

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK

VINCENT CHEUNG,

Plaintiff,

-against-

TERRELL HARPER,

Defendant.

Index No.: 153780/2021

AMENDED VERIFIED
COMPLAINT

Plaintiff, complaining of the Defendant by his attorneys, Karasyk & Moschella, LLP, respectfully shows to this Court and alleges:

1. That on March 11, 2021, Plaintiff VINCENT CHEUNG was and is a resident of the County of Kings and State of New York.
2. That on March 11, 2021, Defendant TERRELL HARPER, upon information and belief, was and still is a resident of the County of Monmouth and State of New Jersey.
3. That on March 11, 2021, Defendant did knowingly, purposefully and intentionally cause the plaintiff emotional distress.
4. That on March 11, 2021, Defendant did conduct and/or perform acts which were extreme and outrageous, including but not limited to, the repeated use of: hateful Anti-Asian ethnic slurs; ethnophaulisms; hateful stereotypes; and hostile, aggressive, derogatory, vitriolic, confrontational, and disgustingly racist Anti-Asian epithets.
5. That on March 11, 2021, Defendant, without just cause or provocation, negligently, recklessly and carelessly, spit his saliva on the Plaintiff's face and into the Plaintiff's eyes and refused to wear a face mask in the County of New York, City and State of New York while confronting Plaintiff, causing Plaintiff to be scared for his physical health and safety and to suffer emotional distress.

6. That on March 11, 2021, Defendant had the intent to cause the Plaintiff severe emotional distress.

7. That on March 11, 2021, Defendant had complete and utter disregard of the substantial probability of causing severe emotional distress.

8. That on March 11, 2021, the above acts and conduct by the Defendant were causally connected to the Plaintiff's injury.

9. That on March 11, 2021, the above extreme and outrageous acts and conduct by the Defendant were causally connected to the Plaintiff's severe emotional distress.

10. That on March 11, 2021, the above extreme and outrageous acts and conduct did in fact cause the Plaintiff to suffer severe emotional distress.

11. That as a result of the Defendant's conduct, Plaintiff VINCENT CHEUNG, was permanently and seriously injured.

12. That the aforesaid occurrence was due solely to the intentional and extreme conduct of the Defendant towards the Plaintiff, without any contributory conduct on the part of the Plaintiff.

13. That as a result of the occurrence, the Plaintiff: has suffered emotional injuries which incapacitated Plaintiff from Plaintiff's usual duties and/or activities and in the future will continue to incapacitate Plaintiff from Plaintiff's usual duties and activities and upon information and belief, Plaintiff will in the future incur further costs and expenses for medical care and attention.

14. That this incident falls within one or more of the exceptions set forth in CPLR §1601 and §1602.

15. That, due to, and as a result of the foregoing, the Plaintiff has been damaged by the Defendant in an amount that is greater than, and in excess of, the jurisdictional limits of any lower

court.

16. That by reason of the foregoing, the Defendant is also liable to Plaintiff for punitive damages in an amount that is greater than, and in excess of, the jurisdictional limits of any lower court.

WHEREFORE, Plaintiff demands judgment against the Defendant herein on the above Causes of Action in a sum that is greater than, and in excess of, the jurisdictional limits of any lower court, together with the interest, costs and disbursements of this action and for such further relief that this Court deems just and proper.

Dated: New York, New York
April 21, 2021

Very truly yours,


James M. Moschella, Esq.
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ATTORNEY'S VERIFICATION

JAMES MOSCHELLA, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a member of Karasyk & Moschella, LLP, attorney at law and attorney of record for Plaintiff VINCENT CHEUNG. I have read the annexed AMENDED VERIFIED COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters, I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not Plaintiff is that Plaintiff is not presently in the county wherein the attorney for the plaintiff maintains his office.

DATED: New York, New York
April 21, 2021


James M. Moschella, Esq.