

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X **Index No.:** _____

LEMON JUICE,

Date Filed: _____

Plaintiff,

S-U-M-M-O-N-S

- against -

Plaintiff designates Kings County as the place of trial.

MOSES KLEIN,

The basis for venue is Plaintiff's place of residence located at [REDACTED], pursuant to CPLR § 503(a).

Defendant.

-----X

The basis of the Court's jurisdiction is that Plaintiff is a resident of Kings County and, the wrongdoings that are the subject of this action occurred in New York, Kings County.

To the above named defendant(s):

YOU ARE HEREBY SUMMONED to serve an answer to the complaint, on the Plaintiff's Attorney(s) within twenty 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, that you file a copy thereof with the clerk of the court at 360 Adams Street, Brooklyn, NY 11201. In case of your failure to serve an answer or appear, judgment will be taken against you for the relief demanded in the complaint.

Dated: New York, New York
October 26, 2014

Yours, etc.,

**LAW OFFICES OF
SOLOMON E. ANTAR**

By: 

Solomon E. Antar
Albert S. Antar
Leopold Gross
26 Court Street, Suite 1200
Brooklyn, New York 11242
Tel: (212) 388-0900
Attorneys for Plaintiff

Defendant's Address:
298 Wallabout Street, Apt. 7A, Brooklyn, New York, 11206

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

LEMON JUICE

Plaintiff,

-against-

MOSES KLEIN,

Defendant.

Index No.:

**VERIFIED
COMPLAINT**

Plaintiff, LEMON JUICE, by and through his attorneys, the Law Offices of Solomon E. Antar, as for his complaint alleges against Defendant, MOSES KLEIN, as follows:

THE PARTIES

1. Plaintiff LEMON JUICE (“Lemon”) is an individual residing at [REDACTED], Brooklyn, New York, 11249, in the County of Kings.

2. Defendant MOSES KLEIN (“Klein”), is an individual residing at [REDACTED], Brooklyn, New York, 11206, in the County of Kings.

JURISDICTION AND VENUE

3. The court has proper jurisdiction over Defendant Klein, pursuant to CPLR § 301.

4. Venue is properly laid in the County of Kings pursuant to CPLR § 503(a), as Plaintiff Lemon is resident of the County of Kings.

**FACTUAL ALLEGATIONS COMMON
TO ALL CAUSES OF ACTION**

5. On or about November 29, 2012, Lemon Juice was wrongfully arrested and jointly charged with two other individuals, Joseph Fried and Yona Weissman, for allegedly violating a Court Order during a highly publicized criminal trial in the matter entitled *People v. Nechemya Weberman*, Indictment No. 1589-2011 (Sup. Ct. Kings Co.)¹

6. On or before November 29, 2012, Joseph Fried and Yona Weissman were allegedly in the courtroom during the trial and took photographs by use of their cellular phones of an underage victim while she testified on the witness stand. Such conduct was in violation of the Court's order and mandate. Annexed hereto as **Ex. "A"** is the criminal complaint.

7. Now, to tie Lemon Juice together with co-defendants Yona Weissman and Joseph Fried, the criminal complaint alleges that the arresting court officer, Robert Brusco, reviewed the contents of Yona Weissman's cellular telephone and viewed pictures of the testifying victim posted on Twitter under the account name of "Lemon juice @moseh718", and the same photograph observed on Yona Weissman's cellular telephone was also seen on the Twitter account in the name of "Lemon juice @moseh718". *See* Ex. "A".

8. Indeed, Plaintiff Lemon Juice has never created nor operated a Twitter account under the name "Lemon juice @moseh718".

9. This lawsuit now arises upon the recent discovery of the true identity of the individual who created the subject Twitter account and posted the subject photograph in

¹ Without elaborating on the underlying *Weberman* matter, it was alleged that Mr. Weberman, a 54 year old rabbi and unlicensed therapist, had an ongoing sexual relationship with a minor he counseled. Indeed, after a two trial by jury, Mr. Weberman was convicted and subsequently sentenced to a term of 103 years of incarceration.

violation of the Court's Order and mandate. This individual is the Defendant herein, Moses Klein.

10. Although these acts may seem innocent, the Defendant Klein in fact targeted the Plaintiff Lemon; his actions were calculated and deliberate, as will be articulated herein.

11. Upon information and belief, Klein created and/or updated the Twitter account "Lemon juice @moseh718" by and through the use of the email address mwkmkgk@aol.com.

12. At some time prior to November 29, 2012, Klein updated the subject Twitter account to reflect the alias "Lemon juice @moseh718".

13. Upon information and belief, Klein maintained complete control over said Twitter account at all relevant times herein.

14. Upon information and belief, Klein, alternatively, maintained partial control over said Twitter account at all relevant times herein.

15. Upon information and belief, Klein had exclusive access over said Twitter account at all relevant times herein.

16. Upon information and belief, Klein, alternatively, had partial access over said Twitter account at all relevant times herein.

17. Upon information and belief, Klein maintained exclusive ownership over said Twitter account at all relevant times herein.

18. Upon information and belief, Klein, alternatively, shared joint ownership over said Twitter account at all relevant times herein.

19. Upon information and belief, Klein operated said Twitter account at all relevant times herein.

20. Upon information and belief, Klein updated said Twitter account at all relevant

times herein.

21. Upon information and belief, either Joseph Fried or Yona Weissman took the subject photographs of the testifying witness while on the witness stand.

22. Upon information and belief, Joseph Fried and/or Yona Weissman digitally transmitted the photographs to Defendant Moses Klein.

23. Upon information and belief, Klein then uploaded the photographs onto his Twitter account “Lemon juice @moseh718”².

24. A short period after this incident the Plaintiff was wrongfully arrested and falsely charged. *See Ex. “A”*.

25. Defendant Klein attended the arraignment of Plaintiff Lemon, taking place on Friday night, the Sabbath.

26. At said arraignment, Klein had the audacity to disguise himself as a political advocate in support of fellow community members in need of assistance; particularly, to “support” the Plaintiff.

27. At said arraignment, Klein observed and heard the prosecution argue their case against Plaintiff, Lemon Juice.

28. Particularly, the prosecution argued that Plaintiff owned, operated and/or maintained the subject Twitter account and posted thereon the photograph(s) of the testifying victim.

29. Klein also observed and heard Defense Counsel, Leopold Gross, Esq., argue its case.

² The digital photographs then posted on the subject Twitter account were eventually removed by Klein, and thus, are not available as of yet. However, further discovery demands of Twitter made by the Kings County District Attorney’s Office is pending and will be made available upon receipt thereof.

30. Particularly, the defense argued that Plaintiff did not own nor operate the subject Twitter account and did not post thereon the aforementioned photographs.

31. Klein failed to notify the prosecution or defense counsel that *he* was the culprit behind the subject Twitter account.

32. Klein failed to use any reasonable means to make the Kings County District Attorney's Office aware that Plaintiff was not the owner nor operator of the subject Twitter account.

33. Klein failed to use any reasonable means to make Lemon's Defense counsel aware that Plaintiff was not the owner nor operator of the subject Twitter account.

34. Klein knowingly caused the false arrest of Lemon Juice.

35. Klein intentionally caused the false arrest of Lemon Juice.

36. Klein maliciously caused the false arrest of Lemon Juice.

37. Klein knowingly caused false charges to be brought by the Kings County District Attorney's office against Lemon Juice.

38. Klein intentionally caused false charges to be brought by the Kings County District Attorney's office against Lemon Juice.

39. Klein maliciously caused false charges to be brought by the Kings County District Attorney's office against Lemon Juice.

40. Klein failed to use any means to prevent the false charges, false arrest, or continuing prosecution of Plaintiff Lemon Juice.

41. At the arraignment of Plaintiff, Klein drew the attention of the media by falsely proclaiming his "support" for Plaintiff and his intentions to post bail for Lemon Juice and his co-defendants. Annexed hereto as **Ex. "B"** is a New York Daily News article

reporting the same.

42. Klein's comment to the media in regards to posting bail for the Plaintiff was a falsehood.

43. In truth, Klein did not post a bond for Plaintiff Lemon Juice's bailment.

44. Klein neither posted bailment for Joseph Fried.

45. Klein neither posted bailed for Yona Weissman.

46. On or about November 29, while Plaintiff was in custody, Klein transmitted the following message on the subject Twitter account: "All four men detained in #webermantrial are expected to face contempt charges, a misdemeanor, sources tell me".

47. On or about November 29, Klein transmitted the following message on the subject Twitter account: "Illegal courtroom picture in sex abuse trial causes stir: <http://tinyurl.com/cbhfhz3>".

48. Recently, Klein had a brief encounter with the testifying victim's husband, Hershy Deutsch, and made an off-hand comment to him in stating "you got your own friend Lemon Juice arrested".

49. Klein hid behind the veil of digital anonymity.

50. Klein's actions were deliberate.

51. Klein's actions were intentional.

52. Klein's actions were malicious.

53. Klein's actions caused the wrongful arrest of Plaintiff.

54. Klein's actions caused the false charges to be brought against Plaintiff.

55. Klein's actions caused the continued prosecution against the Plaintiff.

56. Klein failed to mitigate the harm he caused to Plaintiff.

57. Particularly, Klein failed to inform the Kings County District Attorney's office that *he himself* was the culprit behind the subject Twitter account.

58. Klein failed to inform the Kings County District Attorney's office that Plaintiff was not the owner, nor the operator, of the subject Twitter account.

59. Klein despicably availed himself to the attention of the media and the public at large by disguising himself as a "supporter" and political advocate for Plaintiff, and all the while knew that *his* actions caused Plaintiff's wrongful arrest, criminal charges, continued prosecution and public humiliation.

60. Klein knowingly caused and furthered the publicly false perception that "Plaintiff was guilty" of the alleged crime.

61. Klein failed to mitigate the publicly false perception that "Plaintiff was guilty" of the alleged crime.

62. Klein knowingly caused the public humiliation, emotional and reputational harm suffered by Plaintiff.

63. Klein failed to mitigate the public humiliation, emotional or reputational harm suffered by Plaintiff.

AND AS FOR THE FIRST CAUSE OF ACTION
(Prima Facie Tort)

64. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

65. Defendant Moses Klein acted knowingly and with the intention to inflict harm on Plaintiff;

66. Klein acted without excuse or justification;

67. Klein's series of acts causing harm to Plaintiff would otherwise be lawful;

68. Malevolence was Klein's sole motivating factor;

69. As a result of the wrongful arrest, charges, and continuing prosecution against Plaintiff, Plaintiff has incurred special damages, as follows:

- (a) Pain and suffering for his loss of liberty;
- (b) Pain and suffering resulting from the media attention and ridicule;
- (c) Pain and suffering resulting from his humiliation as being a criminal defendant;
- (d) Pain and suffering resulting from his 14 appearances in criminal court;
- (e) Legal fees to defend the criminal charges brought against him in the approximate amount of \$25,000.00.

70. Due to Klein's wanton, reckless and malicious acts, Plaintiff seeks compensatory and punitive damages in an amount to be determined at trial, to punish the Defendant, and to deter and protect society against similar future acts.

AND AS FOR THE SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

71. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

72. Defendant Moses Klein's conduct was extreme and outrageous, not be tolerated in a civilized society;

73. That by and through his conduct, Klein intended to cause, or disregarded a substantial probability of causing, severe emotional distress to Plaintiff;

74. Klein's actions and conduct caused, and continues to cause, injury to Plaintiff. Particularly, Klein's conduct caused the wrongful arrest of Plaintiff; caused criminal charges to be brought against Plaintiff; caused the continuing prosecution of Plaintiff by failing to take any action to prevent the same; caused the public humiliation of Plaintiff; caused Plaintiff's reputation to be damaged;

75. Klein's actions caused, and continues to cause, severe emotional distress to Plaintiff.

76. Due to Klein's wanton, reckless and malicious acts, Plaintiff seeks actual and punitive damages in an amount to be determined at trial, to punish the Defendant, and to deter and protect society against similar future acts.

AND AS FOR THE THIRD CAUSE OF ACTION
(Defamatory Injury to Reputation)

77. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

78. The actions of Defendant Moses Klein was, and is, the direct; natural; and proximate result of; injury to Plaintiff's reputation and character.

79. Klein's actions directly and proximately caused the wrongful arrest, charges, and continuing prosecution against Plaintiff, and, Plaintiff has incurred special damages, as follows:

- (a) Pain and suffering for his loss of liberty;
- (b) Pain and suffering resulting from the ridicule and media attention;
- (c) Pain and suffering resulting from his humiliation as being a criminal defendant;
- (d) Pain and suffering resulting from his 14 appearances in criminal court;
- (e) Legal fees to defend the criminal charges brought against him in the approximate amount of \$25,000.00.

80. Due to Klein's wanton, reckless and malicious acts, Plaintiff seeks compensatory and punitive damages in an amount to be determined at trial, to punish the Defendant, and to deter and protect society against similar future acts.

AND AS FOR THE FOURTH CAUSE OF ACTION
(Invasion of Privacy)

81. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

82. Defendant Moses Klein used the name, likeness and picture of Lemon Juice, in posting the aforementioned ‘Tweets’ posted on the subject Twitter account disguised as Plaintiff’s account when all the while Defendant created, controlled and maintained said Twitter account;

83. Plaintiff, Lemon Juice, is a living person;

84. Klein used the name, likeness and photograph of Lemon Juice for commercial, trade, and/or advertising purposes; particularly, to further his position as a community advocate in support of fellow community members in distress and in need of assistance;

85. Klein used the name, likeness and photograph of Plaintiff without his consent.

86. Due to Klein’s wanton, reckless and malicious acts, Plaintiff seeks compensatory and punitive damages in an amount to be determined at trial, to punish the Defendant, and to deter and protect society against similar future acts.

AND AS FOR THE FOURTH CAUSE OF ACTION
(Malicious Prosecution)

87. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

88. Klein played an *active* role in causing the commencement of the criminal charges and the continued prosecution against the Plaintiff³;

89. All criminal charges were dismissed in favor of the wrongfully accused, the Plaintiff herein;

90. There was an absence of probable cause for the criminal charges brought against the Plaintiff;

91. Having actual malice, Defendant caused the criminal charges and the continued prosecution against the Plaintiff.

92. Due to Klein's wanton, reckless and malicious acts, Plaintiff seeks actual and punitive damages in an amount to be determined at trial, to punish the Defendant, and to deter and protect society against similar future acts.

³ To support a claim for malicious prosecution the Plaintiff must demonstrate that the defendant "played an active role in the prosecution". *Robles v. City of New York*, 104 A.D.3d 829, 830 (2d Dep't 2013) (quoting *Du Chateau v. Metro-North Commuter R. Co.*, 253 A.D.2d 128, 131 (1st Dep't 1999)).

AND AS FOR THE FIFTH CAUSE OF ACTION
(Negligence)

93. Plaintiff re-alleges and incorporates by reference all allegations stated in all of the preceding paragraphs.

94. Defendant Moses Klein was negligent and/or reckless causing Plaintiff harm; specifically, causing the Kings County District Attorney's Office to wrongfully charge, arrest and continue to prosecute Plaintiff;

95. By and through Klein's reckless and/or negligence and awareness of harm caused to Plaintiff, a duty then arose to Klein, owed to Plaintiff, to prevent and/or mitigate any future harm to Plaintiff;

96. Klein actions directly and proximately caused Plaintiff's harm;

97. Klein was aware of the harm he caused Plaintiff;

98. Klein Breached said duty then owed to Plaintiff by failing to mitigate any harm he caused to Plaintiff; particularly by:

(a) failing to inform the Kings County District Attorney's office that Klein *himself* was the true owner of the subject Twitter account.

(b) failing to inform the Kings County District Attorney's office that Plaintiff was not the owner, nor the operator, of the subject Twitter account.

(c) Failing to act as a reasonably prudent person under the same or similar circumstances by using any reasonable means to mitigate the harm caused to Plaintiff.

99. Klein's breach of said duty directly and proximately caused Plaintiff injuries as follows:

- (d) Plaintiff was wrongfully detained;
- (e) Plaintiff was wrongfully charged;
- (f) Plaintiff was wrongfully arrested;
- (g) Plaintiff was and continues to be wrongfully prosecuted by the Kings County District Attorney's Office;
- (h) Plaintiff had to post bailment in the amount of \$3,000.00
- (i) Plaintiff has incurred legal fees to defend the criminal charges brought against him in the approximate amount of \$20,000.00.

100. Due to Klein's wanton, reckless and malicious acts, Plaintiff seeks compensatory and punitive damages in an amount to be determined at trial to punish the Defendant, and to deter and protect society against similar future acts.

WHEREFORE, the Plaintiff Lemon Juice prays for a judgment against Defendant Moses Klein as follows:

- (a) On the first, second, third, fourth and fifth causes of action, actual, compensatory, and punitive damages in an amount to be determined at trial, exceeding the jurisdictional limits of the lower courts; and
- (b) For such other and further relief as the Court deems just and proper, with costs and disbursements hereof.

Dated: October 26, 2014
Brooklyn, New York

Yours, etc.,

**LAW OFFICES OF
SOLOMON E. ANTAR**

By: 
Solomon E. Antar
Albert S. Antar
Leopold Gross

26 Court Street, Suite 1200
Brooklyn, New York 11242
Tel: (212) 388-0900
*Attorneys for Plaintiff
Lemon Juice*

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

LEMON JUICE, being duly affirmed (for religious reasons) and under penalties of perjury respectfully states and shows to this Court that I have read the foregoing **Verified Complaint**, and know the contents thereof; that the same is true to your affirmant's own knowledge, except as to those matters stated to be alleged upon information and belief; and that as to those matters, your affirmant believes them to be true.

The grounds of your affirmant's belief as to all matters are based upon personal knowledge of the facts hereof and from documents in the plaintiff's possession or control.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.



LEMON JUICE

Affirmed to Before me this
26th day of October, 2014.



Notary Public

LEOPOLD GROSS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02GR6274905
Qualified in Kings County
My Commission Expires January 14, 2017