

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
-----X
PETER ANTHONY GALLO,

Index No.:
Plaintiff designates
New York
County as the place of trial

Plaintiff,

*The basis of venue is Defendant's
Place of Business and Residence*

-against-

ROBERTA MARIA BALDINI,

Summons

Defendant's Place of Business:
300 East 42nd Street
New York, NY

Defendant's Residence:
15818 Riverside Drive West, Apt. 2K
New York, NY 10032
County of New York

Defendant.

-----X
To the above named Defendant:

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of new York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.


*Dated: October 22, 2014
Scarsdale, New York*

Defendants' address:

15818 Riverside Drive West, Apt. 2K
New York, New York

Defendant's Business Address:
300 East 42nd Street
New York, New York

THE BELLANTONI LAW FIRM, PLLC
Attorneys for Plaintiff

By: 
Amy I. Bellantoni
2 Overhill Road, Suite 400
Scarsdale, New York 10583
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

-----X
PETER ANTHONY GALLO,

Plaintiff,

Index No.:

-against-

COMPLAINT

ROBERTA MARIA BALDINI,

Defendant.

-----X

Plaintiff, PETER ANTHONY GALLO, by and through his attorneys, The Bellantoni Law Firm, PLLC, for his Complaint, respectfully states:

NATURE OF THE ACTION

1. This is an action for compensatory and punitive damages for defamation *per se*, proximately resulting from the false and malicious statements made about Plaintiff by Roberta Maria Baldini.

PARTIES

2. Plaintiff PETER ANTHONY GALLO (hereinafter "Plaintiff") at all times relevant to this Complaint was employed by the United Nations in New York County, New York in the Office of Internal Oversight Services.

3. Plaintiff is a resident of Westchester County, New York.

4. Defendant ROBERTA MARIA BALDINI (hereinafter "Defendant") at all times relevant to this Complaint was employed by the United Nations in New York County, New York in the Office of Internal Oversight Services, Investigations Division.

5. Defendant is a citizen of the United States and resident of the County of New York, State of New York.

MATERIAL FACTS

6. Plaintiff has over 20 years of experience as an investigator. He lived and worked in Hong Kong and began working as a professional investigator in 1993. He conducted investigations throughout the Asia-Pacific region for 18 years prior to joining the United Nations. Plaintiff is also qualified to practice law in three jurisdictions; Scotland, Hong Kong and the State of New York.

7. In addition to an extensive record speaking at professional conferences and writing articles on investigative subjects in legal and other journals, Plaintiff has experience as an adjunct university lecturer in Hong Kong, lecturing on investigations management. He also has a LLM in International Criminal Justice from a United Nations program with the University of Torino in Italy, and has previously held qualifications as a Certified Fraud Examiner and a certified Anti-Money Laundering Specialist.

8. Plaintiff has never been the subject of any professional complaint prior to Defendant's retaliatory, malicious and false accusations.

9. Plaintiff began his employment with the United Nations in March 2011 in the Office of Internal Oversight Services (hereinafter "OIOS") Investigations Division ("OIOS/ID").

10. OIOS/ID is the 'internal affairs' unit of the United Nations tasked with investigating staff misconduct such as corruption, fraud and breaches of the Staff Rules.

11. When Plaintiff joined the United Nations, his immediate supervisor, or First Reporting Officer was Defendant and his Second Reporting Officer was Michael Dudley ("Mr. Dudley").

12. Defendant is an Attorney admitted to practice law in the State of New York.

13. Defendant joined the United Nations in 2004 where she worked as Assistant Trial Attorney in the International Criminal Tribunal for Rwanda ("ICTR").

14. In April 2005, Defendant joined the United Nations Mission in Kosovo ("UNMIK") as an International Prosecutor and became employed as an investigator in OIOS in New York in March 2009.

15. Defendant is not known to have any previous formal qualifications or experience as an Investigator.

16. Defendant also previously served as an Assistant District Attorney in the Domestic Violence and Sex Crimes Bureau of the Bronx District Attorney's Office.

17. At the end of his first year in the United Nations, Defendant gave Plaintiff a rating of '*requires improvement*' under the heading of 'Leadership' in his Annual Appraisal.

18. Despite the fact that Plaintiff did not have any supervisory responsibilities, Plaintiff did not challenge the evaluation.

19. During Plaintiff's second year, there was an internal reorganization.

20. At that time, Vladimir Dzuro ("Mr. Dzuro") became Plaintiff's First Reporting Officer and Defendant became his Second Reporting Officer.

21. At all times, both Defendant and Mr. Dzuro remained closely associated with, and strong supporters of Michael Dudley (“Mr. Dudley”).

The Performance Improvement Plan

22. On February 27, 2013, Plaintiff submitted to Defendant an investigative report exposing the existence of medical insurance fraud within the United Nations.

23. Plaintiff’s initial fraud investigation led to a wider \$1.8 million investigation into fraudulent medical insurance claims made by United Nations employees in the Lebanon region.

24. On February 28, 2013, Defendant presented Plaintiff with a Performance Improvement Plan (“PIP”) and requested his immediate signature.

25. Defendant informed Plaintiff that his work was not totally satisfactory and explained that investigators should prepare every question and never ask questions “*just to satisfy their curiosity*” - an apparent reference to Plaintiff’s proactive approach to unearthing additional fraudulent acts within the United Nations. Defendant also expressed “pretextual” concerns about Plaintiff’s writing skills, referring to one typographical error she had seen in a Note to File.

26. The PIP far exceeded what Defendant had discussed with Plaintiff and was in retaliation for his fraud investigation and a clear attempt to undermine Plaintiff’s credibility and portray him – who had some 20 years of experience and whose qualifications were equal to or exceeded everyone else in the office - as grossly incompetent.

27. The PIP stated, *inter alia*, that Plaintiff was required:

- (1) only to ask pre-approved questions in the course of investigations, and never to ask questions “*just to satisfy his curiosity*”;
- (2) to “*improve his judgement*”, such as to never to express an opinion in a document;

and

(3) to attend a basic English language report writing class and improve his drafting skills.

28. The PIP was drafted primarily by Defendant.

29. When Plaintiff asked for specific examples of anything that he had done that warranted the content of the PIP, Defendant failed to provide examples of any alleged performance shortcomings.

30. Defendant referred to an e-mail dated August 2012 and alleged that Plaintiff “had not improved.”

31. Plaintiff queried how an e-mail dated August 2012 could be evidence of alleged “performance shortcomings” in the period after it was sent, but Defendant failed to provide an explanation.

32. Plaintiff was pressured by Defendant to sign the PIP as a matter of urgency. He was then advised that he was required to sign the PIP before his employment contract would be renewed.

33. Given the refusal on the part of Defendant and Mr. Dzuro to identify a single example of anything he had done that warranted the PIP, Plaintiff considered the attempt to force him to sign the document to be coercion and harassment.

The Plaintiff's Report of Misconduct against Defendant and others

34. On March 11, 2013, Plaintiff filed a formal complaint against the Defendant for (1) abuse of authority, and (2) harassment. The complaint also named Mr. Dzuro and Mr. Dudley, then Deputy Director of OIOS who, for unknown reasons, had involved himself in the matter of the Plaintiff's PIP from the very first occasion when the Plaintiff had asked for an example of

what he was alleged to have done wrong.

35. Plaintiff had never had any cause to make a complaint against any other person and was never the subject of any complaint himself.

36. Plaintiff's complaint should have been handled by the Under Secretary General for Oversight, Ms. Carman Lapointe "(Ms. Lapointe)", the most senior official in the United Nations responsible for all branches of the oversight function.

Counter-complaints and ongoing harassment

37. Ms. Lapointe failed to take action on the Plaintiff's misconduct complaint.

Instead, on March 14, 2013, Ms. Lapointe gave credence to a counter-complaint filed upon information and belief by Defendant wherein Defendant falsely alleged that Plaintiff had been influenced by another senior OIOS staff member Mr. Florin Postica ("Mr. Postica").

38. Plaintiff had no knowledge of Mr. Postica's own experience or any of the facts later disclosed in the United Nations Disciplinary Tribunal in Nguyen-Kropp & Postica 2013/UNDT/176.

39. There was a clear history of animosity between Mr. Dudley and Mr. Postica, which predated Plaintiff's employment in OIOS and with which he was wholly uninvolved.

40. This history of animosity was consistent with the animosity found in the relationship between Plaintiff and Mr. Dudley.

41. At the time, the Plaintiff was unaware that Ms. Lapointe was personally involved in perpetuating the retaliation against Ms. Nguyen-Kropp and Mr. Postica.

42. Instead of providing any answers to Plaintiff's questions and concerns about his alleged performance shortcomings, Mr. Dzuro produced a second draft of the PIP.

43. Mr. Dzuro stated that this draft was personally approved by Ms. Lapointe.

44. In response to the second draft PIP, which was a diluted version of the first, Plaintiff again asked for clarification of what he had done that warranted that version of the PIP and again, no answer could be provided.

45. Plaintiff was invited to, and did attend, mediation.

46. During the course of mediation, however, Mr. Dzuro refused to discuss the PIP.

47. Plaintiff requested that Mr. Dzuro be temporarily relieved of his responsibility of writing the Plaintiff's End of Year Appraisal, as there was a patent risk that the Appraisal would be unfairly negative and would be used as an attempt to retrospectively justify the PIP.

48. Mr. Dzuro was not relieved of that responsibility.

49. As Plaintiff's Second Reporting Officer, it was Defendant's statutory responsibility to oversee Mr. Dzuro and resolve any disputes that may arise.

50. Defendant failed to do so, and assiduously avoided any direct communication with Plaintiff while pursuing a strategy of retaliation against him.

Continuing pattern of Post-reassignment complaints and harassment

51. On June 26, 2013, three (3) months after Plaintiff filed a complaint of misconduct against Defendant and three other individuals, including the former Deputy Director of OIOS Mr. Dudley regarding allegations of harassment and abuse of authority, Plaintiff was reassigned from Defendant's supervision to an alternate supervisor, Dan Wilson and no longer reported to Mr. Dzuro or Defendant.

52. Plaintiff was given his End of Cycle Appraisal by Mr. Dzuro.

53. Mr. Dzuro, upon information and belief at Defendant's instruction and/or with her knowledge and assistance, had gone through absolutely everything the Plaintiff had done in the past year noting the most minute administrative details.

54. Mr. Dzuro failed to point to a single instance of any substantive failure in Plaintiff's performance.

55. The End of Cycle Review was another retaliatory act by Defendant and Dzuro against Plaintiff.

56. Plaintiff challenged his Review before a Rebuttal Panel, which is pending before the United Nations Appeals Tribunal.

57. Defendant concurred with the false and retaliatory Review.

58. On June 27, 2013, Plaintiff happened to meet Mr. Dzuro in the workplace and again asked him if he would answers the questions about what he had done to warrant the PIP.

59. Mr. Dzuro immediately made a complaint about the Plaintiff, accusing him of being impolite.

60. On July 30, 2013, in response to the Plaintiff's rebuttal of the End of Cycle Appraisal, Mr. Dzuro accused the Plaintiff of having "incorporated factually incorrect statements and allegations" that he claimed were "unsubstantiated and immaterial to the rebuttal process" - but failed to point out a single example of any such statement.

61. On August 5, 2013, when Plaintiff's new supervisor (Mr. Dan Wilson) returned from a period of leave, Mr. Dzuro immediately complained to him about Plaintiff having failed to show him respect on some indeterminate date some weeks earlier. Mr. Dzuro had the option of reporting the matter to Plaintiff's acting supervisor immediately but had failed to do so.

62. On August 17, 2013, Defendant made a false complaint against Plaintiff alleging that he used “rude words” about her.

63. On October 7, 2013, Ms. Lapointe asked Plaintiff to comment on Defendant’s allegation that he had used some unspecified “rude words” about her.

64. While admitting the information was hearsay, Defendant wrote in her complaint, “I just let you know about this because it is another example of Peter’s unprofessional and hostile behaviour.”

65. Defendant’s characterization of Plaintiff as “rude”, “unprofessional” and “hostile” was false and complained of solely in retaliation against Plaintiff.

66. When Plaintiff asked Ms. Lapointe for clarification of what specifically he was alleged to have said to Defendant, Ms. Lapointe declined to respond.

The Nguyen-Kropp & Postica Hearing

67. During the week commencing on October 21, 2013, Plaintiff attended the hearing in the Nguyen-Kropp & Postica case in the United Nations Disciplinary Tribunal.

68. The evidence in the Nguyen-Kropp & Postica hearing revealed that there was a history of harassment, abuse of authority and other misconduct within OIOS specifically involving retaliation against employees by Mr. Dudley – Defendant’s supervisor.

69. Plaintiff noted a number of similarities between the treatment experienced by the employees in that case and the treatment he had experienced at the hands of Defendant.

70. The Nguyen-Kropp & Postica Hearing revealed that Under Secretary General, Ms. Lapointe, was implicated in the retaliation against Ms. Nguyen-Kropp and Mr. Postica, but was not called to testify at the hearing.

71. The Nguyen-Kropp & Postica Hearing revealed unrefuted evidence of misconduct by Mr. Dudley and others associated with him, including the fact that:

- a) Mr. Dudley had threatened and intimidated his own superior, Ms. Lapointe's predecessor, into providing him with 'protection' when there was a move not to renew his employment contract;
- b) Mr. Dudley interfered with evidence in an OIOS investigation, case 0052/09 and admitted doing so;
- c) Mr. Dudley breached confidentiality by discussing the progress of case 0052/09 with the Department of Management and others;
- d) When accused of having manipulated the evidence in case 0052/09, Mr. Dudley immediately accused Mr. Postica of the same thing;
- e) Mr. Dudley orchestrated an "investigation" carried out by his own staff; Ms. Suzette Schultz and Ms. Beverley Mulley;
- f) Ms. Schultz and Ms. Mulley disregarded clear directions from Ms. Lapointe's predecessor that they should interview both Mr. Dudley and Mr. Postica by refusing to interview Mr. Postica;
- g) The "investigation" conducted by Ms. Schultz and Ms. Mulley cleared Mr. Dudley of any wrongdoing, but recommended a full external investigation into the actions of Ms. Nguyen-Kropp and Mr. Postica.

72. The United Nations Disciplinary Tribunal found that Mr. Dudley's formal investigation of Ms. Nguyen-Kropp and Mr. Postica was a clear act of retaliation.

73. The Nguyen-Kropp & Postica Hearing was only the first of two cases brought by Ms. Nguyen-Kropp and Mr. Postica.

74. No date has yet been set for a hearing in their second case, which also involves harassment and retaliation suffered by the employees.

75. Mr. Dzuro, who was previously Ms. Nguyen-Kropp's supervisor, has a direct interest in the outcome of the second case.

76. In spite of the Judgement in the Nguyen-Kropp & Postica case and the public disclosure of the findings of fact therein, Ms. Lapointe has steadfastly refused to take any disciplinary action against Mr. Dudley or any of the other individuals involved, which included her own 'Special Assistant'. All remain in the employment of the United Nations.

Disparate Treatment

77. On October 28, 2013, the first day following the Nguyen-Kropp & Postica hearing, Mr. Dudley complained about Plaintiff for having challenged him to deny the evidence that had been led in the hearing to the effect that he (Mr. Dudley) had threatened and intimidated an Under Secretary General.

78. As a consequence of this exchange, Plaintiff was ordered to sign a written undertaking not to embarrass Mr. Dudley or annoy any of the parties who had repeatedly been making complaints against him.

79. On October 30, 2013, the Plaintiff discovered that an Investigation Report (Case 0496/11) which Plaintiff had completed to Defendant's satisfaction and submitted her on February 27, 2013 – one day before she had presented Plaintiff with the PIP he was required to sign - had been held back and had still not been sent to the Administrative Law Section for

action.

80. This unprecedented additional delay by Defendant was a patent attempt to find fault with a report that had already been approved by Defendant.

81. Plaintiff advised the Director/ ID that this report had been delayed by Defendant and that she had therefore allowed the Subject of the investigation to retire from the Organization before disciplinary action could be taken against them for fraud.

82. Plaintiff's handling of case 0496/11 had earlier been criticised by Mr. Dzuro in his Annual Appraisal.

83. Mr. Dzuro alleged that the report required "extensive re-writing" when the changes were purely stylistic in nature and had been made by Defendant for reasons of personal preference.

84. In the course of investigating case 0496/11, Plaintiff had identified what appeared to be no fewer than three other criminal frauds perpetrated by the same subject.

85. Plaintiff properly brought these to the attention of his superiors (including Defendant) for consideration of extending the scope of the investigation and all three were refused.

86. The provisions of the PIP requiring "proper focus" in investigations were designed to limit Plaintiff's inquiries only to "authorized" investigations, and to discourage any identification of additional offenses.

87. On November 7, 2013, Plaintiff was asked about another complaint made by Defendant, this time involving sarcasm in a Note to File he had written on May 20, 2013.

88. This was in relation to case number 0392/12 in which Plaintiff was given the task of drafting a short covering note.

89. Defendant made “corrections” to the note as drafted by Plaintiff, when she introduced more errors than had existed in the original, and showed that she had not read the one paragraph document that was being referred to.

90. That case (0392/12) had earlier been criticized by Mr. Dzuro in Plaintiff’s Annual Appraisal.

91. Mr. Dzuro pretextually alleged that Plaintiff’s failure to put his initials in a box on a document register constituted a serious failure of ‘case management’.

Violation of non-existent Guidelines

92. On October 2, 2013, Plaintiff received an e-mail from one of the Field Missions regarding an investigation he previously handled.

93. Plaintiff forwarded the email to the persons now responsible for that case.

94. Defendant complained about Plaintiff for having failed to copy her on the e-mail, and alleged that Plaintiff was therefore in violation of an OIOS Protocol on Communications.

95. Defendant instructed Plaintiff to study the Protocol, which he did, only to find that it was the wrong protocol. The protocol on Electronic Communications, contained *absolutely nothing* on the subject of forwarding emails.

Mismanagement by Under Secretary General

96. Primary responsibility for initiating disciplinary action against any OIOS staff member accused of wrongdoing lies with the Under-Secretary-General Ms. Lapointe, who has a history of showing bias against Plaintiff and has repeatedly refused to take any disciplinary action against Mr. Dudley or others closely associated with him.

97. In Plaintiff's Annual Appraisal, Mr. Dzuro disclosed the partiality shown by Ms. Lapointe in dismissing the misconduct complaint Plaintiff had made in good faith on March 11, 2013. Having been made aware of this, Plaintiff referred the matter to the Secretary General, requesting that the investigation include Ms. Lapointe's failure to properly handle Plaintiff's misconduct complaint.

98. On November 12, 2013, almost 5 months after Plaintiff had referred the matter to the Secretary General and 8 months after Plaintiff had made a misconduct complaint, a Panel was finally formed to look into his complaint.

99. When they eventually issued their report, the panel found there had been no wrongdoing; but the panel failed to investigate the allegations of harassment, and failed to investigate Ms. Lapointe's failure to handle Plaintiff's misconduct complaint. This is now the subject of an appeal to the United Nations Disciplinary Tribunal.

Plaintiff's Complaint of False Testimony Elicited in the Nguyen-Kropp & Postica Case

100. Immediately following publication of the judgement in the Nguyen-Kropp & Postica case on December 20, 2013, Plaintiff brought to the attention of OIOS management that on October 24, 2013, while listening to the testimony, the Plaintiff had heard an OIOS staff member give a false answer in response to a question when giving sworn evidence, thus misleading the court.

101. Plaintiff's complaint regarding the false testimony offered to the tribunal was referred to Ms. Lapointe.

102. Ms. Lapointe was Defendant's direct supervisor.

103. Ms. Lapointe failed to take any action on Plaintiff's Complaint of false testimony.

The Whiteboard Incident

104. After complaining that perjurious testimony was elicited during the Nguyen-Kropp & Postica case, and on January 14, 2014, the Plaintiff noticed that on a whiteboard in the office was a patently fallacious quotation. It read: "*If the facts don't fit the theory; change the facts*" and was attributed to Albert Einstein.

105. For purely satirical reasons, Plaintiff edited this to make it read: "*If the facts don't fit the theory; change the photographs*" and mischievously attributed it to Michael Dudley.

106. This was an undisguised reference to the finding in the Nguyen-Kropp & Postica case that Mr. Dudley had interfered with photographic evidence in OIOS investigation 0052/09.

107. Plaintiff was quoting information from the publicly available judgement of the United Nations Disciplinary Tribunal, and had been quoted in an Associated Press article.

108. By that time, that Associated Press report had been reproduced on over 50 internet websites and had been published in an unknown number of newspapers around the world, and was probably read by millions of people.

109. The number of people who can have seen the whiteboard is estimated to have been no more than 10 or 12.

110. The satire on the whiteboard was brought to Mr. Dudley's attention, but instead of simply wiping it off, he immediately complained to Ms. Lapointe, accusing Plaintiff.

111. Before the end of the day, and at the direction of Ms. Lapointe, Plaintiff was

interviewed by the Director OIOS/ID and freely admitted to having been responsible. Being tired of the endless stream of petty complaints made against him, Plaintiff asked that he be charged with something, but the Director was unable to cite any Staff Rule that may have been breached.

112. The solution was provided three days later, on January 17, 2014, when Plaintiff's supervisor, Mr. Wilson wrote to Ms. Lapointe and framed Plaintiff's satirical comment about Mr. Dudley as constituting 'harassment' on the grounds that Plaintiff had failed to abide by the undertaking he had been required to give in October 2013 not irritate Mr. Dudley or the others who had repeatedly been making complaints against him.

113. Any action taken with respect to Plaintiff's complaint regarding the perjurious testimony elicited during the Nguyen-Kropp & Postica case would reasonably be expected to involve the suspension, if not the immediate termination, of Mr. Dudley and others closely associated with him.

114. Ms. Lapointe, who was implicated in perpetuating the retaliation against Ms. Nguyen-Kropp and Mr. Postica, refused to take any action against the parties responsible.

115. Instead, Ms. Lapointe formally appointed a panel to investigate Plaintiff for 'harassment' for having made a satirical comment on the whiteboard.

116. Ms. Lapointe publicly denied that Mr. Dudley had been responsible for the complaint against Plaintiff, notwithstanding the fact that she had taken action on Mr. Dudley's complaint immediately, three days before Mr. Wilson's letter of January 17, 2014.

117. Plaintiff was formally investigated for writing the satirical comment on the whiteboard, by a panel of two senior OIOS staff members whose Annual Appraisals were signed off by Ms. Lapointe, both of whom had a working relationship with Mr. Dudley going back a

number of years and neither of whom had previously met the Plaintiff.

118. This is the subject of a case pending before the United Nations Disciplinary Tribunal.

Defendant's False Complaint of Attempted Assault and Firearms Possession

119. On or about January 23, 2014, Defendant contacted the 'Special Investigations Unit' of the United Nations Department of Safety and Security and made a false complaint against the Plaintiff.

120. Defendant falsely informed the Special Investigations Unit that Plaintiff committed an attempted assault.

121. Defendant stated that on January 19th and 23rd 2014, Plaintiff attempted to subject herself and Mr. Dzuro to physical contact.

122. Defendant stated that Plaintiff walked toward Defendant and Mr. Dzuro on the above dates and would have walked into them if they had not moved to the side.

123. On January 27, 2014, Plaintiff was interrogated by Mr. Wilson regarding whether there had been any sort of incident involving the Defendant on January 23, 2014.

124. Defendant alleged that on that date, Plaintiff walked toward her in such a manner as to put her in a state of fear that Plaintiff would have walked into her if she had not moved out of the way.

125. Defendant's allegation was completely false, was made knowing that it was false and was made with malice.

126. Defendant's false statements were made, *inter alia*, as part of a continuing strategy of making complains about Plaintiff in retaliation for the events described herein.

127. On January 23, 2014 Plaintiff was in his office and had not seen nor spoken with Defendant at the time the alleged offense was to have occurred.

128. On January 30, 2014, Plaintiff was asked if he had any knowledge of any sort of incident involving Mr. Dzuro on Wednesday, January 29, 2014.

129. Mr. Dzuro and Defendant alleged that on that date Plaintiff walked toward him in such a manner as to put him in a state of fear that Plaintiff would have walked into him if he had not moved out of the way.

130. Upon information and belief, Mr. Dzuro made the false statement at the behest of Defendant and in furtherance of Defendant's retaliation against Plaintiff.

131. Plaintiff confirmed that there had been absolutely no incident of any sort with Mr. Dzuro.

132. Plaintiff had no interaction with Mr. Dzuro on that date.

133. On February 3, 2014 Plaintiff received an email from Sgt. Eric Bramwell of the United Nations Special Investigations Unit requiring him to appear for an interview.

134. Upon further inquiry, Sgt. Bramwell advised this was in relation to a "possible assault".

135. The Special Investigations Unit has no statutory powers to conduct investigations of any staff member outside the Department of Safety & Security.

136. The Special Investigations Unit has no authority to investigate allegations of misconduct by staff of OIOS.

137. On the contrary, OIOS has jurisdiction over the Special Investigations Unit.

Within the United Nations, any allegation of assault would be considered a 'Category 1' misconduct. As such, the only body authorised to carry out an investigation into such an

allegation would the Office of Internal Oversight Services, Investigation Division; i.e. the unit in which both Plaintiff and Defendant worked, and where Defendant was a Section Chief.

138. Notwithstanding any reservations over the legitimacy of the Special Investigations Unit investigation, Plaintiff provided a statement on a free and voluntary basis, confirming that he had not seen Defendant on January 23, 2014 nor had he seen Mr. Dzuro on January 29, 2014.

139. The offenses of Assault and Attempted Assault are Misdemeanor crimes, a fact Defendant is well aware of having served as an Assistant District Attorney.

140. As a former Assistant District attorney, Defendant knows that in the absence of any physical contact and any intention to cause harm, no 'assault' can have taken place, whether defined as the criminal offense or civil tort.

141. In her position as of Chief of Section, Defendant knows that for the purposes of staff misconduct within the United Nations, any allegation of assault would be considered a 'Category 1' misconduct.

142. As such, the only body authorized to carry out an investigation into such an allegation would OIOS/ID; i.e. the Division in which she herself was a Chief of Section.

143. The United Nations has no procedures in place to address the handling of misconduct complaints against staff of the Office of Internal Oversight Services, Investigation Division.

144. Accordingly, Plaintiff's only recourse is in this Court.

145. The allegations by Defendant that Plaintiff engaged in these serious criminal activities represent the latest in a series of malicious and retaliatory complaints and attacks on the Plaintiff's character.

146. Defendant's false statements were uttered at 300 East 42nd Street, New York, New York.

147. 300 East 42nd Street, New York is not "the Headquarters District" described in the Annex to the Agreement between the United Nations and the United States Regarding the Headquarters of the United Nations, signed June 26, 1947 and Approved by the United Nations General Assembly October 31, 1947.

148. As such, the material acts took place within the City of New York, not on United Nations property, and are therefore within the jurisdiction of this Court.

149. On or about January 23, 2014, Defendant falsely reported to the United Nations Special Investigations Unit that Plaintiff unlawfully possessed a firearm in the workplace.

150. On February 20, 2014, Plaintiff was informed by Sgt. Bramwell of the United Nations Special Investigations Unit that Defendant made a complaint against him of unlawfully possessing a firearm in the workplace.

151. Defendant's complaint that Plaintiff possessed a firearm in the workplace was completely and utterly false, was made by Defendant knowing that it was false and was made with malice against Plaintiff.

152. Plaintiff had not, at any time, been in possession of a firearm in New York City.

153. Defendant's false complaints against Plaintiff were not isolated incidents but part of an ongoing strategy pursued by Defendant and others who were, *inter alia*, the subject of Plaintiff's original misconduct complaint of March 2013.

154. Plaintiff has been advised verbally by his current Supervisor that there are other examples of similar malicious and retaliatory conduct on the part of Defendant of which Plaintiff is unaware.

155. The statements published by Defendant concerning Plaintiff's attempted assault and criminal possession of a firearm were and are:

- i) absolutely, completely and in every respect materially and knowingly false; and
- ii) made by Defendant knowingly and intentionally, in bad faith, with actual malice and in calculated and/or reckless disregard of the truth;
- iii) published by Defendant without benefit of any privilege or authorization;
- iv) intended by Defendant to impute to Plaintiff unfitness to engage in his professional employment;
- v) intended by Defendant to malign Plaintiff's personal reputation;
- vi) intended by Defendant to expose Plaintiff to public contempt, ridicule, aversion, disgrace and/or to induce an evil opinion of him in the minds of right-thinking persons and to deprive him of his friendly interaction in society.

Ethics Office

156. The role of the United Nations Ethics Office is to provide protection for 'whistleblowers' who suffer retaliation as a consequence of reporting misconduct.

157. In July 2013 the Plaintiff had sought such protection and was refused.

158. On January 9, 2014, following the explanation of the law on retaliation contained in the Nguyen-Kropp & Postica judgment, Plaintiff requested the Ethics Office reconsider their earlier decision.

159. At the time of Defendant's defamatory statements against Plaintiff concerning an alleged assault, staff of the Ethics Office initially agreed that the Plaintiff did appear to be the victim of retaliation and that the matter was under consideration.

160. The Director of the Ethics Office, Ms. Joan Dubinsky, waited until March 12, 2014 before deciding that she had to recuse the Ethics Office from making a decision, on account of having a conflict of interest which she had failed to disclose earlier, based on her working relationship with Ms. Lapointe.

161. The Ethics Office referred the matter to the Office of the Secretary General to make a decision on whether or not there has been retaliation against Plaintiff.

162. Despite the passage of several months, the Office of the Secretary General has failed to take any action on the matter and Plaintiff has been denied protection against retaliation.

163. As a proximate result of Defendant's conduct, the Plaintiff has been caused to suffer, *inter alia*, *per se* defamation; irreparable injury to his personal and professional reputation; emotional upset; economic losses; professional advancement losses; being shunned by co-workers; anxiety; stress; public humiliation; public shame; public embarrassment.

AS AND FOR A CAUSE OF ACTION

164. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "1" through "163", inclusive.

165. Under the premise that Defendant, by publishing the false statements accusing Plaintiff of, *inter alia*, criminal offenses, Defendant is liable for defamation *per se* and common law defamation.

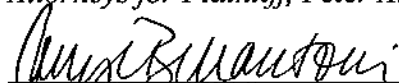
WHEREFORE judgment is respectfully demanded:

- a) Awarding compensatory damages in an amount no less than \$1.5 million;
- b) Awarding punitive damages against Defendant in an amount no less than \$5 million;
- c) Awarding costs and such other and further relief as to the Court seems just and proper.

Dated: October 22, 2014
Scarsdale, New York

THE BELLANTONI LAW FIRM, PLLC
Attorneys for Plaintiff, Peter Anthony Gallo

By:



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