

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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NAFISSATOU DIALLO, :
Plaintiff, : Index No. 307065/2011
v. : Part IA-19A
Defendant. : Hon. Douglas E. McKeon, J.S.C.
: :
DOMINIQUE STRAUSS-KAHN, :
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: :
: :
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**DEFENDANT DOMINIQUE STRAUSS-KAHN'S
ANSWER AND COUNTERCLAIMS**

ANSWER

Defendant Dominique Strauss-Kahn, by and through undersigned counsel, hereby answers Plaintiff's Complaint and Demand for Jury Trial. Any allegation of fact not expressly admitted below is hereby denied. Mr. Strauss-Kahn responds to the numbered paragraphs in the Complaint as follows:

1. Denied.
2. Denied.
3. Denied, except to admit that Mr. Strauss-Kahn is the former Managing Director of the International Monetary Fund ("IMF").
4. Denied.
5. Denied, except that Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second, third and fourth sentences and, for that reason, denies those allegations.
6. Denied.

7. Denied, except that Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations about what Plaintiff precisely told others, including the police and prosecutors and, for that reason, denies those allegations.

8. Denied, except to admit that Plaintiff's allegations have received worldwide attention.

9. Denied, except that Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the Manhattan District Attorney's Office and what "some people now believe" and, for that reason, denies those allegations. Further, Mr. Strauss-Kahn avers that any news accounts speak for themselves and are the best evidence of their contents.

10. Denied, except to aver that any news accounts speak for themselves and are the best evidence of their contents.

11. Denied, except to aver that any news accounts speak for themselves and are the best evidence of their contents.

12. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff's purported reasons for bringing this lawsuit and, for that reason, denies those allegations. The remaining allegations are denied.

13. Denied.

14. Denied.

15. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff's personal and professional history and, for that reason, denies those allegations. The remaining allegations are denied.

16. Mr. Strauss-Kahn admits that he is a citizen of France, the former Minister of the Economy, Finances and Industry of France, and the former Managing Director of the IMF. He admits that he “was considered by some to become the next President of France.” The remaining allegations are denied.

17. Mr. Strauss-Kahn admits that he was scheduled to check out of Room 2806 of the Sofitel on May 14, 2011. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and for that reason, denies the remaining allegations.

18. Mr. Strauss-Kahn admits that Room 2806 at the Sofitel is a multi-room suite and that he was charged for that room by the Sofitel. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding Sofitel’s normal rates and, for that reason, denies those allegations. The remaining allegations are denied.

19. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and for that reason, denies the allegations.

20. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding why Plaintiff entered Room 2806 and, for that reason, denies those allegations. The remaining allegations are denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence about the various reports made by Plaintiff and, for that reason, denies the allegations. The remaining allegations in the first sentence are denied. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence and, for that reason, denies the allegations.

28. Denied.

29. Denied.

30. Denied, except to aver that any news report speaks for itself and is the best evidence of its contents.

31. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, for that reason, denies the allegations.

32. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, for that reason, denies the allegations.

33. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, for that reason, denies the allegations.

34. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, for that reason, denies the allegations.

35. Mr. Strauss-Kahn lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and for that reason, denies the allegations.

36. Denied.

37. Denied.

FIRST CAUSE OF ACTION

38. Mr. Strauss-Kahn incorporates by reference herein his responses to the allegations in paragraphs 1 through 37 of the Complaint.

39. Denied.

40. Denied.

41. Denied.

SECOND CAUSE OF ACTION

42. Mr. Strauss-Kahn incorporates by reference herein his responses to the allegations in paragraphs 1 through 41 of the Complaint.

43. Denied.

44. Denied.

45. Denied.

THIRD CAUSE OF ACTION

46. Mr. Strauss-Kahn incorporates by reference herein his responses to the allegations in paragraphs 1 through 45 of the Complaint.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

FOURTH CAUSE OF ACTION

51. Mr. Strauss-Kahn incorporates by reference herein his responses to the allegations in paragraphs 1 through 50 of the Complaint.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

FIFTH CAUSE OF ACTION

59. Mr. Strauss-Kahn incorporates by reference herein his responses to the allegations in paragraphs 1 through 58 of the Complaint.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

WHEREFORE, Plaintiff is not entitled to any relief whatsoever from Mr. Strauss-Kahn.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Court does not have personal jurisdiction over Mr. Strauss-Kahn because he is immune from suit and process.

SECOND DEFENSE

The Court does not have subject matter jurisdiction over this suit because Mr. Strauss-Kahn is immune from suit and process.

THIRD DEFENSE

Plaintiff has failed to state a claim for which relief can be granted.

FOURTH DEFENSE

Plaintiff cannot establish by a preponderance of evidence each of the elements required to prove the claims she has asserted.

FIFTH DEFENSE

Plaintiff consented to the alleged sexual acts.

SIXTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

SEVENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of *in pari delicto*.

EIGHTH DEFENSE

Plaintiff's claims are barred, in whole or in part, because Plaintiff's injuries, if any, stemmed from intervening and/or superseding causes.

NINTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the comparative or contributory fault of Plaintiff and/or third parties.

TENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to mitigate damages or injury.

ELEVENTH DEFENSE

Mr. Strauss-Kahn alleges the above affirmative defenses without assuming the burden of proof where the burden of proof rests with Plaintiff. Mr. Strauss-Kahn hereby gives notice that he intends to rely on such other and further defenses as may become available or apparent during

pretrial or trial proceedings in this action and hereby reserves his rights to amend this Answer and assert all such defenses.

COUNTERCLAIM BY DEFENDANT DOMINIQUE STRAUSS-KAHN¹

Defendant Dominique Strauss-Kahn, by and through undersigned counsel, for his counterclaims against Plaintiff Nafissatou Diallo (“Ms. Diallo”), states as follows:

NATURE OF THE ACTION

1. Mr. Strauss-Kahn brings this counterclaim against Ms. Diallo for damages arising from her knowingly and intentionally making a false report to law enforcement authorities and others that Mr. Strauss-Kahn had sexually assaulted her, when she knew in fact such allegation to be untrue. As a direct result of her malicious and wanton false accusation, Mr. Strauss-Kahn suffered, among other things, (a) the deprivation of his liberty, initially, following his arrest and confinement at Rikers Island and, then subsequently, under 24-hour house arrest; (b) the loss of his employment as the Managing Director of the IMF and other professional opportunities; and (c) substantial harm to his professional and personal reputation in the United States and throughout the world.

2. Mr. Strauss-Kahn seeks redress for the injuries that he has suffered as a direct result of Ms. Diallo’s false accusations by asserting the following causes of action: (a) malicious prosecution; (b) abuse of process; (c) false imprisonment; (d) defamation; and (e) intentional infliction of emotional distress.

¹ Mr. Strauss-Kahn continues to assert that the Court lacks personal jurisdiction over him and lacks subject matter jurisdiction with respect to Plaintiff’s suit, on the ground that he is immune from suit and process under customary international law that is binding on this Court. Mr. Strauss-Kahn asserts these counterclaims without waiving or prejudicing his right to appellate review of the Court’s ruling that he is not immune from suit and process.

PARTIES

3. Mr. Strauss-Kahn is a citizen of France. At the time Ms. Diallo falsely accused him of sexual assault, he was the Managing Director of the IMF, headquartered in Washington, D.C.

4. Ms. Diallo is, on information and belief, a resident of Bronx County, New York. At the time she falsely accused Mr. Strauss-Kahn of sexual assault, she was employed as a housekeeper at the Hotel Sofitel, located at 45 West 44th Street, New York, New York (“Sofitel”).

JURISDICTION AND VENUE

5. This Court has personal jurisdiction over Ms. Diallo, as she claims to be a resident of Bronx County, New York, pursuant to Civil Practice and Law Rule (“CPLR”) § 301.

6. If the Court has personal jurisdiction over Mr. Strauss-Kahn, venue is proper for this counterclaim in this county pursuant to CPLR § 503(a).

ALLEGATIONS COMMON TO ALL COUNTS

7. On May 13, 2011, Mr. Strauss-Kahn checked into the Sofitel for a one-night stay. Upon check-in, Mr. Strauss-Kahn was assigned to Room 2806.

8. The following day, May 14, 2011, shortly after 12:00 p.m., Mr. Strauss-Kahn was inside Room 2806 when Ms. Diallo, a housekeeper employed by the Sofitel, entered the room using her hotel-issued key card. Soon after she entered the room, Ms. Diallo and Mr. Strauss-Kahn engaged in mutually consensual sexual acts. No violence, force or coercion attended their sexual encounter, and Ms. Diallo suffered no injuries whatsoever. Ms. Diallo then left Room 2806. Mr. Strauss-Kahn checked out of the Sofitel shortly thereafter. He was scheduled to depart later that afternoon to Europe on official IMF business.

9. Within minutes of Mr. Strauss-Kahn leaving Room 2806, Ms. Diallo re-entered the room using her hotel-issued key card. Ms. Diallo then approached hotel personnel and falsely reported that she had been sexually assaulted, when she knew in fact that her encounter with Mr. Strauss-Kahn was consensual and involved no force or violence.

10. Approximately an hour later, aided by personnel at the Sofitel, Ms. Diallo falsely reported to the New York City Police Department (“NYPD”) that Mr. Strauss-Kahn had sexually assaulted her, when she knew that accusation to be untrue. Ms. Diallo knew that her false report to the NYPD likely would lead to Mr. Strauss-Kahn’s arrest and detention.

11. At approximately 4:40 p.m., police officers from the New York Port Authority removed Mr. Strauss-Kahn from an Air France flight parked at the terminal at John F. Kennedy International Airport, detained him, and later placed him in the custody of the NYPD. Following his arrest, Mr. Strauss-Kahn was subjected to a degrading and humiliating strip search; photographed naked; and forced to provide penal swabs as part of a forensic examination. Mr. Strauss-Kahn also was paraded in front of international media in handcuffs as part of a “perp walk” intended to humiliate him, even though he had committed no crime.

12. On May 16, 2011, Mr. Strauss-Kahn was arraigned before the Criminal Court of the City of New York, County of New York (the “Criminal Court”) on a criminal complaint based on Ms. Diallo’s false accusation of a sexual assault. The Criminal Court denied Mr. Strauss-Kahn’s application for bail and ordered him remanded to the custody of the New York City Department of Corrections. Mr. Strauss-Kahn was confined at the Rikers Island jail, and he was incarcerated there for another four days. Unable to perform his functions as Managing Director of the IMF, Mr. Strauss-Kahn resigned from his post two days later, on May 18, 2011.

13. In the days following May 14, 2011, Ms. Diallo met multiple times with members of the NYPD and the Manhattan District Attorney's Office. In each instance, Mr. Diallo repeated the lie that Mr. Strauss-Kahn had sexually assaulted her. Law enforcement would later learn that Ms. Diallo had lied to them about a host of details relating to the alleged sexual assault, as well as her personal life. Ms. Diallo also testified before a grand jury, where she committed perjury by repeating the lie that Mr. Strauss-Kahn had assaulted her. On May 19, 2011, a grand jury indicted Mr. Strauss-Kahn on multiple felony counts of sexual assault, based largely on Ms. Diallo's false testimony.

14. The next day, May 20, 2011, Mr. Strauss-Kahn appeared before the Criminal Court for a bail hearing. The prosecution opposed his application for bail. The presiding judge, however, granted Mr. Strauss-Kahn's application for bail, but ordered him placed on 24-hour home detention at a location in Manhattan, with electronic monitoring, video monitoring, and monitoring by a minimum of one armed guard present at all times.

15. In the weeks following Mr. Strauss-Kahn's indictment, members of the NYPD and the Manhattan DA's office interviewed Ms. Diallo multiple times. During those meetings, Ms. Diallo persisted in her false claim that Mr. Strauss-Kahn had sexually assaulted her. She also lied about numerous other matters, including describing in powerful and emotional terms that she had been gang raped in her native country, which moved veteran law enforcement official to tears, when in fact no such gang rape had ever occurred. Law enforcement also learned that Ms. Diallo had lied on her application to gain political asylum in the United States, had falsely claimed additional dependents on her federal and state tax returns, and had submitted false statements on housing applications.

16. By letter to Mr. Strauss-Kahn's counsel dated June 30, 2011, the Manhattan District Attorney's Office disclosed, among other things, that Ms. Diallo had admitted to testifying falsely to the grand jury and had been untruthful with prosecutors "about a variety of additional topics concerning her history, background, present circumstances and personal relationships." Based on these disclosures, on July 1, 2011, the Criminal Court vacated the initial securing order and ordered Mr. Strauss-Kahn released on his personal recognizance, subject to the condition that his travel documents remain surrendered, thereby preventing his travel outside the United States.

17. In or about late July 2011, Ms. Diallo sat for separate interviews with journalists from ABC News and Newsweek-The Daily Beast. During those interviews, Ms. Diallo repeated the false allegations that Mr. Strauss-Kahn had sexually assaulted her, knowing those allegations to be untrue. Ms. Diallo's false statements were published by ABC News and Newsweek-The Daily Beast, as well as by other national and international media outlets.

18. On August 8, 2011, Ms. Diallo served on Mr. Strauss-Kahn a civil complaint filed in Bronx County, which asserted claims against him based on the same false accusations that she had made to the NYPD, prosecutors, and the grand jury.

19. On August 22, 2011, the District Attorney's Office moved to dismiss the indictment against Mr. Strauss-Kahn and filed a Recommendation for Dismissal ("RFD"), which detailed the circumstances warranting dismissal. Expanding upon the disclosures provided in the June 30, 2011 letter, the RFD stated that "it has become increasingly clear that the complainant's credibility cannot withstand the most basic evaluation." The RFD also described in detail the absence of any physical, medical, scientific, or other evidence of a forcible or non-consensual encounter, and documented how the available evidence contradicted Ms. Diallo's multiple

versions of the alleged incident. The Criminal Court granted the District Attorney's motion and dismissed the indictment on August 23, 2001.

20. From the time of his initial arrest until the charges were dismissed, Mr. Strauss-Kahn was the subject of unprecedeted international media scrutiny as a result of Ms. Diallo's false accusations. Media outlets throughout the world published Ms. Diallo's false accusations against Mr. Strauss-Kahn, causing grievous harm to his personal and professional reputation. Mr. Strauss-Kahn also suffered financial harm as a result of the false accusations, including, but not limited to, losing his position with the IMF.

FIRST CAUSE OF ACTION:
MALICIOUS PROSECUTION

21. Mr. Strauss-Kahn repeats and realleges the foregoing allegations as if fully set forth herein.

22. Ms. Diallo participated in the commencement and maintenance of a baseless criminal prosecution of Mr. Strauss-Kahn beginning on May 14, 2011. Ms. Diallo played an active role in the criminal prosecution of Mr. Strauss-Kahn by, *inter alia*, providing false information, and misrepresenting and falsifying evidence, to the NYPD and the Manhattan District Attorney's Office, thereby importuning those authorities to arrest and incarcerate Mr. Strauss-Kahn and arraign him on a criminal complaint based on her false allegation that Mr. Strauss-Kahn had sexually assaulted her, when she knew such allegation to be untrue. Ms. Diallo also made the same false accusation, under oath, before the grand jury, which resulted in Mr. Strauss-Kahn's indictment on multiple felony counts.

23. The criminal prosecution of Mr. Strauss-Kahn was terminated in his favor on August 23, 2011, when the Criminal Court granted the motion of the Manhattan District

Attorney's Office to dismiss the indictment. There can be no further proceedings upon the dismissed indictment.

24. Ms. Diallo acted without cause in the commencement and maintenance of the criminal prosecution of Mr. Strauss-Kahn. Ms. Diallo provided false information, and misrepresented and falsified evidence, to the NYPD and the Manhattan District Attorney's Office regarding the sexual encounter between Ms. Diallo and Mr. Strauss-Kahn. Ms. Diallo also provided false testimony to the grand jury regarding the sexual encounter.

25. Ms. Diallo acted with actual malice in connection with the commencement and maintenance of the criminal prosecution of Mr. Strauss-Kahn, and in so doing intended to injure Mr. Strauss-Kahn.

26. As a direct and foreseeable result of Ms. Diallo's malicious prosecution of Mr. Strauss-Kahn, he has suffered actual damages in an amount to be determined at trial, and also is entitled to punitive damages as may be assessed by the jury.

SECOND CAUSE OF ACTION:
ABUSE OF PROCESS

27. Mr. Strauss-Kahn repeats and realleges the foregoing allegations as if fully set forth herein.

28. Ms. Diallo caused criminal and civil process to be issued against Mr. Strauss-Kahn, by intentionally, falsely, and maliciously asserting that Mr. Strauss-Kahn had committed various crimes, when she knew those accusations to be untrue.

29. Ms. Diallo intended to harm Mr. Strauss-Kahn without excuse or justification.

30. Ms. Diallo manipulated process to obtain a collateral objective.

31. As a direct and foreseeable result of Ms. Diallo's abuse of process, Mr. Strauss-Kahn has suffered actual damages in an amount to be determined at trial, and also is entitled to punitive damages as may be assessed by the jury.

THIRD CAUSE OF ACTION:
FALSE IMPRISONMENT

32. Mr. Strauss-Kahn repeats and realleges the foregoing allegations as if fully set forth herein.

33. Ms. Diallo intended to confine Mr. Strauss-Kahn by intentionally, falsely, and maliciously asserting that Mr. Strauss-Kahn had committed various crimes. Ms. Diallo played an active role in, and caused the confinement of, Mr. Strauss-Kahn by, *inter alia*, providing false information, and misrepresenting and falsifying evidence, to the NYPD and the Manhattan District Attorney's Office, thereby importuning those authorities to arrest and incarcerate Mr. Strauss-Kahn and arraign him on a criminal complaint based on her false allegation that Mr. Strauss-Kahn had sexually assaulted her, when she knew such allegation to be untrue. Ms. Diallo also made the same false accusation, under oath, before the grand jury, which resulted in Mr. Strauss-Kahn's indictment on multiple felony counts.

34. As a result of Ms. Diallo's actions, Mr. Strauss-Kahn was incarcerated and later confined to home detention, and he was at all times conscious of his confinement.

35. Mr. Strauss-Kahn did not consent to his confinement.

36. Mr. Strauss-Kahn's confinement was not privileged.

37. As a direct and foreseeable result of Ms. Diallo's false imprisonment of Mr. Strauss-Kahn, he has suffered actual damages in an amount to be determined at trial, and also is entitled to punitive damages as may be assessed by the jury.

FOURTH CAUSE OF ACTION:
DEFAMATION

38. Mr. Strauss-Kahn repeats and realleges the foregoing allegations as if fully set forth herein.

39. Ms. Diallo falsely and maliciously asserted that Mr. Strauss-Kahn sexually assaulted her, when she knew such allegation to be untrue; provided false information, and misrepresented and falsified evidence, to the NYPD and the Manhattan District Attorney's Office; and provided false testimony to the grand jury.

40. Ms. Diallo falsely and maliciously asserted that Mr. Strauss-Kahn sexually assaulted her, when she knew such allegation to be untrue, during interviews in late July 2011 with ABC News and Newsweek-The Daily Beast. Ms. Diallo's false statements were published by ABC News and Newsweek-The Daily Beast, as well as other national and international media outlets.

41. Ms. Diallo's false statements were made without privilege or authorization to numerous third parties.

42. Ms. Diallo acted with actual malice in making false statements about Mr. Strauss-Kahn because Ms. Diallo knew the statements were false at the time they were made. Alternatively, Ms. Diallo was negligent in making these false statements about Mr. Strauss-Kahn because Ms. Diallo knew or should have known that the statements were false.

43. Ms. Diallo's false statements that Mr. Strauss-Kahn committed various serious crimes have harmed Mr. Strauss-Kahn's reputation and injured him in his trade, business, and profession, and are defamatory per se.

44. As a direct and foreseeable result of Ms. Diallo's defamatory statements about Mr. Strauss-Kahn, he has suffered actual damages in an amount to be determined at trial, and also is entitled to punitive damages as may be assessed by the jury.

FIFTH CAUSE OF ACTION:
INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

45. Mr. Strauss-Kahn repeats and realleges the foregoing allegations as if fully set forth herein.

46. Ms. Diallo's conduct as described herein was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

47. By falsely and maliciously asserting that Mr. Strauss-Kahn sexually assaulted her; providing false information, and misrepresenting and falsifying evidence, to the NYPD and the Manhattan District Attorney's Office; and by providing false testimony to the grand jury, Ms. Diallo intended to cause Mr. Strauss-Kahn emotional distress.

48. Ms. Diallo took the foregoing actions with reckless disregard of the probability that doing so would cause emotional distress to Mr. Strauss-Kahn.

49. As a direct and foreseeable result of Ms. Diallo's action, Mr. Strauss-Kahn has suffered emotional distress and actual damages in an amount to be determined at trial, and also is entitled to punitive damages as may be assessed by the jury.

PRAYER FOR RELIEF

50. WHEREFORE, Mr. Strauss-Kahn respectfully demands the following relief:

- a. Damages and interest thereon in an amount to be determined at trial, but in no event less than \$ 1,000,000;
- b. Punitive damages in an amount to be determined at trial;

- c. Reasonable attorneys' fees and costs of suit incurred herein; and
- d. Such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 14, 2012

Respectfully submitted,

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