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

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KASOWITZ, BENSON, TORRES &	:	
FRIEDMAN LLP,	:	
	:	Index No. 601965/08
Plaintiff,	:	
	:	
-against-	:	<u>COMPLAINT</u>
	:	
JEREMY S. PITCOCK,	:	
	:	
Defendant.	:	
-----	X	

Plaintiff Kasowitz, Benson, Torres & Friedman LLP (“KBT&F” or “the firm”), by its attorneys Sullivan & Cromwell LLP, for its complaint against defendant Jeremy S. Pitcock (“Pitcock”), alleges as follows:

**NATURE OF THE ACTION**

1. This breach of fiduciary duty and defamation action arises out of Pitcock’s egregious misconduct in using his position, as a partner of the KBT&F law firm, to subject at least twelve of the firm’s female employees (hereinafter referred to, respectively, as “Employee A” to “Employee L”) to a pattern of unwelcome sexual advances, requests for sexual favors and other harassment. Pitcock ignored the firm’s written policy forbidding such harassment, ignored the firm’s express warning to him that such harassment would not be tolerated and, after the firm terminated his partnership because he persistently engaged in harassing firm associates and other employees, sought to blame the firm and mislead its clients and others about why he had left the firm.

2. Pitcock repeatedly used his position as a partner in the firm to harass female employees with sexual propositions, sexual innuendo, suggestive comments, sexually-oriented teasing, gender-specific jokes and foul and obscene gestures. Pitcock regularly targeted the most junior women at the firm. The harassment extended even to physical contact and assault.

3. Pitcock's extremely inappropriate treatment of the firm's female employees of course injured those women the most. But his misconduct and his efforts to conceal it also breached, among other things, Pitcock's fiduciary duties to the firm and his express duties under the firm's Partnership Agreement. Pitcock breached those duties by abusing and disrespecting the firm's female employees and by distracting them and the firm from the professional work of the firm.

4. Pitcock also has resorted to defaming the firm, falsely stating, among other things, that clients had left KBT&F with him when he left the firm. Pitcock even went so far as to file a potentially meritless federal action against the firm -- notwithstanding a complete lack of federal subject matter jurisdiction -- baselessly seeking to blame the firm for his termination and the predicament he found himself in which was entirely of his own making.

5. Accordingly, KBT&F is entitled to damages arising out of Pitcock's serial breaches of fiduciary duty, breaches of contract and defamation.

### **THE PARTIES**

6. Plaintiff KBT&F is a New York registered limited liability partnership, with offices in New York, Atlanta, Houston, Newark, and San Francisco.

7. Defendant Pitcock is a citizen of New Jersey and resides in Englewood, New Jersey.

### **VENUE AND JURISDICTION**

8. Venue in this County is proper pursuant to Civil Practice Law and Rules Section 503 because KBT&F has its principal office in this County and some or all of the acts giving rise to the claims occurred here.

9. This Court has personal jurisdiction over defendant Pitcock because the acts that give rise to the claims took place in this County.

### **FACTUAL ALLEGATIONS**

10. Pitcock joined KBT&F as a partner in the firm's intellectual property group (the "IP Group") in March 2006 and about a year later was appointed head of the IP Group. KBT&F has 70 partners. The IP Group has three partners, eight associates and one special counsel.

11. On or about March 16, 2006, in connection with his joining the firm, Pitcock signed the Partnership Agreement. The Partnership Agreement provides, among other things, that a partner may be involuntarily removed from the firm "where the acts or actions of the Partner are or may be prejudicial to the Partnership's interests."

12. The Partnership Agreement also expressly imposes upon each Partner a fiduciary duty to “safeguard the assets of the Partnership and conduct [himself or herself] and [his or her] personal affairs in a manner which will protect and enhance the name and reputation of the firm.”

13. Pitcock also received a copy of and knew that he was subject to KBT&F’s policies prohibiting all harassment, including sexual harassment, of KBT&F employees. KBT&F’s anti-harassment policy expressly provides, in pertinent part (emphasis supplied):

The firm is also committed to maintaining a working environment free from sexual harassment. It is a violation of law and in general it is expressly against the Firm’s policy for any partner, employee, or other person to make **unwelcome sexual advances or requests for sexual favors from an employee, or to engage in any other physical or verbal conduct of a sexual nature** when [...] such conduct has the purpose or effect of interfering with an employee’s work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment may include, but are not limited to, explicit **sexual propositions, sexual innuendo, suggestive comments, sexually-oriented teasing, jokes about gender-specific traits, foul or obscene language or gestures, ... and physical contact**, such as petting, pinching, or intentionally brushing against another’s body. [...] This behavior is unacceptable **in the workplace and in other work-related settings** such as business trips and business-related social events.

#### **Pitcock Abused His Position, Harassing Women at the Firm**

14. Pitcock breached his fiduciary and contractual duties to the firm and its employees, and transgressed standards of basic human decency, by using his position as a partner to serially harass and seek unwanted sexual contact with the firm’s

female employees. Pitcock regularly harassed many different female employees with a pattern of suggestive comments, sexual innuendo, sexual propositions, sexually-oriented teasing, gender-specific jokes, and obscene gestures. Pitcock particularly targeted women within the relatively small IP Group, whose careers he had been entrusted to develop. Pitcock also targeted the most junior women at the firm, at the start of their legal careers. On one such woman, on her very first day on the job, Pitcock forced himself physically.

15. Those targeted were afraid to resist or report Pitcock. Pitcock fueled fear by reminding them of his partnership status relative to their status as firm employees. Some of those women felt physically afraid of Pitcock. Accordingly, as described below, the firm did not learn about Pitcock's predatory conduct until late 2007.

**Pitcock Improperly Pursued Female Employees Associated with the IP Group.**

16. Within months of his joining the firm as a partner, Pitcock demeaned a junior lawyer ("Employee A") who was working with the IP Group when he refused to accept her statement that she had to work one Friday evening rather than join him and others at a bar for drinks. Using his position as a partner, Pitcock told Employee A that he had "changed the assignment" so that "now the assignment is to come and have a drink" with him. Employee A came to the bar but stated to Pitcock that she would only be able to stay for one drink. After a short while, when Employee A indicated that she needed to leave, Pitcock refused to accept her decision, ordered her a second drink and announced "There's nothing sadder than a woman with a half-empty drink." Later that night, after she had left the bar, Pitcock continued to call Employee A on her personal

cell phone. The following Monday morning, Pitcock complained to Employee A that she had not returned his late night call, and told her he had wanted Employee A to join him and an unidentified friend as they drank until 2 a.m.

17. In the ensuing months, Pitcock improperly continued to pursue Employee A. First, Pitcock told Employee A she would be his “date” at an annual reception for intellectual property lawyers and judges in New York (the “Patent Ball”), held in March 2007. Employee A tried to extricate herself from this role by securing a seat at a less prominent table than his, but Pitcock pursued her there too. Pitcock commented repeatedly on Employee A’s physical appearance at the event. When she suggested that he should be spending more time at the main table with the federal judge being hosted by the firm there, Pitcock told her that the “judge is old and boring, and she doesn’t even drink.” Pitcock added that “besides,” he had come to the Patent Ball “only to see you,” and then winked at her.

18. Employee A was embarrassed and intimidated by Pitcock’s sexually suggestive conduct toward her and scared that Pitcock would injure her career. For these reasons, Employee A hesitated to relate the facts of Pitcock’s harassment to others at the firm.

19. At the very same Patent Ball, Pitcock also improperly pursued another female lawyer in the firm’s IP Group (“Employee B”). Just as with Employee A, Pitcock called Employee B his “date,” and pursued unwanted personal conversation, including with respect to his fantasies about being married to her, and about being single but dating her.

20. On other occasions, Pitcock again expressly used his position as a partner to pressure Employee B to have drinks she did not want. For example, when Employee B told Pitcock she did not want a drink, he said, “Do you want to be [a non-partner] forever?” Pitcock’s conduct embarrassed, intimidated and harassed Employee B.

**Pitcock Made Extremely Inappropriate Sexual Suggestions at Summer Associate Events**

21. Several weeks after the Patent Ball, at a welcoming event attended by the firm’s newly-arrived summer associates and other associates in May 2007, Pitcock drew the attention of summer associates by standing behind a female employee (“Employee C”) and making lewd gestures about her figure.

22. Summer associates reported the incident to coordinators of the firm’s summer associate program, who then passed the information on to a partner at the firm. That partner, on behalf of the firm, promptly warned Pitcock that this kind of conduct would not be tolerated. Pitcock said that his conduct was misconstrued by the summer associates, but that he would make certain in the future that no employee of the firm would have such an impression of him.

23. Nonetheless, Pitcock engaged in similar conduct toward another female employee (“Employee D”) at another summer associate event later that same summer.

**Pitcock Grabbed a First-Year Lawyer on Her First Day at Work**

24. Just a few weeks later, in September 2007, Pitcock tried to force himself on a first-year lawyer on the night of her first day at work (“Employee E”).

25. Pitcock had attended a welcoming event for first- and second-year associates, even though neither he nor other senior lawyers were invited. When only first-year lawyers remained, Pitcock insisted on ordering more drinks, and was particularly attentive to Employee E. He learned that she was new to New York City, newly-graduated from law school and just moving into her new apartment. As everyone was leaving, Pitcock offered her (but no one else) a ride home.

26. When he drove her to her apartment building, Pitcock insisted that Employee E show him her apartment. Employee E tried to give him a quick tour and send him on his way, but Pitcock blocked her from exiting her bedroom, grabbed her, and lifted her off the ground as he kissed her. Employee E immediately tried to push Pitcock away, and told him that she did not want or welcome any of this contact.

27. Because of Pitcock's partnership position, and because he is a large, physically imposing man, Employee E was frightened and confused about how to get Pitcock out of her apartment without angering him. At half his size, she feared that he would again force physical intimacy with her. As a new lawyer, she feared that if she angered him, he would harm her career. She chose to blame her refusals on his marriage and on the anticipated birth of his second child.

28. Pitcock still pressed Employee E for sex. He told her that "a connection like ours is rare," and that cheating on his wife was "my decision."

29. When Employee E continued to say no, Pitcock again used his position as a partner to frighten Employee E. Pitcock told Employee E she "will regret



this.” Pitcock expressed anger at Employee E when she took refuge in her kitchen and insisted that he show himself out of her apartment.

30. Pitcock’s conduct frightened Employee E that night, and she remained frightened to be in the firm’s offices during non-office hours, because she feared another encounter with Pitcock. Pitcock persisted in asking her to meet him out of the office. Employee E also continued to fear that Pitcock would use his position to harm her, at the very start of her career. These fears caused Employee E to hesitate to report Pitcock’s conduct, and distracted Employee E from her work.

**Pitcock Harassed Another Associate into Taking Him to Her Home**

31. In November 2007, Pitcock tried to pursue another recently hired female associate (“Employee F”), using the same tactic of offering her a ride home, and then forcing his way into her apartment. Pitcock offered to drive Employee F home after a recruiting event that both Pitcock and Employee F attended. Pitcock disregarded Employee F’s repeated refusal of his advances, and insisted on driving Employee F home.

32. Upon parking in front of Employee F’s apartment building, Pitcock hurried out of the car and made a gesture of tossing his car keys to the building doorman (as if he were a valet), announcing, “We’re going upstairs.” Employee F, surprised that Pitcock expected to accompany her any farther, told Pitcock that there was no need for him to go upstairs. Pitcock insisted, telling Employee F that he might as well come upstairs, since he had brought her this far, and, according to Pitcock, they had discussed her apartment, and he wanted to see it.

33. Despite Employee F's insistence that Pitcock need not accompany her upstairs, Pitcock headed toward the elevator. The building doorman told Employee F that he had just let her boyfriend go upstairs, a comment Pitcock apparently did not hear. At the elevator, Employee F reiterated that Pitcock did not need to escort her, but Pitcock ignored her protestations.

34. Knowing that her boyfriend was inside the apartment and wanting him to answer the door, Employee F pretended that her keys were lost and knocked on her apartment door. Pitcock was surprised and asked Employee F why she was knocking on her own door. When told by Employee F that her boyfriend was inside the apartment, Pitcock said, "This will be awkward."

35. Employee F's boyfriend answered the door and let them into the apartment. With his plan for pursuing Employee F thwarted, Pitcock left as quickly as possible.

36. Following this incident, Pitcock acted coldly towards Employee F, and excluded her from IP Group business activities. For example, prior to the incident at Employee F's apartment, Pitcock had requested that Employee F travel with him to Northern California for a meeting with a potential new client. After the incident, Pitcock communicated to Employee F that her participation in the California meeting was no longer welcomed.

### **Pitcock Harassed Seven Women at the Firm's 2007 Holiday Party**

37. On December 3, 2007, at the firm's annual holiday party, Pitcock continued his harassment of the firm's female employees. He made sexual advances toward at least seven women in just that one night.

38. First, Pitcock again accosted Employee E at the holiday party. He asked, "Are you still mad at me?" and urged her to "become friends." Later that night, after she had left the party, Pitcock tried to contact her again, offering her a ride home.

39. At the holiday party, Pitcock also made sexually inappropriate advances toward three other female lawyers ("Employee G," "Employee H," and "Employee I"). Pitcock repeatedly said that Employee G's boyfriend must be unable to perform sexually, and repeatedly asked Employee G unwelcome questions about her sex life.

40. Pitcock also approached Employee H at the party and repeatedly said they should go to her apartment that night. Later in the evening, after she had left the holiday party, Pitcock tried to contact Employee H again, sending her an e-mail at 12:45 a.m. inquiring whether she was "still up?"

41. Pitcock also cornered Employee I, and asked her to tell him "a secret" she had "never told anyone." When she refused, he volunteered: "Mine is that I slept with three women at the same time, none was my wife, and my wife never found out."

42. Pitcock continued to harass female employees at an “after-party” immediately following the holiday party (“Employee J,” “Employee K” and “Employee L”), at a restaurant where associates and staff members, but no partners other than Pitcock, had gathered. Employees J and K were standing together at the bar when Pitcock approached them, propositioned Employee J and bragged about his “mansion” in New Jersey and his purported “multi-million” salary, with which he said he “could make [her] very happy.” Uncomfortable, Employee K walked away. As she did, Pitcock slapped her buttocks. Pitcock insisted that Employee L have drinks with him, threatening her that if she did not, he would change her title to “office bitch.”

**Pitcock Used Firm Resources to Access Pornographic Material**

43. Pitcock also used the firm’s computers and information technology to access pornographic material. He repeatedly visited pornographic websites and saved pornographic material during office hours.

44. The material Pitcock accessed or saved using firm computers and information technology includes dozens of photographs of nude women in sexually suggestive poses, closeups of women’s and men’s sex organs, women and men engaged in sexual acts, women and women engaged in sexual acts, and women dressed and posed as young girls.

45. This conduct violated, among other things, the firm’s written policies regarding Internet and computer usage at the firm.

### **KBT&F Terminated Pitcock**

46. On December 4, 2007, the day after the holiday party, employees whom Pitcock had harassed reported his misconduct to the firm. This was the first report to the firm about Pitcock's misconduct other than the reports by summer associates about lewd gestures in May 2007. The firm immediately instructed Pitcock to stay out of the office and refrain from contacting any firm employees or discussing the matter. The firm interviewed female employees concerning Pitcock. All of the women interviewed reported Pitcock's gross misconduct at the holiday party and on other occasions; all stated that they were angered, harassed and upset by it; and several stated that they were frightened by the prospect of working at the same firm as Pitcock. On December 7, 2007, KBT&F terminated Pitcock's partnership because of his extremely inappropriate conduct, including his pattern of harassing the firm's female employees.

47. The firm clearly told Pitcock both that he was terminated and the reason for his termination. Pitcock never questioned the firm's decision or its basis. To the contrary, he repeatedly admitted and purported to apologize, orally and by e-mail, for his misconduct. He said his drinking must have impaired his judgment.

48. Out of concern for Pitcock's family -- his very young child and then-expectant wife -- the firm offered to make a separation payment to Pitcock. Thereafter, the firm and Pitcock exchanged drafts of a separation agreement, but Pitcock did not accept the firm's offer.

49. In January 2008, Pitcock apparently joined Morgan & Finnegan LLP ("Morgan Finnegan") as a partner. Morgan Finnegan touted Pitcock's arrival at the

firm in a press release, as well as on its website, in which it reported, based on what Pitcock had falsely told it, that Pitcock was bringing to Morgan Finnegan a number of important IP clients. At least two of these clients asked that their names be removed from the website.

50. In fact, none of the clients Pitcock claimed to have brought to Morgan Finnegan left KBT&F with him. Indeed -- contrary to his false statements to Morgan Finnegan and others -- Pitcock had introduced only one of those clients to KBT&F.

51. The day following the press release, IP Law 360, a widely-followed news source for intellectual property professionals, published an article entitled “Morgan & Finnegan Nabs Kasowitz Benson IP Leader” that reported, “The former head of the intellectual property group at Kasowitz Benson Torres & Friedman will now lend his expertise to a different firm after jumping ship to become a partner at Morgan & Finnegan LLP.”

52. Following these reports that Pitcock “jump[ed] ship,” lawyers in KBT&F’s IP Group received inquiries from clients and IP lawyers at other firms questioning the viability of the firm’s IP Group.

53. KBT&F contacted IP Law 360 and asked that it retract or correct the article on the grounds that it reported that Pitcock had left KBT&F voluntarily and gave the false impression – as reflected by the inquiries to the firm’s IP Group – that the firm’s IP Group was in trouble. The publication did not issue a sufficient correction of the article.

54. On January 22, 2008, KBT&F issued a press release stating that, although it was not looking to publicize the matter, it was compelled to set the record straight and report that Pitcock was terminated for “extremely inappropriate personal conduct.”

**Pitcock Pretends KBT&F Wronged Him**

55. On June 5, 2008, Pitcock filed a complaint in the United States District Court for the Southern District of New York against KBT&F, KBT&F partner Eric Wallach, and outside public relations firm Sitrick and Company. Pitcock asserted meritless breach of fiduciary duty, defamation and other claims against the firm and Wallach.

56. Pitcock alleged in his federal lawsuit that he is a “rising star in [ ] litigation.” If so, he should have known there is no federal court subject matter jurisdiction over his lawsuit.

57. In his complaint and through out-of-court statements by Pitcock and his counsel in that lawsuit, Pitcock claimed that KBT&F had engaged in a false and dishonest campaign to “destroy Pitcock’s reputation [...] so they could make more money” and “profit[] from Pitcock’s work.” Pitcock further claimed that KBT&F used a “consensual kiss,” which he described as “minor misconduct,” as a pretext to fire him, and has denied all other incidents of harassment.

58. Pitcock’s statements were false. KBT&F terminated Pitcock solely because of his pattern of sexual misconduct. KBT&F disclosed that fact to

mitigate the damage Pitcock inflicted on KBT&F by that misconduct and by his false denials that he had engaged in it.

59. Pitcock engaged in the conduct alleged herein intentionally, maliciously, and wantonly.

**FIRST CAUSE OF ACTION**  
**(Breach of Fiduciary Duty)**

60. KBT&F repeats and realleges the allegations of paragraphs 1 through 59 as if fully set forth herein.

61. As a KBT&F partner, Pitcock owed KBT&F fiduciary duties, including the duties of loyalty and of acting in the best interest of the Partnership.

62. Pitcock breached his fiduciary duties to KBT&F by his conduct toward the firm's employees. He further breached his fiduciary duties to KBT&F by using working hours and the firm's information technology to access pornography on the Internet. By seeking to blame KBT&F for terminating his partnership, Pitcock compounded those breaches of duty to the firm, and compounded the firm's injuries.

63. As a result of the foregoing, KBT&F has suffered damages in an amount to be determined at trial.

**SECOND CAUSE OF ACTION**  
**(Breach of Contract)**

64. KBT&F repeats and realleges the allegations of paragraphs 1 through 63 as if fully set forth herein.



65. KBT&F and Pitcock entered into the Partnership Agreement, whereby Pitcock agreed, among other things, that he would “safeguard the assets of the Partnership and conduct [himself] and [his] personal affairs in a manner which will protect and enhance the name and reputation of the firm.”

66. Pitcock breached the Partnership Agreement through his conduct alleged above.

67. As a result of the foregoing, KBT&F has suffered damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION**  
**(Defamation)**

68. KBT&F repeats and realleges the allegations of paragraphs 1 through 67 as if fully set forth herein.

69. Since Pitcock was terminated from KBT&F, he has disseminated false statements regarding KBT&F that harmed the reputation of the firm.

70. These false and defamatory statements were published online and in press releases, among other places, with actual malice, as such statements were made by defendant Pitcock with knowledge of their falsity or with reckless disregard of their falsity.

71. These statements injured the firm’s reputation and disrupted its business.

72. As a proximate cause of the foregoing, KBT&F has suffered damages in an amount to be determined at trial.

**FOURTH CAUSE OF ACTION**  
**(Injurious Falsehood)**

73. KBT&F repeats and realleges the allegations of paragraphs 1 through 72 as if fully set forth herein.

74. Since Pitcock was terminated from KBT&F, he published or caused to be published injurious falsehoods about KBT&F which disparaged the integrity and viability of the firm.

75. In January 2008, IP360.com asserted in an online article that Pitcock had been “ nabbed ” by Morgan Finnegan and had “ jumped ship ” from KBT&F. Pitcock was responsible for these statements, which called into question the viability of KBT&F’s IP practice.

76. Pitcock knew or should have known that his false statements would cause KBT&F’s clients and professional colleagues to question the viability of KBT&F’s IP practice.

77. As a result of the foregoing, KBT&F has suffered damages in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**  
**(Prima Facie Tort)**

78. KBT&F repeats and realleges the allegations of paragraphs 1 through 77 as if fully set forth herein.

79. Pitcock has acted maliciously to injure the reputation and standing of KBT&F in that he disseminated false information about the firm with the sole purpose of harming the firm.

80. Pitcock had no social or legal justification for injuring the reputation and standing of KBT&F.

81. As a result of the foregoing, KBT&F has suffered damages in an amount to be determined at trial.

**SIXTH CAUSE OF ACTION**  
**(Declaratory Judgment)**

82. KBT&F repeats and realleges the allegations of paragraphs 1 through 81 as if fully set forth herein.

83. As a result of the foregoing, KBT&F is entitled to a declaration that each and every claim asserted in Pitcock's federal complaint is meritless.

WHEREFORE, KBT&F respectfully demands judgment against Pitcock awarding KBT&F:

(a) On the First through Fifth Causes of Action, compensatory damages in an amount to be determined at trial;

(b) On the First, Third, Fourth, and Fifth Causes of Action, punitive damages in an amount to be determined at trial;

(c) On the Sixth Cause of Action, a declaration that KBT&F has no liability to Pitcock;

(d) Interest, costs and its reasonable attorneys' fees; and

(e) Such other and further relief as this Court deems just and proper.

Dated: New York, New York  
July 7, 2008

Respectfully submitted,

SULLIVAN & CROMWELL LLP

By 

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