

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
THOMAS CONNOLLY,

Plaintiff,

VERIFIED ANSWER

-against-

Index No.: 2011-006629

NELSON FERNANDEZ,

Defendant
-----X

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "1" of Plaintiff THOMAS CONNOLLY'S Verified Complaint, except admit that Plaintiff has filed this Strategic Lawsuit Against Public Participation (SLAPP) suit against Defendant NELSON FERNANDEZ.

2. Admits.

3. Admits, which is precisely the reason proper venue is the county of New York, not the county of Orange.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "4" of Plaintiff THOMAS CONNOLLY'S Verified Complaint, except admit that at the time that the alleged defamatory statements were made, he was a Deputy Inspector assigned as the Commanding Officer of Transit District 4.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" except admit that presumably he served in the ranks of police officer, sergeant, lieutenant, and captain before being appointed to the position of Deputy Inspector.

6. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth in paragraph “6” of Plaintiff THOMAS CONNOLLY’S Verified Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ filed a truthful complaint of sexual harassment, hostile work environment and retaliation with the NYPD Office of Equal Employment Opportunity against Plaintiff THOMAS CONNOLLY.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ knew that once he filed a truthful complaint of sexual harassment, hostile work environment and retaliation with the NYPD Office of Equal Employment Opportunity against Plaintiff THOMAS CONNOLLY they would presumably perform some type of investigation into his allegations.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ knew that once he filed a truthful complaint of sexual harassment, hostile work environment and retaliation with the NYPD Office of Equal Employment Opportunity against Plaintiff THOMAS CONNOLLY they would presumably perform some type of investigation into his allegations and if Plaintiff THOMAS CONNOLLY reputation is destroyed it is a consequence of his own inappropriate behavior.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ knew that once he filed a truthful complaint of sexual harassment, hostile work environment and retaliation with the NYPD Office of Equal

Employment Opportunity against Plaintiff THOMAS CONNOLLY they would presumably perform some type of investigation into his allegations and if Plaintiff THOMAS CONNOLLY suffers from humiliation and embarrassment among his peers and superiors, it is a consequence of his own inappropriate behavior.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12.”

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14.”

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News.

16. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth in paragraph “16” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “18” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19.”

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has

suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of Plaintiff THOMAS CONNOLLY’S Verified Complaint, except admit that Defendant NELSON FERNANDEZ gave a truthful interview to the New York Daily News and if Plaintiff THOMAS CONNOLLY’S alleged good name and reputation has suffered as a police officer and he is experiencing alleged emotional distress, it is a consequence of his own inappropriate behavior.

FIRST AFFIRMATIVE DEFENSE

23. Any allegations set forth in Plaintiff THOMAS CONNOLLY’S Verified Complaint is analogous to a Strategic Lawsuit Against Public Participation (SLAPP) suit designed to interfere with Defendant NELSON FERNANDEZ’S sexual harassment complaint with the NYPD Office of Equal Employment Opportunity as well as his upcoming EEOC Charge of Discrimination and subsequent federal complaint in the United States District Court for the Southern District of New York and therefore, must be dismissed as a matter of law.

SECOND AFFIRMATIVE DEFENSE

24. Truth is a complete defense to an action to recover damages for Defamation,

regardless of the harm done by the statement.

THIRD AFFIRMATIVE DEFENSE

25. Defendant NELSON FERNANDEZ'S alleged defamatory statements are supported by documentary evidence in the custody and control of the New York City Police Department.

FOURTH AFFIRMATIVE DEFENSE

26. The Verified Complaint fails to state a claim upon which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE

27. Defendant NELSON FERNANDEZ have not violated any rights, privileges, or immunities under the Constitution of laws of the United States or the State of New York or any political subdivision thereof, or any act of Congress providing for the protection of a person's civil rights.

SIXTH AFFIRMATIVE DEFENSE

28. Any alleged injury sustained by Plaintiff THOMAS CONNOLLY was not the approximate cause of any conduct on the part of Defendant NELSON FERNANDEZ but, was the result of his own inappropriate conduct.

WHEREFORE, Defendant NELSON FERNANDEZ respectfully requests that:

a. This Court to immediately enter judgment in favor of Defendant NELSON FERNANDEZ and against Plaintiff THOMAS CONNOLLY on all claims asserted in Plaintiff's Verified Complaint;

b. If this Court does not immediately enters judgment in favor of Defendant NELSON FERNANDEZ and against Plaintiff THOMAS CONNELLY, then order that this action be removed to New York County which is the proper venue because that is where the alleged defamatory statements were made and for the convenience of all witnesses and parties;

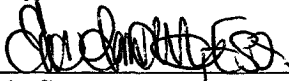
c. That if the Court enters judgment in favor of Defendant NELSON FERNANDEZ and against THOMAS CONNELLY, this Court impose sanctions against Plaintiff THOMAS CONNELLY and his counsel for filing such frivolous Verified Complaint in violation of the Anti-SLAPP statutes;

d. This Court awards Defendant NELSON FERNANDEZ reasonable attorney fees and costs incurred in connection with this litigation; and

e. This Court enters such other and further relief as it deems just and appropriate under the circumstances.

Dated: August 5, 2011
New York, NY

Respectfully submitted,

By: 
Eric Sanders

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Facebook <http://www.facebook.com/thesandersfirmpc>

Dated: August 5, 2011
New York, NY

Respectfully submitted,

By: 
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THOMAS CONNELLY,

Plaintiff,

-against-

NELSON FERNANDEZ,

Defendant

VERIFIED ANSWER

Duly submitted by:

Eric Sanders, Esq.
Attorney for Defendant NELSON FERNANDEZ
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To:

Attorney(s) for:

Dated:

Sir(s): Please take notice that the legal papers within is/are certified true and original under the jurisdiction referenced above and are properly submitted/filed by the respective counsel so referenced.