you as Mary Poppins, you'd make a good Mary Poppins.*” I believe Mr. Melidones sole reasons for doing this was because of his perception of my national origin and sexual orientation. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(16). In July 2011 Mr. Melidones likened me to a “Gorilla.” While waking past my work podium he said to me, “*smile, why the angry face, smile, you look like a gorilla.*” In Sept. 2011 he asked me if I was going to vote for “my man Obama”, when I told him that I’m a registered republican, he responded by saying, “*oh yeah, I guess you’re alright after all.*” Shortly before my employment termination, an incident occurred on Fri. 5/4/12 that led me to finally say enough is enough. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68

(17). On Fri. 05/04/12 at around 4:15pm, while I was at my work podium, the property manager Mr. Joe Greisch while on his way out of the building to smoke a cigarette (a daily habit of his), approached me and told me that Bain Capital (a tenant in the building) was going to terminate one of its employees. Mr. Greisch told me that Mr. Melidones will call me later to give me more details.

(18). On Fri. 05/04/12, between 4:45pm – 5pm, after Mr. Joe Greisch and the rest of EJME property management staff had left for the day, I received a call from Mr. Melidones. He said to me, “*Bain Capital is firing someone this evening, go up to their office on the 42nd floor and speak to the office manager Ms. Leisy Chelis, get from her more information about the person being fired.*” Instead of following the instructions of Mr. Melidones, I called Bain Capital and spoke to

Ms. Chelis. While speaking to her on the phone about his supposed would be terminated employee, she clearly sounded perplexed and confused about my inquiry. Her exact response to me was: "*what are you talking about, I've no clue what you're talking about, who are you?*"

(19). In less than a minute after speaking with Ms. Leisy Chelis via telephone, Mr. Melidones called me again and in a belligerent tirade, screaming and cursing, "*who told you to call? Who told you to call? you fucking idiot, shut the fuck up, don't say a fucking word, you fucking idiot.*" Before hanging up, whether consciously or subconsciously, Mr. Melidones called me a derogatory slur **NOTE:** although my recollection of this incident is true, I'll concede that I could not prove it at trial. **SEE: case No.** 13 Civ. 4384 Dkt#1-210, **case No.** 15-560, **case No.** 18-2351 Dkt#31,51,68

(20). On Mon. 05/07/12, I called off work via a text message to Mr. Melidones. I was strongly contemplating quitting the job. When I told Mr. Melidones of my intention to resign, he encouraged me to quit and made referenced to T&M's employee handbook. His text message response to me was: "*Ok if u can't make u can't make. But please don't quote the handbook because if followed diligently everyone would be terminated.*" **SEE: trial exhibit:** DX7

(21). On Tues. 05/08/12, I returned to work and learned from building engineer Mr. Paul Taal and co-worker Mr. Edgardo Vias that Mr. Melidores worked my Mon. 05/07/12 4x12am shift. I was also told that Mr. Melidores had asked some of my coworkers if they knew of anything he could use to get me fired? I was told that Mr. Melidores said that I “fucked him over.” As T&M’s account manager and site supervisor, it was Mr. Melidores obligation to find someone to cover my shift, but he instead chose to cover it himself. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193

(22). On Tues. 05/08/12, at around 4:30pm, Mr. Melidores while walking passed my podium, without any known cause or reason, slapped me very hard on my shoulder and said, “*man up, be a man.*” The slapped was more like a punch. Later that evening, I learned from a co-worker that a package had arrived for me via USPS earlier that day and Mr. Melidores instructed my co-worker Ms. Carmen Negron to return that package to the mail courier, which she did. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193; SEE: trial transcript pg.221 Line: 8 – pg.221 Line: 16

(23). On Tues. 5/8/12, after Mr. Melidones had left the worksite, I stopped Mr. Joe Greisch while he was heading outside to smoke a cigarette and mentioned to him vaguely the incident that occurred via telephone on Fri. 05/04/12. Mr. Greisch responded to me by saying: "*I'll talk to John, I've spoken to him before about watching his words, I'll speak to him again.*" He also told me that the Bain Capital employee termination should have been handled discreetly between Mr. Melidones and Bain Capital management. After he said those words to me, I began to suspect that the Fri. 05/04/12 Bain Capt. incident was to have been a "SET UP." SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193

(24). On Wed. 05/09/12 at 12:39am, while on my way home, I sent Mr. Melidones a text message stating the following:

CONTENT OF MY 5/9/12 12:39AM TEXT MESSAGE TO MR. MELIDONES

"I understand you've a personal vendetta against me for maybe that transpired on Fri 5/4/12 with Bain Capt. If this is the case John, please address it with T&M. The used of intimidation, threats, manipulation and lying about an employee to cause him/her to resign or be terminated is unwarranted and unprofessional. I'll be notifying T&M of your tactics.

Mr. Melidones did not respond to this text message. Instead, later that afternoon when I returned to work, I was told by my co-worker Mr. Jonathan John in the locker room that Mr. Melidones wanted to see me in the loading dock area of the building. The loading dock is a very busy public area of the building, it's located on 56th street between Madison Ave and 5th Ave. Mr. Melidones, when he came to the loading dock purposefully brought with him three of my co-workers

(Gomez, Peter, and Klaudio Tresova) to witness him publicly once again berate and humiliate me. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193

(25). During the Wed. 5/9/12 loading dock confrontation, I covertly used my cellphone to capture the audio of the meeting. At trial, that audio recording was played multiple times. Mr. Melidores could be heard saying to me the following:

- “Otis, please come on camera”
- “You’re being given a “write up” for having packages delivered to the building one of them an imitation pistol”
- “This is on camera. It was sent over to T&M for investigation”
- “And just so there’s no ambiguity, you do know what ambiguity means don’t you? (petitioner: *don’t insult my intelligence*) “it’s in the T&M handbook”
- “Also, never text me again at 12:40 at night with nonsense especially threats. NEVER! NEVER! EVER AGAIN WITH THREATS!”
- “This is a DICTATORSHIP! I’m the ruler, me, I run the show”
- “Here’s Mr. Wood’s email, phone number and contact information so you can tell him about the allegations you’ve made against me. Feel free to contact him.”
- “You said I was unwarranted, vendetta and that I was harassing you”
- “your co-workers are the once who identify you as being late over two dozen times”
- “Your co-workers are the once who said you called “her a dirty rat because of the way she look” and made allegations about some impropriety about ethnicity....about four or five allegations” NOTE: the “her” Mr. Melidores referred to here is my co-worker Ms. Carmen Negron. She’s an Afro-Latina of Dominican Republic heritage. Shortly after she began working at the worksite, Mr. Melidores had described her to me as “that nappy hair dirty rat”
- “Otis, one thing you’ve to remember about me, I’ve been in this game a long time. I’m very professional”

(26). On Thurs. 05/10/12 at 3:17am I sent an email to Mr. Robert Woods (Mr. Melidores boss) that stated the following:

CONTENT OF MY 5/10/12 3:17AM EMAIL TO MR. ROBERT WOODS

“Mr. Wood, my name is Otis Daniel. I’m an employee of T&M, working at 590 Madison Ave. as the 4p-mid. Fire safety director. I’d like to meet with you to discuss Mr. John Melidores recent hostile verbal harassment and intimidations towards me. I just faxed to you the disciplinary write up he gave to me yesterday as a form of retaliation. This was the first time receiving a written or verbal action since working with John for more than a year now. My response to his claim is also attached. I’ll be calling the office later this morning to schedule a date and time to meet with you. Any questions please call me at 917-XXX-XXXX. Thanks.”

(27). Fri. 5/11/12 was my last day at the jobsite. On Mon. 05/14/12 at 7:44am, I received a text message from my supervisor instructing me to call Mr. Carl Capponi and I’m not to report to work. When I spoke to Mr. Capponi, he told me of the disciplinary hearing scheduled for the following day. On Tues. 5/15/12 at around 3:30pm, I attended the disciplinary hearing. When I arrived at the meeting, I saw inside a conference room Mr. John Meldiones, Mr. Steven Gutstein, Mr. Carl Capponi, Ms. Toni Scarito and Mr. John Aleles. I was not expecting Mr. Melidores to be there. It was the first time I met with those four T&M executives. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193

(B). T&M's DISCIPLINARY HEARING AND MY EMPLOYMENT TERMINATION

(28). On Tues. 05/15/12, during T&M's disciplinary hearing I was only allowed talk about my reasons for having packages delivered to the worksite. In my attempt to refute my supervisor's known falsified accusations and claims, I provided to T&M executives printed receipts of my on-line Amazon.com purchases including the BB gun. T&M will later use those documents against me in its misleading responses to the NYSDHR/ EEOC and the District court proceedings. SEE: 13 Civ. 4384 *Dkt#2*, 11, 31, 73, 93, 193

(29). During T&M's disciplinary hearing, after I'd finish explaining my reasons for having packages delivered, my supervisor's awareness and approval of those packages, I then played the cellphone captured audio recording of the Wed. 05/09/12 loading dock confrontation. While the audio played, I stepped out of the conference room and returned almost to the end of it still playing. Everyone in the conference room listened to that audio recording in its entirety. SEE: 13 Civ. 4384 *Dkt#2*, 11, 31, 73, 93, 193

(30). Immediately after the audio recording ended, I then attempted to report other instances of a hostile harassing discriminatory behavior of Mr. Melidones by first saying: "In July 2011 Mr. Melidones asked me if I was gay." Ms. Toni Scarito

instantly cut me off by saying: “*no! now that’s you being vindictive.*” Mr. Steven Gutstein then said: “*why are you so theatrical?*” and Mr. Carl Capponi said: “*no, that’s not the John I know.*” Mr. John Aleles who was sitting next to Mr. Capponi said nothing and Mr. John Melidones visibly upset got up and out of the room. That was the end of T&M’s disciplinary hearing and the full extent of their investigation into this matter. SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193

(31). At trial, I was asked: “what was your understanding of the reactions of those T&M executives at the meeting?” I factually stated the following:

MY TRIAL TESTIMONY

“Their action speaks for itself. We do not care. We do not care. What I later realized from – based on my experiences with other similar companies like T&M, there is a scheme. There’s a discriminatory scheme at play here where an employee like myself who complains or attempts to complain about harassment, it’s easier for these companies to just dismiss workers like myself or even if I were to complain, they would say, oh we did an investigation and found no corroborating evidences and fire that employee. So even if I’d complained to T&M’s disciplinary committee about every event of harassment, every instances of harassment, they would possibly have claimed that an investigation was done, there was no proof to my allegations. And yet, and I still would have been fired... what led up to my termination was a systematic, methodical process. Their action speaks for itself. We don’t care.”

(32). On Wed. 5/16/12 I returned to T&M office and provided to Ms. Toni Scarito and Mr. John Aleles a copy of the 05/09/12 cellphone captured audio recording. On Fri. 18, 2012 at around 1pm via telephone Ms. Toni Scarito informed me that my employment was terminated because I violated T&M and its client EJME policy, NYC administrative code §10-131 sub. Div. B1(firearms), and because I

was an "AT WILL EMPLOYEE." SEE: 13 Civ. 4384 Dkt#2, 11, 31, 73, 93, 193, trial exhibit: DX10

(33). On Fri. 5/18/12 at 2:21pm, shortly after I was told of my employment termination, I sent an email to T&M Chairman/CEO Mr. Robert Tucker stating the following:

CONTENT OF MY 05/18/12 2:21pm EMAIL TO T&M CEO/CHAIRMAN

"My name is Otis Daniel. Up until a few minutes ago I was an employee of T&M Protection. I had a problem with my worksite security director John Melidones at 590 Madison Ave. I came to the hearing committee and submitted all prove which should have exonerate Mr. Melidones claims, instead I'm further penalized by being fired. I've been working for your company at 590 Madison for 1yr 5mos now, and I've never had a problem. Please help me sir. I need to be working. My father is ill suffering from renal failure, diabetes and heart complications. I can't be unemployed right now. PLEASE SIR, I PLEA, HELP ME IN THIS MATTER. I promise I'll not pursue this matter legally. All evidence will be trash and this hold incident not spoken of by me to anyone

(34). On 05/20/12 I requested a letter from T&M to further explain to me their reason(s) for terminating my employment. On 5/23/12 via email and USPS mail T&M's general counsel Mr. Steven Gusein responded. T&M in this response letter stated in part the following: SEE: 13 Civ. 4384 Dkt#31-2 pg.#3, 93-47 pg.#31

CONTENT OF MR. GUTSTEIN / T&M 5/23/12 E-MAIL AND USPS MAILED LETTER TO PETITIONER

"You were an at-will employee. T&M handbook states: YOU ARE AN AT WILL EMPLOYEE OF T&M. THIS MEANS THAT EITHER YOU OR T&M CAN AT ANY TIME, WITH OR WITHOUT CAUSE, AND WITHOUT NOTICE TERMINATE YOUR EMPLOYMENT. NOTHING CONTAINED IN THIS HANDBOOK OR ANY OTHER WRITNG DISTRIBUTED BY T&M CHANGES YOUR STATUS AS AN AT-WILL EMPLOYEE.

"Your behavior violated T&M policy and T&M client policy and demonstrated egregiously poor judgment on your part. It also appears to have violated a provision of the New York Administrative Code 1 § 10-131 firearms; subsection (b) air pistols and air rifles; selling or possessing. The emphasis you place on the incorrect date suggests that you believe it somehow absolves you of your acknowledged improper behavior or that you fail to appreciate its seriousness. Again, as an

“AT-WILL” employee you were terminable without cause. Therefore, it hardly matters whether Mr. Melidones was incorrect about the date on which you engaged in improper behavior that more than amply would support a termination with cause if cause was necessary. For that reason it is unnecessary for us to discuss any other unfavorable aspects of your job performance”

(35). Before filing this lawsuit on 6/24/13, I'd a consultation with an attorney at the Legal Aide Society. On June 03, 2013 the Legal Aide Society's attorney sent to T&M a demand letter which stated in part: *“based on the information Mr. Daniel provided to us, we believe he has meritorious claims of discrimination and retaliation. It's our understanding that Mr. Melidones harassed Mr. Daniel on multiple occasions. Mr. Daniel complained to HR Dept. verbally and in writing and provided evidence of Mr. Melidones conduct.”* On June 13, 2013 T&M's in-house legal counsel Mr. Steven Gutstein responded to that demand letter and stated in part the following: SEE: Dkt#75(Exh pg.1-5)

**EXCERPT FROM T&M/ MR STEVEN GUTSTEIN 6/13/13 RESPONSE
TO THE LEGAL AIDE SOCIETY 'S DEMAND LETTER**

“Your client presented claims of discrimination and retaliation to the Civil Court of New York, the New York State Division of Human Rights and the EEOC, all to no avail. Moreover, I've heard Mr. Daniel in a disciplinary hearing at T&M and in a proceeding in civil court attempt to explain how he was mistreated by Mr. Melidones and I've read his written statements to the same effect. He has ranted and raved at great length about Mr. Melidones. In his incessant rambling and disjointed harangues and denunciation of Mr. Melidones, your client never mentioned that Mr. Melidones denied him a day off to go to the doctor. No doubt when his FMLA claim fails, your client will suddenly remember “facts” to support a new claim with which to “harass” T&M; anything to avoid accepting responsibility for his actions. Accordingly, your claim that “T&M fired Mr. Daniel for a pre-textual reason” is patently ludicrous. T&M has no interest whatsoever in discussing a resolution to your client's spurious claims”.

After reading this letter from T&M, I was further compelled to take legal actions to resolve the dispute. Due to the Legal Aide Society's limited resources and staff, I was then referred to the district court's pro se office.

(C). N.Y.S DIVISION OF HUMAN RIGHTS AND EEOC COMPLAINT FILINGS

(36). On Wed. 09/05/12, I first attempted to file a complaint with the EEOC, but because of my sexual orientation claim I was referred to the New York State Div. of Human Rights office. On the same day I went to the NYSDHR office in Harlem and filed a complaint. After submitting the complaint forms, I was told by the receptionist that a claim investigator will contact me, but no one ever did. SEE: case No. 13 Civ 4384 Dkt#2, 11, 31(pg.#40,41,44), 193-4(pg.#1-5), 193-5(pg#1-18)

(37). On the DHR/EEOC complaint forms I was asked what is the reason (basis) for your claim of employment discrimination? I checked race, national origin, sex, sexual orientation and retaliation. On the DHR/EEOC complaint forms and/or my rebuttal response, I wrote the following allegations: SEE: 13 Civ. 4384 Dkt#93, 193-4 (pg.1-5), 193-5 (pg.1-18)

- Mr. Melidones came to me and asked me if I was gay? He went on to tell me that his son is gay.
- While asking me if I was gay on July of 2012(incorrect year), he stood intentionally closed to me, Mr. Melidones also came to the locker room witnessing me changing my clothes.

- He (Mr. Melidones) gently rubbed his shoulder to mine and feeling uncomfortable I eased away
- Mr. Melidones said to me “man up, be a man”
- When I told my supervisor in a text of my intention to file a complaint with the company, he took retaliatory actions against me.
- Mr. Melidones always spoke to me in an imitated english accent
- Mr. Melidones told me that I’m not black
- On 5/8/12, Mr. Melidones served me the disciplinary write up. He had guards that I supervised witnessed him doing so. I belief this was done to humiliate me which it did, with the intention for me to quit.

(38). On the DHR complaint form I was asked: if you did not report the discrimination, please explain why. I wrote the following: SEE: Dkt#93-46, 193-4(pg.1-5)

- I did not complain sooner because of fear of losing my job and intimidated threats by Mr. Melidones.

(39). On the DHR complaint form I was asked: how exactly did you complain about the discrimination? I wrote the following: SEE: Dkt#193-5 pg.11

- On the said date above, the company had a hearing with myself and John Melidones. I mentioned Mr. Melidones discriminatory conducts towards me and I was immediately shutdown, dismissed.

(40). On 09/27/12 I received in the mail a copy of T&M’s answer to my DHR complaint and on 9/28/12 I submitted to the NYSDHR my rebuttal response. On 03/04/13 the DHR after conducting its investigation issued decision and order stating that it found “NO PROBABLE CAUSE.” The order stated in part the following:

**N.Y.S.D.H.R DETERMINATION AND ORDER AFTER
INVESTIGATION**

“T&M articulates legitimate and non-discriminatory business reasons, neither demonstrated to have been pretextual nor otherwise unworthy of credence, for its decisions adverse to the status of complainant’s employment. The allegations are not sufficiently supported to justify a finding for the complainant. The investigation does not substantiate a causal nexus between the alleged bases of discrimination as cited in this complaint and the termination of complainant’s employment”

On 04/18/13 The EEOC adapted the findings of the NYSDHR, dismissed the complaint and issued to me a right to sue letter. SEE: 13 Civ 4384 Dkt#2(attach), 11(attach), 31(attach), 193-4/5, trial exhibit: PX19, PX20, PX21

(D). PROCEDURAL HISTORY OF THE CASE

(41). On 06/24/13 I wrote and filed a pro se complaint with the District Court alleging claims of discrimination based on my race, national origin, and sex (sexual orientation), wrongful termination, retaliation, FMLA violation and common law negligence. On 8/19/13 I filed an amended complaint and on 10/7/13 I filed a second amended complaint alleging the same claims as I did in my original complaint. SEE: case No. 13 Civ 4384 Dkt#2, 11, 31, case No. 18-2351 Dkt#31,51,68

(42). On 01/16/14 the district court ruled on the defendant EJME motion to dismiss my amended complaints. On 7/31/14 T&M filed a motion for summary judgment. T&M in its motion requested oral argument. On 7/31/14 I filed a letter expressing my confusion as to which document in T&M’s motion for summary judgment I

needed to respond to. On 8/4/14 I filed an affirmation in opposition to T&M's motion for summary judgment. SEE: case No. 13 Civ 4384 *Dkt#43,65,74,75*

(43). On 8/22/14 I filed a motion to compel T&M to submit to the District court CD/audio recordings I'd shared with them during discovery. On 9/8/14 I filed a reply affirmation in support of my motion to compel. On 9/10/14 the district court granted my motion to file a sur-reply. On 9/10/14 I filed a letter expressing to the district court the fact I believed T&M intentionally did not mail to me a copy of its rule 56.1 statement of facts. On 9/23/14 I filed a sur-reply in further support of my affirmation opposing T&M's motion for summary judgment. SEE: case No. 13 Civ 4384 *Dkt#82, 83, 86, 88, 91, 92, 93(exh.#1-22)*

(44). On 2/19/15 the district court granted T&M's motion for summary judgment dismissing all of my claims. On the same day I happened to have been in the court house and I filed notice of appeal. On 4/25/17 and 7/10/17 the 2nd Circuit issued an order and mandate vacating the District Court's grant of summary judgment, reinstated only my hostile work environment claim and remanded the case for further proceedings. SEE: case No. 13 Civ 4384 *Dkt#106,123,125*, case No. 15-560

(45). June 25-28, 2018 a bench trial was held before the Hon. Judge Paul A. Engelmayer. On July 12, 2018 the district court issued an opinion and order granting T&M judgment. On 7/19/18 the district court issued a corrected opinion and order

based on the suggestions of my pro bono trial counsel. The clerk's judgment was entered on 7/20/18. On 7/25/18 I timely filed a pro se motion for reconsideration. On July 27, 2018 the district court issued an order denying my motion for reconsideration and granted my pro bono trial counsel's request to seal its filing. On 8/15/18 I filed a letter with the district court requesting to have my motion for reconsideration unseal. SEE: case No. 13 Civ 4384 *Dkt#175,178, 185, 186, 193(ex: 1-9), 195, 203, case No. 18-2351 *Dkt#31, 51, 68**

(46). On 08/06/18 I filed a notice of appeal. On 07/02/19 the United States Court of Appeals for 2nd Circuit issued a summary order affirming the district court award of judgment to T&M. On 07/11/19 I filed a petition for rehearing. On 08/15/19 the Court of Appeals for the 2nd Circuit issued an order denying my petition for rehearing. SEE: case No. 13 Civ 4384 *Dkt#202, case No. 18-2351 *Dkt#31, 51, 65, 68, 72**

REASONS FOR GRANTING THE PETITION

(47). I believe I've been unjustly "prejudice" in this case due to legal actions that were done that I as a pro se litigant and a non-attorney I do not fully understand or comprehend. I believe I had valid legal claims that were dropped or removed from the case and documentary evidences on the District Court record that were never

considered or discussed with me or the District Court prior to and at trial. SEE: 13

Civ 4384 Dkt#1-210

(48). I believe T&M intentionally and maliciously discriminated against me because I was employed “AT WILL”. I strongly believe T&M uses the fact I was employed “AT WILL” as an excuse to legally “cover up” or conceal my supervisor’s known discriminatory misconducts and its senior management deliberate refusal to adhere to the company’s anti-harassment and disciplinary policies shown in its employee handbook. SEE: 13 Civ 4384 Dkt#1-210

(49). During the litigation of this case T&M has repeatedly emphasized the fact I was employed “At Will.” I believe employers such as T&M intentionally takes advantage of laws such as “it will” employment because they’ll not be obligated to truthfully prove their stated reason(s) for someone’s employment termination to any investigational agencies such as the DHR/EEOC or to any Courts. SEE: 13 Civ 4384

Dkt#1-210

(50). Before trial, T&M was in possession of all my factual statements and documentary evidences via the District Court’s public docket (Pacer), USPS, FedEx mail, email, fax, and hand delivery. Discovery in this case ended on 6/2/2014. For reasons unknown to me, prior to trial I was never questioned about these documentary evidences and they were not presented to the court at trial. Except for

trial exhibits PX20 & PX21 at no other time was I questioned about other factual statements and documentary evidences I've on the District Court's docket. SEE: 13 Civ 4384 Dkt#193(Exh. 1-9)

(51). I strongly believe T&M should not have been granted summary judgment on 2/19/15 and awarded judgment on 7/12/18 because they have intentionally and knowingly committed perjury or perpetuated a fraud upon the court. I believe the T&M have committed perjury or engaged in fraud by intentionally and knowingly submitted to the District Court on the docket and at trial false and/or misleading and inconsistent statements and evidences in the form of affidavits, memorandum of law and eyewitness statements (written and verbal). I believe T&M intentionally and knowingly misled and defrauded the District Court about the facts in this case. SEE: 13 Civ 4384 Dkt#193(Exh. 1-9)

(52). I believe T&M's trial exhibits DX1, DX3, DX4, DX5, DX6A, DX9, DX10, DX11, DX12, DX13, DX19, DX20, DX29, DX34, DX35, DX36, and DX40 were knowingly incomplete and/or misleading. SEE: 13 Civ 4384 Dkt#193(Exh. 1-9)

(53). At trial, Mr. Melidones was asked about my work performance? He described my work performance as: "*above average*". He also stated, "*I thought he performed*

well. He passed his FSD. I thought he was performing quite well. He was a very good fire safety director, a very good guard, a very good employee."

(54). At trial, my former co-worker and T&M witness Mr. Roy Johnson truthfully testified that during my employment he worked outside in an atrium. He testified that the atrium gets noisy and his job duty requires him to walk around.

(55). During discovery T&M mailed to me a DVD recording which shows on Wed. 5/23/12 Mr. Melidones broke into my locker and emptied the contents in a large black garbage bag while being assisted by Mr. Ronald James. In that recording Mr. Melidones had as eyewitnesses Ms. Sindia Maldonado (a Hispanic female /T&M security officer) who worked in the worksite mailroom. She was the one who accepted the package in March 2012 that had the BB gun. Mr. Melidones/T&M had her write a false eyewitness statement about me which they've used as evidence in their responses the NYSDHR and the District Court. Also shown in that video recording is Mr. Klaudio Tresova (a White male/ former T&M security officer). During the 5/9/12 loading dock confrontation Mr. Melidones had him stood as an eyewitness. Mr. Melidones/ T&M also had him write a false eyewitness statement about me which they've used as evidence in their DHR/EEOC and the District court responses.SEE: 13 Civ 4384 Dkt#193(Exh. 1-9), trial exhibits: PX15,

(56). At trial, T&M's H.R. manager Ms. Toni Scarito admitted that she participated in the 5/15/12 disciplinary hearing. When she was asked about the disciplinary hearing, she made the following false and/or misleading statements:

- “from what I remember, we received a complaint that Mr. Daniel had received a package and it was a gun. I think in reality it was a BB gun, but it looked really realistic and people were alarmed so we addressed that issue.”
- “it was very distinctive, it was an unusual set of circumstances.”
- “he was very subdued during the meeting. He said nothing.”

Ms. Scarito misleadingly testified that I was given an opportunity to voice my grievances. She falsely denied shutting me down and calling me vindictive. She stated that she could not remember the names of the other T&M executives at the disciplinary hearing. She falsely stated that I did not play the 05/09/12 loading dock audio recording. At trial, Mr. John Aleles testified that the disciplinary committee found out about Mr. Melidones bullying after listening to that audio recording. SEE:

trial transcript: pg.679 lines:13-20

(57). After my employment termination and during the litigation of this case, I've received multiple calls from someone claiming to be a law enforcement officer threatening me with the filing of harassment complaints and ultimate arrest. I was forbidden from the worksite. My former co-workers at the jobsite were instructed to call the police if I were to be seen anywhere near the worksite. SEE: case No. 13

Civ. 4384 Dkt#1-210, my trial testimony: pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13

(58). Before and after my employment termination, I was living with my terminally ill father. He was suffering from renal failure, diabetes and heart complications. My supervisor and T&M senior management/owner knew this before and after my employment termination. During litigation, on Tues. 9/24/13 at 12:03am I sent to T&M's outside counsel (Ms. Meredith Cavallaro and Ms. Alicia Valenti) an email expressing my psychological and emotional anguish. Later that morning over a dozen NYPD officers came to my father's apartment. When I answered the door, those cops rushed into the apartment. and aggressively interrogated myself and my ailing father. I was then taken by EMT to the hospital psychiatric unit, evaluated for roughly 45mins and then released. I strongly believe if it weren't for my calm and obedient response to those officers, my life would have been endangered. T&M and/or its outside counsel had absolutely no plausible reason(s) for calling the police.

SEE: case No. 13 Civ 4384 Dkt#93-31 (pg.#2-16), 193-7 (pg.#2-4), trial transcript: pg.#147 line: 01— pg.#152 line:02

(59). At trial, I was asked to testify about the impact Mr. Melidones and T&M executives intentional discriminatory actions have had on me and my family. I

factually stated in part the following: SEE: trial transcript: pg.#147 line: 01—
pg.#152 line:02, SEE: 13 Civ. 4384 Dkt#193-7(pg.1-4)

MY TRIAL TESTIMONY

“In October 2013, when those cops came to my apartment, to my father’s apartment and he is now left with the impression that his son is a criminal, I became a pariah in his eyes. I was first threatened with – I was living with my father, not for free. I had to pay him rent. \$700 I was paying my father in rent. Every month. It was not for free. He needed to engrain that lesson in me that nothing in this country is from free. So on many times when I could not pay him the rent on time or in full, he would threaten to throw me out on the street. That threat became real after those cops came to my home. When my father first threw me out of the apartment, I sought help at the homeless shelter on 30 something street and I think it was 2nd Avenue. I couldn’t stay at that place. I return and I plead—then is when I had to open up to my father and once again, try to explain to him what I was going through. He could not understand. Couldn’t understand.

My relationship with my father became worse, became estranged as time went on. Because of my depression, I was indoors most of the time. I could not go outside. Family members would come to the apartment, I would be in my room, isolated, be anti-social, but no one knew or no one cared or no one really understood what I was going through.

From October – not October – from May, again, in May, I will never forget that date. On May 21, 2016, the last words I heard, the last time I saw my sick dying father was on May 21, 2016. When I saw the hate that that man, my blood, my only – he’s my father, but in his eyes, I might as well never have existed. His last words to me was, “You are a piece of shit. Get the fuck out of my house.”

With nowhere else to go, couldn’t – had no friends, no family, nobody else, I had to return to the homeless shelter. And from May 21, 2016 to September 2017 I was shuffled from homeless shelter to homeless shelter to homeless shelter: in Queens, in the Bronx, in Manhattan, on Warden’s Island. Many times I would be pricked and prodded like a wild beast by the medical workers because that’s what you do – that’s what they do. They want to make sure while you’re in the shelters, you’re not carrying some disease, and here I was being treated as if I’m disease. This is what the defendant’s actions tells me that I deserved, to be on the street, to be without family. You cannot shed that. The effect that all of that has is something that I have to live with or the rest of my life”

(60). During the discovery phase of litigation T&M through its outside counsel specifically requested I provided to them all electronic (text/e-mail) communications I’d with T&M/EJME management, executives and my former coworkers before and

after my employment termination. SEE: case No. 13 Civ. 4384 Dkt#1-210, case No. 15-560, case No. 18-2351 Dkt#31,51,68, my trial testimony: pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13

(61). On 05/29/14, I believe T&M through its outside counsel maliciously embarked on a “fishing expedition” by having me sat through over 8hrs of a deposition (interrogation). The deposition was held in a room at the S.D.N.Y court house. In the deposition I made the following factual statement: SEE: Dkt#73 pg.154 line: 15—pg.155 line:4

MY DEPOSITION TESTIMONY

“I have never given John an opportunity to make a physical threat toward me. I never challenge John. As I said, I have always been respectful of John. I will let him say what he needs to say, make his remarks, inappropriate comments, and all I did would stand there at my podium and sweat profusely. Sweat, may I – may I finish. Sweat profusely in fear of this man. He made comments about oh, “*you have a thyroid, you have a thyroid – a thyroid problem, why are you sweating like that*”. I sweat in his presence not because it’s warm, not because, you know, the lobby – no, of fear of this man, in fear of him and in fear of losing my job.”

(62). T&M for no good reasons maliciously subpoenaed my entire medical/psychiatric records from my primary physician and hospital visits. T&M also subpoenaed my employment records from three of my former employers. During litigation, I was led to believe that a false harassment complaint was filed against me with the NYPD because I called the worksite in June 2013 and spoke with my former co-workers Ms. Carmen Negron and Ms. Sindia Maldonado. Shortly after I finished speaking with those two former co-workers via telephone, the

worksit present security dir./supervisor Mr. Michael Ahr immediately called me back and said to me: "*stop calling here, nobody here wants to talk to you.*" **SEE:**
case No. 13 Civ. 4384 Dkt#1-210, **case No.** 15-560, **case No.** 18-2351 Dkt#31,51,68, **my trial testimony:** pg.37 line: 11 – pg.320 line: 16; pg.686 line: 3 – pg.727 line:13

(63). At trial, I was asked about the psychological impact Mr. Melidones and T&M intentional discriminatory actions have had on me. I factually stated in part the following:

MY TRIAL TESTIMONY

"It was not only the discrimination—the discriminatory action that was taken, it was the fact I was being treated like a criminal. And that pattern of harassment continued even during this litigation. I did not imagine the phone calls that I received from people claiming to be police officers threatening to arrest me. I didn't imagine the presence of law enforcement officers outside my place of work, outside my residence. It's not just the discrimination. It was the fact I was criminalized. And I was being criminalized for no other reason other who and what I'm as a gay Black man. For no other reason other than that"

CONCLUSION

For the foregoing reasons, I respectfully request that this court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

Respectfully submitted,



Otis A. Daniel,
P.O Box 1231
New York, NY 10150
(347) 262-6834
pro se plaintiff-petitioner

Date: 09/18/19

CERTIFICATE OF COMPLIANCE

No. _____

Otis A. Daniel, *Petitioner*

Vs.

T&M Protection Resources, LLC., *Respondent*

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 8,131 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Sept. 18, 20 19



Otis A. Daniel, pro se
P.O. Box 1231
New York, NY 10150
Tel: 347-262-6834

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Otis A. Daniel — PETITIONER
(Your Name)

VS.
TGN PROTECTION RESOURCES RESPONDENT(S)

PROOF OF SERVICE

I, Otis A. Daniel, do swear or declare that on this date,
Sept. 18, 2019, as required by Supreme Court Rule 29 I have
served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS
and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding
or that party's counsel, and on every other person required to be served, by depositing
an envelope containing the above documents in the United States mail properly addressed
to each of them and with first-class postage prepaid, or by delivery to a third-party
commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Mr. LEONARD WEINTRAUB (TGM Counsel)
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020
212-785-9102

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Sept. 18, 2019

Otis A. Daniel
(Signature)