20-3778-cv
McNaughton v. de Blasio

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27th day of August, two thousand twenty-one.

Present: JON O. NEWMAN,
ROSEMARY S. POOLER,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

NEIL MCNAUGHTON,

Plaintiff-Appellant,

v. 20-3778

BILL DE BLASIO, AS MAYOR OF THE CITY OF NEW YORK, DERMOT F. SHEA, AS COMMISSIONER OF THE NEW YORK POLICE DEPARTMENT, MICHAEL J. SILVER, AS COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION, CENTURY MANAGEMENT SERVICES, 5 WEST 14 OWNERS CORP., NORMAN BELLINO, LISA GOLUB, GALEN J. CRISCIONE, CRISCIONE-RAVELA LLP, FERN LEE, THE ESTATE OF LAURA G. MCNAUGHTON, DAVID L. MOSS, DAVID L. MOSS & ASSOCIATES, LLC, JANE AND JOHN DOE, POLICE OFFICERS, AND CIVILIAN NYPD EMPLOYEES 1-200, SUPERVISOR AND DETECTIVES 1-200, CITY OF NEW YORK, NEW YORK POLICE DEPARTMENT, NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION, JANE AND JOHN DOE, DOE CIVILIANS 1-200,

Defendants-Appellees.

Appearing for Appellant:	Neil McNaughton, pro se, New York, N.Y.
Appearing for Appellees:	No appearance.

Appeal from an order of the United States District Court for the Southern District of New York (Furman, *J.*).

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the order of said District Court be and it hereby is **AFFIRMED**.

Neil McNaughton, a retired attorney proceeding pro se, sued several New York City officials, multiple civilians, and hundreds of Jane and John Does under 42 U.S.C. § 1983 alleging various constitutional violations and state law claims, including defamation, contract, and fraud. His complaint alleged a years-long conspiracy among the New York City Police Department, his apartment cooperative, and private citizens aimed at harassing and defaming him based on false accusations of pedophilia.

The district court sua sponte dismissed McNaughton's complaint, reasoning that he failed to state a claim, his allegations were implausible, and his complaint was frivolous. The court also declined to exercise supplemental jurisdiction over McNaughton's state law claims and declined to grant leave to amend his complaint as futile. McNaughton appeals. We affirm the district court's dismissal and denial of leave to amend for substantially the same reasons articulated by the district court. *See generally McNaughton v. de Blasio*, No. 20-CV-6991 (JMF), 2020 WL 5983100 (S.D.N.Y. Oct. 8, 2020).

We have considered all of McNaughton's remaining arguments and find them to be without merit. Accordingly, the order of the district court hereby is AFFIRMED.

FOR THE COURT:
Catherine O'Hagan Wolfe,
Clerk of Court

/s/ Catherine O'Hagan Wolfe
[SEAL]

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of March, two thousand twenty-one.

Neil McNaughton,

Plaintiff-Appellant,

v.

Bill de Blasio, as Mayor of the City of New York, Dermot F. Shea, as Commissioner of the New York Police Department, Michael J. Silver, as Commissioner of the New York City Department of Parks and Recreation, Century Management Services, 5 West 14 Owners Corp., Norman Bellino, Lisa Golub, Galen J. Criscione, Criscione-Ravela LLP, Fern Lee, The Estate of Laura G. McNaughton, David L. Moss, David L Moss & Associates, LLC, Jane and John Doe, Police Officers, and Civilian NYPD Employees 1-200, Supervisor and Detectives 1-200, City of New York, New York Police Department, New York City Department of Parks and Recreation, Jane and John Doe, Doe Civilians 1-200,

Defendants-Appellees.

ORDER

Docket No. 20-3778

Appellant Neil McNaughton has filed a petition for an initial hearing *en banc*. The active members of the Court have considered the request for an initial hearing *en banc*.

IT IS HEREBY ORDERED that the petition is DENIED.

FOR THE COURT:
Catherine O'Hagan Wolfe,
Clerk of Court

/s/ Catherine O'Hagan Wolfe
[SEAL]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEIL MCNAUGHTON, Plaintiff, -v- BILL DE BLASIO, et al., Defendants.	20-CV-6991 (JMF) ORDER (Filed Nov. 4, 2020)

JESSE M. FURMAN, United States District Judge:

On October 8, 2020, the Court issued a Memorandum Opinion and Order dismissing Plaintiff's complaint for failure to state on claim on which relief may be granted and as frivolous and declining to exercise supplemental jurisdiction over any state-law claims Plaintiff may be asserting. ECF No. 20. On November 2, 2020, Plaintiff submitted a motion for reconsideration of that Order. ECF No. 21. As Plaintiff presents no valid grounds for reconsideration, the motion is DENIED. *See, e.g.*, *Analytical Surveys, Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d Cir. 2012) ("It is well-settled that [a motion for reconsideration] is not a vehicle for relitigating old issues, presenting the case under new theories, securing a rehearing on the merits, or otherwise taking a second bite at the apple. Rather, the standard for granting a . . . motion for reconsideration is strict, and reconsideration will

generally be denied unless the moving party can point to controlling decisions or data that the court overlooked." (internal quotation marks, citations, ellipsis, and alterations omitted)).

The Clerk of Court is directed to terminate ECF No. 21.

SO ORDERED.

Dated: November 4, 2020
New York, New York

/s/ Jesse Furman
JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEIL MCNAUGHTON, Plaintiff, -against- BILL de BLASIO, *et al.*, Defendants.	20-CV-6991 (JMF) MEMORANDUM OPINION AND ORDER (Filed Oct. 8, 2020)

JESSE M. FURMAN, United States District Judge:

Plaintiff Neil McNaughton brings this *pro se* action, for which the filing fee has been paid, alleging that Defendants violated his federal constitutional and statutory rights, as well as his rights under state law. The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court has the authority to dismiss a complaint, even when the plaintiff has paid the filing fee, if it determines that the action is frivolous. *See, e.g.*, *Fitzgerald v. First E. Seventh St. Tenants Corp.*, 221 F.3d 362, 363-64 (2d Cir. 2000) (per curiam) (citing *Pillay v. INS*, 45 F.3d 14, 16-17 (2d Cir. 1995) (per curiam) (holding that the Court of Appeals has inherent authority to dismiss frivolous appeal)). Additionally, the Court is obligated to dismiss if it lacks subject-matter jurisdiction. *See Ruhrgas AG v.*

Marathon Oil Co., 526 U.S. 574, 583 (1999). At the same time, the Court is also obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and to interpret them to raise the "strongest [claims] that they *suggest*," *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (quoting *Pabon v. Wright*, 459 F.3d 241, 248 (2d Cir. 2006)). Because Plaintiff is an attorney, however, *see* ECF No. 1 ("Compl."), ¶ 16, he is not entitled to the special solicitude usually granted to *pro se* litigants. *See Tracy v. Freshwater*, 623 F.3d 90, 102 (2d Cir. 2010) ("[A] lawyer representing himself ordinarily receives no such solicitude at all.")

Rule 8 of the Federal Rules of Civil Procedure requires a complaint to make a short and plain statement showing that the pleader is entitled to relief. A complaint states a claim for relief if the claim is plausible. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). To review a complaint for plausibility, the Court accepts all well-pleaded factual allegations as true and draws all reasonable inferences in the pleader's favor. *See id.* But the Court need not accept "[t]hreadbare recitals of the elements of a cause of action," which are essentially legal conclusions. *Id.* at 678 (citing *Twombly*, 550 U.S. at 555). After separating legal conclusions from well-pleaded factual allegations, the Court must determine whether those facts make it plausible – not merely possible – that the pleader is entitled to relief. *See id.*

BACKGROUND

Plaintiff brings this action against New York City Mayor Bill de Blasio; New York City Police Department ("NYPD") Commissioner Dermot Francis Shea; New York City Parks and Recreation Commissioner Mitchell J. Silver; Century Management Services; 5 West 14 Owners Corp.; Norma Bellino; Lisa Golub; Galen J. Criscione and his law firm; Fern Lee; the Estate of Laura G. McNaughton; David L. Moss and his law firm; the City of New York; the NY PD; the New York City Department of Parks and Recreation; and 600 John and Jane Does. Compl. ¶¶ 72-88. The crux of Plaintiff's 74-page complaint, which is filled with extraneous discussions,[1] is that the NYPD is enlisting parents and their children in an elaborate scheme to lure him to commit pedophilic acts. He previously filed an action in this Court in which he alleged that his now-deceased sister falsely reported to the Montclair, New Jersey, Police Department and the NYPD that Plaintiff was a pedophile, causing both departments to engage in a "baiting" campaign in which the police "paraded [underage girls] before him while he [wa]s under surveillance in an attempt to elicit behavior that

---

[1] For example, the first 25 pages of the complaint are largely devoted to Plaintiff's description of what he terms "the Nazi disease": "[W]hat is usually euphemistically called the 'silent treatment,' but which actually is turning the victim into a pariah in a given social situation, is the mechanism by which most people have been socialized as children into becoming Nazis, and the means by which they usually demonstrate their Nazi status." Compl. ¶ 20.

could subject him to arrest."[2] *McNaughton v. de Blasio*, No. 14-CV-0221, 2015 WL 468890, at *1 (S.D.N.Y. Feb. 4, 2015) (alterations in original) (quoting the amended complaint), *aff'd*, 644 Fed. App'x 32 (2d Cir. 2016).[3]

In this action, Plaintiff asserts that the "persistent police stalking and harassment that I complained about in my action before Judge Falla [sic] have continued until the present day in a significantly increased manner." Compl. ¶ 162. He alleges that private individuals are acting in conspiracy with the police to "entrap" him or are calling the police subsequent to Plaintiff's taking pictures of their children. *See, e.g.*, *id.* ¶ 186 (describing an incident in Washington Square Park where someone "actually had the gall to show up with a Park Police officer" to remove Plaintiff from the park "on the ground that [Plaintiff] was taking pictures of children"). Plaintiff specifically claims that he is now being "stalk[ed]" by young children at the behest of the police. *Id.* ¶¶ 62-64.[4]

---

[2] Plaintiff maintains that he has had "absolutely no contact with children in [his] life" and does not "attempt to talk to or to otherwise interact with any of the children stalking [him]." *Id.* ¶ 64.

[3] Judge Failla dismissed Plaintiff's prior action, among other reasons, for failure to state a claim and on the grounds that many of Plaintiff's factual allegations were simply implausible. *See id.* at *6-16.

[4] Plaintiff writes: "From 2011 until perhaps 2014, the children were perhaps 80% Asian and usually girls in the 12-13 year old age group, although there were always a few older or younger, and throughout the entire nine years perhaps only a few boys. In about 2016 or 2017, the composition of the bait changed to older, more developed girls. Then starting in 2018 or 2019 and

This campaign of "harassment," *id.* ¶ 65, extends to the management of Plaintiff's apartment building and the members of the building co-op. For example, the co-op has arranged incidents of "stroller harassment," in which Plaintiff has been "stalked within the building by women pushing strollers, particularly as [he's] leaving [his] apartment." *Id.* ¶ 156. In another incident, Plaintiff was sitting in the basement laundry room "when a woman pushing a baby stroller with two children came into the room. 'Stalking is a crime, ma'am[,]' [he] told her as she came in." *Id.* ¶ 157. When Plaintiff took a picture of the woman and her stroller, *id.*, the woman "screamed in horror" at Plaintiff and then left the room, *id.* ¶ 158. A few days later Plaintiff received a letter under his door from the co-op president, informing Plaintiff that the woman filed a complaint against him and giving him "a shameless lecture on co-op courtesy." *Id.* ¶ 159.

Plaintiff also includes allegations of "co-op . . . harassment," *id.* ¶ 147, which appear to arise from damage to Plaintiff's apartment or disagreements he has with building management. For example, he alleges that building "support staff" enter his apartment at night, delete pictures from his camera, and move around his living room furniture. *Id.* ¶ 150. In March 2017, "support staff" entered his apartment and "damaged [his] bathroom plumbing"; as a result,

---

continuing until the present day, the stalking involves almost exclusively babies in strollers and very young children, with only an occasional teenager." *Id.* ¶ 63.

Plaintiff has "not been able to take a hot shower for over three years." *Id.* ¶ 15 1.

Numerous local businesses have also been "involved in some form of harassment," mostly at the instigation of police. *Id.* ¶ 162. Examples of such harassment include "phony pedo traps where a young child would be present in a situation where there [sic] are almost never present," such as barbershops, and "minor physical assaults" such as "overcooking the udon noodles or putting too much hot spice in the soup." *Id.* ¶ 163. Plaintiff's complaint also includes extensive allegations of fraud and malpractice by two attorneys whom he hired "to obtain certain telephone records for two telephone numbers," *id.* ¶ 106, and "to help [him] have [his] apartment fingerprinted and to represent [him] in an action against [his] co-op," *id.* ¶ 137.

He brings claims under the First, Fourth, and Fourteenth Amendments, for defamation,[5] trespassing, "interference with [Plaintiff's] covenant of quiet enjoyment," intentional infliction of emotional distress, fraud, "fraud in the inducement," "recission," and "attorney malpractice." *Id.* ¶¶ 199-231.

---

[5] Plaintiff's defamation claims are based on his assertion that "the presence of the young girls or, more recently, stroller stalkers is a public accusation that [he is] a pedophile," and that "the NYPD or someone at their behest are contacting stores and arranging phony 'traps' with underage children or babies in strollers, and these 'traps' are understood by the store employees to state that [Plaintiff is] a pedophile." *Id.* ¶¶ 194, 196.

DISCUSSION

The Court construes Plaintiff's federal constitutional claims as arising under 42 U.S.C. § 1983. To state a claim under 42 U.S.C. § 1983, a plaintiff must allege both that: (1) a right secured by the Constitution or laws of the United States was violated, and (2) the right was violated by a person acting under the color of state law, or a "state actor." *West v. Atkins*, 487 U.S. 42, 49 (1988) (quoting *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 937 (1982)).

A. Claims Against the New York City Police Department and the New York City Department of Parks and Recreation

Plaintiff's claims against the New York City Police Department and the New York City Department of Parks and Recreation must be dismissed because an agency of the City of New York is not an entity that can be sued. *See* N.Y. City Charter ch. 17, § 396 ("All actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law."); *Jenkins v. City of New York*, 478 F.3d 76, 93 n.19 (2d Cir. 2007); *see also Emerson v. City of New York*, 740 F. Supp. 2d 385, 396 (S.D.N.Y. 2010) ("[A] plaintiff is generally prohibited from suing a municipal agency.").

B. Claims Against Mayor de Blasio, Commissioner Shea, and Commissioner Silver

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege facts showing the defendant's direct and personal involvement in the alleged constitutional deprivation. *See Spavone v. N.Y. State Dep't of Corr. Servs.*, 719 F.3d 127, 135 (2d Cir. 2013) (citing *Colon v. Coughlin*, 58 F.3d 865, 873 (2d Cir. 1995)). A defendant may not be held liable under Section 1983 solely because that defendant employs or supervises a person who violated the plaintiff's rights. *See Iqbal*, 556 U.S. at 676 ("Government officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of *respondeat superior*."). An individual defendant may have been personally involved in a Section 1983 violation if:

> (1) the defendant participated directly in the alleged constitutional violation, (2) the defendant, after being informed of the violation through a report or appeal, failed to remedy the wrong, (3) the defendant created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom, (4) the defendant was grossly negligent in supervising subordinates who committed the wrongful acts, or (5) the defendant exhibited deliberate indifference to the rights of [the plaintiff] by failing to act on

> information indicating that unconstitutional acts were occurring.

Colon, 58 F.3d at 873.[6]

Plaintiff does not allege any facts showing how Mayor de Blasio, Commissioner Shea, or Commissioner Silver was personally involved in the events underlying his claims. Plaintiff's claims against these defendants are therefore dismissed for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

C. Claims Against the City of New York

When a plaintiff sues a municipality under Section 1983, it is not enough for the plaintiff to allege that one of the municipality's employees or agents engaged in some wrongdoing. The plaintiff must show that the municipality itself caused the violation of the plaintiff's rights. *See Connick v. Thompson*, 563 U.S. 51, 60 (2011) ("A municipality or other local government may be liable under this section if the governmental body itself 'subjects' a person to a deprivation of rights or 'causes' a person 'to be subjected' to such deprivation." (quoting *Monell v. Dep't of Soc. Servs. of New York*, 436 U.S. 658, 692 (1978))); *Cash v. Cty. of*

---

[6] "Although the Supreme Court's decision in [*Iqbal*, 556 U.S. 662,] may have heightened the requirements for showing a supervisor's personal involvement with respect to certain constitutional violations," the Second Circuit has not yet decided that issue. *Grullon v. City of New Haven*, 720 F.3d 133, 139 (2d Cir. 2013); *see also Lombardo v. Graham*, 807 Fed. App'x 120, 124 n.1 (2d Cir. 2020).

Erie, 654 F.3d 324, 333 (2d Cir. 2011). In other words, to state a Section 1983 claim against a municipality, the plaintiff must allege facts showing (1) the existence of a municipal policy, custom, or practice, and (2) that the policy, custom, or practice caused the violation of the plaintiff's constitutional rights. *See Bd. of Cty. Comm'rs of Bryan Cty. v. Brown*, 520 U.S. 397, 403 (1997); *Jones v. Town of East Haven*, 691 F.3d 72, 80 (2d Cir. 2012).

Plaintiff fails to allege facts suggesting that the City of New York has a policy, custom, or practice that has caused a violation of his constitutional rights. The Court therefore dismisses his claims against the City of New York. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

D. Claims Against Century Management Services; 5 West 14 Owners Corp.; Norma Bellino; Lisa Golub; Galen Criscione; Criscione-Ravela LLP; Fern Lee; Estate of Laura G. McNaughton; David L. Moss; David L. Moss & Associates, LLC

A claim for relief under Section 1983 must allege facts showing that each defendant acted under the color of a state "statute, ordinance, regulation, custom or usage." 42 U.S.C. § 1983. Private parties are therefore not generally liable under the statute. *See Sykes v. Bank of America*, 723 F.3d 399, 406 (2d Cir. 2013) (citing *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295 (2001)); *see also Ciambriello v. Cty. of Nassau*, 292 F.3d 307, 323 (2d Cir.

2002) ("[T]he United States Constitution regulates only the Government, not private parties. . . ." (quoting *United States v. Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am.*, 941 F.2d 1292, 1295-96 (2d Cir. 1991)). Moreover, absent special circumstances suggesting concerted action between an attorney and a state representative, *see Nicholas v. Goord*, 430 F.3d 652, 656 n.7 (2d Cir. 2005) (citing *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 152 (1970)), the representation of a defendant by counsel in state proceedings does not constitute the degree of state involvement or interference necessary to establish a claim under Section 1983, regardless of whether that attorney is privately retained, court-appointed, or employed as a public defender, *see Bourdon v. Loughren*, 386 F.3d 88, 90 (2d Cir. 2004) (citing *Polk Cty. v. Dodson*, 454 U.S. 312, 318-19 (1981)); *see also Schnabel v. Abramson*, 232 F.3d 83, 87 (2d Cir. 2000) (holding that a legal aid organization ordinarily is not a state actor for purposes of Section 1983). As Defendants Century Management Services, 5 West 14 Owners Corp., Norma Bellino, Lisa Golub, Galen Criscione, Criscione-Ravela LLP, Fern Lee, Estate of Laura G. McNaughton, David L. Moss, and David L. Moss & Associates, LLC, are private parties who do not work for any state or other government body, Plaintiff fails to state a claim against these Defendants under Section 1983.

E. Frivolousness

To the extent Plaintiff seeks to assert any other federal claims against Defendants, the Court dismisses those claims as frivolous. A claim is frivolous when "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989), *abrogated on other grounds by Twombly*, 550 U.S. 544; *see also Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) ("An action is 'frivolous' when either: (1) the factual contentions are clearly baseless . . . ; or (2) the claim is based on an indisputably meritless legal theory." (internal quotation marks omitted) (quoting *Nance v. Kelly*, 912 F.2d 605, 606 (2d Cir. 1990) (per curiam))); *Denton v. Hernandez*, 504 U.S. 25, 33 (1992) (holding that "a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible").

Whatever role Plaintiff believes Defendants have played in his life, his allegations are simply not plausible and there is no legal theory on which he can rest his claims. The Court therefore dismisses any remaining federal claims Plaintiff may be asserting as frivolous. *See Fitzgerald*, 221 F.3d at 363-64 (citing *Pillay*, 45 F.3d at 16-17 (holding that the Court of Appeals has inherent authority to dismiss a frivolous appeal)).

F. Supplemental Jurisdiction

A district court may decline to exercise supplemental jurisdiction over state-law claims when it "has

dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). Generally, "when the federal-law claims have dropped out of the lawsuit in its early stages and only state-law claims remain, the federal court should decline the exercise of jurisdiction." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)). Having dismissed the federal claims over which the Court has original jurisdiction, the Court declines to exercise its supplemental jurisdiction over any state-law claims Plaintiff may be asserting. *See Kolari v. N.Y.-Presbyterian Hosp.*, 455 F.3d 118, 122 (2d Cir. 2006) ("Subsection (c) of § 1367 'confirms the discretionary nature of supplemental jurisdiction by enumerating the circumstances in which district courts can refuse its exercise.'" (quoting *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997))).

G. Leave to Amend

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff's complaint cannot be cured with an amendment, the Court declines to grant Plaintiff leave to amend his complaint.

CONCLUSION

For the foregoing reasons, the Court dismisses Plaintiff's complaint for failure to state on claim on which relief may be granted and as frivolous and declines to exercise supplemental jurisdiction over any state-law claims Plaintiff may be asserting. 28 U.S.C. § 1367(c)(3). Additionally, the Court denies Plaintiff's requests for the issuance of summonses. *See* ECF Nos. 3-18. The Clerk of Court is directed to mail a copy of this Memorandum Opinion and Order to Plaintiff, to note such service on the docket, and to close the case.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: October 8, 2020
New York, New York

/s/ Jesse Furman
JESSE M. FURMAN
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of October, two thousand twenty-one.

Neil McNaughton,

Plaintiff-Appellant,

v.

Bill de Blasio, as Mayor of the City of New York, Dermot F. Shea, as Commissioner of the New York Police Department, Michael J. Silver, as Commissioner of the New York City Department of Parks and Recreation, Century Management Services, 5 West 14 Owners Corp., Norman Bellino, Lisa Golub, Galen J. Criscione, Criscione-Ravela LLP, Fern Lee, The Estate of Laura G. McNaughton, David L. Moss, David L Moss & Associates, LLC, Jane and John Doe, Police Officers, and Civilian NYPD Employees 1-200, Supervisor and Detectives 1-200, City of New York, New York Police Department, New York City Department of Parks and Recreation, Jane and John Doe, Doe Civilians 1-200,

Defendants-Appellees.

ORDER

Docket No. 20-3778

Appellant, Neil McNaughton, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe,
Clerk of Court

/s/ Catherine O'Hagan Wolfe
[SEAL]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------- x

NEIL McNAUGHTON,

Plaintiff,

-against-

BILL de BLASIO, as Mayor of the City of New York, DERMOT FRANCIS SHEA, as Commissioner of the New York Police Department, MITCHELL J. SILVER, as Commissioner of the New York City Department of Parks and Recreation, CENTURY MANAGEMENT SERVICES, 5 WEST 14 OWNERS CORP, NORMA BELLINO, LISA GOLUB, GALEN J. CRISCIONE, CRISCIONE-RAVELA LLP, FERN LEE, THE ESTATE OF LAURA G. McNAUGHTON, DAVID L. MOSS, DAVID L MOSS & ASSOCIATES, LLC, JANE AND JOHN DOE POLICE OFFICERS, SUPERVISORS AND DETECTIVES 1-200; JANE AND JOHN DOE CIVILIAN NYPD EMPLOYEES 1-200; JANE AND JOHN DOE CIVILIANS 1-200, THE CITY OF NEW YORK, THE NEW YORK POLICE DEPARTMENT and THE NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

Defendants,

---------- x

20-CV-6991 (JMF)

NOTICE OF MOTION

[Pursuant to Rule 59]

(Filed Nov. 2, 2020)

PLEASE TAKE NOTICE that upon the annexed affidavit of Neil McNaughton in support of this motion and the pleadings and proceedings heretofore had herein Plaintiff pro se Neil McNaughton will move this Court, on November 12, 2020 at 10:00 A.M. in the forenoon, or as soon thereafter as parties may be heard, before the Honorable Jesse M. Furman, United States District Judge, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York, for an order pursuant to Rule 59 of the Federal Rules of Civil Procedure, granting Plaintiff's motion to alter and amend the Court's prior Memorandum Opinion and Order herein dated October 8, 2020, and also granting Plaintiff additional time to serve the summons and complaint herein if the Court restores the action to the docket.

Dated: New York, New York
October 30, 2020

/s/ Neil McNaughton

NEIL McNAUGHTON
Plaintiff Pro Se
10 West 15th St., Ste. 418
New York, New York 10011
(212) 675-1110
neilmcnaughton@yahoo.com

AFFIDAVIT

State of New York)

County of New York) ss.:

NEIL MCNAUGHTON, being duly sworn, deposes and says,

1. I am the plaintiff pro se in the above captioned action. I make this affidavit in support of my motion pursuant to Rule 59 of the Federal Rules of Civil Procedure to Alter and Amend the Court's Memorandum Opinion and Order dated October 8, 2020 (the "Opinion and Order"), for the reasons set forth herein, to address several misstatements in the Court's Opinion and Order, and to request additional time in which the serve the summons and complaint in the instant action should the court grant my motion and restore the action to the calendar. Alternatively, if Rule 59 is not the correct mechanism for making the instant motion, I respectfully request that the Court deem this an F.R.C.P. Rule 60 motion.

2. The evidence submitted in this affidavit could not be submitted to the Court before this, *inter alia*, because the Court *sua sponte* dismissed plaintiff's complaint before issue had been joined.

3. The first misstatement occurs on the first page of the Opinion and Order, where the Court states "Because Plaintiff is an attorney . . . " I was once an attorney, but I retired many years ago. The last time I represented a client was 2002. As my complete misstatement of Rule 60 shows (Complaint, ¶ 5), I am no

longer competent to function as an attorney. All of my legal knowledge is out of date; I don't have access to a law library; and I can't afford an online subscription.

4. The second misstatement in the Opinion and Order is on page 10, where the Court states "Additionally, the Court denies Plaintiff's requests for the issuance of summonses." I never made any request to the Court for the issuance of summonses, because I received about 16 Summonses from the Court Clerk on August 28, 2020. *See* three examples of summonses I received attached hereto as Exhibit 1.

5. The evidence I seek to submit here unfortunately has been vetted by the NYPD. *Cf.*, Complaint, "The Problem with Evidence", ¶¶ 90-96. I thought I'd managed to hide the chips but obviously not. I don't know the number of data files (pictures or videos) that have been removed from the various data chips on which I keep the pictures and videos, but the chips clearly have been altered: specifically, the time stamp has been deleted on nearly all of the photographs, with the exception of one chip that the NYPD apparently didn't find.

6. I do not review all of the photographs I take, but I have reviewed hundreds of photographs I have taken over the past six months and I have never seen a missing time stamp on a photograph, until I examined the photographs on the hidden chips in preparation for the instant motion. I don't know when or how the chips were found, but there can be no question that the missing time stamp on hundreds of photographs

that previously contained the stamp constitutes probative evidence of tampering as well as of illegal entry. The camera is set to put both a date stamp and a time stamp on each photograph and I have never changed that setting or attempted to alter it on any photograph, and before I started preparing for this motion a few days ago, I had never seen a photograph I had taken with only a date stamp and no time stamp.

7. One of the data chips that had the time stamp altered is one that I have kept with me every time I leave my apartment for the past four months (in the camera), so the alteration must have happened when I was sleeping. On this chip, all of the data for the month of September, 2020 has also been removed.

8. In addition to the foregoing, a number of photographs that I had taken that had been on my computer for years have gone missing. I had perhaps several hundred pictures I had taken earlier, including one in particular I remember from October of 2014. Many of those are now missing from my computer. I remember seeing some of them as recently as two weeks ago, when I accessed my photo gallery for other purposes. The computer on which these photographs were contained is not connected to the internet.

9. Fortunately, in vetting the data chips, the NYPD did its typical sloppy job. Exhibit 2 contains some of the photographs I am submitting in support of the instant motion, which will be differentiated one from another by numbers printed on the bottom of each photograph.

10. Photo 1 is of the gentleman described in paragraph 186 of the Complaint, as follows:

> A few months ago, a Caucasian gentleman stalked me where I was sitting in the northeast corner of the park where I usually sit for two days with a young boy in a stroller, adjusting where he and the boy were sitting after I'd moved to avoid the sun. On the second day, May 5, 2020, this guy actually had the gall to show up with a Park police officer (I believe the officer's last name was Henchi) to have me removed from the park on the ground that I was taking pictures of children. Although I gave my name the gentleman refused to state his name. It came out during the discussion with this gentleman and the Park Police officer that he was not the child's parent, but his uncle. So during the height of the Covid 19 lockdown in New York City, this guy on two occasions traveled to his sister's home to pick up his nephew (I'm assuming he didn't live with his sister), breaking quarantine, took the child to the park to help him commit a crime, then returned to the park to shamelessly complain that his victim was a criminal. This gentleman also called me a "sexual predator" three times during our encounter, in the hearing of Park police officer Henchi..

11. This is a photograph I took on the first day this guy appeared in Washington Square Park, May 4, 2020, showing him with his nephew. Since there is no time stamp on the photograph, this photo has been vetted by the NYPD. In addition, none of the many other

photos I took of this guy on that day (I was outraged at the blatant way he was stalking me) are present on the data chip, and there are no pictures of him on the chip from May 5, 2020.

12. Photos 2-4 are of a particularly annoying Asian stalker. In Photo 2, which was taken with the camera's magnification on April 1, 2020, she is standing directly opposite where I usually sit across a narrow field, with her baby, standing in front of me facing me. She did this for several days, usually for around fifteen minutes at a time, before I finally took this picture. Photo 3 is a picture of the same woman taken on March 27, 2020, and Photo 4 is a picture of the same woman taken one month later, on May 4, 2020. None of the photographs have a time stamp on them.

13. The next photograph, Photo 5, was taken on January 5, 2020. There is no time stamp on this photograph. It shows the harassment/defamation of me by co-op residents using their apartment lights to express displeasure with the plaintiff. Normally, over the many years I've lived in this co-op, there are no lights showing in apartments. I took this photograph at around five o'clock in the morning, when I first got up.

14. The next set of photographs come from the one data chip the police apparently didn't find, from a short period in April of 2020, so all of the photographs contain both a date and a time stamp. These photographs and the ones that follow constitute a small percentage of the photographs that I have taken over the period, and in this submission I'm focusing primarily

on photographs that show police or stroller stalker presence while I am leaving from or returning to my apartment. Except as noted, every view shown in all of the photographs cited in the following paragraphs was taken within one block of my apartment, and most involve views taken between my building's 14th street door and the corner of Fifth Avenue and Fourteenth Street, 100 feet away.

15. Photo 6 shows a police ear with flashing lights parked in front of the CVS on the southeast corner of 5th and 14th, on April 11, 2020 at 11:00 a.m., which at this time was usually the time I would head over to Washington Square Park to sit for an hour. Photo 7 shows a police car traveling on 14th street one hour later, at 12:12 p.m., when I'm about to enter my apartment building.

16 Photos 8 and 9 show two different stroller stalkers near the corner of 5th and 14th on April 12, 2020, at 11:13 a.m. and 11:14 a.m., respectively.

17. Photos 10 and 11 show two different views of a police car on April 14, 2020 at 11:23 a.m. as I'm leaving my apartment, parked on 5th Avenue in front of the CVS. The car had flashing lights, although it's difficult to tell from the photos. I also took a video of it that shows it clearly. Photo 12 shows a police car on 12:13 p.m. as I'm heading home. I think it's lights may have been flashing too.

18. Photos 13 and 14 show, respectively, a police car in front of the CVS on April 16, 2020 at 11:07 when I'm leaving my apartment and a stroller stalker on the

northwest corner of 5th and 14th at 12:02 when I am returning. A video I took clearly shows the police car's flashing lights.

19. Photo 15 shows a police car on April 19, 2020 at 11:14 a.m. when I'm leaving my apartment, and Photo 16 shows a police car parked in front of the CVS at 12:30 p.m. on the same date when I am returning.

20. Photos 17 and 18, respectively, show a police car parked in front of the CVS on April 22, 2020 at 11:07 when I am leaving my apartment and a stroller stalker walking two hundred feet away at approximately the same time.

21. This untouched data chip contains only a few days of activity, but it illustrates how nearly every day I leave the apartment there is a police car or a stroller stalker waiting for me. On days when there are no photos it's likely I did not leave my apartment, due to bad weather or some other reason, or they were deleted by the NYPD. Sometimes, the stroller is in my building. The defamation set forth in the Complaint of co-op president Norma Bellino in her November, 2019 letter to me speaks of the stroller stalker that stalked me in the basement laundry room of my co-op at eight o'clock on that weekend morning in November.

22. The next set of photographs illustrate a typical morning for me at the present time. Shortly after eight o'clock on October 27, 2020, as I was making brownies, I realized my eggs were past due, and I ran over to the CVS two hundred feet away to pick up some fresh eggs. Photo 19, taken on October 27, 2020 at 8:08

a.m., is of a stroller on the northeast corner of 14th and 5th, although it is indistinct. I needed a toner cartridge for my printer, and later that morning I left my apartment to pick it up. Photo 20 was taken at 10:34 a.m when I left my apartment, and shows another stroller stalker. Photos 21-24, all taken at 10:53 on October 27, 2020 as I was returning to my apartment from my errand twenty minutes later, show three stroller stalkers and a police car. All of these last four photos were taken at the same time, from the same location at the northeast corner of 14th and 5th. Because they were transferred to my computer shortly after they were taken, they all contain both the date stamp, and the time stamp.

23. Yesterday, October 28, 2020, I needed to leave my apartment to mail a letter and pick up lunch, and as you can see from Photo 25, there was a stroller stalker right in front of my building's 14th Street entrance as I exited the building at 11:20 a.m. and as I look across 14th Street, in Photo 26 there is another stroller stalker directly across 14th street, at 11:21 a.m. As I'm returning from the store ten minutes later, I was unable to get my camera out quickly enough to take a picture of the cop car heading south in front of me on Fifth Avenue, but I did catch an additional four stroller stalkers (Photos 27-29) all while standing on the same spot on the northwest corner of 14th and 5th), at the same time of 11:31 a.m. You can see the information value of the time stamp, since without it the harassment is not as apparent. With regard to the missed cop car, I would estimate that I am only able to

document 30-40% of the stalking that occurs (and of course, much of what I do document eventually goes missing). Many times, the event happens too quickly for me to capture it or I'm carrying too many packages to use my camera.

24. I have hundreds of other similar photos taken around my immediate neighborhood over the past nine months or so that are contained on the data chips the NYPD vetted, but without the time data, they don't have a great deal of probative value. I can state that as a general rule, particularly since the start of the Covid-19 lockdown, on nice days I leave my apartment to go sit in the park mid-morning, I sit for a while, then go run errands and return to my apartment around noon. I have followed this schedule since March, 2020.

25. I also possess many hundreds of photographs of the stroller stalkers that I will not submit here. My primary focus in this motion is on the evidence involving harassment as I am leaving or returning from my apartment to go to sit in the park or to run an errand. Attached hereto as Exhibit 3 are a few of the older photographs I took that still remain on my computer. At the time I took these photos, the NYPD harassment had not developed the pattern of harassing me every time immediately as I leave my apartment that they've adopted for the past six months. They are all from 2017, and serve to demonstrate that a date-time stamp is normally put on the photograph by my camera.

26. Attached hereto as Exhibit 4 is a small representative sample of photographs I took of mostly police cars over the past six months, none of which contain a date-time stamp, but only the date. I have in my possession hundreds more. These photographs are not numbered, and will not be discussed individually, except for the last picture in the attachment, of an African-American woman with dyed blond hair. That woman has been a major annoyance in Washington Square Park, constantly stalking me. I caught her with her mask down in September, which may be the reason the September photos were deleted.

27. These photographs, and the hundreds of other similar photographs, simply serve to show that during the two hour window when I leave my apartment almost every nice day, I certainly see a large number of cop cars, often parked with flashing lights.

28. Finally, based upon what happened yesterday, I am in a position to document some of the consequences of police harassment to my ability to prosecute my legal claims in Federal court. Attached hereto as Exhibit 5 are two copies of the two differently notarized last pages of the affidavit I had intended to submit in support of the instant motion. The notary at the UPS store on 8th Street between 5th Avenue and University Place furnished me with a clearly defective notarization the first time I went there on the afternoon of October 28, 2020, which reads in pertinent part "sworn & subscribed to me Neil McNaughton on Oct 28 2020" and is signed by John Wong, Reg # 01W06152913.

29. After I returned an hour later to have Mr. Wong do another notarization, I was furnished with the second attached document, which reads in pertinent part: "sworn & subscribed to John Wong on Oct 28 2020". I believe, although less sure, that this notarization is also defective.

30. Mr. Wong assured me the second time we talked on October 28, 2020 that he had been a notary for fifteen years and had never had a notarization rejected. From this we may assume that his behavior was intentional.

31. Based on the foregoing, I hope the Court will realize that in issuing its Opinion and Order it made an egregious error. I am involved in one of the largest cases of police corruption in this city in this century. My complaint is not frivolous.

WHEREFORE, deponent respectfully requests that the Court vacate its prior issued Memorandum Opinion and Order dated October 8, 2020 dismissing plaintiff s complaint and finding it frivolous, that the Court grant plaintiff four months additional time to serve the summons and complaints herein, as well as such other and further relief as to the Court seems just and proper.

/s/ Neil McNaughton
NEIL McNAUGHTON

Sworn to before me
this 30 day of October, 2020

/s/ Dylan Brown

DYLAN BROWN
NOTARY PUBLIC-
STATE OF NEW YORK
No. 01BR6367521
Qualified in Queens County
My Commission
Expires 11-20-2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------- x

NEIL McNAUGHTON,

Plaintiff,

-against-

BILL de BLASIO, as Mayor of the City of New York, DERMOT FRANCIS SHEA, as Commissioner of the New York Police Department, MITCHELL J. SILVER, as Commissioner of the New York City Department of Parks and Recreation, CENTURY MANAGEMENT SERVICES, 5 WEST 14 OWNERS CORP, NORMA BELLINO, LISA GOLUB, GALEN J. CRISCIONE, CRISCIONE-RAVELA LLP, FERN LEE, THE ESTATE OF LAURA G. McNAUGHTON, DAVID L. MOSS, DAVID L MOSS & ASSOCIATES, LLC, JANE AND JOHN DOE POLICE OFFICERS, SUPERVISORS AND DETECTIVES 1-200; JANE AND JOHN DOE CIVILIAN NYPD EMPLOYEES 1-200; JANE AND JOHN DOE CIVILIANS 1-200, THE CITY OF NEW YORK, THE NEW YORK POLICE DEPARTMENT and THE NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

Defendants,

---------- x

COMPLAINT

JURY TRIAL DEMANDED

(Filed Aug. 28, 2020)

Plaintiff Neil McNaughton, complaining of the defendants, alleges as follows:

1. This action is brought for damages pursuant to 42 U.S.C. §§ 1983, 1985; 28 U.S.C. §§ 2201, 2202; and the First, Fourth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction is predicated upon 28 U.S.C. §§ 1331, 1343, and U.S.C. §§ 1983, 1985, and the First, Fourth, and Fourteenth Amendments to the United States Constitution. In addition, the court is respectfully requested to assume pendent jurisdiction over the related state claims. A substantial part of the events giving rise to the claim occurred in the Southern District of New York. Thus, venue is appropriate under 28 U.S.C. Section 1391(b).

3. This action seeks redress for the deprivation of plaintiff's constitutional and civil rights. In addition, certain related state claims under the common law of the State of New York are asserted.

PRELIMINARY STATEMENT

4. The instant action marks the third time that I have petitioned a Federal court for relief from wrongs as a *pro se* litigant. The first time, 95 Civ. 3066 (DAB), the dismissal of my verified complaint was affirmed by an appellate panel, 95-9197, in a decision that stated that it could not be used for the purposes of *stare decisis* (hereinafter a "memorandum decision") that ignored controlling Supreme Court precedent precluding

dismissal. In the district court there had been a hearing on my motion for a preliminary injunction and defendant's cross-motion for dismissal in the morning, then after an hour and fifteen minute lunch break, the Honorable Deborah A. Batts read into the record from a four or five page typewritten decision, complete with legal citations, her ruling dismissing my action. Judge Batts or her clerk must have been able to research, write, and type really, really fast to accomplish that feat. Perhaps that's why her decision overlooked the controlling Supreme Court precedent.

5. The second action I brought as a *pro se* litigant, 14 Civ. 221 (KPF), dismissal affirmed by summary order, 15-629-cv, is directly relevant to my claims in the instant action, and in fact I had the option of making a motion under Rule 60 of the Federal Rules of Civil Procedure based upon new evidence in that action rather then bringing this action, since the facts underlying the instant action include both a continuation and intensification of the harassment I had complained about in the earlier action, as well as new wrongs committed by others formerly not involved. For reasons set forth below, the Second Circuit appellate court proceedings under index number 15-629-cv, including the respective official court docket, are incorporated herein as though fully set forth in their entirety. The amended verified complaint and the CCRB complaint I filed in 2013 contain the factual basis for my claims in that action, and will need to be reviewed to fully understand the background of the instant action.

6. The complaint in my action before Judge Falla stated that I was being stalked by police officers who wrongly thought I was a pedophile, based upon misinformation from my late sister (then living), Laura McNaughton. In the district court decision, the Honorable Katherine Polk-Falla dismissed my complaint under *Bell Atlantic Corp. v. Twombly* on the ground that my claim was not plausible.

7. The appellate panel issued a summary order on March 22, 2016 (mandate issued 4/12/2016) affirming the dismissal, which order stated that it had no precedential value. That is fortunate for me insofar as in the instant action, I am claiming, *inter alia*, that now the police have been stalking me for nine years, since 2011, although I understand that in the instant action, I will only be addressing the past five years unless I bring a Rule 60 motion in the prior action. It should be noted that while both the district court and the appellate court found my inference implausible that the police were causing the repeated phenomena that my undisputed eye witness testimony contained in my verified amended complaint had established, at no point did either court attempt to provide an explanation of how I could be seeing these repeating phenomena every single day. In effect, both found my sworn eye witness testimony of multiple police cars and underage girls implausible.

8. It is respectfully submitted that in using these memorandum decisions and summary orders, Federal appellate judges have arrogated to themselves the power to decide which American citizens will have

their constitutional and civil rights honored and which will not, and that every time an appellate judge exercises this arrogated power to dismiss an action he or she commits treason. Further, this arrogated power is exercised upon a group against whom, whether the judges realize it or not, they harbor a visceral hatred and prejudice-in equal protection terms, a very suspect class.

9. The triad of *Twombly*, the practice of rendering memorandum decisions or summary orders, and the Federal judges' overweening prejudice and hatred against *pro se* litigants will naturally have as its consequence the "justice" that I received in my action before Judge Falla. The fact that most actions brought by *pro se* litigants are nonsense should have nothing to do with an assessment of the action that I as a retired lawyer brought, but at this point in time the members of the Federal judiciary clearly are not able to free themselves from the conditioning that the experience of multiple meritless cases has provided. I hold each of the Federal judges who rendered a decision in my action before Judge Falla personally responsible for my last five years of hell. It should be noted that the NYPD does not investigate claims brought under 42 U.S.C. §1983 until after they have survived a motion to dismiss.

10. For those who question my assessment of the attitude of Federal judges, I direct your attention to the general tone of Judge Falla's decision, but particularly to footnote 2 therein, where she mischaracterizes the record and violates the strict rules governing the

dissemination of sensitive childhood information in judicial opinions to intentionally and maliciously irreparably harm the plaintiff. Two young children consentually playing "doctor" is not two young children having sex. The internet is forever and I have already been taunted by an unfriendly acquaintance because he read Judge Falla's decision.

11. The court should not believe that Federal court personnel are impervious to the effects of police corruption. If the court examines the appellate docket in my appeal from Judge Falla's decision, one sees no entry for plaintiff's request for oral argument. But I made a request, where is it? I personally filed a letter with the appellate court clerk on Monday or Tuesday of the week before the decision was to be rendered pointing out that I had made a request for oral argument. That letter was not placed in the record until Friday. There was no oral argument before the appellate panel rendered its decision. I don't believe that this was an accident, and it likely had a material effect on the decision, since I tend to come across as what I am: a nice, sensible, retired lawyer.

12. Was this merely a coincidence? Was the "mistake" made a real mistake or an "arranged mistake" that prevented the plaintiff from appearing before the appellate panel. Since there was additional police interference involving the *pro se* clerks in the proceedings before the district court which I will not describe herein, and since this "mistake" actually involved two "mistakes" occurring weeks apart, both of which were unlikely, my vote is for arranged mistake.

13. Nor has the police interference with my judicial proceedings been limited to corrupting court personnel. As I noted in my amended complaint in the proceeding before Judge Falla, police interference with my process server almost caused my district court action to be dismissed. Further, throughout the pendency of the litigation before Judge Falla and beyond, including quite recently, there were numerous attempts to interfere with my ability to notarize affidavits, particularly with the UPS store on Sixth avenue between 11th and 12th streets, as well as the one on 8th Street, between Fifth Avenue and University Place. The excuses as to why the Big Brown employees couldn't notarize my affidavits varied. "Left my notary stamp home" was a common one with one guy, as though notaries actually took their notary stamps home with them every night. More importantly, one of the claims made in the instant action is that the police have been interfering with my right to choose legal counsel, as is set forth in more detail below.

14. If it is not clear from the foregoing, I am involved in one of the biggest cases of police corruption in New York City in this century. Probably over a thousand cops and thousands of civilians. It has lasted over nine years at this point. To take one example, in the CCRB complaint I filed in January of 2013 that was never acted upon, I note that in May of 2012 I had apparently been followed from Thompkins Square Park where I used to go to sit on sunny days by two members of the Chinese community. I am still being stalked by members of the Chinese community to this day.

15. The reason why I have been subject to such intense police persecution lies in part in the untrue claim that I was a pedophile that my late lying sister made against me as well as the current national hysteria against pedophiles, but mostly because of the behavior of those police idiots on Christmas night that I describe in my CCRB complaint, who took a blade to my crotch area. I believe the initial actions taken by Andrew Jackson and the subsequent malfeasance on the part of the police in large part stem from their attempts to protect these other cops, and then to cover up their own actions. Certainly the repeated unlawful incursions into my apartment that I describe below had as their motivation, besides intimidation, the stealing of evidence. The psychology of police personnel also plays an important role, as is discussed further below.

16. One last point necessary for a complete understanding of the situation giving rise to my claims is a brief description of my highly abnormal life. Although I earned my living as an attorney, most of my energies throughout my adult life have been devoted to my study of the social pathology I call the Nazi disease. Indeed, that first Federal lawsuit a quarter century ago arose out of my attempt to use the state court system (*McNaughton v. City of New York*, 122799/93) to demonstrate certain aspects of the Nazi disease, which resulted in my retaliatory termination by my government employers.

17. I have been a pariah in the place where I live for almost thirty years as a result of my study of the

Nazi disease. Although she is unaware of it, defendant Norma Bellino plays a part in how I figure that time span. In the spring (I believe) of 1990 or 1991 (I would have to look at my medical records to be sure) I was on crutches after having a benign cyst removed from my left ankle. At this point, the co-op front door was on 14th street, and Ms. Bellino-then the co-op vice president-and her son walked back with me from the delicatessen where I had bought some food. What Ms. Bellino didn't realize as we entered the building together, is that on the way out the doorman Victor Macias had refused to open the door for me even though I was on crutches, forcing me to open the heavy door while hobbling. Another former doorman, Freddy Maldonado, some weeks prior had stopped speaking to me periodically numerous times, usually for a few days at a time, for reasons I never learned. After a number of these episodes, I retaliated by not speaking to Freddy. This resulted in Victor's behavior, and almost immediately after that, in the building's first iteration of the "silent treatment," where eventually virtually everyone in the building stopped speaking to me.

18. The progression of the silent treatment throughout the building was typical of how this social tyranny works. First, only the support staff were involved. Then, when that didn't work (as in making me speak to Freddy), many of the neighbors on my floor stopped speaking to me. Then, when that didn't work, the rest of the building got involved. This pattern of increasingly wide spread participation has been followed in every iteration of the silent treatment in

which I personally have been involved. At no point did anyone ever attempt to find out my side of the story. They just attacked.

19. I need to emphasize that even if my theories about human behavior and the Nazi disease amount to nothing more than a large pile of dog poo, since I have acted according to their insights for the past thirty years they are relevant to any competent analysis of my situation, and my behavior otherwise cannot properly be understood. I would venture to state that no one's behavior in this situation can be understood either, particularly the behavior of the pedophile vigilantes. If I'm mistaken in my analysis, then I've wasted a quarter century of my life and my book on the Nazi disease will really stink. But that doesn't mitigate the relevance of that analysis to my behavior and the instant action.

20. My lifelong study of the Nazi disease has led me to believe that what is usually euphemistically called the "silent treatment," but which actually is turning the victim into a pariah in a given social situation, is the mechanism by which most people have been socialized as children into becoming Nazis, and the means by which they usually demonstrate their Nazi status.

21. Every time you engage in the silent treatment, you are helping a bully beat someone up and you are demonstrating to the world that you are a fully trained and socialized Nazi. I could perhaps use another term to describe these people, but Nazi says it

best. Also, while the effects of a Nazi consensus in modern life of course fall far short of the evil of the Holocaust in results, my research indicates that the psychological and social psychological structure of a Nazi consensus and the mindless behavior, denial of social reality, untruthful or delusionary motivational grounds and nonsensical justifications of the participants for their behavior are the same whether the victims are six million murdered Jews or a single thirteen year old girl ostracized because some popular girl in middle school doesn't like her.

22. Indeed, I view the national hysteria over pedophiles and the resulting vigilantes engaging in witch hunts throughout the nation both as an illustration of Nazi behavior and as a training for deadly Nazi behavior, such as the invasion of Iraq, where the United States murdered almost a million people for no reason. For any reader who has a problem with the word "murder," first understand that an inability (and unconscious refusal) to appropriately grasp and describe reality is a consequence of participation in a Nazi consensus and of the developmental status to which Nazis belong. Then go look at a dictionary. The moment those "weapons of mass destruction" disappeared so did any justification for the invasion and for any killing of Iraqis. Unjustified killing of another human being constitutes murder.

23. Appropriately enough, I call the people who occupy the Hitler role in a Nazi consensus "consensus people." The silent treatment is one of the most common of social pathologies, and is the real manifestation

of Alexis de Tocqueville's tyranny of the majority. Note that it is a social tyranny, not a political tyranny.

24. How did the human race become this screwed up? Why are we all Nazis? It's the result of evolutionary pressures and it's because we are not really one unitary personality but several. I label these different aspects - or behavioral constellations - of the human personality (1) the basic animal level ("BAL"); (2) the herd animal level ("HAL"); and the moral animal level ("MAL"). Almost all of us have all three developmental levels within us, but the locus of control and the effect of each level on an individual's behavior varies depending upon the individual's personality, upbringing, the social situation in which he finds himself, and with age. Young children do not have an MAL. They are still developing animals, albeit very intelligent ones. Some undeveloped adults seem also to lack the MAL. The moral animal level does not mean that a person is transformed into some kind of a saint. It means the person has the emotional and intellectual capacity to see both sides of a problem and to arrive at the morally appropriate conclusion. It doesn't mean the person always does the right thing.

25. The relationships between these three main components of human consciousness-the BAL, HAL and MAL determine the course of a given Nazi disease, and often human history. I should note that when I refer to behavior and situations, I usually lump the BAL and the HAL together, as being primitive and instinct driven, and call them HAL. The MAL is the latest and weakest component of the three. That is the reason

why our instincts are so screwed up. Scientists tell us that "humans" have existed for perhaps two hundred thousand years, but our pre-human ancestors existed as a species for over two million years. That's primarily when our instincts were installed in us, and they are no different or better than the instincts installed in any other animal species.

26. An example of the HAL in children is the following story that I call "Tommy and Billy". Tommy comes running into his family's house crying in outrage "Mommy! Mommy! Billy hit me!" What he neglects to mention is that he hit Billy first. For an adult, Tommy's behavior would constitute outrageous hypocrisy, but for Tommy, this is what he really feels. He is outraged that Billy hit him. He does not yet have the intellectual or emotional capacity to see the objective "reality" of the situation. As is the case with children, most cops operate at the HAL level most of the time.

27. Each of these levels has fundamental characteristics and instincts, both strengths and weaknesses, sins and virtues that define it. BAL is the most basic animal level we share with all other mammals, and its strengths include joy of living, curiosity, maybe friendliness. The sins of the BAL are individual wrongs, usually involving the inappropriate manifestation of fundamental instincts. These sins basically are covered by the ten commandments. The sins of the BAL are well covered because they affect the members of the herd on a daily basis.

28. The virtues of the HAL tend to be the "hot" virtues, like heroism, charity, and loyalty. The sins of the HAL are the most ungoverned, particularly in times past, because we normally live in herds and don't interact with other herds often and when we do, it's often a hostile interaction. The sins of the HAL include most of the life determining evils: the Nazi disease, racism and most other forms of prejudice and herd xenophobia, genocide, the instinct for tyranny and social stratification, as well as some of the aspects of human cognitive inability that start wars and prevent progress.

29. The most important of these cognitive inabilities I call the "HAL denial app." This is the individual sibling of the "kill the messenger" phenomenon that occurs at the herd level. The HAL denial app prevents a person from accepting a "bad" truth about themselves or their herd. The HAL operates with a caveman mentality. It wants to be good, and it insists it is good, regardless of reality. The best example of how this works on an individual level is found in the behavior of alcoholics at an AA meeting. "Hi. I'm Mike, and I'm an alcoholic." The reason why they start out like that is to defuse the extraordinary power of the HAL denial app. If you leave it alone, in a short time you will be denying that you're an alcoholic.

30. Here are two examples of how the HAL denial app works on a group level. The first is the "pathetic, cowardly Japanese," as I have been calling them for the past quarter century once I realized what was going on with their denial of the Korean comfort

women and the rape of Nan King. The second is a recent addition to the pantheon of cowardly denial, and that is the "truly ridiculous Poles." Making statements claiming that Poles killed Jews during the Holocaust is now illegal in Poland? Truly ridiculous. The HAL doesn't care about reality. It just wants to be good.

31. Another essential characteristic of the HAL is that it's a one trick pony. Its usual and only response to something it doesn't like is to attack. That's a problem when you're talking about the police. Also, what is "right" in HAL terms is determined by membership and status in the herd, and what high status people want. That's a problem when you're talking about the members of the Federal judiciary.

32. One final essential point about the HAL that is illustrated in almost every action, is that the HAL lies shamelessly. Truth is not important to the HAL. It wants what it wants.

33. The virtues of the MAL are the cooler virtues like fairness, integrity, and honesty. The strength of the MAL is an ability to see reality, which always includes more than the perspective of the individual. Although societies usually have at least some customs and practices that stem from and incorporate the instincts of the HAL, and often major ones such as apartheid or slavery, for the most part, for those viewed as full citizens, societies are structured according to the MAL, because fairness and shared rules tend to work best in peaceful human relations-think Uniform Commercial Code.

34. The relevance of the evolutionary development of these behavioral constellations is the following: our perceptions are filtered through the HAL before they enter our conscious mind, and therefore are presented to our consciousness initially with all of the HAL modifications contained within. To put it bluntly and offensively, a racist sees a nigger before he sees a man. More relevantly, a Federal judge sees a frivolous, meritless, time wasting, docket clogging *pro se* litigant before he sees a plaintiff. While most of us believe that our actions are primarily determined by rational motives, a closer examination of many such actions will reveal the presence of irrational HAL involvement as an influential or even determining factor. I believe this was the motivation for the Federal Sentencing Guidelines, for example, after a review of the data showed an unacceptable racial bias in sentencing. Unfortunately, once the HAL takes control of perceptions and behavior, it is very difficult to reestablish a rational, objectively accurate reality. For example, it is very difficult for a racist to stop being racist. Another example: anger management.

35. I have personal experience with the primacy of the HAL in our perceptions that stems directly from my experiences with the silent treatment. There was a time in the early nineties where I was a pariah both at work at the NYC Department of Finance and at my co-op. As a result my brain got fried a little bit. There was a period of about five years where I was incapable of being the first person to say hello when I met someone. I also developed a case of partial face blindness, which

continues somewhat until the present day. If I don't know you well, I will not recognize you if I see you on the street.

36. This face blindness was not the result of any conscious decision on my part, but, I believe, rather my BAL's frantic attempt to protect itself from all the hatred. If I don't know you, it doesn't hurt as much. The psychological pressure generated by the silent treatment is significant. About twenty years ago there was an article in the New York Times Magazine about how in small villages in the Middle East, the silent treatment is used to pressure the male relatives of a woman who has committed a sexual sin (adultery or promiscuity) to kill her. And it works. The silent treatment or "shunning" as it is practiced by the Amish, for example, embodies the tyranny of the herd.

37. The socialization of newcomers in an active Nazi consensus-in an office setting, a new employee, or in my building's situation, a new resident-is one of the most important aspects of the Nazi disease. The shameless lying of the Nazi consensus takes the following form: "He's not speaking to us!" Deceptive half-truths are a Nazi staple.

38. The truthful alternative? "He won't forgive us for not speaking to him and turning him into a pariah in the place where he lives for sixteen months." Quite different. One is the shameless lie that perpetuates an active Nazi consensus, with the perpetrators portraying themselves as the victims, the other is the actual truth that would end the active Nazi consensus.

That would require the participants to take responsibility for their own behavior-a no-no for Nazis.

39. But the newcomers in such a situation themselves are far from blameless. Further, their behavior illustrates several important aspects of the Nazi disease. While the Nazi disease is commonly viewed as a disease of the heart or of morality, it is also and most of all a disease of the mind and of herd group think. When a newcomer is told "He's not speaking to us," the members of the herd really believe that shameless lie. *Cf.*, "Tommy and Billy". This is because the mind of someone sick with the Nazi disease really doesn't work right. But the newcomer is a fully trained and socialized Nazi too. So his mind also doesn't work properly. Instead of acknowledging a social reality that we all know-which is that the primary reason for not speaking to someone is that they've done something to you that you're angry about-no newcomer ever makes an attempt to find out what the problem was. In spite of the fact that we all know there are two sides to every story, no newcomer ever makes an attempt to find out the other side from the victim. The silent treatment Nazi consensus is a product of the HAL, so all thinking is done in the here and now, just like animals live. Or perhaps, since it is primarily instinct driven, perhaps no thinking is actually done at all.

40. Interestingly enough, and stemming from my experiences with the silent treatment at the New York City Department of Finance, where I was subject to years of silent treatment before being terminated on fabricated charges, the friends I had there (and I

certainly had friends) also did not ever ask about my side of the story even though they were in constant contact with me and were aware of the silent treatment although not participating in it. Further, my two good male friends who were established in the DOF office suffered, I'm pretty sure, no negative effects from their friendship with me, while a young woman who joined the office during this period who did not participate in the silent treatment was herself subject to it and after two months found a new job and quit. Normally, those who don't engage in the silent treatment are themselves made into victims, so the different treatment my male friends in the DOF office received is very curious

41. One last important final aspect of the socialization of the newcomer into an active Nazi consensus is that the newcomer, anxious to show he's a part of the herd, often engages in active behavior to demonstrate his solidarity with the herd. In other words, the old members of the consensus are tired. The constant expression of hatred is hard work. The newcomer provokes the old members to work hard to socialize him, and then the newcomer rewards this effort by providing new, additional energy to the Nazi consensus. When I was working for the NYC Department of Finance I coined the phrase "perpetual Nazi motion" to describe this phenomenon. It is the reason an active Nazi consensus never ends. The Nazi consensus in my building has been going on for almost thirty years, and shows no signs of abating.

42. None of this is rational. Take the invasion of Iraq, for example. What motivated President Bush to lie to his country and invade Iraq for no reason? In the invasion the United States murdered almost a million people, including one hundred and fifty thousand civilians and therefore, based upon third world demographics, probably at least twenty thousand innocent children. Over five thousand US troops were killed, another forty thousand sustained serious injury, the al-Qaeda received an incredible recruiting boost, the war cost a fortune, we tortured people, the entire region was destabilized, and US interests have never completely recovered. Why? A similar question can be asked with regard to Russia's invasion of the Ukraine. My answer in each case would be that the country was moved by what I call the "honey ant instinct."

43. Even more problematic than George Bush's motivation for invading Iraq is the response of the American people, because it provides an illustration of one of the most disturbing and important ways in which the HAL determines modern thought and behavior. I call this phenomenon the "kitten paralysis of the mind." When a mother cat picks up a kitten by the neck, the kitten's movement immediately ceases. This is an instinct of significant evolutionary value, since the mother cat does this when there is danger, and movement attracts attention. Unfortunately, when human beings are subject to the imperatives of a Nazi consensus, their minds are paralyzed just like a kitten. This too is an instinct of significant evolutionary value.

44. I, everyone likely to be reading this complaint, and another twenty or thirty million educated Americans knew, if we had bothered to think about it, that a country as primitive as Iraq simply was not capable of building a "weapon of mass destruction." China, sure. Russia, sure. North Korea, maybe. But Iraq? Notice that weapons of mass destruction are not the same as weapons of mass death-biological or chemical weapons-which Iraq possibly might have the technological capability of creating. The problem is, none of us thought about it.

45. While this is true of millions of Americans, there are also tens of thousands of Americans who were intimately familiar with Iraq and its technological capabilities: first generation immigrants, and sometimes their children, businessmen, oil executives, stock analysts and CIA analysts, academics. While all of us knew, these tens of thousands really knew that such a claim was impossible. Yet not one spoke up publically.

46. The support of the invasion from liberal media like the Washington Post and the New York Times also illustrates this in a particularly bothersome way, as does the failure of the members of Congress to properly question the bonafides of President Bush's claim. Nazis never ask; Nazis never question. We invaded another country and murdered almost a million people because no one who mattered ever questioned an objectively unsustainable lie. Why not? As we can see, the nation as a whole acted exactly as the newcomer to my building acted. It's the same phenomenon

at work. That's what it means to be a fully trained and socialized Nazi. And that's what it means to have your behavior as a country dominated by instinctive herd imperatives.

47. Judges are not immune to having their behavior subject to herd imperatives. *Koretnatsu v. United States*, 323 U.S. 214 (1944), clearly shows that. The incarceration of Japanese Americans during World War II is a perfect example of how a herd pathology can have a legitimate goal, such as the protection of our country from espionage during wartime, and yet show a complete disregard for objective reality and the rights of individuals. Further, although with the passage of time almost all of us can see how outrageous this behavior is, the idea that therefore we are not subject to these herd imperatives is an illusion. Afterwards, everyone can see, at least unless the HAL denial app kicks in. But at the time, almost no one could. The key element here is that later perceptions don't matter in determining what actually happens. And what actually happens, whether it's the incarceration of Japanese Americans during World war II or the invasion of Iraq, is that the Nazis consensus has determined the country's behavior. The delusion that we would act differently *now* is simply one of the many ways the HAL fools us.

48. The pedophile hysteria that has swept the country for the past quarter century is a similar phenomenon. Further, the instinct providing the motivation for this hysteria is not primarily a desire to protect children-in many ways, children have been hurt by the

hysteria-but rather by the instinct that is responsible for burkas, female genital mutilation, and many other forms of male to female oppression: the generalized instinct for hysteria about sex, which exists because during evolution males who restricted and controlled female sexuality were successful in making more babies. That's how something becomes an instinct. It's not a matter of what is right or wrong.

49. It is clear that even judges in their treatment of two highly visible pedophile cases are operating under herd imperatives and not rational thought or objective reality. In the case of the creepy Olympic doctor Lawrence Nassar, he was sentenced to 40 to 175 years in prison for feeling up some teen age girls. Jerry Sandusky was sentenced to 30-60 years for a similar offense with young boys. This is the effect of the herd's pedophile hysteria on judicial treatment. These defendants are being treated and sentenced as though they are evil monsters, when in actuality they are nothing more than disgusting creeps. The pyscho who kidnaped Jaime and murdered her parents is an evil monster.

50. One final point I would make about these situations is the noteworthy failure of all the children to complain about the abuse. Over one hundred and sixty girls, and Olympic athletes even, and not one complained. The Catholic choir boys and Boy Scouts didn't complain either. One sad aspect of my study of the Nazi disease is the realization that puzzling behavior of this sort is evidence of significant enduring historical tragedy. The failure to complain about sexual abuse in

children is so widespread that it must constitute an instinct. Why does this instinct obtain? Unfortunately, most likely because throughout human history, children who complained about sexual abuse didn't survive as often to produce healthy babies. That's how evolution works.

51. There is another aspect of HAL that is very relevant to the instant action, and that is the HAL's inability to engage in an activity that I call second level thinking. People sick with the Nazi disease, or harboring a HAL prejudice such as racism are incapable of second level thinking, which is simply an almost unconscious, common sense grasp of objective reality. "All crows are black," "a leopard doesn't change his spots," we have many sayings that reflect a basic truth about the world: things and people tend to act consistently according to their nature. But someone sick with the Nazi disease or prejudice simply cannot draw these simple conclusions.

52. For example, because the management and support staff of my co-op are sick with the Nazi disease, they simply are unable to use second level thinking to determine that, because I've lived in my apartment since 1985, the support staff has been watching me and sometimes following me to local businesses since around 1992 (not so much in recent years), and no one has ever seen me with a child or being visited by a child, it is highly unlikely that I am a pedophile.

53. More importantly, and this is where second level thinking comes in, **no pedophile would ever**

spend thirty years living in a situation where everyone hated him and watched him. It's virtually impossible. That's not how pedophiles work. Yet in 2013 or shortly thereafter, in spite of knowing my situation in the building almost better than I know it myself, the support staff (and eventually management) eagerly embraced a reality they should know could not be true. This is what it means to be a fully trained and socialized Nazi. Your mind doesn't work and you are driven by unclear instincts that make you attack without cause.

54. Once again, members of the Federal judiciary are not immune to these effects. Based upon footnote two of Judge Falla's decision and the decision itself, it may be assumed that Judge Falla did not find the plaintiff credible. In other words, she thought I was lying. But an examination of the record in my proceeding before Judge Falla will show my response to my sister's claims is one that no liar would ever make. If I was going to lie about anything, I would lie about my sister's claims. But I didn't. Because Judge Falla labored under an enormous HAL based prejudice against *pro se* litigants, she was incapable of the second level thinking that would have illuminated the fact that if I was a liar, I would lie about my sister's claims. Since I didn't, I must not be a liar. *Q.E.D.* Instead, Judge Falla used the information I had voluntarily provided her to irreparably harm me.

55. The behavior of Judge Falla at the one conference we had also illustrates another aspect of how the HAL protects the herd. If one examines the

transcript of the conference, it is clear that I lost the judge when I told her that copies of a certain email I had in my possession had been taken from my apartment. The transcript contains her attempt to argue that I had misplaced them, but the transcript does not reflect the nervousness in her voice. I am starting to learn that one of the ways in which the herd protects itself (the Nazi disease is just one of those ways) is by the fear and suspicion with which we view those who claim that things are not as we believe. A perfect example of this is the hatred and contempt faced by plaintiffs who were the first to accuse Catholic priests of pedophile activities many decades ago.

56. In an era where *Twombly* and memorandum decisions and summary orders rule, this means as a practical matter that "justice" in Federal court for a *pro se* litigant rests upon the Pollyanna delusions of a pampered privileged member of a powerful establishment elite. It's nice that United States District Court Judge Katherine Polk-Falla has never been stalked by the police and if she took the trouble to canvas her colleagues on the bench before she wrote her decision, I'll bet she found that none of them had ever been stalked by the police either.

57. The final important point that needs to be made is the extensive way in which the HAL determines the "reality" we see in situations that give rise to a Nazi hysteria. If I haven't said it before, people's minds don't work properly. In particular, what is viewed as "objective" reality often isn't. Just as in personal perception, where scientists have discovered the

for each sensation that we "perceive," there are nine nerve signals going to the site of the perception from the brain for every nerve signal sent from the site of the perception to the brain, our perceptions are in large part informed or even determined by our attitudes.

58. In the famous gorilla video experiment, the experimental subjects were asked to watch a video of a basketball passed among actors wearing different colored tee shirts and to count the number of times the ball was passed to actors wearing white tee shirts. During this video, a man dressed in a gorilla suit comes on the scene for nine seconds, moves to center stage, and thumps his chest before exiting. Half of the experimental subjects did not notice the gorilla. This experiment, and there are many other similar experiments, conclusively proves that for many people, their minds simply don't work right and they cannot be counted upon to adequately perceive objective reality.

59. Further, if people are incapable of correctly perceiving objective reality in an emotionally neutral situation with manifest physical evidence in front of them, think about the likelihood of their correctly perceiving objective reality when they're told their lives or their children are in danger, and the experts agree the evidence is clear. Because Nazis never ask; Nazis never question. This is why our country invaded Iraq. This is why I have been subject to stalking in the place where I live for the past nine years.

60. In the Nazi disease, the internal hysteria of the subject fills in the gaps of reality and the inability

to engage in second level thinking prevents any further examination. "Weapons of mass destruction," "sexual predator," and similar phrases elicit an emotional response from many people that precludes them from questioning further. This clearly can be seen in my experiences.

61. There are no unaccompanied children in New York City and there never have been. Forty-five years ago I went to NYU law school, located next to Washington Square Park, so the same exact neighborhood where the harassment is taking place today, and there were no unaccompanied children at that time either. New York has always been considered a dangerous place and it's simply not responsible parenting to leave your child alone.

62. This means that, unlike a traditional suburb where children often run free (or used to), there is no real danger to children from unknown strangers in this neighborhood, because there is always a parent or nanny nearby. But that hasn't mattered at all to the people involved in my stalking for the last nine years.

63. One fascinating aspect of this stalking that illustrates the total cluelessness of the participants (one of my nicknames for them is Hitler's sheep) and how irrelevant objective reality is to the focus of their behavior, is their treatment of the age and sex of the children who participate in these encounters. From 2011 until perhaps 2014, the children were perhaps 80% Asian and usually girls in the 12-13 year old age group, although there were always a few older or

younger, and throughout the entire nine years perhaps only a few dozen boys. In about 2016 or 2017, the composition of the bait changed to older, more developed girls. Then starting in 2018 or 2019 and continuing until the present day, the stalking involves almost exclusively babies in strollers and very young children, with only an occasional teenager.

64. Since I am not a pedophile, since I have had absolutely no contact with children in my life, and since I never attempt to talk to or to otherwise interact with any of the children stalking me, the civilian vigilantes are always desperately searching for the "child" I'm a sexual predator for. Twelve year olds? No? Okay, how about fifteen year olds? No? Okay, how about seventeen year olds? Young boys?

65. In the early stages of this harassment, the participants could argue that they were intending to "test" or "trap" the suspected pedophile, because the girls always appeared to be alone, although there was usually a parent lurking nearby. But because a baby in a stroller is always pushed by a parent or nanny, there can be no argument that this behavior is anything but blatant harassment. And what psychological benefit do the participants achieve or hope to achieve by pushing their babies at me? Several times last summer and this summer I've had the particularly disgusting experience of looking up from the book I was reading sitting on a park bench and seeing a young baby's naked genitals because while I was reading a nanny had put the child on a blanket on the grass in front of me and stripped the child. What weird psychological

mechanism is involved here? Is it some kind of taunting? "You're a pedophile. You're a pedophile." Is that what is going on? I believe that is part of it. And that transforms this behavior into a form of defamation, as is discussed in more detail below.

66. The fact that none of these people has ever seen me approach a child and knows no one who has does not bother them at all. The participation in an active Nazi consensus entails a significant deterioration in cognitive ability and in the ability to see objective reality.

67. I call this being "functionally insane." Invading Iraq without any real reason is crazy. But President Bush fabricated a blatantly unrealistic lie that no one questioned and there we were. That's what it means to be functionally insane. The Russian invasion of the Ukraine is equally crazy. Both invasions are instinct driven-an instinct I call the "honey ant" instinct, based upon the invasive behavior of honey ants, which mirrors exactly our invasion of Iraq and Russia's invasion of the Ukraine. Small children don't think as adults do. They feel and attach thoughts to those feelings as justifications. People sick with the Nazi disease do the same.

68. The silence that met President Bush's lie about Iraq is indicative of a related problem that underlies every active Nazi consensus, and that is the effect of the HAL instincts of cowardice, passivity and submission on the herd. My experiences in attempting to combat my persecution by the police by asking

people to testify about what is happening invariably meet with failure. This point will be discussed further below.

69. It should come as no surprise that after studying the Nazi disease for my entire adult life, my conclusion is that virtually everyone is a Nazi. The reader already knew this. After reading the late William Golding's *Lord of the Flies*, everyone shakes his head and sadly says "Yep. That's the way people are." Of the three or four thousand people participating in the real life situations I have studied where the Nazi disease as evidenced by the silent treatment was involved, only two people, Hamid Drake and Roger Mitchell, conclusively demonstrated that they were not fully trained and socialized Nazis. Another one or two dozen were possibly Nazi disease free, but the situation did not provide enough data to make a decision.

70. It is also not an accident that Hamid Drake and Roger Mitchell are black men. There are noticeable differences between the different racial and ethnic groups, and the response of black people to a Nazi consensus is noticeably better than that of other peoples. That has proven to be true in my building, as well.

PARTIES

71. Plaintiff Neil McNaughton (variously "I," "McNaughton," or "plaintiff"), a retired lawyer, is a United States citizen and a resident of the City, County and State of New York.

72. Defendant the City of New York (the "City") is a municipal corporation duly organized under the laws of the State of New York.

73. Defendants the New York Police Department and the New York City Department of Parks and Recreation are agencies of the City.

74. Defendant Bill de Blasio ("de Blasio") is the Mayor of the City of New York. Defendant de Blasio is being sued only is his official capacity as Mayor of the City.

75. Defendant Dermot Francis Shea ("Shea") is the Commissioner of the New York Police Department ("NYPD"). He is being sued in his official capacity as NYPD Commissioner.

76. Defendant Mitchell J. Silver ("Silver") is the Commissioner of the New York City Department of Parks and Recreation ("Parks"). He is being sued in his official capacity as Parks Commissioner.

77. Defendants police officers, police supervisors and detectives Jane and John Doe 1-200, names currently unknown to plaintiff, are officers or supervisors or detectives in the NYPD who participated in the actions plaintiff complains of herein. These defendants are being sued individually and in their official capacities as members of the NYPD.

78. Defendants civilian police employees Jane and John Doe 1-200, names currently unknown to plaintiff, are civilian employees in the NYPD who participated in the actions plaintiff complains of herein, in

particular in the persistent tracking of plaintiff as he travels throughout the City. These defendants are being sued individually and in their official capacities as members of the NYPD.

79. Defendants Park police officers John and Jane Doe and Sergeant Jane Doe, names currently unknown to plaintiff, are officers or a sergeant in the Parks police, who interacted with plaintiff in Washington Square Park.

80. Defendant Estate of Laura G. McNaughton (the "Estate") is the estate of plaintiff's sister, upon information and belief duly established under the laws of the State of Massachusetts.

81. Defendant Fern Lee ("Lee") is the primary beneficiary of the Estate and a friend of my late sister. Upon information and belief she resides in Worcester, Massachusetts.

82. Defendant Galen J. Criscione ("Criscione"), upon information and belief, is a licensed attorney who practices, *inter alia*, in New York City, and a partner in the firm CriscioneRavela LLP. He is being sued in both his individual capacity and in his capacity as a partner of Criscione-Ravela.

83. Defendant Criscione-Ravala LLP, ("Criscione-Ravala") upon information and belief is a law firm practicing law, *inter alia*, in New York State, with an office located at 90 Park Avenue, Suite 1700, New York, New York 10016.

84. Defendant 5 West 14th Owners Corp (the "co-op") is a corporation duly organized under the laws of the State of New York, in which plaintiff is a shareholder, that owns and operates the building in which plaintiff lives, with a post office address of 10 West 15th Street, New York, New York 10011.

85. Defendant Century Management Services ("Century") upon information and belief is a corporation duly organized under the laws of the State of New York whose primary business is to manage properties, and which is charged with managing the co-op's property. Upon information and belief, since at least 1990, all co-op property managers, superintendents, and building support staff are or were Century employees.

86. Defendant Norma Bellino ("Bellino") is a resident of the co-op and the co-op's president.

87. Defendant Lisa Golub ("Golub") is the current property manager of the Co-op, and an employee of Century.

88. Defendants civilian Jane and John Doe 1-200 are civilians who have in some way been involved in plaintiff's harassment, usually by stalking him, or involved in plaintiff's defamation.

89. As I note elsewhere herein, there are many, many potential defendants that I am not including in my complaint at this time, not because I can't state legitimate causes of action against them, but because I simply have too many defendants already. These

include current and past members of the Co-op's board of directors; former Century employees such as Norma Trager and Justin Pert; employees of the NYC Fire department; Con Edison; City EMT's and other ambulance EMT's, in particular those assigned during the day time to Mt. Sinai ambulances Nos. 1720, 1722 and 1724; lawyers such as Andrew Rainer, Esq. and Heather A. Ticotin, Esq.; and owners or employees of the many businesses that have participated in this continuing harassment. Plaintiff reserves his right to amend his complaint to include these defendants and others not named herein at a later date, subject to the discretion of the court and applicable laws.

FACTS

THE PROBLEM WITH EVIDENCE

90. Before I describe the facts peculiar to the instant action I must comment on a condition that often prevents me from supporting my assertions in a proper manner. A significant reason why my complaint before Judge Falla was not successful and why I have such a hard time convincing people of the truth of my claims involves my problems with evidence. An example: sometime around four or five years ago, when the police harassment increased and started to involve the building in which I live, one of the responses of building management/support staff was to damage the carpet in front of my front door with acid or something so that there was a grey scar about eight inches long and an inch wide in the carpet piling. After it had been

there for about a year or so I decided to take a picture of it with my camera, since as an attorney I knew that under the circumstances it constituted actionable defamation. At this point in time a member of the police or someone at their behest was routinely entering my apartment at night when I was sleeping and deleting pictures I had taken with my camera-particularly when I took pictures of the faces of cops. I had not yet started to hide the camera data chips every night as I do now.

91. The picture of the hall carpet in front of my door soon disappeared from my camera's data chip, and within ten days the damaged portion of the carpet had been replaced. This is the problem I have with evidence: my complete lack of personal security in the place where I live and in my computer and telephone use has as a consequence that when I discover evidence my discovery usually is also known by the people against whom I want to use the evidence. And most of the time that evidence disappears.

92. As a result of this lack of personal security, for example, all of the half dozen letters from my sister to me that I had kept have gone missing. File documents from the probate proceeding for my sister's will have gone missing, as have other documents. As I noted in the proceeding before Judge Falla, my email account has been tampered with and a number of emails from my late sister have gone missing and in at least one case, actually tampered with to change the content.

93. It should be emphasized that my harassment by the support staff for what I call "Nazi" grounds (my refusal to forgive when they have never stopped their shameless lying and harassment) started more than a decade before it received a shot in the arm from the untrue "pedophile" allegations that originated with my late mentally ill sister. Members of the support staff, or someone, have been entering my apartment and doing minor or greater damage for many years. I complained to management repeatedly in the early years, but there was never any response so eventually I simply stopped writing. I had in my apartment pads of post-its, each post-it containing a date and description of what little bit of harassment I was documenting. A full pack of post-its had been used, so probably hundreds of these entries. Because the members of the support staff are not keyed into writing and written documents, they never examined the pads lying around my apartment when they used to illegally enter my apartment to damage things. When the police got involved, that changed. There is not a single pad of post-its in my apartment left from that time, although I myself have never removed a one of them.

94. Several black calendar notebooks for several years that I had filled with incidents of harassment, especially audio harassment, and stored in a pile on a bookshelf have also gone missing. Ironically, several calendar notebooks documenting my harassment at DOF that were located on the bookshelf were also taken, probably by mistake, because they looked similar.

95. Of course, some of the most important evidence that has gone missing over the years are the pictures of police cars and cops who have been stalking me. I still have a few, but many of these have been stolen. One important type of evidence that I have never been able to create is pictures of the many, many scantily clad young ladies who have been stalking me. I take pictures of the adults watching, but I have never felt comfortable taking pictures of all the hundreds of girls over the years because I realized that I was dealing with shameless liars who would claim "hundreds of pictures of half-nude underage girls" were found on my camera, ignoring the fact of why those pictures were on the camera. In my interaction with the "stroller stalkers" of the past two years, that is exactly what they claim when I interact with them-that I'm taking pictures of their children-even though from their behavior it is clear they realize that I'm taking pictures of them. They duck when I point the camera at them and some of them hold their children up in front of their faces as protection from my camera's lens.

96. To show how egregious and ubiquitous my security problem is, on August 19, 2020, I had reached the point in drafting the instant complaint where I was framing my defamation claims against the co-op, Century and Bellino. I needed to look at the copy of a defamatory letter that Bellino had sent me dated November 26, 2019, and a letter the co-op attorney later had sent to me in response to my reply letter to Bellino. Both of those letters are gone from the stack where I

had left them on my dining room table. And no, I didn't misplace them.

NEW FACTS

97. The facts pertinent to the instant action include a continuation and intensification of the forms of harassment I had complained about in my action before Judge Falla, as well as certain new attempts by the NYPD and their allies to damage my life. Most important of these is the apparent attempt by my late sister to lure me up to Worcester, Massachusetts where she lived in order to entrap me. The description of my trip is contained in my letter to Andrew Rainer, Esq., a Massachusetts lawyer, dated June 21, 2018, attached hereto, which is incorporated by reference herein as though fully set forth at length.

98. The impetus for my trip was a bizarre email sent to me by my sister on September 4, 2017 (attached hereto and incorporated herein as though fully set forth at length), as well as an equally bizarre conversation I had with defendant Fern Lee on September 8, 2017, in which she refused to let me speak to my sister and when I asked why immediately hung up. This made me believe that my sister was being held against her will, and I traveled to Worcester to see what was going on. As I noted in my letter to Mr. Rainer, when I arrived, my sister was barricaded in her bathroom and refused to open the door.

99. Twice during the course of this situation I called the FBI in Boston to tell them I thought that my

sister was being held against her will be her caretaker. The first time the person I spoke to refused to give me an email or fax number to which I could send my sister's email, on the ground that I was out of the Boston office's jurisdiction, and also refused to tell me how I could contact the New York FBI office to send them the email to transmit to the Boston office. My second call to the FBI Boston office a few days later was equally unfruitful.

100. During the initial stages of the police harassment in 2013 I had attempted to contact the New York FBI office about the harassment, but the FBI police guard would not let me upstairs to see an agent and I never heard back from the FBI about the written complaint form I left with the police guard, and although I called the FBI a few days later they never contacted me for further information.

101. The account of the pertinent part of my trip to Worcester and my conclusion in my letter to Andrew Rainer that there could be no possible other explanation *for* what went on other than that my sister and Lee were trying to entrap me underlies my claim against my late sister's estate and Lee in this action. Is my conclusion plausible? If not, what is the reason for all of this?

102. When I returned from my day long trip to Worcester on September 9, 2017, it was clear that my apartment had been searched. Certain stacks of documents had been disarranged and several computer data chips were missing. Upon information and belief,

one of the purposes of my sister's and Lee's fraud was to allow the NYPD an extended time in which to search my apartment. In any event, that is apparently what was done.

103. Although I have made a conscious decision not to include Andrew Rainer as a party defendant at this time, that is merely on the coals to Newcastle ground that I have more defendants than I want or need. It is clear that Andrew Rainer was working for the police and not for me., because, *inter alia*, he told me that the telephone numbers I had included in my letter to him were valid. That was not true.

104. I am old fashioned. I don't own a cell phone. I keep all of my current needed telephone numbers, and there are not many, on an old Rolodex that I've had for forty years. I had been estranged from my sister for years before my mother's failing health prompted new contact. I had created a card for my sister's current cell and land line numbers, but when writing Andrew Rainer I had flipped by it, and so I used entries on Rolodex cards from thirty years ago or so. My sister's land line number on this old card was off by one digit, for some reason. The cell phone number contained on the card did not even exist anymore.

105. Although embarrassing when discovered, this mistake on my part has turned out to be very fortuitous in terms of proof of attorney malfeasance. Andrew Rainer specifically told me that he had checked the numbers and that they were correct. So did

defendant Galen Criscione when I gave him the same bad numbers.

CRISCIONE FACTS

106. In reviewing the facts that underlie plaintiff's complaint against defendants Gavin Criscione and Criscione and Ravela, these should be judged in the context of the following basic question: should an attorney who had been paid twenty thousand dollars ($20,000) and told that the primary reason for his employment is to obtain certain telephone records for two telephone numbers be able to obtain those records? Also, is it malpractice for an attorney to accept a case when he knows that the court in which the action would be brought cannot properly assert personal jurisdiction over the named defendants?

107. In late summer of 2018, I conducted a search for a lawyer to represent me in an action against the estate of my late sister and Lee. As a part of my search, I contacted Criscione.

108. Criscione called and emailed me in response. We met and discussed my case, then I and Criscione-Ravela entered into an agreement dated August 21, 2018 (the "Criscione agreement") which clearly states that a material part of the firm's work would be obtaining telephone records by subpoena and fighting any motion to quash the subpoenas.

109. I made it clear to Criscione during our negotiations before reaching agreement that while the

claim against the estate of my late sister and Fern Lee was an entirely truthful and legitimate cause of action, the primary purpose of the lawsuit was not the recovery of damages, but recovery of the telephone records of my sister. I believed those records would establish contact between my sister and the NYPD. Of course, should the telephone records reveal what I expected them to reveal, they would also serve to establish a strong nexus between my sister and New York State.

110. Criscione during these negotiations represented to me that his firm was competent and capable of doing the work I required, and that he personally would assiduously prosecute my claims and obtain the telephone records I desired. The telephone records of my sister's cell phone and land line phone, as well as all available telephone records of Fern Lee were to be subpoenaed. At the time, I informed Criscione that I expected serious opposition to the subpoenas, and defense of a motion to quash formed part of the work covered by the agreement.

111. I relied on these representations by Criscione, and entered into the agreement with Criscione-Lavala on August 21, 2018. The flat fee agreed upon for this work was twenty thousand dollars ($20,000.00).

112. I indicated the telephone numbers of my sister that I wanted Criscione to subpoena by forwarding the attached letter June 21, 2018 letter I had written to Andrew Rainer earlier in the summer, which included the two telephone numbers. As noted above, both the cell phone number and the land line phone

number that were contained in the letter turned out to be erroneous. Andrew Rainer had explicitly told me that the telephone numbers I had supplied him were correct according to what the attorney found on his specialized internet application for tracing telephone numbers, so I had no reason to suspect that they were not correct at the time.

113. After receiving the numbers, Criscione also told me that he had checked the phone numbers with his specialized interne application and that they were correct.

114. After the agreement had been executed, with my help Criscione proceeded to draft and serve the complaint and the subpoenas in the action entitled *Neil McNaughton v. Estate of Laura Gail McNaughton and Fern Lee*, Index No. 158154/2018.

115. On September 5, 2018, Criscione informed me that he had faxed the subpoenas to the office at Verizon that handles subpoenas.

116. As a retired lawyer, I knew that faxing the subpoenas was legally insufficient, and told Criscione that the failure to personally serve the would constitute legal malpractice. On September 7, 2018 Criscione informed me that he had effected personal service of the subpoenas.

117. On September 25, 2018, the defendants in the newly created action served a motion to dismiss my complaint. I learned for the first time upon reading

that motion that the state court did not have long arm jurisdiction over the defendants.

118. I retired early, and I have not practiced law since 2001, except for personal matters. The last time I had been professionally involved in an action involving the issue of long arm jurisdiction, the law at the time, which was in flux, had simply required an action that harmed a New York State citizen to establish long arm jurisdiction. Upon information and belief, if I'm not mis-remembering, the law governing long arm jurisdiction was modified after I stopped practicing or at least after I ended my personal involvement with the issue, and this modification prohibited asserting long arm jurisdiction in precisely the type of action I sought to bring.

119. One major reason why I paid Criscione Ravela LLP twenty thousand dollars instead of handling the matter myself *pro se* was to avoid missteps caused by my ignorance of current law and practice.

120. Criscione never informed me that the facts I alleged in my complaint did not support a New York court's asserting long arm jurisdiction, either before or after I entered into the agreement.

121. Plaintiff's response to defendants' motion to dismiss was drafted almost entirely by me, based upon work I had done years before. Criscione added an irrelevant and confusing point, against my explicit instructions, and the opposition papers were filed on October 5, 2018.

122. The defendants in the action never moved to quash the subpoenas. I emailed Criscione at some point that I thought something funny was going on with the defendants' failure to move to quash.

123. Responses to the subpoenas were received on or about October 11, 2018 from AT&T and October 25, 2018 from Verizon. In examining the subpoena responses regarding my sister, I noticed that there were anomalies as far as what I had expected. On closer look, I first discovered that the numbers I had transmitted to Criscione were not my sister's correct telephone numbers. As noted above, Criscione and Andrew Rainer had both told me that the numbers were correct.

124. I informed Criscione of the problem on November 2, 2018 and Criscione told me that he had served subpoenas for the new numbers on the same date.

125. On December 13, 2018, I entailed Criscione asking about case status. In response, Criscione told me that he had received a response to the subpoena. The response to the subpoena of the Verizon Wireless telephone records stated that it did not provide service for the period from 9-1-16 to 2-21-18 for my sister, but that it was provided by another carrier. Criscione should have been able to determine that from his internet search of the proper telephone numbers.

126. The telephone records directly relevant to my claims against my sister would have been grouped around the date of the incident, September 9, 2017. I had originally told Criscione to have the telephone record subpoenas cover a relatively short period starting around one year before the September 9, 2017 incident, so that it would not be viewed as a fishing expedition. Had Criscione followed my instructions with regard to the time period, the "confusion" over the subpoenas would not even be possible. However, Criscione made the subpoenas cover a five year period, most of which period was completely irrelevant to my action against my sister, against my explicit instructions.

127. Thus, Criscione and Criscione-Ravala LLP took twenty thousand dollars ($20,000.00) from me to prosecute a claim in New York Supreme Court for which personal jurisdiction did not lie under the current law, and to obtain telephone records which they, apparently intentionally, failed to obtain.

128. The behavior of Criscione and Criscione-Ravala LLP cannot be explained simply as a result of greed and incompetence. During the few months of our attorney-client relationship, there were a number of acts by Criscione that puzzled me at the time, that in twenty-twenty hindsight illustrate that Criscione was actively trying to harm me and to prevent me from recovering the valuable telephone records.

129. In the first draft of a complaint that was to be verified that Criscione submitted to me for review,

one paragraph stated words to the effect that "This is the first time plaintiff has brought an action for the intentional infliction of emotional distress and plaintiff has never brought a cause of action for the intentional infliction of emotional distress before this." At the time, I thought this was simply an artifact of a prior complaint modified for my action, but there is no reason to ever include a paragraph like this in a pleading, because it is completely irrelevant.

130. Approximately twenty-five years ago I had brought an action by summons and verified complaint for the intentional infliction of emotional harm (the DOF state court action referred to above). Had I verified the complaint drafted by Criscione containing this paragraph, I could have been convicted of perjury on paper without further testimony simply on the basis of these two verified complaints.

131. Also, early in the Criscione draft complaint, the pronoun "she" was used to refer to me and this pronoun was not corrected in multiple drafts despite being pointed out every time.

132. The initial failure of Criscione to properly serve the first set of subpoenas, and the failure of defendants' counsel in that action to move to quash, in 20-20 hindsight become quite understandable. Criscione didn't properly serve the subpoenas because he knew they would not be challenged at the time he served them. Because Criscione served the first set of subpoenas knowing that the telephone numbers sought were not the correct telephone numbers.

133. The "mistake" of serving the second subpoena at the improper place would not have been possible if Criscione had used the time frame that I had asked him to use.

134. There are a number of other acts and failures to act by Criscione during the period of representation that in 20-20 hindsight make clear Criscione's hostility towards me, including puzzling incidences of discourtesy and non-responsiveness, apparently erroneous advice on legal surveillance under New York law, and the sabotage of a plan to provide me with further evidence.

135. In addition to Andrew Rainer and Galen Criscione, there were a number of other attorneys in both Massechusetts and New York that I contacted in my search at this time who acted in an abnormal and unprofessional manner, that I believe was based upon police involvement.

136. Criscione never had any real intention to prosecute my claims because he knew that these claims could not be prosecuted in a New York court. Similarly, it is clear that Criscione never had any real intention to obtain the telephone records I so desperately needed, since he served the first set of subpoenas with bogus telephone numbers without telling me they were bogus, although he knew, and then failed to obtain the records after being "informed" that the original number were wrong.

NEW FACTS-MOSS

137. More recently, I tried to employ an attorney to help me have my apartment fingerprinted and to represent me in an action against my co-op, or in a defense against a co-op action against me, since I viewed defendant Norma Bellino's November 26, 2019 letter (discussed below) and other recent incidents in the co-op as indications that the co-op might soon be taking action against me. Just as when I had tried to find a lawyer to obtain my sister's telephone records, I saw very unusual behavior on the part of the attorneys I contacted. It is relevant to this discussion that in December of 2019 I had informed co-op management that I had discovered bed bugs in my apartment, which infestation the co-op had confirmed with a dog inspection. Therefore, everyone involved, myself included, believed that I needed to have the fingerprint work done immediately, before the bed bug treatment, so time was of the essence.

138. I contacted approximately two dozen landlord and tenant attorneys, stated I was agreeable to paying their usual hourly rates, told them I wanted to sue my co-op after years of mistreatment and that I was worried the co-op might be planning to try to evict me, and yet before I called defendant David Moss only one of the attorneys agreed to meet with me to discuss the matter.

139. The one attorney who did agree to see me was Heather *A.* Ticotin, a senior associate with The Price Law Firm LLC" 1115 Broadway, 25th Floor, New

York, New York. I met with Ms. Ticotin, as well as another younger attorney and a paralegal on Tuesday, January 7, 2020 at 1:30 p.m. I explained the situation, and Heather indicated that her firm would likely represent me but she wanted to confirm with her boss. She instructed the paralegal to start looking for a private detective. She did not ask me for a retainer. It was agreed that I would call back tomorrow.

140. As I was leaving the conference room where I had met Heather, I noticed in the waiting room of the office several high school girls. I was immediately suspicious, as the unusual presence of young girls usually meant NYPD involvement in my life. Indeed, for the next two days Heather was not available for my calls. When on the second day I talked to one of the other women at the meeting-I can't remember if it was the other attorney or the paralegal-she acted like she didn't know who I was, in spite of the fact that I had been in a meeting with her two days prior. I got Heather's voice mail from her, and left a message saying I was not a pedophile and that I really needed her help, but I never heard from her again.

141. The lawyer I finally was able to retain was defendant David L. Moss, Esquire ("Moss") and his firm David L. Moss & Associates, LLC (Moss Associates). Moss and I entered into an agreement dated January 23, 2020 (the "Moss agreement"). Prior to entering into the agreement, I had told Moss the difficult circumstances in which I found myself and he had represented to me that if hired he and his law firm would competently and vigorously pursue my claims and

defend my interests. I relied on Moss's representations and signed the Moss agreement.

142. There were many problems in my relationship with Moss and his law firm. The most important task that I had assigned the firm short term was to immediately find me a local private detective who I could use to take fingerprints that I believed were left by members of the support staff during their many, many illegal incursions into my apartment over the years. I told the Moss firm that I was willing to pay the private detective up to five thousand dollars for this work, which price I based upon the price quoted to me in 2013 by the private detective I had contacted then of sixteen hundred dollars for a four hour effort, before the detective I had contacted then and who had agreed to do the work mysteriously became unavailable and uncontactable, if that is a word.

143. Moss's firm was only able to provide me with the name of a single local private detective -David Staffler of New York Intelligence Agency-who I called to discuss the work with on January 24, 2020. In my conversations with Mr. Staffler, it was clear that he was not interested in doing the work. He promised to call me back several times; he promised to provide the name of a fingerprint guy over the weekend, and then didn't call. Finally, when we were talking about doing the work the following week, he mentioned he had a technician that would be available to do the work then who was really great. When I asked for the guy's name, he couldn't tell me, finally after a long pause saying "Bucky." He couldn't give me the man's actual name

because there was no actual person. Bucky never called, either.

144. Moss and his firm never provided me with the name of another local private detective to do the work, in spite of the fact that Moss ended up charging me twenty-five hundred dollars for the "work" he had pretended to do.

145. On March 11, 2020, I faxed Moss a letter that described some of the many problems I had had with his firm's representation of me. I expressed the hope that things would improve, and I asked him to provide me with a log of the telephone calls his employees had made in their search for a local private detective so that I could pay the bill his associate had sent me. In response, by letter dated March 12, 2020, Moss terminated our relationship.

146. My instant claim against defendant Moss should be easy to resolve. If Moss can show telephone records establishing that he or his employees made good faith efforts to find a local private detective to perform the fingerprint work that I originally tried to have done in 2013, but was unable to do, then that will prove that my claim against him is without merit. I don't believe he ever made an effort to find me someone to do the fingerprint work. I don't believe those telephone records exist. We shall see.

NEW AND OLD FACTS-CO-OP HARASSMENT

147. Although this is the first time I have brought a legal action against the co-op or Century, or any of co-op or Century management and employees, my harassment by these people has been going on for almost thirty years. Initially, before the police involvement, in addition to the consensus of hatred and lies based upon the silent treatment, it would take the form of minor damage to my apartment,. For example, for years-I can't remember exactly how long-I've had one and only one fork, because the others were stolen by the support staff (or someone). I don't entertain and I have plastic forks for the unexpected visitor. The most damaging harm done to my apartment before the police involvement involved the fan in my fan coil (heating and cooling) unit in the living room that they damaged and damaging a surveillance camera of mine. The fan coil unit was damaged by the support staff about seven or so years ago. I use a stand alone fan blowing on the unit's coils to cool or heat my living room now. A number of chairs in my apartment have also been destroyed.

148. In addition, throughout the years there has been significant audio harassment-pounding on the floor above me for hours-as well as light harassment. At one point quite a few years ago, on one night there was a Fresnel lens spotlight located on a balcony on the apartment building next door, like the kind of spotlight pointed towards the sky used in movie openings, pointed directly at my bedroom window for an hour or so when I was trying to sleep.

149. Complaints I made over the years to building management have always been completely ignored, and after many fruitless attempts to get building management involved, I simply stopped writing them. In earlier years, because I was studying the pathology of the support staff's behavior, I did not want police involvement. After my sister betrayed me and told her lies that got the NYPD believing I was a pedophile, extensive police involvement did in fact occur, but it was not the kind of police involvement I was seeking.

150. Since the NYPD involvement, the support staff (or someone) have increased their unlawful incursions, and they, or someone, started entering my apartment at night. I could tell this was the case because of missing pictures on my camera, because I have set little indicators that let me know when my apartment has been entered, and, last but not least, on several occasions someone has entered my apartment at night when I am sleeping simply to move furniture around in my living room, apparently in an attempt to intimidate me.

151. In late March of 2017, I went out for a while during the day, and the support staff entered my apartment and damaged my bathroom plumbing while I was gone. The post-it on which I had noted the exact date is missing. As a result, I have not been able to take a hot shower for over three years. I put water into a large kettle and heat it on the stove. The support staff has additionally entered my apartment while I was away recently and further damaged the pipes so that they leak (into the kitchen sink) at an increased rate. I catch

the leaks in a large steel bowl under the sink and empty it two times a day. I have not been willing to call a plumber because I want the damage preserved as evidence, for defense against further aggression by the co-op. I feel very vulnerable.

152. For a while a long time ago (before police involvement), say 2008, the support staff had pointed a security camera at the living room window of my apartment. I know this because the camera malfunctioned, and at night for a few days there was a blinking yellow light on my living room closet door. A few days later, I happened to be looking out of my living room window and I saw an old Indian porter named Mohammed on a ladder fixing a security camera that was pointed directly at my apartment's living room window. I don't know if the support staff still watches my apartment. I do know that for most of the days I have left my apartment building to go sit in Washington Square Park in the past month, regardless of when I leave-and that can vary by more than an hour-there is either a police car with blinking lights or a woman pushing a baby stroller on the corner or in front of my door.

153. Upon information and belief, defendants Bellino and Golub have responsibility for supervising the building support staff, knew of past and present malfeasance on the part of the building support staff, and on occasion have actively aided and supported the building support staff in their harassment of me. Further, both knew of and supported the recent incident of trespassing on June 6, 2020 that I describe above.

Upon information and belief, they also knew about and supported many of the incidents of co-op defamation described below.

NEW AND OLD FACTS-CO-OP DEFAMATION

154. The most serious example of defamation that the co-op employees and management have engaged in throughout the years is the defamation underlying the ongoing Nazi consensus, where every new resident is told, by support staff and residents, "he's not speaking to us" or "he doesn't speak to anyone." As noted above, this has been going on without surcease since at least 1992.

155. The more recent defamation by co-op employees and management involving the pedophile nonsense takes many forms. My apartment building is comprised of two towers, separated by an inner courtyard, that my apartment fronts. Normally, you cannot see the lights in the apartments in the opposing tower across the courtyard. For a number of years, some apartments in the other tower have been making their lights visible most nights, particularly those apartments directly in front of my apartment windows. Upon information and belief, this is done both to harass me, and as an announcement "you're a pedophile but we're watching you." This announcement has been published to virtually every apartment in my twenty story tower that fronts the inner courtyard.

156. In addition, upon information and belief, the co-op has been active in arranging stroller

harassment within the building, and there have been a number of incidences in recent months where I have been stalked within the building by women pushing strollers, particularly as I'm leaving my apartment.

157. One particularly egregious example of this harassment occurred on either Saturday November 23, 2019 or Sunday November 24, 2019 (I can't remember which). At around 8:30 a.m. I was sitting in the deserted basement laundry room in my building doing my laundry when a woman pushing a baby stroller with two children came into the room. "Stalking is a crime, ma'am" I told her as she came in. She stopped the stroller in front of where I was sitting and went to the automated card vending machine-she didn't have a laundry card. I got up from my seat, moved to where I had a clear view of her at the vending machine, and took her picture. Then, because the stroller wasn't in the picture and I wanted to document what was going on, I quickly wheeled the camera and took a picture of the stroller. Unfortunately, the camera was apparently moving too fast, because upon review the second picture only showed a colorful blur.

158. "Did you take a picture of my children?" The woman screamed in horror. "No, I took a picture of you," I replied. I went to sit back down on the bench where I had been sitting. I watched as the woman took a single item of clothing-an apparently clean black children's ski jacket-put it in the washer near me, closed the washer and wheeled the stroller out of the room.

159. A few days later, there was slipped under my apartment door a letter from co-op president and defendant Bellino dated November 26, 2019. In the letter, Bellino stated that "As it was shared with me, you took photographs of her two children while she was doing the laundry." The rest of Ms. Bellino's untruthful letter is a shameless lecture on co-op courtesy.

160. This letter at the least was published to the co-op attorney, since he responded to my reply letter to Bellino, and claimed to have reviewed the contents of the Bellino letter. The key to the falsehood, obviously intentional, is the reversal of the order in which the pictures were taken, and in the false statement that the woman caught me taking photographs of her children while she was doing the laundry-implying that I'm some pedophile creep clandestinely taking pictures of her children. When I took the first picture of her, the woman was not doing the laundry. She was buying a laundry card. When I immediately switched the camera's focus from her to the stroller with her children, I was standing right in front of her and she was looking right at me.

161. In my response to Bellino's letter, I requested the name of the woman involved, because I wanted to talk to her about the harassment. Bellino never responded to my letter, the co-op lawyer did. I wrote another letter to Bellino, noting that I believed the woman had been engaged in a crime and again requesting her name and address. This time there was no response from anyone. I wonder, was this woman even a building resident?

NEW FACTS-POLICE AND PARK POLICE HARASSMENT

162. The persistent police stalking and harassment that I complained about in my action before Judge Falla have continued until the present day in a significantly increased manner, since the police no longer have to worry about the pendency of a §1983 proceeding. There is almost no business in my neighborhood that I frequent regularly where I have not been exposed to mistreatment that can only be explained by police involvement. Over the past three years or so, the following businesses have been involved in some form of harassment: M & M Korean grocery store on Waverly Place (now defunct); the former Korean deli on Sixth Avenue below 14th Street (also now defunct); John's barber shop on Twelfth Street; the barber shop I used for months before the covid lockdown on Thompson Street a block below Washington Square Park; the two West Market grocery stores on Third Avenue; the Epicurean Deli on University Place; the Little Italy pizza parlor on University Place; the Mee Chinese restaurant on First Avenue between thirteenth and fourteenth; the No1 Chinese kitchen on First Avenue between fifteenth and sixteenth streets; the Gristedes grocery store on University Place; the Cohen Fashion Optics store at the corner of Fifth Avenue and Fourteenth Street; NoHo Dental and Dr. Stanton Young, 14 East Fourth Street. There are a number of other entries to this list that I have not included.

163. In many of these businesses, the harassment took the form of phony pedo traps where a young child would be present in a situation where there are almost never present, such as each of the men's barbershops. This was also the case at NoHo Dental, the Mee Chinese restaurant on First Avenue between thirteenth and fourteenth streets (multiple times), the No1 Chinese kitchen on First Avenue between fifteenth and sixteenth streets (multiple times), Little Italy pizza parlor, the Gristedes grocery store, and the West Market on Third Avenue near twelfth street. In other places, the harassment took the form of irrational, unprovoked minor physical assaults-like overcooking the udon noodles or putting too much hot spice in the soup to make it virtually inedible (the former Korean deli on Sixth Avenue below Fourteenth Street). At the Epicurean Deli on University Place in the summer of 2019, for example, my order of chicken udon contained no chicken, and one time as I was leaving the deli an employee "accidentally" spilled water on me. The Epicurean Deli is a typical example. I confronted the employees and told them I am not a pedophile. That stopped the harassment, but when I asked them for a statement or affidavit of what was going on they all refused. They looked sheepish every time I went in the deli, but they were never willing to help me, although I asked them on two separate occasions.

164. My experiences of the last few years have widened my knowledge of the extent and power of herd based imperatives such as the Nazi disease and led me inexorably to an unhappy conclusion: peasants are

useless. Not bad, useless. The salt of the earth melts in a hard rain like the Wicked Witch of the West. One aspect of the Nazi disease that I had ignored in my early examination which has been brought to the fore by the constant police harassment is the extent to which what I call the "instincts of cowardice, passivity and submission" control the actions of ordinary people. Virtually no one is willing to go up against the herd. If you are designated as "an enemy of the herd", as of course all pedophiles are, then they may stop trying to hurt you, but they will never help you. My abnormally isolated existence caused in part by my studies of the Nazi pathology has contributed significantly to my difficult situation, of course.

165. My experiences at John's barber shop on Twelfth Street between Broadway and Fourth Avenue illustrate this. Quite a few years ago, I remember it was a Thursday, I had called the barber shop to schedule an appointment at noon, and got an appointment at 2 p.m. When I entered the barber shop, there were clearly a couple of cops in the place. When you're constantly under cop surveillance and harassed by them, you learn to recognize them. John the barber, when I was walking by his shop a few days later, asked me if I wanted to have a cup of coffee with him. It was clear he wanted to tell me about the cops, who clearly at that point had not mentioned to him that they thought I was a pedophile. In other words, as a good Sicilian, he had a healthy us against them attitude towards the police. I declined, for no good reason other than I knew what he was going to talk about and I wanted to get to

the park. Big mistake on my part. Fast forward to a few years later, and when I show up for my haircut a police officer is there with his two children. I asked John for help but he refused. In today's social climate, the hysteria against pedophiles, which operates on the HAL level, precludes help from the working class and almost anyone else. At the point I'm asking they don't know for sure who's right, they apparently are not capable of understanding that honest publicity would only help someone who is not a pedophile, and would hurt a real pedophile. They lie about what happened and refuse to get involved.

166. This unfortunate aspect of the human personality was documented over fifty years ago by Dr. Stanley Milgram at Yale in his famous analysis of the Kitty Genovese horror, where he attributed the failure to act on the part of the neighbors who heard the victim stabbed over one hundred times and did nothing, to a "diffusion of responsibility" that obtains in group situations. I would argue, unhappily, that it is an actual instinct of non-involvement. It does not obtain only in group situations. This instinct developed, particularly in the lower classes, however you define that term, because people who don't confront the herd live longer and produce more babies. All of our instincts are products of evolution, and evolution's standards are amoral. It doesn't matter to evolution if your behavior is bad or good in a moral sense, it just matters how many successful babies you are able to produce.

167. Of the businesses I listed above, I have asked the employees or owners of seven of them for help over the years. Still waiting.

168. One important piece of persistent police harassment which needs to be mentioned is the continuing harassment at Thompkins Square Park. For about ten years, I used to go to that park to sit before the distance became difficult and I switched to Washington Square Park, where I have gone for the past five or so years. But I still visit Thompkins Square Park on occasion.

169. Starting about six or seven years ago until this year, every time I showed up in the park, a Hispanic woman on a bicycle would show up a little later. We're talking hundreds of times, here. In more recent years she was often accompanied by a Hispanic man on a motorized scooter. This guy threatened me physically twice, and also called me a "faggot" in Spanish and English. He stopped showing up after the second time he threatened me about two years ago. I guess they were worried that I'd call the police.

170. There is one recent incident of harassment that I believe involved the NYPD. On June 6, 2020, I was sitting in Washington Square Park on the bench where I often sit, and a young black woman pushing a stroller walked by. Thinking she was one of the stroller stalkers, I said to her "You are the problem." I had said something similar to a black nanny a few days prior who I was quite sure was one of the stalkers. In saying this, I was trying to emphasize the hypocrisy of black

women joining dirty cops to harass someone while they and the nation were outraged about the murderous behavior of cops and the lack of change after years of complaining. I'm not trying to say my issue is anywhere near the same level of importance as police murder by any means, but the treatment of my claims by authorities and media is remarkably similar to the treatment of Black Lives Matter before the murder of George Floyd.

171. The woman's response on June 6th was to throw her large drink in my face, abandon her stroller and come charging at me. I'm sixty-eight years old, overweight and not a fighter. I got up from the bench and backtracked real quick. After a standoff, she calmed down and left, but she came back about ten minutes later and tried to start another fight. I had to leave the bench again. "I'm sixty-seven years old." I told her (I have since had a birthday). She calmed down, and there was a bit of a ruckus, but eventually everyone calmed down.

172. The reasons why I believe this was not simply an unhappy coincidence are the following: (1) The second attempt didn't make psychological sense. (2) There were apparently a pair of undercover cops watching both incidents nearby-a heavy set black guy, and a dark skinned skinny guy, both dressed in black pants and black tee shirts. They didn't interfere even though it was obvious she was attacking me, but they stood up and I could see that they were watching closely. (3) After everything had calmed down, two women, one black, one white, sat down next to me and

the black woman started talking to me about what had happened. In all the years I've been going to NYC parks, that has never happened to me. The woman suggested the whole encounter was a "coincidence" and when I agreed, exchanged a look of satisfaction with the other woman. Shortly thereafter, they left. In thinking about it, how could the woman use the word "coincidence," unless she knew what had been going on, and why was she even there talking to me? As is the case with my trip to Worcester, in recent years it has become apparent to me that the NYPD is actively trying to set me up for a fall.

173. The summer before, I had been involved in an incident where an Asian woman pushing a stroller had sat down next to me on the same bench, and, then, I didn't look, but it sounded like she was changing the child's clothes next to me. Across the lawn there was a man with a camera with a long lens resting on a tripod pointed at me. That's why I didn't dare look.

174. Eventually, I walked over to where the man was and confronted him. He sounded a lot like a cop, but he claimed he was "a private business hired to help clean up the park." When he realized I was taping him with my camera he spoke into-something, I can't remember-and called for security. He told me to get out of there. I went to the bathroom, and on my return, stopped by and asked him where security was. He pointed to a very large, fat black man sitting on the opposite bench. I didn't want to risk the possibility of getting into some kind of physical confrontation where they might take my camera, so I left. I had asked a

Park police officer about the man but he told me it was nothing to worry about. To me, this indicates Parks involvement.

175. Also on June 6, 2020, when I got home from my excursion to Washington Square Park, I had another experience that I believe was orchestrated by the NYPD. For the past week I had been hearing a weird hissing sound coming from right behind my stove. On that Saturday, I was looking for the cause of the sound and I smelled a very slight odor of gas. Therefore, I was constrained to call Con Ed. The Fire Department came. Con Ed came. One of the members of the Fire Department told me I needed a new stove, although Con Ed had only installed a cut off valve in the gas line. Upon information and belief, the Con Ed worker also did things to my stove, rendering it inoperable, that were not called for by the situation, and the Con Ed personnel also told me I needed a new stove.

176. It came out during the Fire Department visit that the purported reason for the noise I was hearing was that my next door neighbor in apartment 417 had a "pressurized" water pipe that was leaking for the past week that she hadn't had fixed. I doubt this for the following reasons: (1) our apartments don't have water pipes like that-the sound I heard was like high pressure water escaping; (2) the sound stopped immediately upon the arrival of the Fire Department and was never heard again; (3) at no point during that day or later did I hear any work being done in the neighbor's apartment that would have indicated a repair was being made. I should note that my neighbor in 417

is a little old lady who has acted like she hates me since she moved into the apartment approximately a year ago. I will not here state the many reasons why I have drawn that conclusion.

177. Another reason why I believe this was a manufactured incident was that the building superintendent Florin sent up a plumber to reconnect my stove to the gas line before Con Ed did the work. I refused to allow the plumber to do the work, because as a child of the suburbs having a plumber doing gas work is frightening, and also because I have a long standing policy of not allowing the support staff to do work in my apartment, since in the past, with one exception every time they did work in my apartment something was mysteriously damaged.

178. In addition to the foregoing, on Monday following the weekend, Florin sent me a note stating that Con Ed had told him they had only placed a cut off valve in the gas line and not hooked up the stove, and again asked me to allow the building plumber to hook up my stove.

179. Upon reflection, the installation of the cut off valve in the gas line logically had nothing to do with the stove itself, and the slight smell of gas was from an extinguished pilot light. The noise was from my neighbor. The fact that Florin believed the stove was fine, that I had never had any problems with the stove before, indicated that the claim my stove needed to be replaced was bogus.

180. Finally, about an hour after everyone left, someone identifying himself as a police officer called and asked if the Fire Department and Con Ed had been there. I doubt this is standard operating procedure, and it indicates to me, along with the numerous examples of unusual behavior set forth above, that this whole episode had been orchestrated by the police and my co-op. In any event, as noted above, I had been heating my water for bathing on the stove since March of 2017, and now that was no longer an option.

181. Fortunately, a few weeks before by happy coincidence I had purchased an electric heating coil, so from June 6 until recently I had used the heating coil to heat the water I needed to wash with. Unfortunately, about a week ago, although I had used the coil without problem in the morning for my morning "shower," when I tried to use the heating coil to heat water in the evening, the coil failed to heat up. I noticed that a magazine-the London Review of Books-I had been in the middle of reading and which had been lying on my dining room table also was missing.

182. Thus, I went from having a hot water shower to heating hot water on the stove to heating hot water on an electric heating coil on my dining room table, to . . . what? I will replace the heating coil soon. Until then, I place the big three gallon pot I use to heat water in on a heating pad I have for back pain for about ten hours, then heat up another quart of water in my microwave oven to reach the right temperature.

183. Throughout the time that I have been subject to police harassment, there have been many others helping them, especially Fire Department personnel, EMT's and other ambulance units. I don't know the numbers of Mt. Sinai ambulances 1720, 1722 and 1724 because I'm in the habit of paying attention to ambulance numbers. I know Mt. Sinai ambulance numbers 1720, 1722 and 1724 because of the over one hundred times-particularly for No. 1722-that I have seen them as I walk around my neighborhood, particularly with flashing lights. Lots of Fire Department trucks and EMT's as well.

NEW FACTS-JOHN DOE HARASSMENT

184. The behavior by the John Doe and Jane Doe civilian defendants, in total numbering in the thousands, include all of the many acts I have documented above. These John Doe defendants are comprised of virtually every ethnic and racial group in the city, but particularly noticeable is the behavior of the Asian community-I believe, although I'm not certain, primarily the Chinese community. Since I first noted the involvement of Chinese stalkers in my 2013 CCRB complaint, there have been over a thousand Chinese stalkers. Years and years of scantily clad young Asian girls. Since the "stroller stalkers" have emerged in the past two years, many Asian women and couples have been involved. At one point the summer before this one, there was a spot painted on the pavement next to where I used to sit every day for Asian stalkers to identify me. I know that was its purpose because I saw an

Asian man look down at it to see if he had the right person to stalk. The Parks personnel removed it after a few days.

185. On August 5, 2019, I left Washington Square Park an hour earlier than normal for some reason. As I was walking up University Place, I saw a large, commuter sized bus parked on Eighth Street on the southwest corner, with about a half dozen Asian people milling around on the sidewalk. The bus was blue and white spackled, and said "New Castle" or "New City" in the destination box on the front of the bus. I had noticed in the prior few weeks on the week ends an extraordinarily large number of Asian stalkers. There are relatively few Asians living in the neighborhood. I guess they had to bring them in by bus.

186. Not all of the stalkers are Asian, of course. A few months ago, a Caucasian gentleman stalked me where I was sitting in the northeast corner of the park where I usually sit for two days with a young boy in a stroller, adjusting where he and the boy were sitting after I'd moved to avoid the sun. On the second day, May 5, 2020, this guy actually had the gall to show up with a Park police officer (I believe the officer's last name was Henchi) to have me removed from the park on the ground that I was taking pictures of children. Although I gave my name the gentleman refused to state his name. It came out during the discussion with this gentleman and the Park Police officer that he was not the child's parent, but his uncle. So during the height of the Covid 19 lockdowm in New York City, this guy on two occasions traveled to his sister's home to

pick up his nephew (I'm assuming he didn't live with his sister), breaking quarantine, took the child to the park to help him commit a crime, then returned to the park to shamelessly complain that his victim was a criminal. This gentleman also called me a "sexual predator" three times during our encounter, in the hearing of Park police officer Henchi..

187. Some weeks ago there was an incident where a nanny had plumped down on the grass in front of where I was sitting, and when I looked up from the book I was reading, in front of my face I saw the naked genitals of a young baby. This is the fifth time, I believe, that something like this has happened to me in the park in the past two years. The other times, I've simply moved, but this time I complained to two Park officers, a black male officer who I believe was named Williams or Williamson and a white female officer, and they refused to even talk with the woman.

188. On August 12, 2020, I was sitting on a bench when a nanny sat down next to me. "Stalking is a crime, ma'am" I told her as soon as she sat down. She immediately moved to a bench on the opposite side of the path. I started taking movies of her to document the time she was staying there. She asked me to stop. I refused. She left and returned later with two Park police officers, a man, whose name I believe was Herrara, and a woman. This occurred around 11:30 a.m. and a Park police sergeant, a woman, showed up in a car a little later. At one point, this sergeant mentioned putting me in cuffs, When I expressed a need to answer nature's call while we were waiting for the police to

show up, the male Park officer insisted on accompanying me to the restroom, waiting outside, although he taken down my contact information from my license.

189. The Park officers claimed that the woman said I was bothering her and I responded by asking them to arrest the woman for stalking. Eventually the police came, two officers, and they talked to the woman and left without talking to me, although as they were leaving I yelled at them something like "Talk to me officers!" But they didn't. At one point the female Park Police officer asked me if I would delete the pictures of the nanny, which constitute pictures of a criminal taken by the victim. Of course I refused.

NEW FACTS -JOHN DOE DEFAMATION

190. Most of the John Doe defamation has occurred outside my hearing, of course, so other than the three instances of being called a sexual predator noted above, I cannot frame a legally adequate defamation claim against the John Doe defendants based upon their utterances because I was not present when they defamed me. But actions speak louder than words. The physical behavior of the nannies and other John Doe civilian defendants also constitutes a clear example of defamation.

191. Nearly every time I sit in Washington Square Park, the stroller stalkers align themselves, sometimes closely, but in recent days more distantly, so that most days, depending upon where I sit, after ten minutes I will usually see anywhere from one to a half

dozen strollers that have arranged themselves to be in my direct line of sight, usually arranged so I can see the baby from where I sit. This action is published to the world, and at the very least I and the many people involved, as well as the Park employees, understand what they are saying by their behavior.

192. An additional form of defamation involves the constant parading of baby strollers in front of me. Recently, this includes stopping in front of me with the child for no reason for an extended period of time. I will often have as many as a dozen or more strollers parade in front of me during the course of an hour. Before this "stroller stalking" started two years ago, I would have maybe one or two strollers pass in front of me every day or two.

193. All of these actions are understood by the participants, by me, by the Park employees, and at this point probably by every regular visitor to that portion of the park, as being an accusation that I am a pedophile.

NEW FACTS-POLICE AND CITY DEFAMATION

194. The City and the NYPD, as well as the Estate, are legally responsible for every incident of defamation listed above, because every one of them constitutes a republication of City and NYPD defamation, as well as a republication of the defamation of my late sister. In particular, every example of stalking in businesses that I describe above in addition to constituting criminal and civil harassment also constitutes

actionable defamation, since the presence of the young girls or, more recently, stroller stalkers, is a public accusation that I am a pedophile and it is understood as such by the employees of these businesses.

195. In the entire history of the world, to my knowledge the only one who has ever claimed to have seen me doing anything with children is my deceased sister Laura McNaughton who lived in Worcester, Massachusetts, and the only time she untruthfully claimed she saw me doing anything ("roughhousing" was the word she used), it was in Worcester, Massachusetts, apparently on a family visit. No one in New York City can ever say that they saw me approach a child, and except for a one year hiatus in Delaware forty years ago, I've lived in this city since 1976.

196. Thus, it is only from the NYPD that the civilian vigilantes received the untruthful information that I am a pedophile. Therefore, the City and the NYPD are legally responsible for every publication and republication of defamation complained about herein. In particular, since the NYPD or someone at their behest are contacting stores and arranging phony "traps" with underage children or babies in strollers, and these "traps" are understood by the store employees to state that I am a pedophile, the City and the NYPD are legally responsible for every such defamation that results from their activity.

197. For example, around two months ago at the Gristedes grocery store on University Place, a woman with a stroller blocked my checkout, and the woman

pushing the stroller (with a baby in it) was allowed to leave the stroller in front of me and go do additional shopping. Upon information and belief, this action was understood by the store employees to signify that I was a pedophile. In December of last year, I visited NoHo Dental for some dental work. I was left alone on the dental chair for no reason and with no explanation for an extended period of time. When I finally went out to the waiting room to get some reading material, there was a little child, about one and a half years old, playing alone. I confronted Dr. Stanton Young about the occurrence in my next visit, told him the situation and asked him to help me. Although he refused to help me, he did not deny my charges of harassment, and the reaction of the support staff also confirmed that the occurrence had not been an accident. The NYPD and the City are legally responsible for all of these many acts of defamation and harassment.

198. One point about the harassment at NoHo Dental, is that I had never been there before and had called only a few days before to schedule the appointment. So how did it happen that the people at NoHo Dental "knew" I was a "pedophile," and how did it happen that whoever told NoHo dental I was a pedophile "knew" that I would be visiting NoHo Dental?

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

199. The foregoing paragraphs one through one hundred and ninety-eight are repeated, reiterated,

realleged and incorporated herein as though fully set forth at length.

200. The actions of the defendants named herein were designed and did deprive plaintiff of his rights under the Constitution of the United States to be free from unreasonable search and seizure, to express his thoughts without retaliation, and his rights to privacy and to due process.

201. With the exception of defendants Bill de Blasio, Dermot Francis Shea and Mitchell J. Silver, defendants were acting intentionally with actual malice or, at the least, with a reckless disregard for the consequences of their actions.

202. Defendants Bill de Blasio, Dermot Shea and Mitchell J. Silver, in their official capacities, and the New York Police Department, the New York City Department of Parks and Recreation and City of New York are liable for the plaintiff's constitutional deprivations since these deprivations upon information and belief resulted from established customs, policies and procedures of the City and the New York Police Department and the New York City Department of Parks and Recreation. In addition, the large number of police officers involved-probably at least a thousand- mandates a finding of attribution to the NYPD and the City. Further, these deprivations were the result of the failure of the City and NYPD and Parks to properly train and supervise its employees. Moreover, within ten days of my writing a letter to Silver on July 13, 2020, I was specifically harassed by a Park employee, who

repeatedly pushed a lawnmower behind where I was sitting, although there was virtually no grass there, spraying my back with twigs, and then glaring at me as he passed in front of me a minute later.

203. It should be noted that the repeated unauthorized incursions into my apartment by the co-op support staff over the years initially merely constituted trespassing and burglary and related wrongs and torts, but since the police involvement, their activities at the behest of the NYPD-or the activities of whoever is involved in the night-time incursions- now are done under color of state law.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS CITY, NYPD, PARKS, CO-OP, CENTURY, BELLINO, GOLUB, ESTATE, AND ALL JOHN AND JANE DOE DEFENDANTS FOR DEFAMATION

204. The foregoing paragraphs one through two hundred and three are repeated, reiterated, realleged and incorporated herein as though fully set forth at length.

205. Upon information and belief, all named defendants except the attorney defendants and Fern Lee are responsible for publishing and republishing through others repeatedly in New York State and elsewhere in the past year and for years prior the false defamation that plaintiff was a pedophile. All these defendants knew or should have known that this defamation was untrue, and none of them ever contacted

the plaintiff to give him an opportunity to prove that he was not a pedophile.

206. Defendants were acting intentionally with actual malice or, at the least, with a reckless disregard for the consequences of their continuing action.

207. The City, the NYPD, Parks, the Co-op and Century are liable for the actions of their employees under the doctrine of *respondeat superieur*. Obviously, with regard to the municipal defendants, this complaint will need to be amended at an appropriate time to include the requisite Notice of Claim language.

208. The City also is liable for the defamation of all John Doe civilian defendants, since all defamation occurring in NYC constitutes a republication of defamation by City defendants.

209. Plaintiff's reputation was severely damaged as a result of these defendants' defamation, as was his life.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS CO-OP, BELLIINO, GOLUB AND CENTURY FOR DEFAMATION, TRESPASSING AND INTERFERENCE WITH THE COVENANT OF QUIET ENJOYMENT AND THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

210. The foregoing paragraphs one through two hundred and nine are repeated, reiterated, realleged

and incorporated herein as though fully set forth at length.

211. The continuing and persistent harassment in multiple forms, the audio and light harassment, the break ins, unlawful incursions and the damage to plaintiff's apartment and property by co-op employees, all constitute interference with plaintiff's covenant of quiet enjoyment of his habitation owed him by the co-op and Century. In addition, these actions constitute the intentional infliction of emotional distress, because they were designed to and did cause plaintiff significant emotional distress. Every unlawful incursion in my apartment by co-op support staff or others constitutes a trespassing. The co-op and Century are responsible for the acts of all employees under the doctrine of *respondeat superieure.* In addition, many of the harassing acts were done by the co-op property managers such as Norma Trager and Lisa Golub, and by building superintendents such as Justin Pert, or by the co-op board itself. These acts have continued until the present day from their start more than a quarter century ago. The last time I had a new appliance mysteriously stop working under suspicious circumstances was last week, and at the same time a copy of the London Review of Books I had opened to a review I was in the middle of reading also disappeared.

212. In addition, the co-op, Bellino, Golub and Century are guilty of a separate form of continuing defamation-that is the defamation where, by word or deed, the residents say "he's not speaking to us" or "he doesn't speak to anyone" without giving the full,

accurate background of what is causing my behavior. The last time this happened to my knowledge was about two months ago, when a little charade was staged in the hallway involving a long time resident on my floor and someone who had just moved in.

213. Bellino herself by letter dated November 26, 2019 libeled me by claiming that a woman in the laundry room had caught me taking pictures of her children while she was doing the laundry, whereas the truth of the situation, described above, was quite different. I took the picture of the woman first, while standing directly in front of her. Bellino's letter was at least published to the co-op attorney, and probably to many others.

214. As noted above, Bellino's November 26, 2019 letter and the letter to me from the co-op attorney have mysteriously disappeared from the pile where I had placed them on my dining room table. I reserve my right to supplement and amend this complaint to add any additional instances of libel if upon future review of Bellino's November 26, 2019 letter I find additional instances of libel.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS CRISCIONE AND CRISCIONE-RAVELA FOR FRAUD, FRAUD IN THE INDUCEMENT, RECISSION AND PROFESSIONAL MALPRACTICE

215. The foregoing paragraphs one through two hundred and fourteen are repeated, reiterated,

realleged and incorporated herein as though fully set forth at length.

216. It is clear from the foregoing that Criscione and Criscione-Ravela never had the slightest intention of properly doing the work that I had set for them. Further, there seems to be no other explanation for their behavior other than that they were working for the police. The insults and the apparent trap contained in the draft complaint, the dishonesty about the subpoenas, and the ultimate failure to obtain the requested telephone records all support that conclusion.

217. By holding themselves out as ready and able to perform the tasks I had asked of them when they never had any intention of doing the work, Criscione and Criscione-Ravela are guilty of both fraud and fraud in the inducement. Therefore, plaintiff is entitled to recission, and the return of all monies paid under the Criscione agreement, as well as compensatory and punitive damages.

218. Criscione's failure to advise McNaughton before entering into the Criscione agreement that the Surpreme Court in New York could not assert personal jurisdiction on the named defendants under current applicable law constitutes attorney malpractice as well as fraud and fraud in the inducement, as does Criscione's apparent deliberate failure to properly perform the tasks to which he had been assigned.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS MOSS AND MOSS ASSOCIATES FOR FRAUD, FRAUD IN THE INDUCEMENT, RECISSION AND PROFESSIONAL MALPRACTICE

219. The foregoing paragraphs one through two hundred and eighteen are repeated, reiterated, realleged and incorporated herein as though fully set forth at length.

220. It is clear from the foregoing that Moss and Moss Associates never had the slightest intention of properly doing the work that I had set for them, and that they in fact never did the work for which they had charged me. In addition to their failure to do something as simple as find me a local private detective to perform the fingerprint work, they also failed to do some important work for me involving the records of my sister's probate proceeding, and they also repeatedly disregarded my clear instructions about confidential communications over the interne and telephone.

221. By holding themselves out as ready and able to perform the tasks I had asked of them when they never had any intention of doing the work, Moss and Moss Associates are guilty of both fraud and fraud in the inducement.

222. The panic with which Moss reacted when I requested a copy of the telephone logs in my March 11, 2020 letter, immediately terminating our relationship, is an indication of his fraud and malpractice. Moss Associates was paid a retainer of $2,500, yet did no

apparent work in return. This is clear attorney malpractice and fraud. I suffered significantly from the failure of Moss to do the work I had requested, as I have been trying to get a private detective to do the fingerprint work since 2013.

223. As a result of the foregoing, plaintiff is entitled to recission, and a return of the monies paid to Moss Associates, as well as compensatory and punitive damages.

224. As noted above, this particular matter should be fairly easy to resolve since by producing telephone logs as evidence of a real search for a private detectives by Moss or his employees, Moss will be able to defeat plaintiff's claims easily. On the other hand, a failure to produce such records will constitute clear evidence that plaintiffs claims are valid.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS CITY, NYPD, PARKS AND ALL JANE AND JOHN DOE DEFENDANTS FOR HARASSMENT AND THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

225. The foregoing paragraphs one through two hundred and twenty-four are repeated, reiterated, realleged and incorporated herein as though fully set forth at length.

226. The actions set forth above of all Jane and John Doe defendants, civilian, police and park police,

constitute egregious harassment of the plaintiff. These actions were done, not for any legitimate purpose, but solely to inflict upon the plaintiff emotional distress, and they definitely succeeded in doing so. My health and happiness have been negatively effected for many years.

227. The City, the NYPD and Parks are all responsible for the actions of their employees under the doctrine of *respondeat superieure.*

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST THE CITY, NYPD, AND ALL JANE AND JOHN DOE POLICE DEFENDANTS FOR FRAUD, TRESPASSING, AND ASSAULT

228. The foregoing paragraphs one through two hundred and twenty-seven are repeated, reiterated, realleged and incorporated herein as though fully set forth at length.

229. The two different incidents I describe above that occurred on June 6, 2020, upon information and belief, both were the result of intentional malfeasance on the part of the NYPD employees. The first incident, in Washington Square Park, involved a criminal assault, that upon information and belief was done in order to discredit me. Had I fought back against this young black woman who attacked me, I believe the two undercover cops I saw watching the situation would have arrested me. In any event, although I suffered no permanent damage from the attack, I was quite

shaken and my face, hair and clothes were sticky from the soda the young woman had thrown at me.

230. In the second incident, upon information and belief the whole scenario was an elaborate scheme to provoke me to call Con Ed so the Fire Department and Con Ed could enter my apartment and damage my life. I can't speculate about any other reasons for this incident, but nothing about it seemed normal, and I don't believe that the "water pressure leak" which sparked my call to Con Ed was a real leak. I believe it was an incident of fraud, for the reasons set forth above.

231. These actions were done intentionally by the Jane and John Doe police defendants in order to hurt the plaintiff, and The City and NYPD are liable for these actions under the doctrine of *respondeat superieure.*

JURY DEMAND

232. Plaintiff demands a jury for the trial of this action.

WHEREFORE, plaintiff prays for relief awarding plaintiff damages on the FIRST through SEVENTH causes of action, in the following amounts:

Against defendant 5 West 14th Owners Corp, $500,000 for each year of the harassment, for a total of $14,000,000 in compensatory damages, and $1,000,000 for each year of the harassment for a total of $28,000,000 in punitive damages;

Against defendant Century Management Services, $250,000 for each year of the harassment, for a total of $7,000,000 in compensatory damages, and $500,000 for each year of the harassment, for a total of $14,000,000 in punitive damages;

Against all Jane and John Doe defendants, individually and in their official capacity, if applicable, $10,000 each in compensatory damages and, individually, $50,000 in punitive damages;

Against defendant Norma Bellino, $50,000 for each year of the harassment, for a total of $1,400,000 in compensatory damages and $100,000 for each year of the harassment, for a total of $2,800,000 in punitive damages;

Against defendant Lisa Golub, $25,000 for each year of the harassment in which she was employed as co-op property manager, for a total of compensatory damages to be set at trial according to this formula, and $50,000 for each year of the harassment in which she was employed as co-op property manager, for a total of punitive damages to be set at trial according to this formula;

Against defendants Galen Criscione and Criscione-Ravela, jointly and severally, recision in the amount of $20,000, $500,000 in compensatory damages and $1,000,000 in punitive damages;

Against defendants David L. Moss and Moss Associates, jointly and severally, recision in the amount of

$2,500, $250,000 in compensatory damages and $500,000 in punitive damages;

Against defendants the Estate of Laura G. McNaughton and Fern Lee, $1,000,000 each in compensatory damages and $2,000,000 each in punitive damages;

Against defendants Bill de Blasio, Dermot Francis Shea, and Mitchell J. Silver, in their official capacities, and against the City of New York, the New York Police Department, and the New York City Department of Parks and Recreation, $10,000,000 in compensatory damages; together with reasonable attorneys' fees, as appropriate, and the costs and disbursements of this action; and such other and further relief as this Court deems just and proper.

Dated: August 27, 2020

/s/ _____

NEIL McNAUGHTON

Plaintiff Pro Se
10 West 15th Street, Suite 418
New York, New York 10011
(212) 675-1110
Email: neilmcnaughton@yahoo.com

10 West 15th Street, Apt. 418
New York, New York 10011

June 21, 2018

Andrew Rainer, Esq.
Brody, Hardoon, Perkins and Kesten, LLP
609 Boylston Street
Boston, MA 02116

By Email

Dear Andrew:

Here are the telephone numbers for my sister: 508-574-5030 (cell): 508 755-7359 (home). Her former address is 351 Bridle Path, Worcester, MA 01604. According to her will, I believe her home is now owned by her friend Debby. Fern Lee's address is 3 Marland Court, Worcester, MA 01606. She is a yoga instructor, and when I called her last September I couldn't find any other number but for her business. Unfortunately, I have misplaced that number. Fern Lee has a spouse-she's lesbian-named Linda J. Campaniello. I believe but am not sure that Fern has a close relative who's a cop.

I'm enclosing a copy of my amended complaint in the Southern District. I'm also enclosing a copy of the affidavit of objection I filed with the Worcester Probate Court. To supplement the information contained in the affidavit, here is what happened on Saturday, September 9, 2017 when I exited the cab I had hired (my driver's license has lapsed). The whole incident took maybe a minute.

I exited the cab, entered my sister's house through the front door, which was open except for the screen door. I passed through the entryway-coat closet, and opened the second door into the kitchen. Fern was there. To the left is a bathroom with a partially opened door. In front of me, in the center of the living room, which overlooks Lake Quinsigamond (sp.), is a high hospital bed. I did not have the impression that the space had been lived in. Fern said "Neil, what are you doing here? This is not your house." She wrapped her hand around my right upper arm, then withdrew it. "It's not your house either Fern." I replied. "Where's my sister?"

I moved in front of the bathroom door and was about to open it, when Fern slipped through the door and into the bathroom, slamming the door shut after her. At this point, I still believed that my sister was being held against her will, in an effort to prevent her from making a deathbed confession. I grabbed the door handle and tried to pull it open. Fern pulled back. Fern is taller than me, about ten years younger than me, and as a yoga instructor, certainly stronger than me. After a tug of war than lasted 5-10 seconds I stopped pulling on the door, which remained closed. I then had the following conversation with my sister: "Why did you send the email, Laura?" I can't remember the exact wording of my sister's reply, but it was something on the order of "to let you know the situation and maybe connect." She seemed completely sane, sober, and her voice evidenced the nervousness that people have when they're saying something that's completely

absurd. If you look at the email and understand the my sister and I have corresponded for years, when necessary, using our normal emails, you can see how ridiculous that statement is. I said "Well?" My sister thought for a second and then said "I'm good." I said "This is so sad. You've ruined my life Laura. And now you're dying."

At that point I don't believe she's drugged. I have a cab running its meter outside. I think for a moment if I want to stay in Worcester overnight, and decide there's no point. The bathroom door is still closed. So I leave her house, get in the cab, and head back to New York.

If you know how cops think and act, and unfortunately I do, this is classic cop. Had I not acted and left so quickly, I think in a short time there would have been a Worcester PD cruiser stopping and the cop would have been able to testify that he saw me pulling on the bathroom door with two women trapped inside. I can think of no other possible explanation for what occurred-especially the bathroom stuff-other than that this was a deliberate set up.

As we discussed, I am willing to pay your hourly rate of $300 per hour. If you're still interested in representing me in this matter, please send me your retainer agreement to the above address. In case you need to

email me, my email is neilmcnaughton@yahoo.com. And thank you very much for your help.

Sincerely,

Neil McNaughton

Fw: Laura updates

Neil McNaughton
to me

---- Forwarded Message ----
From: fern lee <fernlee@aol.com>
To: Fern Lee <fernlee@aol.com>, <fernlee@gmail.com>
Sent: Monday, September 4, 2017, 2:31:22 PM EDT
Subject: Fwd: Laura updates

---- Forwarded Message ----
From: fern lee <fernlee@gmail.com>
Date: Mon, Sep 4, 2017 at 2:27 PM
Subject: Laura updates
To: fern lee <fernlee@gmail.com>

The reason for this email is to provide updates on Laura McNaughton, Please Do Not Reply. This will be for informational purposes to upd will provide updates on Laura's condition, memorial service, etc., from Fern Lee.
Laura has stopped treatment and is doing hospice care at home.

2020 Civ. ( )

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------- x

NEIL McNAUGHTON,

Plaintiff,

-against-

BILL de BLASIO, as Mayor of the City of New York, DERMOT FRANCIS SHEA, as Commissioner of the New York Police Department, MITCHELL J. SILVER, as Commissioner of the New York City Department of Parks and Recreation, CENTURY MANAGEMENT SERVICES, 5 WEST 14 OWNERS CORP, NORMA BELLINO, LISA GOLUB, GALEN J. CRISCIONE, CRISCIONE-RAVELA LLP, FERN LEE, THE ESTATE OF LAURA G. McNAUGHTON, DAVID L. MOSS, DAVID L MOSS & ASSOCIATES, LLC, JANE AND JOHN DOE POLICE OFFICERS, SUPERVISORS AND DETECTIVES 1-200; JANE AND JOHN DOE CIVILIAN NYPD EMPLOYEES 1-200; JANE AND JOHN DOE CIVILIANS 1-200, THE CITY OF NEW YORK, THE NEW YORK POLICE DEPARTMENT and THE NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

Defendants,

---------- x

COMPLAINT

NEIL McNAUGHTON
Plaintiff Pro Se
10 West 15th Street, Suite 418
New York, New York 10011
(212) 675-1110
Email: neilmcnaughton@yahoo.com