EXHIBIT NN

From: A R
To: Dilip Nayak; andrew.horton@qbe.com; legal@qbe.com
Cc: Karseboom, Kimberly R.; Grob, William E.; Lillard, Samuel (Sam) N.
Subject: Service of Motion Filed – SDNY Case No. 25-cv-3175 (Motion Response 16, Motion to Compel QBE)
Date: Wednesday, April 30, 2025 3:25:24 AM
Attachments: Motion_to_Compel_QBE_Label_FULL_PACKAGE.pdf

[redacted]

Counsel and QBE Representatives,

Please find attached a motion filed in the United States District Court for the Southern District of New York in *Mphasis Corporation v. Rojas*, Case No. 25-cv-3175.

The filing includes Defendant's integrated response to the complaint and preliminary injunction motion (Motion Response 16), as well as a standalone motion to compel QBE to issue a shipping label for return of corporate property or appear and show cause for continued delays.

Respectfully,
Albert Rojas
Pro Se Defendant
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(646) 866-1669

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation,
Plaintiff,
v.
Albert Rojas,
Defendant.

Case No. 25-cv-3175

INTEGRATED RESPONSE TO COMPLAINT AND MOTION FOR PRELIMINARY INJUNCTION; MOTION TO COMPEL NON-PARTY QBE TO PROVIDE RETURN SHIPPING MATERIALS OR SHOW CAUSE

Filed Pro Se by:
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Dated: April 29, 2025

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation,
Plaintiff,
v.
Albert Rojas,
Defendant.

Case No. 25-cv-3175

NOTICE OF STANDALONE RELIEF SOUGHT

Motion to Compel Non-Party QBE to Provide Shipping Materials or Show Cause

Defendant Albert Rojas, appearing pro se, respectfully submits this Notice to clarify that within the attached consolidated response and memorandum, beginning on page [insert page number], he seeks **distinct affirmative relief** in the form of a **motion to compel non-party QBE to provide shipping materials for the return of a corporate-issued laptop**, or, in the alternative, to **show cause for its continued refusal to do so**.

This relief is sought pursuant to **Federal Rule of Civil Procedure 37** and concerns ongoing delay, obstruction, and potential regulatory noncompliance on the part of QBE, which continues to refuse to issue a FedEx shipping label despite Defendant's repeated efforts since December 2024.

Defendant respectfully requests that the Court treat this portion of the integrated filing as a **standalone motion** and issue a separate docket entry or ruling as appropriate.

Dated: April 29, 2025
Respectfully submitted,
Albert Rojas
Pro Se Defendant
rojas.albert@gmail.com
319 West 18th Street, 3F
New York, NY 10011

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation,
Plaintiff,
v.
Albert Rojas,
Defendant.

Case No. 25-cv-3175

NOTICE OF MOTION TO COMPEL QBE TO PROVIDE RETURN SHIPPING MATERIALS OR SHOW CAUSE

PLEASE TAKE NOTICE that Defendant Albert Rojas, appearing pro se, hereby moves this Court pursuant to Federal Rule of Civil Procedure 37 for an order compelling non-party QBE to:

1. Provide Defendant with a FedEx shipping label and appropriate return materials within three (3) days of the Court's order to facilitate the return of a QBE-issued Dell laptop containing corporate data; or

2. In the alternative, appear and show cause within seven (7) days of the Court's order why it has failed to do so despite Defendant's documented, repeated efforts to facilitate return since December 2024.

This motion is supported by the accompanying Memorandum of Law, Declaration of Albert Rojas, and Proposed Order.

Dated: April 29, 2025
Respectfully submitted,
Albert Rojas
Pro Se Defendant
rojas.albert@gmail.com
319 West 18th Street, 3F
New York, NY 10011

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation, Plaintiff, v. Albert Rojas, Defendant. Case No. 25-cv-3175

NOTICE OF FILING

Albert Rojas (Defendant), appearing pro se, respectfully submits this integrated filing in response to Plaintiff Mphasis Corporation's Complaint and Motion for Preliminary Injunction:

1. Memorandum of Law in Opposition to Plaintiff's Motion for Preliminary Injunction and in Support of Defendant's Motion to Dismiss;

2. Answer, Affirmative Defenses, and Counterclaims;

3. Enhanced Whistleblower Defense and Legal Strategy.

This response asserts statutory immunities, equitable defenses, and counterclaims rooted in whistleblower protections and retaliation statutes.

Key Filing Summary (Mphasis v. Rojas, 25-cv-3175 SDNY):
Albert Rojas filed an integrated Motion Response opposing Mphasis's preliminary injunction request and moving to dismiss claims under the DTSA, CFAA, and trademark law. The filing asserts whistleblower immunity (DTSA §1833(b), SOX, Dodd-Frank, NYLL §740), equitable defenses (unclean hands, estoppel), and counterclaims (retaliation, defamation, emotional distress).

Highlights:

- Demonstrates Mphasis's failure to provide secure infrastructure, undermining its own claims.
- Asserts protected whistleblower activity exposing cybersecurity, compliance, and discrimination issues.
- Establishes that no trade secret or system breach was possible given technical restrictions imposed by Mphasis itself.
- Defends domain and email use as lawful, nominative fair use to surface protected disclosures.
- Cites proportional mitigation actions (content removals and disclaimers) to eliminate any alleged harm.
- Demands dismissal with prejudice, compensatory and punitive damages, discovery into Mphasis's conduct, and declaratory relief affirming whistleblower protections.

Filed Pro Se by Albert Rojas on April 24, 2025.

I. PRELIMINARY STATEMENT

Plaintiff Mphasis seeks extraordinary equitable relief to suppress protected whistleblower disclosures through contract and intellectual property claims. Defendant's disclosures surfaced

serious compliance failures, discriminatory practices, and cybersecurity risks—all protected under DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h), and NYLL §740.

Mphasis's failure to provision standard infrastructure (e.g., domain-joined laptop, VPN) rendered compliance impossible, while its selective policy enforcement and retaliation underscore inequitable conduct barring relief. Defendant acted in good faith within statutory protections, and Plaintiff's claims should be denied on both legal and equitable grounds.

As detailed below, Defendant's protected whistleblower activity lies at the core of this dispute, underscoring that Plaintiff's claims arise not from misconduct but from a retaliatory effort to silence these disclosures.

The persistent irregularities and obstruction surrounding the return of a basic corporate asset—detailed in Exhibit (M)—underscore why Defendant previously raised concerns that QBE and Mphasis may be engaged in improper financial conduct, potentially rising to the level of money laundering. Such prolonged disorganization and obfuscation are inconsistent with standard corporate governance and incompatible with the practices of reputable global enterprises.[1] [2]

—

[1] See 31 U.S.C. § 5324 (prohibiting "structuring" transactions to evade reporting requirements under the Bank Secrecy Act); see also U.S. Department of Justice, Criminal Resource Manual § 2102 (defining "structuring" and related practices as efforts to obscure asset movement or evade financial reporting duties, often indicative of broader anti-money laundering (AML) violations). Persistent asset handling irregularities, unexplained delays, or obstruction in asset tracking processes may trigger investigatory scrutiny under AML frameworks designed to prevent concealment or misreporting of corporate assets.

[2] See Sarbanes-Oxley Act of 2002, §404, 15 U.S.C. §7262 (requiring public companies to establish and maintain adequate internal control structures for financial reporting, including asset accountability). Material weaknesses in asset tracking, failure to ensure custody of corporate property, or persistent delays in asset recovery may constitute internal control failures under SOX §404, exposing companies to regulatory action and undermining the integrity of their financial statements.

II. INTRODUCTION

Defendant's Protected Whistleblower Activity Lies at the Heart of This Dispute

This case arises not from misconduct, but from **protected whistleblower activity**. Defendant Albert Rojas acted in good faith to raise serious concerns about **Mphasis Corporation's cybersecurity failures, policy enforcement breakdowns**, and **potential discriminatory practices**—issues directly impacting client security and regulatory compliance. These disclosures were made pursuant to and are expressly protected under the **Defend Trade Secrets Act (DTSA) §1833(b)**, the **Sarbanes-Oxley Act (SOX)**, the **Dodd-Frank Act**, and **New York Labor Law §740**.

Rather than address the substance of Defendant's concerns, Mphasis responded with **retaliation**—terminating his employment, mischaracterizing his lawful disclosures as misconduct, and weaponizing litigation to silence him. The **temporal proximity** between Defendant's disclosures and his termination, combined with Plaintiff's failure to secure its own infrastructure or address the compliance risks identified, underscore this retaliation.

Courts consistently recognize that **whistleblower protections** serve critical public interests, ensuring that concerns about cybersecurity vulnerabilities, compliance lapses, and discriminatory practices can be raised without fear of reprisal. Defendant's disclosures were **noncommercial**, **truthful**, and **made in the public interest**. The subsequent **retaliation** not only violates these statutory protections but undermines the **public trust in safeguarding whistleblower rights**.

This case is, at its core, about protecting **lawful disclosures** and ensuring that **corporate retaliation** is not used as a cudgel against those who speak out. Defendant respectfully requests that this Court view the allegations in this context, as the **statutory framework demands**.

III. LEGAL ARGUMENTS

A. Preliminary Injunction Must Be Denied

Mphasis fails to meet the required elements for a preliminary injunction: (1) irreparable harm; (2) likelihood of success; (3) balance of hardships; and (4) public interest.

1. No Irreparable Harm: Plaintiff fails to demonstrate any concrete, non-speculative irreparable harm. Courts have consistently held that reputational harm, without evidentiary support, is insufficient to establish irreparable injury. See Anderson v. City of New York, 2014 WL 5461395, at *11 (S.D.N.Y. Oct. 28, 2014) (denying injunctive relief where reputational harm was speculative). Here, Plaintiff's claims rest on generalized assertions of reputational damage, unsupported by affidavits, declarations, or concrete examples of lost business or goodwill.

   Moreover, injunctions are disfavored where monetary relief is adequate. See eBay Inc. v. MercExchange, 547 U.S. 388, 391-93 (2006). Plaintiff alleges reputational harm without evidentiary support, which courts consistently hold as insufficient to establish irreparable injury. Any alleged harm is compensable through monetary damages, precluding the extraordinary remedy of injunctive relief.

   Defendant, in a good faith effort to mitigate any asserted concerns while preserving his statutory rights, has voluntarily removed the contested whistleblower disclosures from the referenced websites and replaced them with a neutral holding statement. The current content merely acknowledges the existence of ongoing legal proceedings and references federal whistleblower protections under 18 U.S.C. § 1833(b) (Defend Trade Secrets Act immunity), 18 U.S.C. § 1514A (Sarbanes-Oxley), and 15 U.S.C. § 78u-6(h) (Dodd-Frank). This measured and proportionate response underscores Defendant's commitment to lawful engagement and eliminates any credible risk of ongoing harm.

Plaintiff's claims of irreparable injury are further undercut by this action. With no imminent or continuing threat, Plaintiff cannot meet its burden to demonstrate the irreparable harm required for preliminary injunctive relief. Plaintiff's damages theory is speculative at best. Mphasis fails to allege, much less prove, any actual loss of business, client relationships, or revenue resulting from Defendant's conduct. Courts require a concrete showing of economic harm—not generalized reputational concerns—to support damages claims.

See *Lexmark Int'l v. Static Control Components*, 572 U.S. 118, 133 (2014) (damages require proximate causation, not speculation); *Anderson v. City of New York*, 2014 WL 5461395, at *11 (S.D.N.Y. Oct. 28, 2014) (reputational harm without concrete evidence insufficient).

Moreover, Defendant's disclosures were made in good faith to raise concerns regarding systemic policy failures and compliance risks—conduct expressly protected under federal whistleblower statutes. The proportional steps taken to pause those disclosures pending resolution of these proceedings reflect both Defendant's respect for this Court's authority and the balance of equities, which weighs against injunctive relief.

2. Lack of Likelihood of Success: Defendant's actions are shielded by statutory whistleblower protections. DTSA §1833(b) immunizes disclosures made to report suspected lawbreaking. SOX and Dodd-Frank protect even mistaken but objectively reasonable disclosures. Further, Mphasis's unclean hands—failure to provision infrastructure while alleging policy violations—undermines its claims. Plaintiff's reliance on Defendant's work product post-termination further negates any claim of harm.

3. Balance of Hardships Favors Defendant: Defendant faces significant hardship from suppression of protected speech, while Plaintiff faces no cognizable harm beyond exposure of its own misconduct. The equities decisively favor Defendant.

4. Public Interest Supports Disclosure: Whistleblower disclosures serve the public interest in transparency and accountability. An injunction would chill protected reporting of compliance failures and cybersecurity risks.

B. Complaint Should Be Dismissed in Part

Dismissal of DTSA and CFAA Claims is Mandated by Plaintiff's Own Admissions

Plaintiff's DTSA and CFAA claims are not merely deficient; they are categorically impossible. Mphasis's own internal communications, specifically the December 18, 2024 directive from its Senior U.S. Administration Officer, barred Defendant from accessing any internal systems where alleged trade secrets or protected data reside. Defendant was expressly limited to **web-only access**, denied a **domain-joined laptop**, **VPN credentials**, and any **system-level permissions**. Without these mechanisms, Defendant lacked the technical means to download, store, or interact with any proprietary Mphasis information beyond ephemeral viewing.

This **structural denial of access** is dispositive. The **absence of access** forecloses any plausible claim under the **Defend Trade Secrets Act (DTSA)** or the **Computer Fraud and Abuse Act (CFAA)**. Courts routinely dismiss such claims where access is **technically impossible**. See *Elsevier Inc. v. Doctor Evidence, LLC*, No. 17-cv-5540, 2018 WL 557906, at *5 (S.D.N.Y. Jan. 23, 2018)* (dismissing trade secret claim where defendant lacked access to internal systems). Moreover, the **CFAA** targets only **unauthorized access** (i.e., hacking), not policy violations or perceived misuse of information. See *Van Buren v. United States*, 141 S. Ct. 1648, 1655 (2021) (holding CFAA liability applies solely to unauthorized system access, not misuse of authorized access).

Additionally, **Defendant's disclosures fall squarely under DTSA §1833(b) immunity**, which protects whistleblower disclosures made to report or investigate suspected legal violations. Even mistaken, but objectively reasonable, disclosures receive protection under this statute as well as **SOX** and **Dodd-Frank**. Furthermore, **Plaintiff's own infrastructure failures**, including its refusal to provision domain-joined hardware and VPN access, **necessitated Defendant's external access for operational continuity**. This operational necessity, induced by Plaintiff, further bars CFAA claims under both statutory interpretation and **equitable estoppel**. See *Heckler v. Community Health Services*, 467 U.S. 51, 59 (1984) (estoppel applies where a party induces reliance on deficient conditions). Equitable defenses, including **unclean hands** and estoppel, preclude these claims entirely.

Discovery cannot manufacture access where none existed. Plaintiff's own admissions confirm that Defendant never possessed the technical capacity to interact with the systems allegedly breached. Allowing these claims to survive would **weaponize litigation** to punish protected **whistleblower disclosures**, subverting statutory purpose and judicial economy.

Accordingly, Plaintiff's DTSA and CFAA claims must be dismissed with prejudice.

If Plaintiff nonetheless contends that Defendant circumvented these explicit access restrictions without the tools Mphasis itself refused to provide, **such a claim amounts to an admission that Mphasis's cybersecurity posture is so fundamentally compromised that it could be penetrated by a employee using only a personal MacBook and limited web portal access**. The only other explanation—that **Defendant possesses supernatural capabilities—falls outside the jurisdiction of this Court**.

C. Trademark & Defamation Claims Are Factually and Legally Defective

Plaintiff's **trademark** and **defamation** claims fare no better. Both are barred by the **First Amendment, fair use**, and **whistleblower protections**. Defendant's use of the "Mphasis" name and logo on whistleblower websites, and in related communications, falls squarely within the scope of **nominative fair use** and **protected speech** under established case law.

In **Rogers v. Grimaldi**, 875 F.2d 994 (2d Cir. 1989), and **Cliffs Notes, Inc. v. Bantam Doubleday Dell Publ'g Group, Inc.**, 886 F.2d 490 (2d Cir. 1989), the Second Circuit recognized that **use of a trademark for purposes of criticism or commentary** does not

constitute infringement. Defendant's websites did not offer competing services or commercialize Mphasis's mark—they served solely to **disclose concerns** regarding Mphasis's **cybersecurity failures, discriminatory practices**, and **compliance risks**. Such **noncommercial, whistleblower disclosures** are protected under both **nominative fair use** and **parody doctrines**.

Additionally, the **Defend Trade Secrets Act (DTSA) §1833(b), Sarbanes-Oxley Act (SOX),** and **Dodd-Frank Act** shield whistleblower disclosures made to expose suspected legal violations. Plaintiff's attempt to recast these disclosures as **defamation** is nothing more than a **retaliatory maneuver**, in direct contravention of statutory protections. Courts have consistently rejected attempts to use **defamation law** to punish whistleblower disclosures concerning **compliance failures** and **public interest matters**. See *Yang v. Navigators Grp., Inc.*, 18 F. Supp. 3d 519, 532 (S.D.N.Y. 2014) (denying injunctive relief where disclosures addressed compliance failures).

Moreover, **truth** is an absolute defense to defamation. Plaintiff has failed to identify **any false statements of fact** made by Defendant. Instead, the contested content reflects **protected opinions** and **truthful disclosures** regarding Mphasis's conduct. In fact, Mphasis's own actions —denying Defendant access to secure systems, then alleging misconduct based on the conditions they imposed—underscore the **truthful basis** of Defendant's statements.

Even if the Court finds certain aspects of Defendant's disclosures arguable, **any injunctive relief must be narrowly tailored**. Defendant voluntarily **removed the contested websites** and **replaced them with neutral legal disclaimers** pending resolution of these proceedings. This proportional response demonstrates **good faith** and eliminates any credible risk of ongoing harm. Under *Salinger v. Colting*, 607 F.3d 68 (2d Cir. 2010), courts must ensure that **injunctions do not suppress protected speech** or **chill whistleblower activity**.

Accordingly, Plaintiff's **trademark** and **defamation** claims should be **dismissed**, or at minimum, **curtailed** consistent with First Amendment principles.

D. Mphasis's Alleged Harm Highlights Its Own Security Failures—Undermining Claims and Exposing Systemic Weaknesses

Plaintiff Mphasis's assertion that Defendant could cause irreparable harm without ever having access to its internal domain, systems, or secure infrastructure—operating solely from a personal MacBook via limited web access—is not only factually implausible but highlights a glaring weakness in Mphasis's cybersecurity posture. This allegation is an admission against interest: if Defendant, armed only with constrained web access and no domain-joined laptop, could truly compromise Mphasis's purported trade secrets or sensitive data, then Plaintiff's entire cybersecurity framework stands as fundamentally deficient.

Such a scenario is particularly egregious for a company that markets itself as a provider of cybersecurity services. A failure to enforce basic endpoint segregation between client environments and internal systems, while simultaneously refusing to provision standard

infrastructure for a contractor, is a breakdown of Plaintiff's own governance, risk, and compliance (GRC) protocols.

Plaintiff's own admission—confirmed in the December 18, 2024 communication from Jared Bulger (Senior U.S. Administration Officer)—makes clear:

"You can use personal machines, but you will be limited to WEB Version only… ONLY Mphasis domain-joined machines can use Desktop apps, which allow downloading and storing of Mphasis data." (Exhibit B)

Given this structural limitation, Mphasis's claim that Defendant's actions could result in irreparable harm is not only speculative but embarrassing, as it suggests that Mphasis's information security controls are so inadequate that a contractor without proper access could inflict damage. This undercuts their entire claim under both the Defend Trade Secrets Act (DTSA) and Computer Fraud and Abuse Act (CFAA), which require the plaintiff to demonstrate reasonable measures taken to secure trade secrets and restrict unauthorized access.

In sum, if Mphasis's allegations are taken at face value, they amount to a public confession of their own operational failures. This not only undermines their claims of irreparable harm but exposes the company to reputational risk based on their failure to secure sensitive information through industry-standard security measures.

Courts routinely find that plaintiffs who fail to take reasonable security steps to protect their purported secrets cannot maintain trade secret claims (see Elsevier Inc. v. Doctor Evidence, LLC, No. 17-cv-5540, 2018 WL 557906 (S.D.N.Y. Jan. 23, 2018)). Similarly, allegations of unauthorized access under the CFAA are barred where systemic access controls were not properly enforced (see United States v. Nosal, 844 F.3d 1024, 1035-36 (9th Cir. 2016)).

Accordingly, Mphasis's claim of irreparable harm is not only unsupported but self-defeating. Its cybersecurity posture—as revealed in this litigation—is ineffective, and its equitable standing before this Court is further eroded.

E. Even if the Court were to consider Plaintiff's speculative allegations, Defendant has acted proportionally and in good faith, voluntarily removing content to eliminate any ongoing harm, further defeating Plaintiff's request for injunctive relief.

Defendant, in a good faith effort to mitigate any asserted concerns while preserving his statutory rights, has voluntarily removed the contested whistleblower disclosures from the referenced websites and replaced them with a neutral holding statement. The current content merely acknowledges the existence of ongoing legal proceedings and cites federal whistleblower protections under 18 U.S.C. § 1833(b) (Defend Trade Secrets Act immunity), 18 U.S.C. § 1514A (Sarbanes-Oxley), and 15 U.S.C. § 78u-6(h) (Dodd-Frank). This measured response eliminates any credible risk of ongoing harm and reflects the proportionality recognized in Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 22 (2008), which requires that injunctive relief be no broader than necessary to prevent alleged harm.

Plaintiff cannot demonstrate the irreparable harm required for preliminary injunctive relief. As courts have repeatedly held, the mere possibility of harm is insufficient; there must be evidence of actual or imminent injury. See eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391 (2006) (holding that injunctive relief requires proof of irreparable harm and a balance of hardships favoring the moving party). Here, Defendant's voluntary action has removed any such risk, and Plaintiff's speculative claims cannot meet this standard.

Furthermore, Defendant's disclosures constitute protected activity under federal whistleblower statutes, designed to expose potential compliance failures and safeguard the public interest. Under the Defend Trade Secrets Act, 18 U.S.C. § 1833(b), such disclosures made in confidence for the purpose of reporting legal violations are immune from liability. See Unum Grp. v. Loftus, No. 19 Civ. 2788 (PAE), 2020 WL 419405, at *11 (S.D.N.Y. Jan. 27, 2020) (recognizing DTSA whistleblower immunity where disclosures were made to investigate or report suspected legal violations). Defendant's actions align squarely with these protections.

In light of Defendant's proportional response, the absence of ongoing harm, and the statutory immunity afforded to whistleblowers, the balance of equities and public interest strongly weigh against injunctive relief. See Yang v. Navigators Grp., Inc., 18 F. Supp. 3d 519, 532 (S.D.N.Y. 2014) (denying injunction where plaintiff engaged in protected whistleblowing activities).

EQUITABLE DEFENSES: UNCLEAN HANDS AND ESTOPPEL

Plaintiff's infrastructure denial, coupled with its selective enforcement of policies that Defendant was structurally barred from complying with, further invokes the doctrines of unclean hands and equitable estoppel.

By failing to provision Defendant with the standard tools necessary for compliance—while simultaneously alleging violations of policies Defendant could neither access nor review—Mphasis induced the very conditions it now seeks to penalize. See Heckler v. Community Health Services, 467 U.S. 51, 59 (1984); Dunlop-McCullen v. Local 1-S, RWDSU-AFL-CIO, 149 F.3d 85, 90 (2d Cir. 1998); Kosakow v. New Rochelle Radiology Assocs., P.C., 274 F.3d 706, 720-21 (2d Cir. 2001).

Accordingly, Plaintiff's hands remain unclean, barring equitable relief, including any preliminary injunction.

IV. ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS

Affirmative Defenses:

- Statutory Immunity (DTSA §1833(b), SOX, Dodd-Frank, NYLL §740);

- Unclean Hands: Mphasis's selective enforcement and infrastructure denial preclude equitable relief;
- Equitable Estoppel: Defendant relied on Mphasis's operational conditions;
- Failure to State a Claim: Plaintiff's claims lack factual and legal basis.

Counterclaims:

- Retaliatory Termination under DTSA, SOX, Dodd-Frank, NYLL §740;
- Defamation: Misrepresentation of protected disclosures as misconduct;
- Intentional Infliction of Emotional Distress;
- Declaratory Judgment: Recognition of Defendant's disclosures as protected whistleblower activity.

V. ENHANCED WHISTLEBLOWER DEFENSE AND LEGAL STRATEGY

- Leverage statutory protections aggressively (DTSA, SOX, Dodd-Frank, NYLL);
- Document unclean hands: Infrastructure denial, DLP policy inconsistencies, age-based harassment;
- Challenge trademark and defamation claims as protected speech;
- Prepare to compel discovery: Provisioning records, DLP logs, QBE communications confirming reliance on Defendant's work post-termination.

VI. PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully requests that the Court:

- Deny Plaintiff's Motion for Preliminary Injunction in its entirety;
- Dismiss Plaintiff's DTSA and CFAA claims with prejudice, based on statutory whistleblower immunity, lack of access, and equitable defenses;
- Dismiss Plaintiff's trademark and defamation claims, as barred by the First Amendment, fair use, and statutory whistleblower protections;
- Permit Defendant's affirmative defenses and counterclaims to proceed, including retaliation, defamation, and intentional infliction of emotional distress;
- Enter judgment for Defendant on his counterclaims, including:
  a. Compensatory damages for retaliatory termination, including but not limited to lost income, lost earning capacity, and loss of professional reputation;
  b. Compensatory damages for emotional distress, including anxiety, insomnia, social

isolation, and other documented mental health impacts, in an amount to be determined at trial, but consistent with awards in similar Second Circuit cases for severe emotional harm resulting from employer retaliation and litigation abuse.[1]
c. Punitive damages for willful, malicious retaliation and defamation, intended to deter such conduct under DTSA, SOX, Dodd-Frank, and New York law;

- Declaratory judgment affirming that Defendant's disclosures constitute protected whistleblower activity under DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h), and NYLL §740, immunizing Defendant from liability;
- Equitable relief, including either reinstatement of Defendant's employment or, in the alternative, an award of front pay and lost future earnings;
- Grant discovery into:
    - Plaintiff's provisioning practices, including denial of infrastructure (e.g., domain-joined laptops, VPN access);
    - Data Loss Prevention (DLP) logs and security audit reports to confirm the absence of any misappropriation or unauthorized access;
    - Client communications (e.g., QBE, Charles Schwab) regarding the absence of harm and reliance on Defendant's work product post-termination;
    - Internal HR records reflecting the timeline and basis of Defendant's termination;
- Award Defendant attorneys' fees and costs, as permitted under whistleblower retaliation statutes, including SOX and Dodd-Frank;

Additionally, Defendant requests that the Court order targeted discovery into the financial and asset-handling practices of Plaintiff Mphasis Corporation and its client QBE, including but not limited to any irregularities in asset return procedures, audit compliance, and financial reporting obligations, as documented in Exhibit (M). Defendant respectfully submits that the persistent delays, conflicting instructions, and obstruction surrounding the return of corporate property—uncharacteristic of reputable global enterprises—raise legitimate concerns of potential improper financial practices, possibly implicating anti-money laundering (AML) statutes and internal control deficiencies under Sarbanes-Oxley (SOX §404).

Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,
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[1] See Ferraro v. Kellwood Co., 440 F.3d 96, 102-03 (2d Cir. 2006) (upholding $500,000 emotional distress award for severe harm arising from employer's retaliation); Mugavero v. Arms Acres, Inc., 680 F. Supp. 2d 544, 577 (S.D.N.Y. 2010) (awarding $200,000 for emotional distress tied to retaliatory discharge); Turley v. ISG Lackawanna, Inc., 774 F.3d 140, 162 (2d Cir. 2014) (affirming $1.32 million emotional distress award in harassment case with egregious facts). These cases reflect the range of awards in the Second Circuit based on severity, duration, and psychological impact of the harm.

APPENDIX A: SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S MOTION RESPONSE

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation, Plaintiff, v. Albert Rojas, Defendant. Case No. 25-cv-3175

SUPPLEMENTAL REFINEMENTS TO MOTION RESPONSE 16

I. CLARIFICATION ON EMAIL COMMUNICATIONS AND SPOOFING DEFENSE

Defendant Albert Rojas reiterates that the use of the domain "mphasis.it.com" and related email addresses, including "nitin.rakesh@mphasis.it.com," was not spoofing or deceptive impersonation, but rather a lawful, transparent method of whistleblower communication necessitated by Plaintiff's active suppression of standard communication channels.

Key Points:

1. No deceptive headers, metadata, or concealed sender identities were employed. All communications were authored by Defendant, using this alternative domain solely after Plaintiff and its counsel blocked Defendant's primary email (rojas.albert@gmail.com), effectively silencing protected disclosures (See Exhibit J).

2. Emails contained clear disclaimers identifying the sender as Albert Rojas and stating their purpose as whistleblower disclosures. This use falls under the nominative fair use doctrine (see Rogers v. Grimaldi, 875 F.2d 994 (2d Cir. 1989); Nissan Motor Co. v. Nissan Computer Corp., 378 F.3d 1002 (9th Cir. 2004)). Defendant's use of "Mphasis" identifies the subject of critique and disclosures without creating confusion over origin.

3. Courts distinguish malicious spoofing from lawful nominative use designed to facilitate protected speech (see Lamparello v. Falwell, 420 F.3d 309 (4th Cir. 2005)). Defendant's actions align squarely with protected speech.

4. Defendant proposes that, if the Court deems necessary, further disclaimers or clarifications may be added to the domain or email footers to preclude any perceived confusion, consistent with narrowly tailored remedies over prior restraint (see Salinger v. Colting, 607 F.3d 68 (2d Cir. 2010)).

This defense invalidates Plaintiff's spoofing claims by demonstrating Defendant's transparency, necessity due to blocked channels, and alignment with established free speech protections.

II. PUBLIC INTEREST IN CYBERSECURITY AND REGULATORY COMPLIANCE FAILURES

The disclosures made by Defendant concern systemic cybersecurity failures, including Mphasis's refusal to provision domain-joined laptops and enforce DLP protocols, which exposed U.S. financial sector clients to significant data security risks. These risks implicate regulatory frameworks such as the NIST SP 800-53 standards, the NY SHIELD Act, and the CCPA, underscoring that these are matters of public interest and not merely private disputes.

Courts have recognized that disclosures of cybersecurity failures impacting financial institutions are squarely within the public interest (see Clapper v. Amnesty Int'l USA, 568 U.S. 398 (2013)).

III. CAUSAL CONNECTION BETWEEN PROTECTED DISCLOSURES AND RETALIATION

Defendant strengthens the causal nexus between his protected disclosures and retaliatory termination by presenting a detailed timeline:

- October 31, 2024: Defendant raised internal complaints regarding infrastructure denial.
- November 1, 2024: QBE laptop crash occurred due to cross-domain risks (EXHIBIT C).
- February 28 - March 7, 2025: Defendant reported DLP failures and faced age-based harassment (EXHIBIT D).
- March 12-14, 2025: Defendant escalated these issues during a formal CRO investigation.
- March 15, 2025: Mphasis issued a cease-and-desist letter (EXHIBIT H).
- April 16, 2025: Mphasis filed this lawsuit.

This sequence demonstrates clear temporal proximity and causation, consistent with retaliation standards set in Clark County Sch. Dist. v. Breeden, 532 U.S. 268 (2001), and Fraser v. Fiduciary Trust Co. Int'l, 417 F. Supp. 2d 310 (S.D.N.Y. 2006).

IV. LEAST INTRUSIVE REMEDY

Even if the Court finds certain aspects of Defendant's disclosures arguable, any injunctive relief should be narrowly tailored. Defendant proposes that, if necessary, content modifications or enhanced disclaimers on whistleblower websites could adequately address Mphasis's concerns without suppressing protected speech, consistent with the principle that injunctions should be the least restrictive means (see Salinger v. Colting, 607 F.3d 68 (2d Cir. 2010)).

V. FIRST AMENDMENT REINFORCEMENT

Defendant reiterates that the use of domains and communications addressing Mphasis's conduct falls squarely within the First Amendment's protection for critical speech and whistleblower disclosures. This aligns with the standards in Rogers v. Grimaldi and Cliffs Notes, Inc. v. Bantam Doubleday Dell Publ'g Group, Inc., 886 F.2d 490 (2d Cir. 1989).

VI. EMOTIONAL DISTRESS CLAIM

Defendant asserts a counterclaim for intentional infliction of emotional distress, stemming from Plaintiff's sustained retaliatory conduct:

1. Plaintiff denied Defendant essential infrastructure (e.g., domain-joined laptop, VPN), creating ongoing professional anxiety, client conflicts, and operational constraints (See Exhibit B).

2. Plaintiff engaged in age-based harassment, including derogatory "dinosaur" imagery and repeated remarks undermining Defendant's relevance (See Exhibit D). Such conduct satisfies the Second Circuit's standard for outrageousness in distress claims (see Ferraro v. Kellwood Co., 440 F.3d 96 (2d Cir. 2006)).

3. Plaintiff weaponized legal processes, including the mischaracterization of protected whistleblower disclosures as spoofing and trademark infringement, exacerbating Defendant's distress and damaging his reputation.

4. Defendant has suffered severe emotional distress, including insomnia, anxiety, and social isolation, directly resulting from Plaintiff's retaliatory termination and aggressive litigation posture.

This claim meets the four-prong standard for intentional infliction of emotional distress:

- Plaintiff engaged in extreme and outrageous conduct.
- Plaintiff intended to cause distress or acted recklessly.
- Defendant suffered severe emotional distress.
- The distress was directly caused by Plaintiff's conduct.

Accordingly, Defendant seeks compensatory and punitive damages for this distress, reinforcing the counterclaims and affirmative defenses in this matter.

VII. CONCLUSION

Defendant respectfully requests that the Court deny Plaintiff's Motion for Preliminary Injunction, uphold Defendant's affirmative defenses, and dismiss Plaintiff's claims with prejudice.

Respectfully submitted, Albert Rojas (Pro Se) 319 West 18th Street, 3F New York, NY 10011
rojas.albert@gmail.com (646) 866-1669

EXHIBITS:

EXHIBIT (A) Oct 9, 2024 – Interview and Client Engagement Confirmation;

EXHIBIT (B) Oct 31 - Dec 17, 2024 – Infrastructure Denial and Compliance Barrier Correspondence; Email from Defendant to Mphasis's Ethics & Compliance department raising **formal internal complaints.** In this detailed message (sent months before his termination), Defendant reported data security lapses, inconsistent policy enforcement, and potential discrimination. This exhibit is powerful evidence of Defendant's **protected whistleblower activity** and provides crucial context: Mphasis was on notice of these issues internally, long before Defendant made any external disclosure.

EXHIBIT (C) **Nov 1, 2024** – QBE Laptop Crash Incident Report;

Exhibit (D) Feb 28 - Mar 7, 2025 – QBE Presentation Routing and Age-Based Harassment Documentation; Email chain demonstrating Mphasis's own role in the alleged "data breach." A senior Mphasis manager (Ruturaj Waghmode) emailed a confidential QBE presentation to Defendant's work account, which Defendant had to forward to his personal email due to lack of a company laptop. The chain also documents subsequent **age-based harassment** (a "dinosaur" image directed at Defendant), evidencing a retaliatory hostile environment

Exhibit (E) 22 Dec, 2024 – QBE's Post-Termination Use of Defendant's Solutions; JIRA logs—the digital paper trail for task ownership, traceability, and collaboration—document remediation strategies for persistent failures in QBE's Legal NDA platform (originally developed by Accenture). These records confirm QBE continued implementing Defendant's solutions even after Mphasis terminated him, demonstrating that his work product remained in use. This undercuts any claim of misappropriation or harm and supports Defendant's assertion that his actions did not impair Mphasis's competitiveness.

EXHIBIT (F) Dec 31, 2024 – Equipment Return Coordination aud Communication Records;

EXHIBIT (H) Mar 15, 2025 – Cease-and-Desist Letter (2 days after Mphasis fired defendant) issued by Mphasis's counsel to Defendant. This letter demanded that Defendant take down his whistleblower websites and cease his disclosures. It is evidence of Mphasis's **retaliatory posture** immediately after Defendant's protected activity, and it preceded the filing of this lawsuit.

EXHIBIT (I) Apr 3, 2025: A second **cease-and-desist or threat letter** from Mphasis (or its counsel) escalating the legal threats against Defendant. This further demonstrates Mphasis's intent to **silence** Defendant's whistleblowing through legal pressure, bolstering Defendant's claims of retaliation under Dodd–Frank and NYLL § 740.

EXHIBIT (J) Mar 28 - Apr 20, 2024 – Email rejection ("mailer-daemon") notices showing that Mphasis – and its counsel – **blocked** Defendant's attempts to escalate concerns via standard email channels

EXHIBIT (K) Apr. 17 & 20, 2025 – Correspondence from Mphasis's counsel giving **conflicting instructions**: on April 17, counsel directed Defendant to communicate only through his personal email, but by April 20, that same email was **blocked**, leaving Defendant no avenue to be heard.

EXHIBIT (L) Mar 28, 2025 – Laptop Return Coordination And Missing Instructions

Exhibit (M) 29 Apr 2025 – Correspondence Regarding QBE Laptop Return. This exhibit contains email communications between Defendant Albert Rojas, Plaintiff Mphasis, QBE representatives, and Plaintiff's counsel at Ogletree Deakins, documenting Defendant's repeated efforts to return a QBE-issued Dell laptop. Despite requests dating back to December 2024, Mphasis and QBE failed to provide a standard FedEx shipping label and return instructions for over five months. Defendant's communications highlight concerns over the persistent delays, conflicting responses, and irregular asset handling, raising questions regarding compliance failures, audit risks, and potential improper financial practices. Submitted under penalty of perjury, these exchanges are material to Defendant's whistleblower defenses and requests for targeted financial discovery.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation,) Plaintiff,)) Case No. 25-cv-3175 v.)) Albert Rojas,) Defendant.)

ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS

Defendant Albert Rojas ("Defendant"), appearing pro se, respectfully submits this Answer to Plaintiff Mphasis Corporation's ("Mphasis") Complaint dated April 16, 2025, and states as follows:

GENERAL DENIAL

Pursuant to Fed. R. Civ. P. 8(b)(3), Defendant denies each and every allegation not specifically admitted herein and demands strict proof thereof.

FACTUAL BACKGROUND

Alleged Acceptable Use Policy Violation:
Defendant repeatedly warned Mphasis (Plaintiff) that accessing Mphasis email systems through QBE's network violated **QBE's Acceptable Use Policy** (Page 10, Section r), which prohibits unauthorized third-party email services for business communication. Defendant did not initiate this insecure configuration; it arose directly from **Mphasis's refusal to provide a company-issued, domain-joined laptop**—a baseline requirement for secure, policy-compliant access **[EXHIBIT (B) Oct 31 - Dec 17, 2024** – INFRASTRUCTURE DENIAL AND COMPLIANCE BARRIER].

Forced to choose between breaching QBE's endpoint security controls or using his personal MacBook, Defendant chose the latter. Mphasis's failure to provision proper infrastructure carried consequences: on **November 1, 2024**, QBE's issued laptop for Dilip Nayak suffered a **critical Blue Screen crash**—a classic indicator of **network compromise** due to **cross-domain access** (QBE and Mphasis systems on a shared endpoint) **[EXHIBIT (C) Nov 1, 2024**]. As a cybersecurity services provider, Mphasis failed to implement basic endpoint segregation, exposing its client to unnecessary risk.

Now, Mphasis seeks to penalize Defendant for operating under **constraints it imposed**. This **selective enforcement of internal policy**, while ignoring its own role in creating these conditions, constitutes **inequitable conduct barred by the doctrine of unclean hands**. See *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 814 (1945); *Dunlop-McCullen v. Local 1-S, RWDSU-AFL-CIO*, 149 F.3d 85, 90 (2d Cir. 1998).

Further, **Mphasis's own conduct violated client (QBE) protocols**, which prohibited cross-domain access via unsegregated endpoints. Defendant's use of personal equipment was not only

foreseeable—it was necessary to maintain compliance with QBE's security posture. The alleged violations are a direct consequence of **Mphasis's failure to act equitably**, precluding it from relief.

Retaliation and Whistleblower Protections:
Defendant's disclosures regarding these security failures are **protected activity** under the **Defend Trade Secrets Act (18 U.S.C. §1833(b))**, **Sarbanes-Oxley Act (18 U.S.C. §1514A)**, **Dodd-Frank (15 U.S.C. §78u-6(h))**, and **New York Labor Law §740**. Terminating Defendant for these disclosures constitutes **retaliation** and independently bars Plaintiff's claims.

Further Evidence of Inequitable Conduct:

I. Defendant's Demonstrated Value and Mphasis's Retaliation

In December 2024, Defendant successfully designed and deployed an integrated large language model (LLM) solution for QBE, materially enhancing operational efficiency by reducing document processing time from 35 seconds to under 2 seconds. This achievement—captured in a documented performance demonstration [YouTube link: www.youtube.com/watch?v=QulAEmBGEec]—provided measurable value to QBE's compliance and document management workflows.

Despite this performance milestone, which underscores Defendant's technical competence and good faith execution of duties, Mphasis discarded his contributions without cause. Instead of recognizing Defendant's critical work product, Mphasis engaged in retaliatory conduct—including age-based harassment, fabrication of pretextual grounds for termination, and this litigation—targeting Defendant's protected disclosures and advocacy for compliance integrity.

This LLM deployment serves as further evidence that Plaintiff's claims of misconduct are meritless and retaliatory. The material benefit to QBE directly contradicts any assertion that Defendant failed to perform or acted outside his role.

Moreover, Mphasis's termination of Defendant shortly after this achievement, coupled with its failure to acknowledge the positive client impact, exemplifies inequitable conduct and supports Defendant's claims for retaliatory termination under:

- The Defend Trade Secrets Act (DTSA) §1833(b);
- Sarbanes-Oxley Act (SOX) 18 U.S.C. §1514A;
- Dodd-Frank Act 15 U.S.C. §78u-6(h);
- New York Labor Law (NYLL) §740.

This documented success further bolsters Defendant's unclean hands defense, demonstrating that Mphasis's actions were motivated not by any legitimate concerns over misconduct, but by an intent to suppress whistleblowing activity and undermine Defendant's professional contributions.

II. Improper Handling Allegations Barred by Plaintiff's Own Conduct.

On February 28, 2025, Mphasis management, through Ruturaj Waghmode, transmitted confidential QBE materials to Defendant's Mphasis email, which he accessed via personal MacBook due to Mphasis's failure to provide standard corporate hardware. Lacking domain-joined equipment necessary for compliance, Defendant was compelled to forward the QBE.pptx file from his Mphasis email (albert.rojas@mphasis.com) to his personal email (rojas.albert@gmail.com) to complete required work.

Under the doctrine of equitable estoppel (Kosakow v. New Rochelle Radiology, 274 F.3d 706, 725 (2d Cir. 2001)) and unclean hands (Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co., 324 U.S. 806, 814 (1945)), Plaintiff cannot assert violations that it induced through its own failure to provide basic resources. Plaintiff's failure to furnish tools required for compliance negates any assertion of willful misconduct (Heckler v. Community Health Services, 467 U.S. 51, 59 (1984)).

III. Age-Based Hostility and Retaliatory Termination

Further compounding this inequitable conduct, despite Defendant's delivery of an 8-page strategic summary on the QBE project, Mphasis discarded the work and escalated hostility. This included age-related remarks questioning Defendant's relevance, culminating on March 7, 2025, when Waghmode displayed dinosaur imagery in a team setting, explicitly targeting Defendant (over 60)—conduct constituting age-based harassment under the Age Discrimination in Employment Act (ADEA) and supporting a hostile work environment claim (Fraser v. Fiduciary Trust Co. Int'l, 417 F. Supp. 2d 310, 322 (S.D.N.Y. 2006)).

Exhibit (D) Feb 28 - Mar 7, 2025 demonstrates that Mphasis management, specifically Ruturaj Waghmode, transmitted confidential QBE materials to Defendant's Mphasis email account, which Defendant accessed via his personal MacBook due to Mphasis's failure to provide standard corporate hardware.

Lacking Mphasis-issued equipment necessary to perform his duties, Defendant was compelled to forward the QBE.pptx file from his Mphasis email (albert.rojas@mphasis.com) to his personal email (rojas.albert@gmail.com) solely to complete required work. This operational necessity, caused by Plaintiff's failure to provide basic resources, bars any claim of improper handling under the doctrine of equitable estoppel (Kosakow v. New Rochelle Radiology, 274 F.3d 706, 725 (2d Cir. 2001)), as Defendant reasonably relied on the conditions created by Mphasis's own actions.

Moreover, Plaintiff's failure to furnish the tools required for compliance negates assertions of willful misconduct. Under Heckler v. Community Health Services, 467 U.S. 51, 59 (1984), a party cannot assert claims against another when its own conduct induced the circumstances it challenges.

Further, despite Defendant delivering an 8-page distilled strategic summary in connection with this QBE project, his work product was discarded without cause. This was followed by age-related remarks questioning his relevance, culminating in overt hostile conduct. On March 7, 2025, Waghmode escalated this behavior by displaying dinosaur imagery in a team setting, explicitly targeting Defendant (over 60)—conduct that constitutes age-based harassment under

the Age Discrimination in Employment Act (ADEA) and supports a hostile work environment claim (see Fraser v. Fiduciary Trust Co. Int'l, 417 F. Supp. 2d 310, 322 (S.D.N.Y. 2006)).

Email Chain:

- 10:23 AM – Ruturaj Waghmode (ruturaj.waghmode@mphasis.com) to Albert Rojas (albert.rojas@mphasis.com): "QBE draft deck" (attachment: QBE.pptx)
- 11:01 AM – Albert Rojas (albert.rojas@mphasis.com) forwarded to rojas.albert@gmail.com: "Fw: QBE draft deck"

This sequence, initiated by Mphasis management, directly undermines Plaintiff's claims of improper data handling. Defendant acted in good faith and under operational constraints imposed by Plaintiff while also facing discriminatory and hostile treatment in violation of federal law.

IV. Retaliation Following Protected Disclosures

After Defendant escalated compliance concerns during a formal CRO investigation (March 12–14, 2025), Mphasis retaliated by locking his system access and terminating his employment without meaningful explanation—constituting direct reprisal for protected disclosures.

Mphasis's post hoc justification—alleging "unauthorized international travel"—was demonstrably false. Defendant had secured documented approval for his self-funded travel and planned London meetings. This fabricated rationale masks retaliatory intent, prohibited under:

- **Defend Trade Secrets Act (DTSA)**, 18 U.S.C. §1833(b);
- **Sarbanes-Oxley Act (SOX)**, 18 U.S.C. §1514A;
- **Dodd-Frank Act**, 15 U.S.C. §78u-6(h);
- **New York Labor Law (NYLL)**, §740.

Such conduct, executed under the guise of compliance, bars Plaintiff's equitable claims and reinforces Defendant's counterclaims for retaliatory termination, defamation, and emotional distress. In equity and law, Plaintiff's hands remain unclean.

V. Conclusion

In sum, Plaintiff's claims are not only equitably barred but constitute retaliation for Defendant's protected activities under federal and state whistleblower statutes. Plaintiff's conduct—from withholding basic resources to retaliating against compliance reporting—demonstrates a pattern of inequitable conduct that defeats its claims.

In sum, Mphasis's claims are not only **equitably barred** but constitute **retaliation** for Defendant's protected activity under multiple statutes. Plaintiff's hands are unclean.

Sarbanes-Oxley (18 U.S.C. §1514A), Dodd-Frank (15 U.S.C. §78u-6(h)), and New York Labor Law §740.

Such conduct, rooted in bad faith and executed under the guise of compliance, not only bars Plaintiff's equitable claims but further reinforces Defendant's counterclaims for retaliatory termination, defamation, and emotional distress. In equity and law, Plaintiff's hands remain unclean.

In sum, Mphasis's claims are not only **equitably barred** but constitute **retaliation** for Defendant's protected activity under multiple statutes. Plaintiff's hands are unclean.

SPECIFIC RESPONSES

Paragraphs 1–28: Admitted in part. Defendant acknowledges he was hired by Mphasis in October 2024 as a Client Technical Specialist (AI) and completed onboarding forms and cursory training modules. Defendant unequivocally denies ever receiving access to Mphasis's internal systems, including compliance infrastructure, SharePoint policy documents, or governance tools. Mphasis never provided Defendant a domain-joined company laptop, despite multiple formal requests, which made it impossible to comply with the very policies Mphasis accuses him of violating.

I. STRUCTURAL COMPLIANCE FAILURES AND EQUITABLE ESTOPPEL

Email Correspondence Confirming Mphasis's Structural Compliance Failures, Policy Enforcement Gaps, DLP Inconsistencies, and Grounds for Equitable Estoppel and Whistleblower Protections:

"You can use personal machines, but you will be limited to WEB Version only... **ONLY Mphasis domain-joined machines can use Desktop apps**, which allow downloading and storing of Mphasis data." **[EXHIBIT (B) Oct 31 - Dec 17, 2024]**

This December 18, 2024 email from Mphasis Senior U.S. Administration Officer Jared Bulger provides unambiguous, self-authenticating proof that Mphasis Corporation failed to provision Defendant Albert Rojas with the standard security infrastructure required to perform his duties in compliance with company policy. This restriction barred Defendant from accessing internal systems, policy documentation, security controls, and compliance infrastructure—all of which form the basis of Plaintiff's claims. Mphasis's directive that Defendant rely on personal equipment, while withholding secure access, structurally prevented compliance and induced operational reliance on deficient conditions.

AFFIRMATIVE DEFENSE: INFRASTRUCTURE DENIAL AND WHISTLEBLOWER RETALIATION

1. Defendant incorporates by reference the factual background set forth herein, including Exhibits B, as support for this defense.

2. Defendant asserts that Mphasis Corporation, through deliberate policy enforcement failures, denied Defendant the standard security infrastructure necessary to perform his contractual duties in a compliant manner, including access to internal systems, policy documentation, security controls, and compliance tools.

3. Specifically, on October 31, 2024, Mphasis informed Defendant that he would not be issued a corporate laptop because he had been provided a client (QBE) laptop, thereby preventing Defendant from segregating access between client and contractor environments as required under industry-standard endpoint security protocols. This deviation from standard practice is underscored by contemporaneous communications, which confirm that other similarly situated personnel (e.g., Dean Forrest) were issued both QBE and Mphasis laptops.

4. Defendant raised internal concerns regarding this noncompliance, specifically highlighting the security risks and regulatory exposure caused by Mphasis's failure to provide the necessary infrastructure. Defendant was structurally barred from complying with policies he was contractually obligated to uphold.

5. Defendant's internal disclosures constituted protected activity under:

- New York Labor Law §740 (unlawful retaliation against employees who report violations of law or public policy).

- Sarbanes-Oxley Act (SOX), 18 U.S.C. § 1514A (protection against retaliation for reporting corporate fraud and violations of SEC regulations).

- Dodd-Frank Wall Street Reform and Consumer Protection Act, 15 U.S.C. § 78u-6(h) (prohibiting retaliation against whistleblowers reporting violations of securities laws and related risks).

6. Mphasis's retaliatory termination of Defendant in response to these protected disclosures constitutes a violation of the foregoing statutes and supports the affirmative defenses of unclean hands and equitable estoppel. See Kosakow v. New Rochelle Radiology Assocs., P.C., 274 F.3d 706, 720-21 (2d Cir. 2001); Heckler v. Community Health Servs. of Crawford Cty., Inc., 467 U.S. 51, 59 (1984).

7. Plaintiff's misconduct bars recovery under the doctrine of unclean hands. See Dunlop-McCullen v. Local 1-S, 149 F.3d 85, 90 (2d Cir. 1998).

8. Retaliatory discharge claims under SOX and Dodd-Frank are supported by Second Circuit precedent. See Fraser v. Fiduciary Trust Co. Int'l, 417 F. Supp. 2d 310, 322 (S.D.N.Y. 2006); Yang v. Navigators Group, Inc., 18 F. Supp. 3d 519, 532 (S.D.N.Y. 2014).

9. Mphasis's conduct further triggers estoppel against its claims of trade secret misappropriation and Computer Fraud and Abuse Act (CFAA) violations, as Defendant

was denied compliant access channels. See Cliffs Notes, Inc. v. Bantam Doubleday Dell Publ'g Group, Inc., 886 F.2d 490, 494 (2d Cir. 1989).

10. Defendant's reliance on personal equipment, compelled by Mphasis's infrastructure failures, directly violated QBE Endpoint Security Standards aligned with NIST SP 800-53 and ISO/IEC 27001.

11. Mphasis contravened NIST controls AC-17 (Remote Access), SC-12 (Cryptographic Key Establishment), SI-7 (Integrity Monitoring), and ISO/IEC 27001 Annex A controls A.6.2.1, A.9.2.1, A.13.2.1.

12. These systemic failures undermine Plaintiff's trade secret and CFAA claims. See United States v. Nosal, 844 F.3d 1024, 1035-36 (9th Cir. 2016); Elsevier Inc. v. Doctor Evidence, LLC, No. 17-cv-5540, 2018 WL 557906 (S.D.N.Y. Jan. 23, 2018).

13. Plaintiff's noncompliance with these controls supports Defendant's affirmative defenses of unclean hands and equitable estoppel. See Dunlop-McCullen, 149 F.3d at 90; Kosakow, 274 F.3d at 720-21.

14. Furthermore, Mphasis's failure to secure infrastructure and its retaliatory termination following Defendant's protected disclosures violate NYLL §740, SOX, and Dodd-Frank, further reinforcing these defenses.

II. INCONSISTENT ENFORCEMENT OF DLP PROTOCOLS

This systemic failure is further compounded by Mphasis's inconsistent enforcement of its Data Loss Prevention (DLP) protocols. While Mphasis penalized Defendant for operational workarounds necessitated by lack of access, it permitted senior personnel, including Ruturaj Waghmode, to bypass DLP controls and transmit confidential client materials to unsecured personal accounts (see **Exhibit (D) Feb 28 - Mar 7, 2025**). The selective enforcement of DLP policies and the company's own failure to detect or prevent these transfers highlight systemic compliance failures—not misconduct by Defendant.

III. RETALIATION FOLLOWING PROTECTED DISCLOSURES

Furthermore, when Defendant raised these policy enforcement gaps and DLP failures through internal escalation channels—including the Office of Ethics and Compliance and Whistleblower programs—Mphasis retaliated by blocking his communications, locking his accounts, and terminating his employment. These disclosures, made in good faith and aimed at addressing regulatory noncompliance and security risks, are protected under multiple whistleblower statutes:

- Defend Trade Secrets Act (DTSA) §1833(b)
- Sarbanes-Oxley Act (SOX) 18 U.S.C. §1514A
- Dodd-Frank Act 15 U.S.C. §78u-6(h)

- New York Labor Law (NYLL) §740

Mphasis's retaliatory actions following Defendant's protected disclosures—including blocking communication channels, fabricating pretextual grounds for termination, and pursuing litigation —further defeat Plaintiff's claims and reinforce Defendant's counterclaims for retaliatory termination, defamation, and emotional distress. This exhibit decisively undermines Plaintiff's allegations while reinforcing Defendant's affirmative defenses and statutory protections under federal and state whistleblower laws.

Summary and Cross-Reference:

In sum, Mphasis's allegations of breach in Paragraphs 1–28 are not only factually implausible but legally barred. Defendant could not access, review, or violate policies that were structurally inaccessible due to Mphasis's own failure to provide domain-joined hardware or secure system access. Under these conditions, equitable estoppel and unclean hands preclude Plaintiff's claims. **EXHIBIT (B) Oct 31 - Dec 17, 2024** stands as dispositive evidence of this structural failure.

For further evidence of Mphasis's inequitable conduct, selective enforcement of DLP protocols, and retaliatory behavior—including the QBE presentation routing and age-based harassment—see "Further Evidence of Inequitable Conduct," infra.

Paragraphs 29–34: Denied.

I. DEFENDANT'S CONTINUED ENGAGEMENT WITH QBE AND ACCENTURE REMEDIATION

Defendant was never placed on "watch" by QBE. On the contrary, QBE actively requested Defendant's continued engagement and sought to operationalize the GenAI software Defendant demonstrated during his October 9, 2024 client interview (See **Exhibit (A) Oct 9, 2024**). The assertion that Defendant improperly supported Accenture is patently false. Defendant was explicitly directed by QBE to remediate Accenture's failed implementation of the Legal NDA decoding pipeline—a critical system that had not met delivery expectations.

Following the termination of Defendant's contract by Dilip Nayak and QBE, the Accenture team continued to leverage Defendant's documented methodologies and solutions to resolve persistent failures in the Legal NDA platform originally developed by Accenture. These deficiencies were comprehensively detailed in internal records, including [Exhibit (E) – December 22, 2024], and corroborated by video evidence capturing systemic execution failures.

II. QBE'S ONGOING USE OF DEFENDANT'S WORK PRODUCT

QBE terminated Defendant's engagement, yet proceeded to implement the very solutions Defendant provided to stabilize a failing system. This contradiction is laid bare in internal QBE communications (See Exhibit (E) – December 22, 2024), which reference continued remediation efforts leveraging Defendant's work:

"... Yes, we discussed the issue the last two days and two new Jira have been raised. One of them is going to be resolved by Manjusha and the other will have to be handled by Ishita when she gets back from vacation..."

This record speaks for itself: QBE enlisted Defendant to optimize the broken deliverables from Accenture—that is why Defendant was retained. See **Exhibit (A) Oct 9, 2024** Defendant delivered. And QBE continued to utilize Defendant's intellectual contributions even after severing the contract. See **Exhibit (E) 22 Dec, 2024**

III. FALSE CLAIMS OF COMPETITOR SUPPORT

Paragraph 32 of Mphasis's complaint—stating that Defendant "sought to solve a problem for an Mphasis competitor"—is demonstrably false. Defendant was solving a problem for QBE, the mutual client. That distinction is critical. The work performed was at the direct request and benefit of QBE, not in service of Accenture.

IV. REPEATED FAILURE TO PROVIDE COMPANY HARDWARE

Moreover, Mphasis's accusation in Paragraph 35—that Defendant improperly forwarded materials to personal email accounts—conveniently omits that Defendant was never issued an Mphasis laptop. Defendant repeatedly requested appropriate hardware, but was instead instructed to use personal equipment to perform critical project work—a fact confirmed by internal communications, now conspicuously absent from Mphasis's complaint.

Mphasis's legal team is fully aware of these facts. Yet they filed a complaint that deliberately misstates the record, omits key context, and weaponizes protected disclosures as misconduct. This is more than misleading—it is retaliatory, and emblematic of Mphasis's broader pattern of inequitable conduct.

V. LEGAL DEFENSES AND WHISTLEBLOWER PROTECTIONS

Under the doctrine of unclean hands, such conduct bars Mphasis from seeking equitable relief. Additionally, these retaliatory tactics violate federal whistleblower protections, including:

- Sarbanes-Oxley (SOX) 18 U.S.C. §1514A
- Dodd-Frank Act 15 U.S.C. §78u-6(h)
- New York Labor Law (NYLL) §740

All of which shield individuals from adverse actions in response to protected disclosures regarding compliance failures.

Paragraphs 35–43: Denied.

I. EMAILS TO PERSONAL ACCOUNTS FOR WHISTLEBLOWER PURPOSES

All information emailed to Defendant's personal accounts was either:

- (a) related to whistleblower concerns, or
- (b) shared in the course of duties while Mphasis refused to provision secure access.

Mphasis's own policies and internal emails confirm that it was impossible to operate via internal tools without Mphasis-provided hardware. No sensitive or proprietary information was disseminated publicly. Defendant's use of personal email accounts was necessitated by Mphasis's operational failures, as established in prior responses (see **EXHIBIT (B) Oct 31 - Dec 17, 2024**).

II. PROTECTED USE OF WHISTLEBLOWER PUBLICATIONS

Paragraphs 44—83: Denied.

I. WEBSITES AND EMAIL COMMUNICATIONS RELATED TO PROTECTED DISCLOSURES

The websites mphasis.nyc and mphasis.cloud are protected First Amendment publications maintained as lawful whistleblower disclosures. Defendant did not spoof or impersonate Mphasis executives. The emails in question—sent from "nitin.rakesh@mphasis.it.com"—were not spoofed, nor did they impersonate CEO Rakesh. These communications were authored transparently by Defendant, using that address solely because Mphasis had blocked Defendant's primary email account (rojas.albert@gmail.com) **[EXHIBIT (J) Mar 28 - Apr 20, 2024]**, effectively silencing protected disclosures through standard channels. This alternative method was necessary to communicate material compliance concerns. All communications used clearly distinguishable third-party domain names and served solely to preserve evidence and document retaliation. Mphasis's use of the Computer Fraud and Abuse Act (CFAA) and Defend Trade Secrets Act (DTSA) statutes to silence these disclosures is abusive, retaliatory, and explicitly barred under whistleblower protection provisions, including DTSA §1833(b) immunity, Sarbanes-Oxley (SOX) 18 U.S.C. §1514A, and Dodd-Frank 15 U.S.C. §78u-6(h). These statutes shield individuals from adverse actions when reporting compliance failures, regulatory violations, or other legal infractions. Additionally, these disclosures remain protected under the First Amendment.

II. SPECIFIC RESPONSES TO PARAGRAPHS 68, 69, AND 79

Paragraph 68 alleges that on April 6, 2025, Defendant forwarded the confidential QBE PowerPoint to Grob from a "spoof" email and threatened to go to the media. This characterization is false. The email originated from "nitin.rakesh@mphasis.it.com," openly used by Defendant after Mphasis blocked his primary email **[EXHIBIT (J) Mar 28 - Apr 20, 2024]**. The communication was a good-faith effort to prompt engagement regarding compliance failures, not a threat. The reference to media disclosure falls within the protections of whistleblower statutes, including the DTSA whistleblower immunity provision (18 U.S.C. §1833(b)), Sarbanes-Oxley (18 U.S.C. §1514A), and Dodd-Frank (15 U.S.C. §78u-6(h)).

Paragraph 69 claims Defendant suggested inappropriate relationships and alleged undocumented DLP flags. This is a gross misrepresentation. The referenced email posed rhetorical questions to highlight systemic compliance failures—specifically, why DLP did not trigger when Ruturaj

Waghmode sent sensitive QBE materials to Defendant despite his access restrictions. These inquiries were legitimate compliance concerns, framed hypothetically to challenge the plausibility of the DLP failure, not assertions of fact.

Paragraph 79 asserts that mphasis.it.com remains active but omits that the site prominently displays a legal disclaimer outlining its lawful purpose as an evidentiary archive related to ongoing litigation and whistleblower claims. The disclaimer affirms protections under the First Amendment and federal whistleblower statutes, including the DTSA, SOX, and WPEA. This transparency nullifies Plaintiff's claims of impropriety regarding the site.

Collectively, these claims exemplify Mphasis's pattern of retaliatory misrepresentation, further supporting Defendant's defenses of unclean hands and whistleblower immunity.

The websites mphasis.nyc and mphasis.cloud are protected First Amendment publications maintained as lawful whistleblower disclosures. Defendant did not spoof or impersonate Mphasis executives. The emails in question—sent from "nitin.rakesh@mphasis.it.com"—were not spoofed, nor did they impersonate CEO Rakesh. These communications were authored transparently by Defendant, using that address solely because Mphasis had blocked Defendant's primary email account (rojas.albert@gmail.com) **[EXHIBIT (J) Mar 28 - Apr 20, 2024]**, effectively silencing protected disclosures through standard channels.

This alternative method was necessary to communicate material compliance concerns. All communications used clearly distinguishable third-party domain names and served solely to preserve evidence and document retaliation. Mphasis's use of the Computer Fraud and Abuse Act (CFAA) and Defend Trade Secrets Act (DTSA) statutes to silence these disclosures is abusive, retaliatory, and barred under whistleblower protection statutes and the First Amendment.

Paragraph 89: Denied.

I. FAILURE TO RETURN CLIENT-ISSUED LAPTOP - FACTUAL MISREPRESENTATION AND EQUITABLE DEFENSES

Mphasis alleges that "as of April 16, 2025, Rojas failed to return his client-issued laptop." This allegation is materially false and grossly incomplete. It omits documented evidence of Defendant's sustained good-faith efforts—across multiple months and continents—to coordinate the return of the QBE-issued laptop. Mphasis and its client, QBE, repeatedly failed to provide a functional return path, then attempted to weaponize their own inaction as the basis for this claim.

Defendant's diligent efforts to return the laptop—including multiple emails (Exhibits F, L)—were frustrated by conflicting responses from Mphasis and QBE. Equity disfavors claims where Plaintiff contributed to the delay (Kosakow v. New Rochelle Radiology, 274 F.3d 706, 725 (2d Cir. 2001)). Plaintiff's shifting instructions and failure to facilitate return bar reliance on this issue as a basis for relief.

Since December 2024, Defendant actively sought guidance on returning the device, including through a detailed series of communications with both Mphasis and QBE leadership. Most notably, on March 28, 2025, Defendant emailed QBE sponsor Dilip Nayak and copied senior

personnel at Mphasis, offering to return the laptop and again requesting specific instructions (See **EXHIBIT (L) Mar 28, 2025**). That message followed similar outreach dating back to December 22, 2024, in which Defendant confirmed:

- He never picked up the laptop in person—it was FedExed to his New York apartment.
- He was abroad in France at the time of termination.
- He proposed returning the device through QBE's London office or via prepaid shipping.
- He repeatedly sought return instructions, only to receive ambiguous or contradictory responses.

These emails, now submitted as **EXHIBIT (F) Dec 31, 2024 Dec and EXHIBIT (L) Mar 28, 2025**, show that Defendant's efforts were transparent, prompt, and consistent. At every turn, QBE and Mphasis either failed to respond, offered conflicting directions ("drop it off where you picked it up"—when it was never picked up), or deflected responsibility back onto one another.

More troublingly, while Mphasis pursued retaliatory litigation, QBE quietly continued relying on Defendant's intellectual property and deliverables—including the GenAI and Legal NDA remediation work for which he was originally retained—even after termination. This contradiction is vividly illustrated in Exhibit (E) – December 22, 2024 (JIRA tickets), which documents QBE's ongoing implementation of Defendant's solutions. Internal QBE communications confirm:

"... Yes, we discussed the issue the last two days and two new JIRA tickets have been raised. One will be resolved by Manjusha, and the other will have to wait for Ishita's return from vacation..."

These tickets demonstrate that QBE actively leveraged Defendant's methodologies post-termination to stabilize mission-critical systems—while Mphasis simultaneously alleged misconduct. This duality exemplifies the inequitable conduct at the core of Plaintiff's claims.

As shown in the December 17, 2024 [**EXHIBIT (B) Oct 31 - Dec 17, 2024**] – INFRASTRUCTURE DENIAL AND COMPLIANCE BARRIER; Tuesday, December 17, 2024 12:13 PM], QBE personnel such as Dean were issued both QBE and Mphasis laptops—unlike Defendant, who never received an Mphasis laptop despite repeated requests. To avoid violating endpoint security protocols between QBE and Mphasis, Defendant used a personal MacBook to access internal systems. This disparity, raised internally as a compliance concern, was followed by a retaliatory termination—an act in violation of New York Labor Law §740 and now central to the Mphasis v. Rojas lawsuit.

Mphasis cannot assert bad faith or noncompliance when it failed to meet its own obligation to facilitate equipment return—especially when Defendant's travel abroad, lack of a company-issued laptop, and repeated inquiries are plainly documented. To omit these facts while claiming wrongful retention of property constitutes inequitable conduct barred under the doctrine of unclean hands (Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co., 324 U.S. 806, 814 (1945)).

II. LEGAL DEFENSES AND WHISTLEBLOWER IMMUNITY

This conduct further supports Defendant's affirmative defenses, including retaliation under:

- Sarbanes-Oxley Act (SOX) 18 U.S.C. §1514A
- Defend Trade Secrets Act (DTSA) 18 U.S.C. §1833(b)
- Dodd-Frank Act 15 U.S.C. §78u-6(h)
- New York Labor Law (NYLL) §740

These statutes protect individuals from adverse actions in response to protected disclosures, including equipment return disputes rooted in compliance failures. Mphasis's complaint mischaracterizes the facts, disregards the record, and misuses the legal process to retaliate against a whistleblower. This claim—like others in the complaint—should be dismissed under the doctrines of unclean hands and statutory whistleblower immunity.

AFFIRMATIVE DEFENSES

Failure to State a Claim Plaintiff fails to allege specific facts showing a violation of the Defend Trade Secrets Act or the Computer Fraud and Abuse Act. No source code, proprietary algorithm, or confidential trade secret was accessed, misused, or disclosed.

Whistleblower Protection (NYLL § 740) Defendant was retaliated against for reporting serious compliance gaps, including QBE's internal access policy violations and Mphasis's refusal to provide secure computing access. These disclosures are protected under New York Labor Law.

Unclean Hands Mphasis cannot assert contractual violations while simultaneously denying Defendant the very resources (laptop, internal system access) needed to comply. Their misconduct voids enforcement.

Estoppel and Waiver Mphasis encouraged and benefited from Defendant's remediation of QBE's failing NDA system—work they now frame as unauthorized. Their delay and silence amount to ratification.

Failure to State a Claim

Whistleblower Protection (NYLL §740)

Unclean Hands

Estoppel and Waiver

Lack of Informed Consent and Procedural Unconscionability

Plaintiff's claims for breach of contract, including those under the **Acceptable Use Agreement**, **Non-Disclosure Agreement**, and **Invention Assignment and Non-Solicitation Agreement**, are barred by **procedural unconscionability** and **lack of informed consent**.

At no point during Defendant's employment did Plaintiff provide Defendant with:

- A **domain-joined Mphasis laptop**,
- **VPN credentials**, or
- **Access to Mphasis SharePoint** or other internal repositories where these agreements and policies were maintained.

Defendant's only equipment was a **QBE-issued laptop**, which lacked **access to Mphasis's internal systems**. Defendant's **personal laptop** also could not access these systems due to Mphasis's security architecture.

During onboarding, **Mphasis HR personnel directed Defendant to sign the agreements without review**, citing the inability to access the full policies at that time and assuring that such review could occur later. Defendant was never provided **practical access to these policies**.

The **imbalance in bargaining power**, the **absence of review opportunity**, and the **directives from HR to 'just sign'** constitute **procedural unconscionability** under **New York contract law**.

As a result, these agreements are **unenforceable**, and **Plaintiff's contract-based claims must fail**.

Defendant's Good Faith Disclosure Under §1833(b)

Defendant's Good Faith Disclosure Under §1833(b) and Lack of Legal Counsel

At all relevant times, Defendant Albert Rojas acted pro se and without the benefit of legal representation. He lacked the financial resources to retain counsel during his employment at Mphasis and after his termination. Despite this, Defendant made every effort to escalate his concerns through appropriate internal and external channels. It was only after Mphasis systematically blocked Defendant's corporate email, personal email, and communications with human resources and legal counsel (see Exhibits J and K), that he created external websites and disclosed materials necessary to establish a factual record.

These actions were not taken for personal gain, public spectacle, or to deceive. Rather, they were the only remaining mechanism available to surface compliance concerns and preserve evidence in anticipation of litigation—protected under the whistleblower immunity provision of the

Defend Trade Secrets Act (18 U.S.C. § 1833(b)). That statute explicitly permits disclosures of trade secret information to an attorney or a government official solely for the purpose of reporting or investigating a suspected violation of law.

In this instance, Defendant's disclosures were confined to (1) supporting the record in response to threats of litigation by Mphasis, (2) asserting statutory whistleblower claims under 18 U.S.C. § 1833(b), 18 U.S.C. § 1514A (Sarbanes-Oxley), and 15 U.S.C. § 78u-6 (Dodd-Frank), and (3) documenting misconduct in a manner accessible to investigators, regulators, and the Court. The creation of domains resembling Mphasis branding was not done with intent to confuse the public or impersonate the company for commercial advantage—it was done solely to bypass artificial blocks (see **EXHIBIT (J) Mar 28 - Apr 20, 2024**) targeting Defendant's name, address, and communications, which were enforced after he first raised concerns.

Plaintiff cannot establish malice or bad faith where it actively disabled Defendant's ability to comply through standard channels, and then penalized him for using the only avenues left. The Court should therefore find Defendant's disclosures protected and immune under §1833(b), and reject any assertion that these efforts were malicious or unauthorized.

AFFIRMATIVE DEFENSE: PROTECTED WHISTLEBLOWING AND RETALIATION UNDER SARBANES-OXLEY, DODD-FRANK, AND NEW YORK LABOR LAW §740

1. Defendant Albert Rojas asserts that **prior to any alleged misconduct** or termination, he engaged in **protected whistleblowing activity** under:
    - **Sarbanes-Oxley Act (18 U.S.C. §1514A),**
    - **Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. §78u-6(h))**, and
    - **New York Labor Law §740.**
2. Specifically, Rojas made **good faith internal disclosures** to Mphasis's **risk management, compliance, and human resources teams** regarding:
    - **Policy enforcement failures** concerning **data security** and **Data Loss Prevention (DLP) systems**, including exemptions for certain employees based on **age** or **religion**.
    - **Potential discrimination** and **retaliatory practices** within client engagements, specifically highlighting risks to **client deliverables**, **compliance obligations**, and **corporate governance.**
    - **Inconsistent application of cybersecurity protocols**, which posed a **substantial risk to data integrity, client confidentiality, and regulatory compliance**.

3. These disclosures addressed **potential violations of federal securities laws, corporate fraud,** and **public safety risks,** all of which are protected under:
    - **Sarbanes-Oxley** (for internal reporting of securities fraud or compliance failures),
    - **Dodd-Frank** (for external reporting or preparation thereof), and
    - **New York Labor Law §740** (for any internal or external reporting related to legal violations or public safety concerns).
4. Defendant asserts that **adverse employment actions,** including:
    - His **termination,**
    - The **withholding of severance,** and
    - The initiation of this **lawsuit,**

    were taken **in direct retaliation** for his **protected disclosures.**
5. Such retaliation constitutes a violation of:
    - **Sarbanes-Oxley §1514A,** which prohibits employer retaliation against employees engaging in protected internal reporting;
    - **Dodd-Frank §78u-6(h),** which prohibits retaliation for whistleblower activity, including preparations to report externally;
    - **New York Labor Law §740,** which prohibits retaliation for internal or external reports regarding violations of laws affecting public health, safety, or fraud.
6. **Remedies sought** under these statutes include:
    - **Reinstatement** (or front pay),
    - **Backpay** (including **double backpay** under Dodd-Frank),
    - **Compensatory damages** (emotional distress, reputational harm),
    - **Attorney fees and costs,** and
    - Such other relief as this Court deems just.
7. Plaintiff's claims for **trade secret misappropriation, breach of contract,** and **defamation** are **barred or mitigated** by this **retaliation defense,** as the disclosures made by Defendant were **protected whistleblower activity.**

COUNTERCLAIMS

Retaliatory Termination – NYLL § 740 Mphasis terminated Defendant in bad faith after he raised protected compliance concerns, including unencrypted access to Mphasis portals via third-party networks and misuse of GenAI models.

Defamation Mphasis knowingly made false claims in a public court filing, accusing Defendant of impersonation, theft, and misconduct without basis, causing reputational damage and emotional distress.

Intentional Infliction of Emotional Distress Mphasis escalated a workplace access issue into a federal lawsuit replete with inflammatory, false allegations, all while denying basic workplace equipment and exposing Defendant to humiliation and job loss.

Declaratory Judgment (28 U.S.C. § 2201) Defendant seeks a judicial declaration that mphasis.nyc, mphasis.it.com, and mphasis.cloud are lawful whistleblower sites protected by the First Amendment and NYLL § 740, and do not constitute trademark or trade secret violations.

COUNTERCLAIM ONE: RETALIATION IN VIOLATION OF THE SARBANES-OXLEY ACT (18 U.S.C. §1514A)

See Yang v. Navigators Grp., Inc., 18 F. Supp. 3d 519, 529 (S.D.N.Y. 2014) (holding that a **temporal proximity of less than three months** between internal whistleblowing and termination established a **prima facie case of retaliation** under **SOX**).

See also Fraser v. Fiduciary Tr. Co. Int'l, 417 F. Supp. 2d 310, 322 (S.D.N.Y. 2006) (finding **SOX protections** extend to **internal reporting** of concerns implicating **shareholder fraud** or **compliance deficiencies**).

Here, like in **Fraser**, Defendant's internal disclosures regarding data security failures and discriminatory practices fall squarely within SOX's protected scope, as they implicated potential fraud and compliance risks to clients like QBE.

Defendant's disclosures further implicated **specific legal violations**, including:

- **General Data Protection Regulation (GDPR)**: Plaintiff's processing of **EU client data**, including **QBE's global operations**, raised concerns under **Articles 5, 25, and 32**, relating to **data security, protection by design**, and **access governance**.
- **New York SHIELD Act (N.Y. Gen. Bus. Law § 899-bb)**: Defendant reported Plaintiff's failure to implement **reasonable administrative, technical, and physical safeguards** for **New York residents' personal data**, violating the **SHIELD Act's cybersecurity requirements**.

- **California Consumer Privacy Act (CCPA)**: For **California-based clients**, Defendant identified **insufficient security measures** and **transparency obligations** under **CCPA Section 1798.100(b)**.

Defendant also disclosed **discriminatory DLP exemptions** based on **religion** and **age**, violating **Title VII of the Civil Rights Act** and the **New York State Human Rights Law (NYSHRL)**.

1. Defendant/Counterclaim Plaintiff **Albert Rojas** repeats and realleges all preceding paragraphs as if fully set forth herein.

2. While employed at **Mphasis Corporation**, Rojas was assigned to high-profile client engagements, including **QBE** and **Charles Schwab**, where he became aware of **systemic failures** in **data protection**, **policy enforcement**, and **risk management**.

3. Specifically, on or about **November 2024**, Rojas raised **internal concerns** with his direct supervisor, **Jitendra Borkar**, and Mphasis's **risk and compliance teams**, regarding:

    - The **exemptions** granted to certain employees in **Data Loss Prevention (DLP) systems**, allegedly based on **age** or **religion**.
    - The **inconsistent enforcement** of data security policies, which could expose clients like **QBE** to **regulatory noncompliance** or **financial risks**.

4. On **February 28, 2025**, following months of raising these concerns, Rojas was subjected to a **Data Loss Prevention (DLP) incident review** for emailing client deliverables to his **personal email**. These actions were **consistent with prior work practices** and **necessitated** by Mphasis's **failure to provision him with compliant equipment** during international travel.

5. Rather than addressing the **substantive compliance concerns** Rojas raised, Mphasis used this incident as a **pretext to initiate disciplinary proceedings**, effectively silencing the **whistleblower**.

6. Within **days of this DLP incident**, Mphasis:

    - **Locked Rojas's accounts**,
    - **Terminated his employment**, and
    - Issued **cease-and-desist letters** targeting his **protected disclosures**.

7. The **temporal proximity** between Rojas's **protected disclosures** and his **termination** demonstrates **causation** under **Sarbanes-Oxley**.

8. As a direct result of this retaliation, Rojas suffered:

    - **Economic losses** (lost wages, benefits),

- **Emotional distress**, and
- **Reputational harm**.

9. Pursuant to **18 U.S.C. §1514A(c)**, Rojas seeks:
   - **Reinstatement** or **front pay**,
   - **Backpay with interest**,
   - **Special damages** (emotional distress, reputational harm),
   - **Attorneys' fees and costs**.

The **temporal proximity** between Defendant's **protected disclosures** (late 2024–early 2025) and Plaintiff's **termination and subsequent lawsuit** supports a **prima facie case of retaliation** under **SOX**, **Dodd-Frank**, and **NYLL §740** (*see Yang v. Navigators Grp., 18 F. Supp. 3d 519, 529 (S.D.N.Y. 2014)*).

COUNTERCLAIM TWO: RETALIATION IN VIOLATION OF THE DODD-FRANK ACT (15 U.S.C. §78u-6(h))

10. Rojas repeats and realleges the foregoing paragraphs.

11. During and after his employment, Rojas **prepared documentation** for **external escalation**, including draft exhibits and analyses intended to be shared with regulatory bodies, such as the **SEC** or **DOJ**, regarding:

- **Inadequate internal controls** at Mphasis affecting **financial clients**,
- Potential **misrepresentations** to clients about **data protection**.
- **Defendant's regulatory intent included reporting to:**
- The **Securities and Exchange Commission (SEC)** regarding **investor risk and compliance failures** related to data privacy and cybersecurity,
- The **Federal Trade Commission (FTC)** and **state attorneys general** (e.g., **New York** and **California**) concerning **GDPR**, **CCPA**, and **NY SHIELD Act violations**.

Defendant prepared **analyses and exhibits** to support these reports but was **terminated and subjected to litigation** prior to submission.
This qualifies as **protected activity** under **Dodd-Frank** retaliation provisions (*see Berman v. Neo@Ogilvy LLC*, 801 F.3d 145 (2d Cir. 2015)*).

12. On **March 15, 2025**, after receiving a **cease-and-desist letter** from Mphasis's legal team, Rojas responded by offering to share these **prepared exhibits** for **regulatory or legal review**.

13. Instead of addressing these compliance concerns, Mphasis retaliated further by:

- Pursuing **litigation** against Rojas,
- Alleging **trade secret misappropriation**, despite his **intended use** of the information for **reporting violations**.

14. This **retaliation** violates **Dodd-Frank** protections for employees **preparing to report violations externally**, even if disclosures are not yet made.

15. Pursuant to **Dodd-Frank**, Rojas seeks:

- **Reinstatement** or **front pay**,
- **Double backpay**,
- **Attorneys' fees and costs.**

The **temporal proximity** between Defendant's **protected disclosures** (late 2024–early 2025) and Plaintiff's **termination and subsequent lawsuit** supports a **prima facie case of retaliation** under **SOX**, **Dodd-Frank**, and **NYLL §740** (*see Yang v. Navigators Grp., 18 F. Supp. 3d 519, 529 (S.D.N.Y. 2014)*).

COUNTERCLAIM THREE: RETALIATION IN VIOLATION OF NEW YORK LABOR LAW §740

16. Rojas repeats and realleges the foregoing paragraphs.

17. Rojas's internal disclosures regarding **policy failures**, **discriminatory exemptions**, and **risk mismanagement** directly implicated **violations of data privacy laws**, **anti-discrimination statutes**, and **regulatory frameworks** affecting **public interest**.

18. These disclosures occurred throughout **late 2024 and early 2025**, culminating in **direct communications** with:

- **Jitendra Borkar** (supervisor),
- **Shannon Mostafazadeh** (HR partner),
- **Puran Mehta** (risk/compliance team),
- **Vinod Kumar** (Chief Risk Office).

19. Shortly after raising these concerns, Mphasis:

- **Terminated Rojas's employment,**
- **Filed suit** against him.

20. This pattern of retaliation violates **New York Labor Law §740**, which protects employees reporting **violations of law** or **public safety risks**.

21. Rojas seeks remedies under §740, including:

- **Reinstatement,**
- **Backpay,**
- **Compensatory damages** for **emotional distress** and **reputational harm**,
- **Attorneys' fees and costs.**

The **temporal proximity** between Defendant's **protected disclosures** (late 2024–early 2025) and Plaintiff's **termination and subsequent lawsuit** supports a **prima facie case of retaliation** under **SOX**, **Dodd-Frank**, and **NYLL §740** (*see Yang v. Navigators Grp., 18 F. Supp. 3d 519, 529 (S.D.N.Y. 2014)*).

COUNTERCLAIM FOUR: DISCRIMINATION BASED ON RACE AND AGE (TITLE VII, ADEA, NYSHRL, NYCHRL)

1. Defendant Albert Rojas incorporates by reference the allegations set forth in the preceding paragraphs of this Answer, Affirmative Defenses, and Counterclaims.

2. Plaintiff Mphasis Corporation, through its agents and employees, engaged in discriminatory practices against Defendant based on his race (Latino) and age (over 40), in violation of:

- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a);
- The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 623(a);
- The New York State Human Rights Law (NYSHRL), N.Y. Exec. Law § 296;
- The New York City Human Rights Law (NYCHRL), N.Y.C. Admin. Code § 8-107.

3. Mphasis denied Defendant the standard security infrastructure (including a corporate-issued Mphasis laptop) routinely provided to similarly situated employees, including but not limited to Dean Forrest, who upon information and belief, are younger and not of Defendant's racial background.

4. This denial materially impaired Defendant's ability to perform contractual duties and subjected him to disparate treatment in violation of anti-discrimination laws.

5. Defendant's treatment is consistent with the pattern of discriminatory practices recognized in EEOC enforcement actions, including EEOC v. Bloomberg L.P., 967 F. Supp. 2d 816, 839 (S.D.N.Y. 2013), where the court found that facially neutral policies applied discriminatorily supported a Title VII violation. Similarly, the EEOC's Compliance Manual (Section 15: Race and Color Discrimination) provides that differential treatment in workplace resources and infrastructure may constitute discrimination if similarly situated employees outside the protected class are treated more favorably.

6. Further, under the McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) burden-shifting framework, Defendant has established a prima facie case of discrimination: (1) he is a member of protected classes (Latino and over 40); (2) he was qualified for his position; (3) he was denied resources (e.g., Mphasis laptop) provided to similarly situated employees; and (4) these actions resulted in adverse treatment, including termination.

7. Mphasis has failed to provide a legitimate, nondiscriminatory rationale for this deviation in treatment, supporting an inference of discriminatory animus based on race and age.

8. As a direct and proximate result of Mphasis's unlawful conduct, Defendant has suffered economic loss, reputational harm, and emotional distress.

EXHIBIT (B) Oct 31 - Dec 17, 2024: INFRASTRUCTURE DENIAL AND COMPLIANCE BARRIER

Mphasis explicitly denied Defendant Albert Rojas a corporate-issued laptop, forcing him to rely on personal equipment while holding him accountable for policies he could not access or comply with. Key correspondence confirms this:

- **October 31, 2024**: Arul A. (Mphasis HR) stated, "Since you already got a client laptop, Mphasis IT team will not provide you an Mphasis laptop."
- **December 18, 2024**: Jared Bulger (Senior U.S. Administration Officer) confirmed: "You can use personal machines, but you will be limited to WEB Version only... **ONLY Mphasis domain-joined machines can use Desktop apps**, which allow downloading and storing of Mphasis data."

These policies left Defendant without access to necessary compliance tools, policy documentation, or secure storage infrastructure, while other similarly situated employees, such as Dean Forrest, were provided both QBE and Mphasis laptops. In a December 17, 2024 exchange:

- Dean Forrest confirmed: "I don't have my Mphasis emails on my QBE machine. I use my Mphasis laptop for that... Yes, I got a Mphasis Laptop and a separate QBE laptop."

These exchanges highlight the disparity in resource allocation. Defendant repeatedly raised these concerns internally, emphasizing the security risks and compliance barriers posed by this setup. Mphasis's refusal to provide equitable infrastructure, followed by retaliatory termination, forms the core of Defendant's claims under New York Labor Law § 740 and federal whistleblower protections.

Exhibit (E) – December 22, 2024: QBE'S ONGOING USE OF DEFENDANT'S WORK PRODUCT & EVIDENCE OF RETALIATION
(See also Section IV.5 of Defendant's Enhanced Whistleblower Defense and Legal Strategy regarding discovery strategy.)

Following Defendant's termination, QBE and Accenture continued relying on Defendant's documented methodologies to remediate persistent failures in the Legal NDA platform originally developed by Accenture. These deficiencies were extensively chronicled through supporting exhibits, including spreadsheets and video demonstrations of execution failures.

Internal QBE communications confirm this ongoing reliance:

"... Yes, we discussed the issue the last two days and two new JIRA tickets have been raised. One will be resolved by Manjusha, and the other will be handled by Ishita upon her return from vacation..."

These communications, alongside QBE's continued implementation of Defendant's solutions post-termination, directly refute Plaintiff's allegations of misconduct and underscore the operational value of Defendant's work.

As outlined in Section IV.5 of Defendant's Enhanced Whistleblower Defense and Legal Strategy, subpoenaing QBE's internal communications and JIRA records will further establish that:

- QBE actively implemented Defendant's solutions post-termination;
- QBE acknowledged Defendant's technical contributions and compliance concerns;
- QBE's compliance exposure arose from Mphasis's systemic policy failures—not Defendant's actions.

This evidence supports that Defendant's termination was retaliatory, intended to suppress protected disclosures, and that Plaintiff's claims lack factual and legal merit.

EXHIBIT (L) Mar 28, 2025: LAPTOP RETURN COORDINATION AND MISSING INSTRUCTIONS

Following Defendant's termination, Mphasis's HR offboarding team issued a "No Due Clearance Document" for full and final settlement but failed to provide any instructions for returning the QBE-issued Dell laptop.

Defendant proactively emailed QBE sponsor Dilip Nayak and senior Mphasis personnel to coordinate the return, as confirmed below:

- March 28, 2025: Defendant wrote to Dilip Nayak: "I'm still in Cannes, my friend, and your QBE Dell laptop is just collecting dust in my New York apartment. In hindsight, I should have dropped it off at QBE London. I'll take care of it once I'm back in New York, just drop it off at QBE offices down in the financial district."

Despite Defendant's good-faith efforts, QBE and Mphasis failed to provide clear return logistics, contributing to their unfounded allegations regarding equipment retention.

Plaintiff's failure to provide return instructions, despite Defendant's repeated good faith efforts, renders performance impracticable under contract law (Restatement (Second) of Contracts §261). As such, Plaintiff cannot claim wrongful retention.
WHEREFORE, consistent with the aggregate relief sought in Defendant's Demand for Relief on Counterclaims and Prayer for Relief, Defendant requests the following specific remedies:

- A declaratory judgment that Mphasis's actions, policies, and practices violate Title VII, ADEA, NYSHRL, and NYCHRL;
- An injunction requiring Mphasis to adopt and implement equitable infrastructure provisioning policies that ensure fair treatment regardless of race, age, or other protected characteristics;
- An injunction prohibiting Mphasis from engaging in further discriminatory practices against Defendant or similarly situated employees;
- Reinstatement or front pay, as appropriate;
- Compensatory damages for economic loss, reputational harm, and emotional distress;
- Punitive damages as allowed by law;
- Reasonable attorneys' fees and costs; and
- Any other relief the Court deems just and proper.

DEMAND FOR RELIEF ON COUNTERCLAIMS: WHEREFORE, Counterclaim Plaintiff Albert Rojas respectfully requests judgment against Mphasis Corporation for:

- Reinstatement or front pay;
- Backpay (including double backpay under Dodd-Frank);
- Compensatory damages, including for emotional distress and reputational harm;
- Attorneys' fees and costs;
- Pre- and post-judgment interest;

- Any other relief deemed just and proper, including but not limited to the specific relief sought under Counterclaims One through Four.

PRAYER FOR RELIEF: WHEREFORE, Defendant respectfully requests that the Court:

- Dismiss Plaintiff's Complaint in its entirety with prejudice;
- Enter judgment for Defendant on all Counterclaims;
- Award compensatory and punitive damages;
- Reinstate Defendant or grant an equivalent equitable remedy under NYLL § 740;
- Declare the websites in question lawful and protected speech;
- Award attorneys' fees and costs, if counsel is retained;
- Grant such other and further relief as the Court deems just.

The **temporal proximity** between Defendant's **protected disclosures** (late 2024–early 2025) and Plaintiff's **termination and subsequent lawsuit** supports a **prima facie case of retaliation** under **SOX**, **Dodd-Frank**, and **NYLL §740** (*see Yang v. Navigators Grp., 18 F. Supp. 3d 519, 529 (S.D.N.Y. 2014)*).

Respectfully submitted, Albert Rojas (pro se) 319 West 18th Street, 3F New York, NY 10011 [rojas.albert@gmail.com] [646-866-1669] Dated: April 22, 2025

Albert Rojas (signature)