

Charles C. Johnson



In Propria Persona

FILED

DEC 09 2015

FRESNO SUPERIOR COURT

By _____ DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

CHARLES C. JOHNSON,

And

GOT NEWS, LLC,
Plaintiffs

vs.

GAWKER MEDIA, LLC,
Hold Service: Gawker Media LLC
210 Elizabeth St.
4th Floor
New York, NY
10012

And

J.K. TROTTER, in his individual
capacity
Hold Service: Gawker Media
114 5th Ave.
New York, NY
10012

And

GREG HOWARD, in his individual
capacity
Hold Service: Gawker Media
114 5th Ave.
New York, NY
10012

\$435.00
civil 2015-0033223
Case No.: **15 CE CG 03734**

COMPLAINT



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Defendants.)
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**COMPLAINT FOR DEFAMATION, INJURIOUS FALSEHOOD, AND INVASION OF
PRIVACY (FALSE LIGHT)**

COMES NOW Plaintiffs Charles C. Johnson and Got News LLC,
by and through his undersigned counsel, and for his First
Amended Complaint against Defendants Gawker Media LLC,
("Gawker"), J.K. Trotter ("Trotter") and Greg Howard ("Howard")
(collectively, "Defendants"), states as follows:

JURISDICTION AND VENUE

Because Plaintiffs are residents of the State of California
and have been injured in the State of California, the matter is
properly before this court.

FACTUAL ALLEGATIONS

1. Plaintiff Charles C. Johnson is a journalist and the president and owner of Got News, LLC, a media company which owns Gotnews.com, a news and commentary website.
2. Plaintiff Charles C. Johnson has never before initiated a lawsuit for defamation.
3. Defendant Gawker Media LLC, is a corporation organized and existing under the laws of the state of Delaware with its primary place of business located in New York, New York.
4. Defendant J.K. Trotter, upon information and belief, is a resident of the state of New York.
5. Defendant Greg Howard, upon information and belief, is a resident of the state of New York.

1 6. At all times relevant to this Complaint, Defendants
2 Trotter and Howard were employed as journalists by Defendant
3 Gawker.

4 7. As a threshold matter, Plaintiff hereby incorporates
5 herein by reference, Exhibits 1-42 as if fully stated herein. An
6 index of exhibits is included after the signature block of this
7 Complaint.

8 8. As a threshold matter, unless specifically stated
9 otherwise, all factual allegations are upon information and
10 belief.

11 9. Defendant Gawker owns a family of tightly-linked,
12 internet-based media properties, with sub-brands that are each,
13 individually and collectively marketed by Gawker.
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15 10. Among the media properties owned and marketed by
16 Gawker are Deadspin.com and Gawker's flagship site, Gawker.com.
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18 11. Upon information and belief, the Gawker online media
19 properties have in excess of sixty-four million (64,000,000)
20 unique monthly readers in the United States.¹

21 12. Gawker had approximately 540,000 twitter followers in
22 December of 2014.

23 13. Per Quantcast, Gawker Media has over **One Million**
24 unique Missouri readers.
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26 14. Gawker's media properties, such as the properties
27 mentioned above, contain a variety of content. For example,
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¹ <http://advertising.gawker.com/about/> last accessed June 17, 2015.

1 Deadspin.com is primarily a sports news and sports commentary
2 website. The remaining properties may have different topical
3 focuses, but each carries content primarily consisting of news
4 and commentary.

5 15. Gawker earns revenue, among other ways, by selling
6 advertising on its media properties.

7 16. Gawker has over a million readers in Missouri, as
8 evidenced Quantcast data showing Gawker.com's web traffic.

9 17. Gawker properties have endlessly written about the
10 Ferguson riots and related topics,¹ including publishing articles
11 highly critical of Plaintiffs' efforts in investigative
12 journalism regarding various "Ferguson" topics.²

13 18. Further, Deadspin.com, a Gawker media property
14 dedicated to sports, famously, viciously, repeatedly, and
15 continuously, attacked the St. Louis Cardinals recently.³
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19 ¹ See, James West, "Gawker Took Only One Day to Report and Vet the Story That Blew Up in Its Face," published
20 by Mother Jones on July 24, 2015. [http://www.motherjones.com/media/2015/07/gawker-conde-nast-fallout-](http://www.motherjones.com/media/2015/07/gawker-conde-nast-fallout-timeline-denton)
21 [timeline-denton.](http://www.motherjones.com/media/2015/07/gawker-conde-nast-fallout-timeline-denton)

22 ² See, e.g., A.J. Daulerio, "The Story Behind the Stories You Loved This Year: Hulk Hogan's Mesmorizing Sex
23 Tape," published by gawker.com on December 26, 2012. [http://gawker.com/5971314/the-story-behind-the-stories-](http://gawker.com/5971314/the-story-behind-the-stories-you-loved-this-year-hulk-hogans-mesmerizing-sex-tape)
24 [you-loved-this-year-hulk-hogans-mesmerizing-sex-tape.](http://gawker.com/5971314/the-story-behind-the-stories-you-loved-this-year-hulk-hogans-mesmerizing-sex-tape)

25 ³ Drew Magary, "Eat Shit, Cardinals" June 16, 2015 (<http://deadspin.com/eat-shit-cardinals-1711726377> last
26 accessed October 4, 2015); Drew Magary, "Why **Your** Cardinals Suck," October 10, 2013
27 (<http://deadspin.com/why-your-cardinals-suck-1443513646> last accessed October 4, 2015) (emphasis added); Tom
28 Ley, "Everyone Involved In The Cardinals Hacking Scandal Seems To Be An Idiot," ([http://deadspin.com/everyone-](http://deadspin.com/everyone-involved-in-the-cardinals-hacking-scandal-seem-1711682201)
[involved-in-the-cardinals-hacking-scandal-seem-1711682201](http://deadspin.com/everyone-involved-in-the-cardinals-hacking-scandal-seem-1711682201) last accessed October 4, 2015); Samer Kalaf, "Report:

1 19. Tracking technology currently exists which allows
2 advertisers on media websites to track readers' age, gender,
3 **location**, and many other data points.¹

4 20. After working for a time as a reporter for the
5 *Financial Times*, Nick Denton founded Gawker in 2003.

6 21. Denton's goal was to change journalism by turning
7 *ordinary people* into content creators:²

8
9 Similarly, Denton admits that the journalistic standards of his blogs are lower
10 than those in traditional media. But, he says, that's the whole point of the
11 venture. "We go after sacred cows. We run stories on the basis of one anonymous
12 source, in many cases, and a bit of judgment. We put it out there. We make clear
13 the level of confidence we have in a story. We ask for help [from site visitors], we
14 ask for corroboration, we ask for denials. Every single story is a work in progress,
15 it's not meant to be final. It's like a reporter's notebook."

16 22. Concurrent with starting Gawker, Denton also began a
17 pornography blog (also featuring hardcore porn) called
18 "Fleshbot" which is part of the Gawker empire.

19 *FBI Investigates the St. Louis Cardinals For Hacking the Astros*," June 16, 2015 ([http://deadspin.com/report-fbi-](http://deadspin.com/report-fbi-investigates-st-louis-cardinals-for-hackin-1711673515)
20 [investigates-st-louis-cardinals-for-hackin-1711673515](http://deadspin.com/report-fbi-investigates-st-louis-cardinals-for-hackin-1711673515), last accessed October 4, 2015); Drew Magary, "*Moron USA*
21 *Today Columnist Thinks The Cardinals Poop Vanilla Sprinkle*," March 5, 2015 ([http://deadspin.com/moron-usa-](http://deadspin.com/moron-usa-today-columnist-thinks-the-cardinals-poop-van-1689616561)
22 [today-columnist-thinks-the-cardinals-poop-van-1689616561](http://deadspin.com/moron-usa-today-columnist-thinks-the-cardinals-poop-van-1689616561), last accessed October 4, 2015).

23 ¹For example, see Plaintiffs' Ex. 41, which is a screenshot taken by Plaintiffs' counsel when he visited
24 [gawker.com](http://www.gawker.com)'s home page (www.gawker.com) on Sunday, October 4, 2015. Note that there is an ad on the page
25 marketing "**Budweiser Brewery Experience SAINT LOUIS - This Tour's For You - BudweiserTours.com**"
26 This ad clearly is marketing to Plaintiffs' counsel because the [gawker.com](http://www.gawker.com) technology gurus have tracking tech
27 which knows that Plaintiffs' counsel is a reader, **viewing the site from St. Louis, Missouri**.

28 ² Excerpt from, Jay Rayner, "*The Brit Dishing The Dirt On America*," *The Guardian*, Sunday 9 March 2008.
<http://www.theguardian.com/technology/2008/mar/09/gawker> (last accessed Oct. 9. 2015).

1 23. Denton's first big hits were as a result of publishing
2 private sex tapes of public figures. For example, the infamous
3 Paris Hilton sex tape.¹

4 24. Denton told The Hollywood Reporter in 2013 in an
5 article entitled, "*Gawker's Nick Denton Explains Why Invasion of*
6 *Privacy Is Positive for Society*":²

7
8 **THR: When you started Gawker, did you have an idea that you were going to change things?**

9 **Denton:** Yeah. The basic concept was two journalists in a bar telling each other a story that's much more
10 interesting than whatever hits the papers the next day.

11 **THR: Do you think journalists censor themselves?**

12 **Denton:** Well, I used to think it had to do with legal reasons and people being too fearful of libel. But actually,
13 now I think the larger factor is a journalist's desire for respectability – not wanting to expose themselves, not
14 wanting to say, "Hey we've heard this, we're not completely sure whether it's true." People are talking about
15 this. We're just going to share with you as we would share with our colleagues what we have.

16 **THR: What have you learned along the way?**

17 **Denton:** We've removed a lot of obstacles to free journalism and yet --

18 **Cook:** There is still the desire to be right. That is still important to me and to everyone we work with. We want
19 to get it right. Our standards for getting it right are different from larger, more established institutions, and we
20 do not just throw out every tip that we get on the site. We evaluate and report.

21 **Denton:** That is a disagreement between us. That's a disagreement between me and a lot of our journalists is
22 that I would like more of the tips to be published. Maybe not published under John's name but published
23 under a tipster's name or under a tipster's anonymous handle. I would like them to be published.

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26 25. The excerpt demonstrates the operating principle of
27 Gawker: publish sensational rumors - regardless of whether or
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26 ¹ Excerpt from, Jay Rayner, "*The Brit Dishing The Dirt On America*," *The Guardian*, Sunday 9 March 2008.
27 <http://www.theguardian.com/technology/2008/mar/09/gawker> (last accessed Oct. 9. 2015).

28 ² May 22, 2013, by Eriq Gardner (<http://www.hollywoodreporter.com/thr-esq/gawkers-nick-denton-explains-why-526548> last accessed October 8, 2015).

1 not Gawker has any possible way of establishing the truth or
2 falsity of the claim.

3 26. Denton has admitted that his site has lower
4 journalistic standards than "traditional media."

5 27. Nick Denton has made clear that Gawker relies upon
6 readers of his site to provide content for his site - in other
7 words, that his readers are collaborators on articles:¹
8

9 The future, Nick says, lies with what he calls iterative reporting, in which posts are used to
10 request information and to help stand up stories. 'As a print journalist, if you hear a rumour
11 you try to stand it up and if you can't the story dies,' he says. 'With a blog you can throw the
12 rumour out there and ask for help. You can say: "We don't know if this is true or not." What
13 about libel? 'We just have to make sure we're not doing it maliciously and that we also
14 admit when we're wrong. Personally, as a print journalist, I always found the most
15 interesting stories to be the ones hacks talked about in the bar after work. Those are the
16 ones we deal in.' He goes further, talking about how he wants his readers to be the source of
17 stories, how they'll split page-view bonuses with them if the story runs. 'I want to
18 institutionalise and automate chequebook journalism.'

19 28. In 2006, Gawker initiated a feature on the site called
20 "Gawker Stalker,"² which allowed the readership of the website to
21 "crowdsource"³ the geographic locations of celebrities in "real-
22 time."⁴

23 29. The feature tied-into Google Maps and allowed users to
24 pinpoint the locations, much to the terror of celebrities.
25

26 ¹ James Silver, "Gawker, Don't Talk - Interview With Nick Denton," The Guardian, Monday 11 December 2006

27 (<http://www.theguardian.com/technology/2006/dec/11/news.mondaymediasection> last accessed October 9, 2015).

28 ² See John Cook, entitled "A Judge Told Us to Take Down Our Hulk Hogan Sex Tape Post. We Won't." published by gawker.com on April 25, 2013, available online at <http://gawker.com/a-judge-told-us-to-take-down-our-hulk-hogan-sex-tape-po-481328088> and Jessica, entitled "Introducing Gawker Stalker," published by gawker.com on March 14, 2006, available at <http://gawker.com/160338/introducing-gawker-stalker-maps>.

³ "Crowdsourcing" has been defined by Merriam-Webster as: "The practice of obtaining needed services, ideas, or content by soliciting contributions from a large group of people and especially from the online community rather than from traditional employees or suppliers." (<http://www.merriam-webster.com/dictionary/crowdsourcing> last accessed Oct. 9, 2015).

⁴ "Real Time" has been defined by Merriam-Webster as, "The actual time during which something takes place." (<http://www.merriam-webster.com/dictionary/real%20time> last accessed Oct. 9, 2015).

1 Despite obvious concerns for the safety of individual public
2 figures.¹

3 30. Denton was extremely pleased with the scandal
4 surrounding the new feature, because it made Gawker a great deal
5 of money.²

6 31. Specifically, Denton was pleased because subsequent to
7 the creation of Gawker Stalker, celebrities such as George
8 Clooney publicly attacked the feature because they feared being
9 stalked, generating free publicity, clicks, and traffic for
10 Gawker.
11

12 32. Kinja is a news content aggregator across Gawker
13 sites.³

14 33. It allows Readers as well as paid Gawker Staff to
15 create user profiles, chat real time, comment on news articles,
16 and create unique blogs - which can sometimes become so popular
17 by other users that Gawker will co-opt the blog and bring it
18 into the Gawker family.
19

20 34. In essence, Kinja removes virtually all distinctions
21 between paid staff content and unpaid staff content. And this is
22 by design, because it is part of Nick Denton's vision:⁴
23

24
25 ¹ Celebrities are already at high risk without Gawker creating a de facto GPS tracking device. By way of example,
26 John Lennon, born October 9, 1940, was shot and killed by a deranged fan.
https://en.wikipedia.org/wiki/Death_of_John_Lennon (last accessed October 9, 2015).

27 ² James Silver, "Gawk, Don't Talk - Interview With Nick Denton," *The Guardian*, Monday 11 December 2006
(<http://www.theguardian.com/technology/2006/dec/11/news.mondaymediasection> last accessed October 9, 2015).

28 ³ <https://en.wikipedia.org/wiki/Kinja> (last accessed Oct. 9, 2015).

⁴ Excerpt from Nick Denton, "Introducing Group Chats In Kinja," <http://product.kinja.com/introducing-group-chats-in-kinja-1517330082>. February 6, 2014. Last accessed Oct. 8, 2015.

1 Messaging applications are the standard for personal communication:
2 swift, stripped down and lively. Kinja is an effort to apply the same
3 qualities to public sites whether from Gawker writers, partner publishers or
4 solo bloggers. It is a *collaborative journalism platform* with the following
feature at its heart, what we call the *group chat*.

5 Each group chat has an instigator, typically but not necessarily the blog
6 owner or one of their authors. The instigator can launch a topic with a news
7 or opinion piece with a headline; or just with a question to another user.

8 Even a long and exhaustive article should be just a starting point. Sites on
9 the latest Kinja template display subsequent discussion with the same
10 graphical treatment and respect as the author's starter post. The exchange
11 should read like a question-and-answer session, the classic web chat
12 format. We believe this conversational format will encourage the story to
develop and the truth to be tested.

13 35. As the above excerpt demonstrates, Kinja is the
14 realization of Denton's dream of removing the barrier between
15 "author" and reader.

16 36. Gawker believes that the news will, long term, become
17 entirely **dependent** upon crowdsourcing:¹

18
19 **(1) Crowd-sourcing / collaboration / socialization of everything**

20 As with many other sectors, the news will become increasingly depending
21 on gathering information from every person possible, especially those who
22 have firsthand accounts of an event or those who are experts in the topic
23 being discussion. How can we highlight and maximize this in our system?

24
25 37. **Paid or unpaid by Gawker**, all content creators are
26 statistically ranked by how much traffic they bring to Gawker's
27 sites.¹

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¹ Maggie Rose, "World Future Part 4: The Future of Kinja," Aug. 5, 2015 <http://maggierosetao.kinja.com/world-future-2015-part-4-the-future-of-kinja-1726375719> (last accessed Oct. 9, 2015).

1 38. J.K. Trotter and Greg Howard, paid content creators
2 for Gawker/Kinja as well as Defendants in this case, are ranked
3 at 97th and unranked, respectively.²

4 39. "Collin Krum," on the other hand, is an unpaid content
5 creator, as is Kevin Purdy, who are ranked 117 and 115
6 respectively.³

7 40. Collaboration between paid and unpaid content creators
8 is central to Gawker's media strategy, and crucial from both a
9 content creation standpoint as well as a marketing standpoint.
10

11 41. "Gawker executives introduced a "Kinja bonus," modeled
12 after the unique bonus,⁴ in an effort to boost writers'
13 engagement with the comments."⁵

14 42. To circumvent liability for anonymous tipsters, Gawker
15 has not only created **tutorials** for unpaid content creator
16 collaborators to leak information without fear of defamation
17 suit repercussions (see *infra*), but Gawker **has actually**
18 **designed, as part of its Kinja platform, specific tools to avoid**
19 **liability for defamation actions** - burner accounts and Gawker
20 SecureDrop.
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26 ¹ See <http://gawker.com/stats/leaderboard> (last accessed Oct. 10, 2015).

27 ² *Id.*

28 ³ *Id.*

⁴ Paid writers get a bonus for the number of unique visitors they bring to Gawker sites.

⁵ See Caitlin Petre, "The Traffic Factories: Metrics at Chartbeat, Gawker Media, and The New York Times," published by Tow Center for Digital Journalism on May 7, 2015, available at <http://towcenter.org/research/traffic-factories/>.

1 43. A "burner account" is an anonymous Kinja user profile
2 wherein Gawker does not store any personally identifying
3 information about the user.

4 44. In "How to Leak to Gawker Anonymously,"¹ a Gawker "how
5 to" article written by Defendant J.K. Trotter, Trotter describes
6 a variety of alternatives for the would-be tipster to circumvent
7 liability for defamation.

8 45. In it, Trotter instructs tipsters to use Gawker's
9 "SecureDrop," and he hyperlinks to a Gawker site which carries a
10 "how-to" article specific to using "SecureDrop."²

12 46. In the case before this Court, the anonymous unpaid
13 content creator collaborator commenters at issue used "burner
14 accounts," to protect their anonymity.

15 47. Gawker "SecureDrop" is carefully and deliberately
16 devised means for anonymous tipsters to totally circumvent
17 defamation liability. ("maximizing your anonymity and
18 frustrating any attempts (including by [Gawker]) to identify
19 [the Tipster] as the source").
20

21 48. In July of 2015, Gawker published an article alleging
22 that a Conde Nast executive³ - David Geithner, brother of former
23

24
25 ¹ J.K. Trotter, "How to Leak to Gawker Anonymously," August 8, 2014. <http://gawker.com/how-to-leak-to-gawker-anonymously-1613394137> (last accessed Oct. 9, 2015).

26
27 ² "Welcome to the Gawker Media SecureDrop." Undated. <https://gawkermediagroup.com/securedrop/> (last accessed
28 Oct. 9, 2015).

³ Media titan Conde Nast is a direct competitor of Gawker. See Erik Wemple, "Conde Nast Exec Story: Gawker is Keeping its Sleaze Game in Shape," The Washington Post, July 17, 2015

1 Treasury Secretary Timothy Geithner - had solicited sex from a
2 homosexual escort.

3 49. David Geithner is publicly heterosexual, married, and
4 the father of three young children.¹

5 50. Reports surfaced that the article might have been
6 based on false accusations, a hoax even.²

7 51. Even if true, Geithner was a limited public figure at
8 best.

9 52. There had been no previous public knowledge of
10 Geithner's sexuality as anything other than heterosexual.

11 53. Subsequent to the publication of the Gawker piece
12 purporting to "out" Geithner as a closet homosexual, other media
13 outlets began to scrutinize Gawker's reporting of the story.
14

15 54. The source of the article was the alleged gay
16 prostitute and porn star Leif Derek Truitt (porn alias Brodie
17 Sinclair) - a man the Gawker article referred to as "Ryan."
18

19 55. Other news outlets interviewed "Ryan" and revealed him
20 to be a deeply troubled man with paranoid delusions.³
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24 (<https://www.washingtonpost.com/blogs/erik-wemple/wp/2015/07/17/conde-nast-exec-story-gawker-is-keeping-its-sleaze-game-in-shape/> last accessed Oct. 9, 2015)

25 ¹ Jordan Sargent, "Conde Nast's CFO Tried to Pay \$2,500 for a Night with a Gay Porn Star," Gawker, July 16, 2015 (article has been removed from site but is available at <https://archive.is/EUkg0#selection-1198.0-1200.0> last accessed Oct. 6, 2015).

26 ² Charles Johnson, "Is The Gawker Story An Elaborate Hoax? Sure Looks That Way," GotNews.com July 17, 2015 (<http://www.gotnews.com/breaking-exclusive-is-the-gawker-story-an-elaborate-hoax-sure-looks-that-way/> last accessed Oct. 10, 2015).

27 ³ Chuck Ross, "Interview With The Gay Porn Star Behind That Terrible Gawker Article," The Daily Caller, July 17, 2015 (<http://dailycaller.com/2015/07/17/exclusive-interview-with-the-gay-porn-star-behind-that-terrible-gawker-article/> last accessed Oct. 9, 2015).

1 56. Worse, upon further investigation, it became likely
2 Ryan's motivation for contacting Gawker, might have been to
3 blackmail Geithner.¹

4 57. Gawker had taken ONE WORKDAY to investigate, vet, and
5 publish the article on the Geithner "sex scandal."²

6 58. Gawker's actions demonstrated that the *rush to publish*
7 clearly outweighed any concern for the accuracy of the
8 reporting.

9 59. In criticizing Gawker's coverage of the Geithner
10 story, the Washington Post said: "Shadowy encounters plus
11 possible criminal activity plus high-ranking official in the
12 classic New York industry of publishing equal a pretty automatic
13 editor decision at the gossip site. Publish! The rest of the
14 world, meanwhile, screams in condemnation..."³

15 60. "Ryan" believes the end of the world is near because
16 since 1980 the numbers 666 have been selected as the winning
17 lottery number 25 times; that 9/11 was carried out by the
18 Russian government; that Barack Obama is the "son of the devil;"
19 that he ("Ryan") has ultra secret information that he *must*
20 release to the media about who *really* is responsible for the
21
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25 ¹ Robby Soave, "Gawker Helps Gay Escort Blackmail Timothy Geithner's Brother, Ted Cruz Is the Hero of the
26 Story," Reason Magazine, July 17, 2015 ([https://reason.com/blog/2015/07/17/gawker-helps-gay-escort-blackmail-](https://reason.com/blog/2015/07/17/gawker-helps-gay-escort-blackmail-timoth)
27 timoth last accessed Oct. 9, 2015).

28 ² James West, "Gawker Took Only One Day to Report and Vet the Story That Blew Up in Its Face," Mother Jones,
Friday July 24, 2015 (<http://www.motherjones.com/media/2015/07/gawker-conde-nast-fallout-timeline-denton> last
accessed October 9, 2015).

³ Erik Wemple, "Conde Nast Exec Story: Gawker is Keeping its Sleaze Game in Shape," The Washington Post, July
17, 2015 ([https://www.washingtonpost.com/blogs/erik-wemple/wp/2015/07/17/conde-nast-exec-story-gawker-is-](https://www.washingtonpost.com/blogs/erik-wemple/wp/2015/07/17/conde-nast-exec-story-gawker-is-keeping-its-sleaze-game-in-shape/)
keeping-its-sleaze-game-in-shape/ last accessed Oct. 9, 2015)

1 Pennsylvania train crash of May 2015, and the downing of
2 Malaysian Airlines Flight 370.¹

3 61. "Unfortunately, I'm just a guy who has a lot of
4 information. I wish I didn't," was "Ryan's" explanation to one
5 news outlet.²

6 62. Gawker founder Nick Denton, in explaining its decision
7 to take down the story, gave a non-apology apology, apologizing
8 merely for being insensitive, and for *arguably* participating in
9 "gay-shaming."³

10 63. Denton issued a weak-hearted apology, but also stated,
11 "The point of [the Geithner sex scandal story] was not in my
12 view sufficient to offset the embarrassment to the subject and
13 his family."⁴

14 64. A former Gawker writer, Current *Vanity Fair*
15 contributor Richard Lawson, publicly admitted that during his
16 time at Gawker he fabricated stories.⁵

17 65. Lawson has said, "When I was at Gawker I wrote
18 baseless posts accusing an actor of raping an ex-boyfriend. I
19 did it [because] my boss told me to, but I wanted to, too."⁶

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24 ¹ Chuck Ross, "Interview With The Gay Porn Star Behind That Terrible Gawker Article," The Daily Caller, July 17,
2015 ([http://dailycaller.com/2015/07/17/exclusive-interview-with-the-gay-porn-star-behind-that-terrible-gawker-](http://dailycaller.com/2015/07/17/exclusive-interview-with-the-gay-porn-star-behind-that-terrible-gawker-article/)
25 article/ last accessed Oct. 9, 2015).

26 ² *Id.*

27 ³ Nick Denton, "Taking a Post Down," July 17, 2015 (<http://nick.kinja.com/taking-a-post-down-1718581684> last
28 accessed Oct. 9, 2015).

⁴ *Id.*

⁵ Larry Womack, "Anyone Else Think James Franco Should Sue the Hell Out of Gawker," Huffington Post, July 17,
2015 (http://www.huffingtonpost.com/larry-womack/james-franco-gawker_b_7816032.html last accessed Oct. 10,
2015).

⁶ *Id.*

1 66. The fabricated articles Lawson referenced were a
2 series of articles he wrote which accused actor James Franco of
3 (a) being a closeted homosexual, and (b) having raped a man and
4 then paid the victim to keep him quiet.

5 67. The articles by Lawson are attached and incorporated
6 herein as *Exhibits 3-7*.

7 68. In a third article, entitled, "The People Have Spoken,
8 And They Think James Franco is a Rapist,"¹ Lawson concludes,
9 based upon the polling he did from the commenters in the
10 previous post, that James Franco is the rapist that The New York
11 Post was reporting on.

12 69. A month later, in a fourth article entitled, "'Gay
13 Rapist' Actor Surprisingly Cool About His Sexuality,"² Lawson
14 again revisited the topic:
15

16 Is James Franco gay or what? You'll remember there was that ominous
17 rumor that he once raped his gay lover that was sort of intense and icky.
18 We're told that the original tip that prompted the *Page Six* blind item, about
19 an actor who broke into his ex-boyfriend's house and sexually assaulted
20 him, mentioned Franco specifically. We received several other anonymous
21 (and admittedly questionable) emails saying the same thing, one providing
22 explicit details. So who the heck knows, but for whatever reason the rumor
23 had traction. Which makes us queasy. But now the actor is on the cover of
24 *Out* magazine this month, acting calm, collected, and confident in his
heterosexuality, so we're all confused again. In the interview, he discusses

25 70. The excerpt above alleges several things:
26

27 ¹ Richard Lawson, "The People Have Spoken And They Think James Franco Is a Rapist," Gawker, August 22, 2008
28 (<http://gawker.com/5040524/the-people-have-spoken-and-they-think-james-franco-is-a-rapist> last accessed Oct. 10, 2015).

² Richard Lawson, "'Gay Rapist' Actor Surprisingly Cool About His Sexuality," Gawker, September 29, 2008
(<http://gawker.com/5056330/gay-rapist-actor-surprisingly-cool-about-his-sexuality> last accessed Oct. 9, 2015).

1 (a) that there was an ominous rumor that Franco
once raped his gay lover;

2 (b) that Gawker, Lawson or both received some
3 information from some source to suggest that the
4 original New York Post article about the unknown
5 actor come gay rapist was actually based on a
6 "tip" from a source, and that in the original
telling of the "tip" the actor-culprit was
reported to be Franco;

7 (c) that Gawker, Lawson or both have received
8 multiple anonymous emails which, although
9 questionable in their reliability, nevertheless
name Franco as the unknown gay rapist from the
New York Post article;

10 (d) Lawson states that he doesn't know if the
11 rumor about Franco is true, but that the rumor
12 had "traction";

13 (e) that the rumor makes Lawson and possibly
14 other Gawker staff "queasy"; and

15 (f) that Gawker staff or Lawson or both are
16 uncertain as to Franco's true sexuality, given
his decision to grace the cover of "Out"
Magazine.¹

17 71. Lawson knew, because he fabricated the entire story,
18 that any anonymous emails naming Franco as the gay rapist were
19 *not only questionable, but were actually false.*

20 72. The tone of this article is one of reporting on actual
21 events.

22 73. Despite directly expressing belief that Franco was a
23 "gay rapist," Lawson's presentation of facts is deliberately
24 misleading and was designed to perpetuate a rumor that Franco
25 was a "gay rapist."
26

27
28 ¹ Out, "is a popular gay and lesbian fashion, entertainment, and lifestyle magazine, with the highest circulation of any gay monthly publication in the United States." ([https://en.wikipedia.org/wiki/Out_\(magazine\)](https://en.wikipedia.org/wiki/Out_(magazine)) last accessed Oct. 10, 2015).

1 74. Gawker published (the author was simply listed as
2 "Gawker Sources") an article in March of 2012 entitled, "Which
3 Beloved Comedian Likes to Force Female Comics to Watch Him Jerk
4 Off?"¹

5 75. The article recounts *anonymous tips* that some **unnamed**
6 **comedian** - "our nation's most hilarious stand-up comic and
7 critically cherished sitcom auteur ... traps unsuspecting women in
8 his hotel room and makes them stick around until he's done
9 [masturbating]."

10 76. The article went on to give additional details,
11 recounting a story about the same **unnamed comedian** from the
12 "Aspen Film Festival a few years ago" wherein the unnamed
13 comedian trapped two women in a hotel room and forced them to
14 watch him masturbate.

15 77. Thereafter, as the article explains, the unnamed
16 comedian's "extremely powerful" manager contacted the women and
17 threatened to destroy their careers if they complained.

18 78. The article detailed attempts to reach out to one of
19 the unnamed victims, but the victim refused to comment, stating
20 only, "first of all, your facts are wrong. And secondly, I don't
21 want to be a part of this story. I'm sure you understand."²
22
23
24
25
26

27 ¹ Gawker Sources, "*Which Beloved Comedian Likes to Force Female Comics to Watch Him Jerk Off*," Gawker,
28 March, 19, 2012 (<http://gawker.com/5894527/which-beloved-comedian-likes-to-force-female-comics-to-watch-him-jerk-off?comment=48089921> last accessed Oct. 9, 2015.)

² *Id.*

1 79. Subsequently, in May of 2015, Gawker's subsidiary blog
2 website called "Defamer"¹ published an article written by Jordan
3 Sargent entitled, "Louis C.K. Will Call You Up To Talk About His
4 Alleged Sexual Misconduct."²

5 80. The article introduces an unnamed source given the
6 pseudonym "Jason."

7 81. "Jason" explained that two female friends of his had
8 been mistreated by Louis C.K., but the only incident described
9 by "Jason" is supposedly from 2014, wherein Louis C.K.
10 purportedly came up behind the one friend, grabbed her by the
11 back of the neck and whispered, "I'm going to fuck you."

12 82. On the basis of this, Jason is reported as having had
13 an email communication with Louis C.K.,³ wherein Jason accuses
14 C.K. of sexual assault and C.K. responds by asking Jason for his
15 telephone number.
16

17 83. The section written by paid-Gawker-content-creators
18 does not accuse Louis C.K. However, many **anonymous**, unpaid-
19 content-creators (Kinja commenters) *do name* Louis C.K. in the
20 2012 article. In fact, the 2015 article cites as evidence,
21 comments by unpaid-content-creator-commenters on the 2012
22 article:
23
24

25 _____
26 ¹ "Defamer" is a subsidiary blog within the Gawker family of sites. The content theme is self-explanatory.
<http://defamer.gawker.com>.

27 ² Jordan Sargent, "Louis C.K. Will Call You Up to Talk About His Alleged Sexual Misconduct," Defamer-Gawker,
28 May 5, 2015 (<http://defamer.gawker.com/louis-c-k-will-call-you-up-to-talk-about-his-alleged-s-1687820755> last
accessed Oct. 9, 2015).

³ The article published screenshots of the supposed emails with C.K. as well as the actual email address purportedly
belonging to Louis C.K.

1 This was not the first allegation of sexual misconduct levied against C.K. In
2 March of 2012, we ran a blind item titled "Which Beloved Comedian Likes
3 to Force Female Comics to Watch Him Jerk Off?," which described an
4 incident that had supposedly taken place in Aspen a few years prior
5 involving "our nation's most hilarious stand-up comic and critically
6 cherished sitcom auteur" and two unnamed female comedians:

7 84. The article cites to "Barberaham Lincoln," an
8 independent content creator who claims to have a great deal of
9 comedy industry insider knowledge, but without any
10 substantiation whatsoever.

11 85. The article closed by mentioning additional
12 unsuccessful attempts to corroborate the allegations as being
13 properly against Louis C.K. The attempts purportedly failed
14 because "Jason's" female friends who were assaulted refused to
15 come forward, citing their fear of C.K.'s power in the comedy
16 industry.
17

18 86. The article says that thereafter, the two men had a
19 vacuous phone conversation, wherein, C.K. was "sizing [Jason]
20 up' to 'find out what I had heard.'"

21 87. The article closes with a call to action, asking
22 unpaid content creator commenters to comment with any
23 information they have.
24

25 88. The Louis C.K. articles compared with the previous
26 described ethical lapses, *supra*, represent a pattern at Gawker:
27 recklessly publishing sensational claims (e.g., rape, sexual
28 assault, serial rape and sexual assault) which carry the

1 prospect of career destruction¹ on the basis of weak,
2 unsubstantiated tips.

3 89. A further pattern is using their anonymous-unpaid-
4 content-creator-commenters as sources in their own right, but
5 which in effect amounts to Gawker citing to itself.

6 90. In this way, Gawker can be the source of the rumor,
7 and then repeatedly earn revenue on subsequent articles based
8 upon the rumor it itself initiated.

9 91. Gawker's sites offer readers, paid Gawker staff, and
10 others an opportunity to create content on the individual web
11 pages carrying stand-alone writings of a particular subject
12 matter.

13 92. The stand-alone writings are *consciously* and
14 *deliberately initiated* by journalists such as Defendants Trotter
15 and Howard.

16 93. The only restrictions on the content created by the
17 readers, is that readers cannot initiate the stand-alone
18 writings, their content is placed on the webpage - first come,
19 first serve - beneath the portion of the writing begun by the
20 initiator, and their content creation is subject to being kept
21 under a removable veil until "approval" by the initiator of the
22 stand-alone writing.

23 94. Readers can, at their own option, lift the veil and
24 view the content created by non-initiating content creators,
25

26
27
28

¹ See generally, Bill Cosby.

1 regardless of whether or not the stand-alone writing's initiator
2 approves or disapproves of the content.

3 95. In order to create content, a non-initiating content
4 creator must create a content creator profile titled under their
5 real name or under a pseudonym.

6 96. It is very common for non-initiating content creators
7 to create anonymous profiles, or even multiple anonymous
8 profiles.

9
10 97. It is very common for initiators of writings (such as
11 Defendants Howard and Trotter) to create content **amongst other**
12 **non-initiating content creators**, and to directly *respond-to* and
13 *collaborate* with non-initiating content creators, *instigate* and
14 *solicit* responses from non-initiating content creators, and
15 *adopt the conclusions* of or otherwise *advertise* or *approve* of
16 the content of non-initiating content creators as signified
17 through text content or by hyperlinking¹ to additional locations
18 on the same webpage or the webpages of other stand-alone
19 writings.
20

21 98. Beginning in August of 2014 shortly after the death of
22 Michael Brown, Plaintiffs began investigating matters relating
23 to the death of Brown, and also the subsequent riots.
24
25
26
27

28 ¹ A **hyperlink** is "an electronic link providing direct access from one distinctively marked place in a hypertext or hypermedia document to another in the same or a different document." <http://www.merriam-webster.com/dictionary/hyperlink> last accessed June 17, 2015.

1 99. The Brown death and the Ferguson Riots were among the
2 top media stories in the St. Louis, Missouri media market for
3 2014.

4 100. The riots destroyed large swaths of Ferguson,
5 Missouri, nearly overran police positions on multiple occasions
6 and resulted in multiple US Department of Justice
7 investigations, public official firings, and additional riots
8 throughout the St. Louis region, such that the Missouri Governor
9 was forced to dispatch more than 2,000 National Guardsmen.
10

11 101. Johnson personally traveled throughout the St. Louis
12 region to report on events and also sources within local law
13 enforcement and in various places regionally, who assisted him
14 in his reporting.

15 102. Local and national law enforcement sources provided
16 Johnson with credible information which suggested that Michael
17 Brown, as a juvenile, was implicated in a murder.
18

19 103. As a result of these leads, Johnson has invested tens
20 of thousands of dollars in trying to convince Missouri courts to
21 unlock Michael Brown's juvenile records.

22 104. In pursuit of this objective, Johnson has filed
23 multiple lawsuits in multiple Missouri Circuit Courts.
24

25 105. Upon ultimately being denied by the juvenile court of
26 St. Louis County in mid-September 2014, Johnson temporarily
27 halted his pursuit.
28

1 106. Upon discovering that the records were not reviewed as
2 part of the grand jury evidence, Plaintiffs resumed the legal
3 battle for the records by appealing the denial to the Missouri
4 Court of Appeals for the Eastern District of Missouri in late
5 November, 2014.

6 107. On or about December 4, 2014, a preliminary writ was
7 granted by the Court of Appeals, but the writ was ultimately
8 permanently denied on December 18, 2014.

9 108. In May of 2015, Johnson appealed the records denial to
10 the Missouri Supreme Court, which ultimately denied him the
11 records.
12

13 109. As a result of his reporting, and his exposure of
14 facts which did not fit the common and hackneyed narrative
15 pushed by Gawker¹ and other media entities external to St. Louis,
16 Missouri, Plaintiffs became a very popular news and opinion
17 website for readers in the St. Louis Region, which is shown by
18 data tracking Plaintiff GotNews' website's traffic.
19

20 110. Plaintiffs' reputation amongst St. Louisans became
21 very positive and Plaintiffs' brand, goodwill, and website
22 traffic, all surged, as evidenced by a sudden increase in
23 Plaintiffs' web traffic.
24
25
26

27 ¹ For example, one Gawker editor has encouraged hackers to steal former Officer Darren Wilson's money. The
28 general implication being that Wilson is a racist murderer. See Charles Johnson, "Gawker Blogger Calls for Hackers
to Steal Darren Wilson's Money," Gotnews, September 9, 2014 (<http://gotnews.com/gawker-blogger-calls-hackers-steal-officer-darrenwilsons-money/> last accessed Oct. 9, 2015).

1 111. Between September of 2014 and February of 2015, Got
2 News enjoyed an online readership of nearly 83,000 people in
3 Missouri, including at least 37,441 in the St. Louis Region.

4 112. Gawker staff first began to track the career of
5 Plaintiff Charles Johnson during the summer of 2014.¹

6 113. Johnson is generally of a different ideological
7 persuasion than the Defendants.²

8 114. On December 4, 2014, Defendant Greg Howard published
9 an article entitled, "Charles Barkley Has Nothing to Say to
10 America."³

11 115. In his article, Howard stated:

12 This conversation is over; there is not debate to be had about the killing
13 of Eric Garner, and there really isn't one to be had on the degradation,
14 imprisonment, and systemic murder of minorities. It is a system of
15 control, a machine, doing the work it was designed to do. Those who
16 blame its workings on its victims, invoking black pathologies and
17 enumerating all the ways in which black people need to become better
18 and more moral to earn the right to complain about being killed
19 without their killers even facing any consequences, are engaging in an
20 old, tired respectability politics. They don't know what the fuck they're
21 talking about.

22 Charles Barkley does not know what the fuck he's talking about.

23 116. In the "discussion" section beneath his article,
24 Howard engaged in an extensive dialogue with an independent
25

26 ¹ See, e.g., Adam Weinstein, "Is Ratfucking Journalism Dead?" Gawker, July 8, 2014 (<http://gawker.com/is-ratfucking-journalism-dead-1601527887> last accessed Oct. 10, 2015).

27 ² *Id.*

28 ³ See Greg Howard, entitled "Charles Barkley Has Nothing To Say To America," published by deadspin.com on December 4, 2014, available online at <http://deadspin.com/charles-barkley-has-nothing-to-say-to-america-1666864783>.

1 content creator and ultimately stated the following,
2 demonstrating his position on the death of Michael Brown and
3 those who believed Brown was not totally innocent:



4 jijiwojji > Greg Howard
5 12/08/14 4:31pm

6 One for you: <http://www.pbs.org/wgbh/pages/fro...>

7 ↪ Reply



8 Greg Howard > jijiwojji
9 12/08/14 4:48pm

10 Nah, I mean this very seriously. There aren't two sides to this. If you think
11 there are, you are wrong. If you find someone who thinks there are, they are
12 wrong, too. I don't care if they're black or white. W.E.B. DuBois was wrong.
13 Angela Davis was wrong. This isn't a debate. That said, you have a great day.

14 ↪ Reply



15 See Ex. 40, Amended Complaint for the entire exchange.

16 117. On December 5, 2014, one day after Defendant Greg
17 Howard published his the article described immediately above,
18 Plaintiffs published an article on the Gotnews website entitled,
19 "BREAKING: GotNews Wins First Stage of Appeal on Michael Brown
20 Records, #Ferguson."¹

21
22 118. In retaliation, on December 9, 2014, Defendants Howard
23 and Trotter published three defamatory articles designed to
24 malign and humiliate Plaintiffs.

25
26
27 ¹ Gotnews, December 5, 2014 (<http://gotnews.com/breaking-gotnews-wins-first-stage-appeal-michaelbrown-records-ferguson-ericgarner/> last accessed, Oct. 9,
28 2015).

1 119. On or about the morning of December 9, 2014, Defendant
2 Trotter composed, published, and initiated, a stand-alone
3 writing entitled, "What Is Chuck Johnson, and Why? The Web's
4 Worst Journalist, Explained," (referred to hereafter as "Trotter
5 First").¹

6 120. In the article, Trotter maliciously characterizes
7 Johnson as a racist, as well as using malicious paraphrasing to
8 suggest that Johnson is a racist.

9 121. In Trotter First, Defendant Trotter defamed, cast in a
10 false light, and injured Plaintiffs by proceeding to attempt to
11 show how Plaintiff Johnson was the "web's worst journalist," by
12 juxtaposing Plaintiff Johnson's journalistic professionalism
13 alongside screenshots (*provided with no accompanying context*) of
14 defamatory, false, and injurious Twitter postings ("tweets")
15 made by various persons, each of which openly requested that
16 Twitter, Inc. staff permanently ban Plaintiffs from posting on
17 twitter.com, and which defamed Plaintiffs by alleging, inter
18 alia, that Plaintiffs were "stalking," "[h]arass[ing]," and
19 otherwise "endanger[ing]," other individuals.

20 122. In Trotter First, Defendant Trotter defamed, cast in a
21 false light, and injured Plaintiffs by stating that Johnson drew
22 attention to himself as a result of his **flawed reporting** in the
23 Senate Republican Primary race in Mississippi. ("he's drawn
24 attention for his (flawed) reporting in the Senate Republican
25
26
27
28

¹ <http://gawker.com/what-is-chuck-johnson-and-why-the-web-s-worst-journal-1666834902> last accessed, June 17, 2015.

1 primary race in Mississippi"). As a further proof of the
2 allegation of "flawed" reporting, Trotter linked to another news
3 article, which itself drew no conclusion and offered no proof of
4 error in Johnson's reporting in the Senate Republican Primary
5 race in Mississippi.

6 123. In Trotter First, Defendant Trotter defamed, cast in a
7 false light, and injured Plaintiffs by paraphrasing a quote by
8 Johnson, misleadingly stating that Johnson really meant that the
9 deceased Michael Brown, Jr., who was killed by Ferguson,
10 Missouri police officer Darren Wilson, "**deserved to die**" because
11 he was African American.¹ Trotter would go on to call this
12 "racist."
13

14 124. Importantly, Trotter is attacking Johnson's ability as
15 a journalist, directly accusing him of *falsely reporting* in an
16 article that senate candidate (for New Jersey) Cory Booker
17 didn't actually reside in New Jersey at the time of his
18 candidacy (thereby rendering him ineligible, if true). Trotter
19 cites to another article² as evidence that Booker did in fact
20 live in New Jersey, and thus proof that Johnson falsely
21 reported.
22

23 125. However, the article Trotter cites to *is itself*
24 *inconclusive* on the matter.
25

26
27 ¹ See Exhibit 16.

28 ² Ruby Cramer, "Cory Booker: Yes, I Live In Newark," Buzz Feed News, Oct. 14, 2013
(<http://www.buzzfeed.com/rubycramer/cory-booker-yes-i-live-in-newark#.lmZ115Wm1> last accessed Oct. 9,
2015).

1 126. In Trotter First, Defendant Trotter defamed, cast in a
2 false light, and injured Plaintiffs by stating that Johnson is,
3 "well-known for publishing stories that fall apart under the
4 slightest scrutiny. The list of Johnson stories that have been
5 proven wrong is long, but his greatest hits include: ...
6 [e]rroneously reporting that former Newark Mayor Cory Booker
7 didn't actually reside in Newark¹ ... Contributing reporting to the
8 Daily Caller's infamous story about New Jersey Senator Bob
9 Menendez allegedly soliciting prostitutes in the Dominican
10 Republic. The Story turned out to be a complete fabrication,² and
11 may have even been planted by the Cuban government."

12 127. Johnson's article was not a lie, not a fabrication,
13 and in fact the Senator has been indicted (March 6, 2015) by the
14 Department of Justice on 14 counts, including corruption
15 charges.³

16 128. The *Department of Justice* reports that the allegations
17 of sex with underage prostitutes in the Dominican Republic has
18 been corroborated.⁴

19
20
21
22
23 ¹ Defendant Trotter offered as proof, a link to a "Buzz Feed News" article which itself drew no conclusions and
24 simply reported the perspectives of competing viewpoints. See Ruby Cramer, "Cory Booker: Yes, I Live in
25 Newark," Buzz Feed News, October 14, 2013, <http://www.buzzfeed.com/rubycramer/cory-booker-yes-i-live-in-newark#.dyPmMdGDX> last accessed June 17, 2015.

26 ² Here again, as supposed proof, Trotter inserted a link to an ABC News online article which simply reported on the
27 controversy surrounding Senator Menendez and proffered no conclusions one way or another. See Rhonda
28 Schwartz, Brian Ross and Ned Berkowitz, "The Menendez Prostitution 'Scandal': How It Happened." ABC News,
March 6, 2013, <http://abcnews.go.com/Blotter/robert-menendez-prostitution-scandal-happened/story?id=18664472>
last accessed June 17, 2015.

³ Chuck Ross, "DOJ: Underage Prostitution Allegations Against Robert Menendez Backed By 'Corroborating
Evidence,'" The Daily Caller, August, 24, 2015 (<http://dailycaller.com/2015/08/24/doj-underage-prostitution-allegations-against-robert-menendez-backed-by-corroborating-evidence/> last accessed Oct. 9, 2015).

⁴ *Id.*

1 129. Trotter cites as proof that Johnson *fabricated* - that
2 is, completely *invented* - the Menendez story, an article by ABC
3 News,¹ which does not reach a conclusion and at best for Trotter,
4 merely expresses doubt about Johnson's allegations in his
5 article.

6 130. Trotter, on the other hand, reports that conclusively,
7 Johnson lied and made up the entire article.

8 131. Trotter cited no other sources to support his
9 statement that Johnson had fabricated the story about Senator
10 Menendez.
11

12 132. In Trotter First, a number of anonymous, non-
13 initiating content creators defamed, falsely portrayed, and
14 injured Plaintiffs.

15 133. Shortly after the initial section of Trotter First was
16 published on gawker.com, several of such anonymous content
17 creators published defamatory content on Trotter First.
18

19 134. One such anonymous content creator, "*Cmcalumna*,"
20 claimed to have attended college with Johnson.

21 135. Though she is anonymous, she suggests she has special
22 knowledge of Johnson: "Hilariously, he graduated being best
23 known for pooping on the (I think I'm remembering the floor
24 right) 7th floor of Stark (a dorm)."
25
26
27

28 ¹ Rhonda Schwartz, Brian Ross and Ned Berkowitz, "*The Menendez Prostitution 'Scandal': How It Happened*,"
ABC News Online, March 6, 2013 (<http://abcnews.go.com/Blotter/robert-menendez-prostitution-scandal-happened/story?id=18664472> last accessed Oct. 9, 2015).

1 136. She then let slip her motivation for releasing such a
2 tidbit of information: "I'm sad this idiot is getting any
3 attention at all, but I hope this guy becomes famous for the
4 same reasons he was in college, his public pooping problems."

5 137. *Cmcalumna* published false information about Johnson on
6 Trotter First, cast him in a false light, and injured Johnson by
7 stating as a matter of fact that Johnson publicly defecated in
8 either the hallway or elevator of his dormitory in college.

9 138. Defendant Trotter incited and solicited additional
10 false, injurious and defamatory comments from *Cmcalumna* as well
11 as other content creators on Trotter First.

12 139. When another unpaid-content-creator asked *Cmcalumna* to
13 "elaborate on the poop story," *Cmcalumna* replied, at 1:05pm on
14 December 9, 2014,¹ that since she started at college two years
15 after Johnson, she didn't actually have any basis of knowing
16 whether or not Johnson had publicly defecated. Rather, she
17 simply described upper-classmen talking about it "regularly" but
18 yet that it was an "undisputed fact that he did it."²

19 140. At 1:44 p.m. on December 9, 2014,³ anonymous unpaid-
20 content-creator "*CCJ Facebook Friend*" published a discussion
21 directed at J.K. Trotter, in which he claims to faithfully
22 reproduce, from Johnson's Private, invite-only Facebook account
23 page, a letter written by Johnson and posted on Johnson's
24
25
26

27
28 ¹ See Plaintiff's Ex. 18.

² *Id.*

³ *Id.*

1 Facebook wall for dissemination to former classmates of his on
2 Facebook. "This is from his Facebook account late last night. I
3 don't know how to screenshot the whole thing."¹

4 141. Notably, the letter posted by *CCJ Facebook Friend* is
5 exactly the same as the one Greg Howard would publish two hours
6 later in his post on *Deadspin*.

7 142. Greg Howard did not have access to Johnson's Facebook
8 page, because they were not Facebook friends.

9 143. On December 10, 2014,² Trotter would respond to *CCJ*
10 *Facebook Friend*, seeking additional leads, information,
11 collaboration: "Are there any other comments on that Facebook
12 post?"

13 144. Some anonymous content creators **begged** Defendant
14 Trotter to write an article about the defamatory matters
15 discussed by *Cmcalumna*, but Trotter informed the individual that
16 Defendant Howard had already written, and initiated/published,
17 on or about the afternoon of December 9, 2014, a stand-alone
18 writing on *deadspin.com*, entitled, "Wait, Did Clowntroll Blogger
19 Chuck Johnson Shit On The Floor One Time?" (hereafter, "Howard
20 First").³

21 145. At 4:19 p.m. on December 9, 2014,⁴ content creator
22 "IkerCatsillas" posts a discussion piece (directed at Trotter)

23 ¹ *Id.*

24 ² *Id.*

25 ³ <http://theconcourse.deadspin.com/wait-did-clowntroll-blogger-chuck-johnson-shit-on-the-1668919746> last
26 accessed, June 17, 2015.

27 ⁴ *Id.*

1 on the First Trotter article: "Please J.K. You gotta scoop this
2 poop story for us. For journalism. I need to know more." At 4:43
3 p.m.,¹ Trotter responds: "[Deadspin] is on it." The phrase "on
4 it" is hyperlinked and links to Greg Howard's "clowntroll"
5 article.

6 146. On December 9, 2014 (at 4:20 p.m.), Trotter posted
7 another article entitled, "The Daily Caller Can't Quit Chuck
8 Johnson."²

9
10 147. In the article, Trotter repeatedly states that Johnson
11 wrote **false** stories.

12 148. In Trotter Second, Defendant Trotter defamed, cast in
13 a false light, and injured Plaintiffs reporting that Johnson
14 contributed to a false story about New Jersey Senator Bob
15 Menendez supposedly soliciting prostitutes in the Dominican
16 Republic."³

17
18 149. Between 2:00 p.m. and 2:14 p.m. on December 9, 2014,
19 Greg Howard emailed Charles Johnson and asked various questions:⁴
20 "Chuck, we just got a tip that you wrote up a Facebook post for
21 your past classmates. Just checking to see it actually happened
22 and is accurate. [The email goes on to quote a portion of the
23 letter posted by *CCJ Facebook Friend* to the First Trotter
24

25
26 ¹ *Id.*

27 ² See J.K. Trotter, entitled "The Daily Caller Can't Quit Chuck Johnson," published by gawker.com on December
9, 2014, available online at <http://gawker.com/the-daily-caller-can-t-quit-chuck-johnson-1668910086>.

28 ³ *Id.*

⁴ See Plaintiffs Ex. 39. Note that time appears as 11am because it was received by Charles Johnson in California at
11am (2 p.m. Eastern Time).

1 article initiated/instigated at 11:25 am.] This is your writing,
2 correct? Thanks, Greg."¹

3 150. At 2:06 p.m. on December 9, 2014,² Johnson responded:
4 "Run it in its entirety. Don't do me like you did Cory Gardner,
5 though."

6 151. At 2:14 pm. on December 9, 2014,³ Johnson emailed
7 Howard, stating, "Oh, and the comments about me shitting on the
8 floor were made up," - referencing the *Cmcalumna* discussion post
9 earlier at 12:30 pm and 1:05p.m. on the Trotter article.

10
11 152. At 2:20 p.m. on December 9, 2014,⁴ Howard again emailed
12 Johnson: "If you have time, we got a tip that you had a 2002
13 bestiality charge expunged from your record because you were a
14 minor at the time. Is this true?"

15 153. Prior to Defendant Howard publishing Howard First,
16 Plaintiff Johnson emailed Defendant Howard and categorically
17 denied that incident that was the basis for the article's title
18 ever occurred.

19
20 154. At 4:00 p.m., Greg Howard initiated/ "instigated" his
21 piece, "Wait, Did Clowntroll Blogger Chuck Johnson Shit On The
22 Floor One Time?"⁵

23 155. The article includes references to anonymous rumors
24 that Johnson publicly defecated in college: "there are cryptic
25

26 ¹ *Id.*

27 ² *Id.*

28 ³ *Id.*

⁴ *Id.*

⁵ <http://theconcourse.deadspin.com/wait-did-clowntroll-blogger-chuck-johnson-shit-on-the-1668919746> last accessed Oct. 9, 2015).

1 comments from friends and former classmates about some
2 mysterious floor-shitting incident." Howard then proceeded to
3 solicit additional tips, photos, and context from additional
4 Kinja content-creators.

5 156. In Howard First, Defendant Howard also created content
6 amongst other non-initiating content-creators, soliciting
7 information from them as well as adopting and advertising
8 defamatory content published by *Cmcalumna* on the Trotter First
9 website, encouraging other readers and content creators to view
10 the defamatory statements by hyperlinking to *Cmcalumna's*
11 published content. ("I'll tell you what. There is some good-ass
12 kinja to be had re: Chuck shitting on the floor one time over at
13 Gawker [hyperlink inserted into the text]").

14 157. "Kinja" refers to Gawker's proprietary social-media,
15 media content aggregating tool that readers, content creators
16 and others use to collect and view content created on various
17 Gawker media property websites.

18 158. The phrase "good-ass kinja" refers to high quality
19 content that readers, content creators, and others would be
20 advised to view.

21 159. Stating that particular content is "good-ass kinja,"
22 as well as instantly providing the link to said content, serves
23 as express endorsement of the linked content, and Defendant
24 Howard intended to direct as many readers as possible to view
25 the defamatory content.

1 160. By adopting, endorsing, advertising, responding to,
2 interacting with, and directing additional content-creators,
3 readers, and others to such defamatory, false, misleading, and
4 injurious content created by a non-initiating content creator,
5 Defendants Howard and Gawker formally adopted and are liable
6 for, all of *Cmcalumna's* content published on Trotter First and
7 Howard First.

8 161. Instead of basing his reporting of the public
9 defecation on discussion posts on Trotter's article, Howard
10 misrepresents that he saw such allegations on Johnson's Facebook
11 page. "Sure enough, on the Facebook post, there are cryptic
12 comments from friends and former classmates about some
13 mysterious floor-shitting incident."¹

14 162. However, as mentioned, Howard doesn't have access to
15 this page. And in any event there were **no comments** made on
16 Johnson's Facebook page during this time that referenced or
17 alleged public defecation.²

18 163. Howard lied about his source.

19 164. To give the accusations greater weight, Howard
20 reported that he saw them on Johnson's Facebook wall.

21 165. Howard closed out his article by smearing and defaming
22 Johnson further: "...[H]e's been caught lying many times before..."³

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¹ See Plaintiff's Ex. 14.

28 ² See Plaintiffs' Ex. 37. These screenshots evidence that Howard lied about where he saw the floor defecating comments, as there were no floor defecation comments on Johnson's Facebook page.

³ See Plaintiff's Ex. 14.

1 166. Howard provides no evidence of Johnson having ever
2 lied, nor does he provide any evidence that Johnson was ever
3 caught lying.

4 167. At 4:34 p.m. on December 9, 2014,¹ Gawker writer Jordan
5 Sargent posts a discussion post directed at Greg Howard on the
6 "clowntroll" article, stating, "This guy shitting on the floor
7 is a very apt metaphor for why he's in the news now."

8 168. At 5:09 p.m. on December 9, 2014,²
9
10 *ChekhovsGum(ItsGonnaPop!)* wrote a discussion post on the First
11 Trotter article, and directed at Cmcalumna: "I have heart
12 breaking news, team, there was never any proof that he actually
13 was the one who pooped on the floor. Someone did poop on the
14 floor and just to sort of troll the Mountain King himself,
15 people started posting that he pooped. It was one of those
16 things no one could proof or disprove ... but alas it's not
17 *really* true."
18

19 169. At 10:26 p.m. on December 9, 2014,³ Cmcalumna wrote a
20 discussion post on Howard's Deadspin "clowntroll" article,
21 replying to Greg Howard's previous discussion post ("...There is
22 some good-ass kinja to be had re: chuck shitting on the floor
23 one time over at Gawker") in which she clarifies that she has no
24 proof of the defecation incident having occurred: "I think you
25 made my year by writing an entire article based on my comment."
26

27 ¹ *Id.*

28 ² *Id.*

³ See J.K. Trotter, entitled "The Daily Caller Can't Quit Chuck Johnson," published by gawker.com on December 9, 2014, available online at <http://gawker.com/the-daily-caller-can-t-quit-chuck-johnson-1668910086>.

1 I'd give anything to have some proof, but I wasn't there when it
2 occurred ... I am so glad when someone googles his name this will
3 appear. I hope him pooping in stark [dorm] follows him forever,
4 just goes to show you how important it is to use a bathroom (and
5 not be an asshole your entire life)." (emphasis added).

6 170. *Cmcalumna* had no proof, therefore, that Johnson
7 publicly defecated, but yet she was extremely pleased that
8 Howard wrote his article based upon her comment.

9 171. Later in the day on or about December 9, 2014, after
10 Defendant Howard had published content directing viewers to
11 *Cmcalumna's* defamatory, false, and injurious content, *Cmcalumna*
12 published additional content as a direct response to Defendant
13 Howard's publication (i.e., "There is some good-ass kinja to be
14 had...").
15

16 172. On December 9, 2014, sometime shortly after *Cmcalumna*
17 initiated the rumor about public defecation, the first "tweet"
18 was published on Twitter. See Plaintiffs Ex. 8.

19 20 173. Also on December 9, 2014, sometime after instigating
21 his article, Howard himself tweeted on Twitter:¹ "We need
22 answers: Wait, Did Clowntroll Blogger Chuck Johnson Shit On The
23 Floor One Time?" He then posted a link to the article he
24 instigated.
25
26
27
28

¹ See Plaintiffs' Ex. 29.

1 174. Defendant Howard would have been uniquely and
2 particularly made aware of *Cmcalumna's* publication on the
3 writing Howard had initiated.

4 175. Plaintiff Johnson repeatedly requested that Defendant
5 Howard publically retract his defamatory statements, but
6 Defendant Johnson refused.

7 176. When *Cmcalumna* ultimately posted a discussion post
8 reply directly to Howard, informing him in no uncertain terms
9 that she had absolutely no basis of knowledge as to whether or
10 not Johnson publicly defecated, Howard still refused to print a
11 retraction.
12

13 177. On December 12, 2014, at 12:42 p.m.,¹ Trotter emailed
14 Charles Johnson: "Hi Charles, I'm a reporter at Gawker, and I'm
15 writing because we've received a pair of allegations involving
16 you, and wanted to give you an opportunity to address them.² The
17 second allegation is that, in 2002, you were photographed
18 sexually assaulting a sheep behind a family member's ranch in
19 San Bernardino County, near Wrightwood; that you were arrested
20 by the San Bernardino County Sheriff and later convicted of
21 this; and that, in 2007, you successfully petitioned to have
22 records of the incident expunged. Is this allegation true? The
23 sources for both claims supplied detailed accounts of each of
24 the incidents described above. Please let me know if you have
25
26

27
28 ¹ The first rumor Trotter discusses is not part of this suit and is therefore omitted from the excerpt. Please see Plaintiffs' Ex. 38 for the full text. *Id.*

² *Id.*

1 any other questions, or if you need any other information to
2 address these allegations. My working deadline is midnight EST,
3 but that is flexible, so please let me know if you require more
4 time."

5 178. Johnson responded:¹ "Neither story is true. I honestly
6 have no idea where these crazy stories come from."

7 179. On December 12, 2014, at 4:08 p.m.,² Trotter would
8 follow up with Johnson: "The first story comes from a person who
9 says they were physically present, and personally witnessed the
10 conversation. We've verified that this person attended Claremont
11 with you. This person provided a very specific account of the
12 incident. The second story comes a person [sic] who is friends
13 with an officer in the San Bernardino County Sheriff, who is
14 familiar with the details of the alleged assault. Apparently the
15 incident has become fairly well-known within that county's law
16 enforcement circles. Again, I just wanted to get your input
17 before putting anything up. I'm fairly sure you understand
18 that."
19
20

21 180. On or about December 15, 2014, Trotter wrote,
22 published, and initiated a writing entitled, "Which of These
23 Disgusting Chuck Johnson Rumors are True?" (hereafter, "Trotter
24 Third").³
25
26

27 ¹ *Id.*

28 ² *Id.*

³ <http://gawker.com/which-of-these-disgusting-chuck-johnson-rumors-are-true-1669433099> last accessed June 17, 2015.

1 181. Also on December 15, 2014,¹ Greg Howard published on
2 his Twitter social media account a hyperlink to Trotter's
3 instigated article ("Which of These Disgusting Rumors...") and
4 stating: "Torn. I kinda feel like sheepfucking is something you
5 grow into. On the other hand, [Charles Johnson] is a prodigy."

6 182. In Trotter Third, Defendant Trotter presented
7 disgusting rumors which were not items of public concern prior
8 to Defendants collective creation, collaboration, publication
9 and incitation.
10

11 183. In Trotter Third, in which Defendant Trotter describes
12 the initiated writing as a "RUMORMONGER[ING]"² published writing,
13 Trotter defamed, misleadingly and falsely portrayed, and injured
14 Plaintiff Johnson by heavily quoting from *Cmcalumna's* false and
15 defamatory content published in Trotter First, wherein *Cmcalumna*
16 stated that she knew from either personal knowledge or from
17 other certain, undisclosed evidence, that Johnson defecated in
18 public.
19

20 184. Specifically, Trotter stated, "there is no evidence of
21 Chuck Johnson took a shit on the floor in college. Chuck Johnson
22 was, however, so **thoroughly disliked** in college that his
23 classmates chose to blame an unattributed shit on him."
24

25 185. Trotter also stated, "There is **no evidence** that Chuck
26 Johnson was arrested in 2002 for pinning a sheep to a fence and
27

28 ¹ See Plaintiffs' Ex. 1.

² Rumormonger: a person who spreads rumors. <http://www.merriam-webster.com/dictionary/rumormonger> last accessed June 17, 2015.

1 fucking it. Johnson is, however, **the kind of guy** about whom
2 random people make up and circulate rumors about him being
3 arrested in 2002 for pinning a sheep to a fence and fucking it."

4 186. However, similar to Lawson's conclusions in the fourth
5 "gay rapist" James Franco article, Trotter suggests the
6 bestiality and public defecation rumors might be true, because
7 it cannot be confirmed or denied, but stated, "A search through
8 public records and the archives of local newspapers did not turn
9 up any mention of an arrest matching the one our source
10 described. (This does not necessarily mean that the arrest
11 didn't occur, though; editors don't necessarily publish all
12 incidents involving the police, and public records databases
13 would not contain an expunged record.)"

14
15
16 187. After instrumentally generating minor interest at
17 least as to the rumor of public defecation, Defendant Trotter
18 concocted a false, misleading, pseudo-journalistic device to
19 make it appear to a casual viewer that he was merely reporting
20 on a pre-existing matter of public concern. ("You may have read
21 The New York Times' profile of Charles C. Johnson, the worst
22 journalist on the internet. You also may have seen several very
23 elaborate, very unbelievable, and very gross rumors about
24 Johnson's past misdeeds floating around Twitter and Facebook. So
25 maybe you're wondering: Which of those rumors are real?").
26
27
28

1 188. In Trotter Third, Defendant Trotter reported that
2 Defendant Howard had previously written about allegations of
3 public defecation as against Johnson.

4 189. Discussing a rumor ("Rumor 1: Johnson shit on the
5 floor in college"), Defendant Trotter then reported that two of
6 Johnson's college classmates, writing anonymously on Gawker,¹ had
7 stated as a matter of fact that Johnson had defecated publicly
8 at college. Trotter then purported to quote from, and
9 hyperlinked to, various publications on Trotter First by two
10 anonymous, non-initiating content-creators: *Cmcalumna* and
11 *ChekhovsGum(ItsGonnaPop!)*.
12

13 190. However, Defendant Trotter acknowledged that
14 *ChekhovsGum(ItsGonnaPop!)* did not make such a statement about
15 public defecation actually occurring. Rather,
16 *ChekhovsGum(ItsGonnaPop!)* stated that while *some* person did in
17 fact defecate in the dormitory, several years ago, it was not
18 Johnson, and that any attribution to Johnson was out of extreme
19 spite.
20

21 191. Thus, as evidenced by the writing in Trotter Third,
22 Defendant Trotter's **only basis** upon which to base his reporting
23 were the publications of a *single, anonymous content creator*
24 (*Cmcalumna*), *made on an article Trotter himself had initiated*
25 *and published*.
26
27

28 ¹ Trotter describes them as being classmates of Johnson, but does not describe the basis of his knowledge that they were, in fact, classmates of Johnson. Trotter also describes them as having used "burner" Gawker content creator profiles. A "burner" profile is slang for an anonymously created non-initiating content-creator account.

1 192. The manner in which Defendant Trotter wrote the
2 initiating portion of the writing was designed to give the
3 audience the impression that Defendants Trotter and Howard were
4 privy to special and hidden information, and this created an
5 atmosphere in which the rumors could be perceived as being more
6 true than false, even though Trotter and Howard had serious
7 reason to believe they were false.

8 193. For example, in Trotter Third, Defendant Trotter also
9 failed to report that *Cmcalumna* had, subsequent to stating that
10 it was "an undisputed fact" that Johnson had publicly defecated,
11 recanted that statement and other similar statements, directly
12 to Greg Howard.

13 194. Further, Trotter failed to mention that *Cmcalumna* had
14 expressed extreme hatred of Johnson and had deliberately defamed
15 him.
16

17 195. In Trotter Third, Trotter deliberately misattributed
18 and omitted facts in order to mislead readers into believing
19 there was a factual basis to the allegation that Johnson had
20 publicly defecated.
21

22 196. Thus, any reader would be left with the impression
23 that Johnson may have defecated publicly, even though Defendant
24 Trotter himself had reason to know that this was not the case.
25

26 197. In Trotter Third, Defendant Trotter also reported upon
27 the investigation he and Greg Howard had conducted into a "tip"
28 that Johnson had "fucked a sheep."

1 198. Defendant Trotter wrote that his source had told him
2 that "Chuck had a 2002 bestiality charge expunged from his
3 record due to his being a minor, 14 at the time."

4 199. Similar to the previous rumor, Defendant Trotter did
5 not divulge any information about his source and the basis of
6 knowledge.

7 200. Defendant Trotter continues on to describe his attempt
8 to verify the allegations made in the "tip," and also describes
9 an additional tipster who called Defendant Howard on the
10 telephone and relayed a graphic allegation of Johnson having sex
11 with a sheep, and Trotter recounts the allegation at length with
12 enough detail to seemingly lend credence to the allegation.
13 ("[Johnson] was spotted attempting to copulate with his wool
14 sheep. The neighbor took pics with a telephoto lens, which,
15 since the cops didn't catch him mid-act, were used as the basis
16 for his conviction. He was pants-down, pinning the sheep against
17 the fence ... [Johnson] got it expunged in 2007 saying he was just
18 a kid experimenting").
19
20

21 201. Defendant Trotter also recounted that he and Defendant
22 Howard had contacted the San Bernardino County district
23 attorney's office seeking Johnson's juvenile records related to
24 the alleged charge of bestiality, and that a representative at
25 the juvenile division there said that the office could not
26 divulge information pertaining to individuals arrested and
27 charged as juveniles, "as Johnson allegedly was."
28

1 202. Important to note, Plaintiffs have come under intense,
2 hateful criticism for having sought the juvenile records of
3 Michael Brown, Jr.

4 203. Trotter Third is simply a play-by-play account of
5 reporting on largely self-created or incited rumors on matters
6 which at no point were a matter of public concern.

7 204. The Trotter Third content described above is false,
8 misleading, injurious, and intrinsically malicious and
9 defamatory.
10

11 205. Upon publication of the initiating segment of Trotter
12 Third, Defendant Howard published a statement using his Twitter
13 account (@greghoward88) to advertise, endorse, and direct viewer
14 traffic to Trotter Third. ("torn. i kinda feel like sheepfucking
15 is something you grow into. on the other hand, @chuckcjohnson is
16 a prodigy. [link to Trotter Second as well as screenshot of the
17 article]"
18

19 206. Trotter, Howard, and other Gawker paid content
20 creators communicated in the discussion/comments section of
21 Gawker articles and actively sought additional defamatory
22 statements to be published.

23 207. Gawker has a history of soliciting defamatory comments
24 from unpaid content creators and then using such defamatory
25 content as an excuse to publish "news" articles discussing the
26 merits of the incited rumors.
27
28

1 208. Gawker specifically attempts to utilize the nature of
2 the initiator of the defamatory content (i.e., the anonymous
3 unpaid content creator publishing on Gawker's articles) and
4 illusory non-agency of the same as a tool to attempt to
5 circumvent liability for the defamatory comments.

6 209. A significant number of Gawker's readers visit their
7 sites primarily to read the discussion/comments sections.

8 210. Defendant Howard's @greghoward88 Twitter account
9 reaches nearly thirteen thousand (13,000) individual followers
10 nationally, including numerous followers throughout Missouri.

11 211. Defendant Gawker's @gawker Twitter account is followed
12 by and reaches in excess of five hundred and thirty-eight
13 thousand (538,000) individuals.

14 212. On December 9, 2015, @gawker published a "tweet"
15 advertising Trotter Second.

16 213. On December 15, 2015, @gawker published a "tweet"
17 advertising Trotter One.

18 214. Defendant Mr. Howard has a long history of defaming
19 people whom he simply does not like or disagrees with.

20 215. Jason Whitlock is a competing sports writer (Mr.
21 Howard writes primarily for Deadspin.com a sports blog).

22 216. Mr. Howard and other deadspin writers have set out to
23 destroy Mr. Whitlock's reputation in a very similar way to their
24 attacks on Mr. Johnson.
25
26
27
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1 217. They have fabricated stories about him and
2 mischaracterized his statements.

3 218. Mr. Whitlock is claiming that Howard has made up
4 stories about him and encouraged Deadspin writers to use the
5 word "nigger" twice, in stories about him.¹

6 219. It is apparent that Mr. Howard is trying to create the
7 same sort of mischaracterized racial animus that he attributed
8 to Mr. Johnson by mischaracterizing him and his ideas.²

9 220. Mr. Howard and Gawker have a long and continuing
10 history of creating offensive libelous material about those who
11 disagree with them.
12

13 221. Howard, Trotter, Gawker, and independent content
14 creators *Cmcalumna*, *ChekhovsGum(ItsGonnaPop!)* conspired together
15 through Gawkers' "Securedrop" and "burner accounts" systems to
16 deny Plaintiffs' their property right to lawsuits for defamation
17 against the anonymous content creators under the 14th Amendment
18 to the United States Constitution.
19

20 222. Howard, Trotter, Gawker, and independent content
21 creators *Cmcalumna*, *ChekhovsGum(ItsGonnaPop!)* conspired together
22 to defame Plaintiffs.

23 223. Plaintiffs hereby incorporate by reference, as if
24 fully stated herein, Exhibit 42, consisting of statements A-AJ,
25 for Counts I-IV against Gawker, Howard, and Trotter.
26

27 ¹ See Jake O'Donnell, entitled "Jason Whitlock Goes All-In on Deadspin, Greg Howard Responds With Pure Fire,"
28 published by sportsgrid.com on October 15, 2015, available at <http://www.sportsgrid.com/uncategorized/jason-whitlock-goes-all-in-in-fued-with-deadspin-greg-howard-responds/>

² *Id.*

1 224. Each of statements A-AJ in Exhibit 42 are provably
2 false, reasonably capable of being interpreted by the trier of
3 fact as having a defamatory meaning, were published with malice,
4 were published with knowledge that they were false or with
5 reckless disregard for their veracity, were not opinions, were
6 not published solely for the purpose of satire or humor, were
7 not neutrally or fairly reported, were not matters of public
8 concern, and were defamatory when taken in their literary
9 contexts.
10

11 225. As to each of statements A-AJ, *supra*, Plaintiffs have
12 been damaged in reputation and have suffered pecuniary damages
13 of lost business and lost investments due to damaged business
14 reputation, as well as the need for Plaintiff to file this
15 lawsuit to defend his good name and the related costs from
16 attorney's fees, in an amount exceeding \$2,000,000.
17

18 **Counts I and II: Defamation and Injurious Falsehood**
19 (Against Defendants Gawker and Trotter)

20 226. Plaintiff restates and incorporates by reference, as
21 if fully set forth herein, all prior allegations of this
22 Complaint.

23 227. This claim arose in St. Louis County, Missouri.

24 228. However, the claim is also cognizable in California
25 and throughout the United States.

26 229. On or about December 9, 2014 and again on December 15,
27 2014, Defendants Trotter and Gawker composed and published three
28

1 internet news articles including statements about Plaintiff's
2 person and Plaintiff's business.

3 230. Defendant J.K. Trotter was at fault in publishing the
4 articles described in paragraph 64 and knew that the statements
5 were libelous when published.

6 231. The statements described in paragraph 229 (and 223-
7 225) were defamatory in that they asserted -through false
8 statements- that Plaintiff Charles C. Johnson is an unskilled
9 and incompetent journalist and also that during his college life
10 he was involved in a number of unsavory incidents. Specifically,
11 the statements included the following direct quotations:
12

13 a. From the December 9, 2014 article titled "What is
14 Chuck Johnson, and Why? The Web's Worst Journalist,
15 Explained"

16 i. "The list of Johnson stories that have been
17 proven wrong is long, but his greatest hits include:

18 1. "Erroneously reporting that former
19 Newark mayor Cory Booker didn't actually reside
20 in Newark."

21 2. "Contributing reporting to the Daily
22 Caller's infamous story about New Jersey Senator
23 Bob Menendez allegedly soliciting prostitutes in
24 the Dominican Republic. The story turned out to
25 be a complete fabrication, and may have been
26 planted by the Cuban government."
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ii. Defendant Trotter states: "Earlier this year, [Johnson] collected screenshots of murdered teenager Michael Brown's Instagram account. (Quoting Johnson,) 'Brown's Instagram account also shows a violent streak that may help explain what led to a violent confrontation with Police officer Darren Wilson,' Johnson wrote. **In other words, Brown deserved to die.**" (emphasis added). This statement contains the induced allegation of fact that Plaintiff asserted Michael Brown deserved to die.

b. From the December 15, 2014 article titled, "Which of These Disgusting Chuck Johnson Rumors are True?"

i. In bold, "**Johnson shit on the floor in college.**"

ii. Defendant Trotter's article then goes on to publish comments from Gawker readers who allege to be former classmates of Plaintiff:

1. *"Hilariously, he graduated being best known for pooping on the (I think I'm remembering the floor right) 7th floor of Stark (a dorm). I'm sad this idiot is getting any attention at all, but I hope this guy becomes famous for the same reasons he was in college, his public pooping problems."*

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2. I started two years after him, so I wasn't there since he did it as a freshman or sophomore. But the upperclassman talked about it regularly and it was an undisputed fact that he did it. Multiple people talked about it in great detail [confirmed by another commenter] on the school's paper/website the cmcforum.com and I bet many instances of people talking about it can be seen in the comment archives from 2008-2011.

iii. In bold, "**Johnson fucked a sheep.**"

iv. Defendant Trotter again published comments posted to Gawker from individuals who claim to know Plaintiff:

1. Chuck had a 2002 bestiality charge expunged from his record due to his being a minor, 14 at the time.

2. A friend is in the San Bernardino County Sheriff Dept. As I heard it, Chuck was about 14, had gone to stay with his cousins [for] a few weeks... He went for a weekend with one to a friend of the cousin's who owned a ranch near Wrightwood.

The father of the friend got suspicious when they caught him coming back inside very late the first night. The next night, he apparently wandered

1 *back out & got the cops called on him by a*
2 *neighbor when he was spotted attempting to*
3 *copulate with his wool sheep. The neighbor took*
4 *pics with a telephoto lens, which, since the cops*
5 *didn't catch him mid-act, were used as the basis*
6 *for his conviction. He was pants-down, pinning*
7 *the sheep against the fence.*

8 *The story is still famous in circles of San*
9 *Bernardino County law enforcement, apparently. He*
10 *got it expunged in 2007, saying he was just a kid*
11 *experimenting, and he didn't want it to reflect*
12 *badly when he was in college working for*
13 *collegiate newspapers. My friend won't give*
14 *interviews, because he'd get in trouble for*
15 *leaking expunged records, but it definitely*
16 *happened, and word is that the files & pics still*
17 *exist. Hope that helps!!*

18
19
20 232. The above statements published by Defendant Trotter
21 are statements of fact that are objectively falsifiable.

22 233. The above statements published by Defendant Trotter
23 are patently false.

24 234. The statements described in 229- 233 (and 223-225)
25 were published online and circulated around the entire United
26 States. The statements were intentionally made available to and
27 read by the general public in the state of Missouri.
28

1 235. By his online publication of the statements described
2 in paragraphs 229- 233 (and 223-225) Defendant Trotter
3 intentionally targeted the state of Missouri and knew or should
4 have known that residents of the state of Missouri would read
5 the statements.

6 236. The statements tend to deprive plaintiff of the
7 benefit of public confidence and social and business
8 associations, and the defendant published the statements knowing
9 they were defamatory.

10 237. Defendant Trotter intended to harm Plaintiff's
11 interests by publishing the statements described in paragraphs
12 229- 233 (and 223-225) or Defendant Trotter recognized or should
13 have recognized that such harm was likely.

14 238. As a direct result of the publication of the
15 statements described in paragraphs 229- 233 (and 223-225) has
16 been damaged in reputation, Plaintiff's business has been placed
17 in jeopardy, and Plaintiff has suffered emotional injury, all to
18 his damage in a sum to exceed \$2,000,000.

19 239. As a direct result of the publication of the
20 statements described in paragraphs 229- 233 (and 223-225),
21 Plaintiffs Charles C. Johnson and Got News, LLC have been
22 damaged in reputation and have suffered pecuniary damages of
23 lost business and lost investments due to damaged business
24 reputation, as well as the need for Plaintiff to file this
25
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1 lawsuit to defend his good name and the related costs from
2 attorney's fees, in an amount exceeding \$2,000,000.

3 240. Defendant Trotter's conduct in publishing the
4 statements described in paragraphs 229- 233 (and 223-225) was
5 done with knowledge that the statements were false or with
6 reckless disregard for whether they were true or false at a time
7 when defendant had serious doubt as to whether they were true,
8 thereby warranting an award of punitive damages in a sum of not
9 less than \$20,000,000.
10

11 241. Defendant Trotter was an agent, servant, and employee
12 of Defendant Gawker, and as at all such times acting within the
13 scope and course of his agency and employment; and/or his
14 actions were expressly authorized by Defendant Gawker; and/or
15 his actions were ratified by Defendant Gawker, thus making
16 Defendant Gawker liable for said actions under the doctrine of
17 *respondeat superior*.
18

19 WHEREFORE, plaintiff prays judgment against Defendants
20 Trotter and Gawker on Counts I and II of this Complaint and for
21 such damages as are fair and reasonable, together with interest
22 and costs, and such other and further relief, as the court shall
23 deem proper.

24 **Counts III and IV: Defamation and Injurious Falsehood**
25 **(Against Defendants Gawker and Howard)**

26 232. Plaintiff restates and incorporates by reference, as
27 if fully set forth herein, all prior allegations of this
28 Complaint.

1 233. This claim arose in St. Louis County, Missouri.

2 234. However, the claim is also cognizable in California
3 and throughout the United States.

4 235. On or about December 9, 2014, Defendant Howard
5 composed and published an Internet news article including
6 statements about Plaintiff's person and Plaintiff's business.

7 236. Defendant Greg Howard was at fault in publishing the
8 articles described in paragraph 79 and knew that the statements
9 were libelous when published.
10

11 237. The statements described in paragraph 245 (and 223-
12 225) as defamatory in that it asserted -through false
13 statements- that Plaintiff Charles C. Johnson is an unskilled
14 and incompetent journalist and also that during his college life
15 he was involved in a number of unsavory incidents. Specifically,
16 the statements included the following direct quotations:
17

18 a. From the December 9, 2014 article titled "Wait,
19 Did Clowntroll Blogger Chuck Johnson Shit On The Floor One
20 Time?"

21 i. "[Johnson] gets things wrong a lot."

22 ii. Defendant Howard states: "Sure enough, on
23 the Facebook post, there are cryptic comments from
24 friends and former classmates about some mysterious
25 floor-shitting incident"
26

27 b. In the Comments section, titled "Greg Howard's
28 Discussions," on the article's webpage, Defendant

1 Howard posts to himself, "Tell you what. There is some
2 good-ass kinja to be had re: Chuck shitting on the
3 floor one time over at Gawker."

4 i. In the above-mentioned comment posted by
5 Defendant Howard, the words "good-ass kinja" are
6 hyperlinked to a comment by *Cmcalumna* on a Gawker
7 article titled, "What is Chuck Johnson, and Why? The
8 Web's Worst Journalist, Explained."

9
10 ii. *Cmcalumna's* comment, posted 12/09/14 at 1:05
11 PM, reads as follows:

12 1. *I started two years after him, so I*
13 *wasn't there since he did it as a freshman or*
14 *sophomore. But the upperclassman talked about it*
15 *regularly and it was an undisputed fact that he*
16 *did it. Multiple people talked about it in great*
17 *detail [confirmed by another commenter] on the*
18 *school's paper/website the cmcforum.com and I bet*
19 *many instances of people talking about it can be*
20 *seen in the comment archives from 2008-2011.*

21
22 238. The above statements published by Defendant Howard are
23 statements of fact that are objectively falsifiable.

24 239. The above statements published by Defendant Howard are
25 patently false.

26 240. The statements described in paragraphs 245-249 (and
27 223-225) were published online and circulated around the entire
28

1 United States. The statements were intentionally made available
2 to and read by the general public in the state of Missouri.

3 241. By his publication of the statements described in
4 paragraphs 245-249 (and 223-225) online, Defendant Howard
5 intentionally targeted the state of Missouri and knew or should
6 have known that residents of the state of Missouri would read
7 the statements.

8 242. The statements tend to deprive plaintiff of the
9 benefit of public confidence and social and business
10 associations, and the defendant published the statements knowing
11 they were defamatory.
12

13 243. Defendant Howard intended to harm Plaintiff's
14 interests by publishing the statements described in paragraphs
15 245-249 (and 223-225), or Defendant Howard recognized or should
16 have recognized that such harm was likely.
17

18 244. Defendant Howard was an agent, servant, and employee
19 of Defendant Gawker, and as at all such times acting within the
20 scope and course of his agency and employment; and/or his
21 actions were expressly authorized by Defendant Gawker; and/or
22 his actions were ratified by Defendant Gawker, thus making
23 Defendant Gawker liable for said actions under the doctrine of
24 *respondeat superior*.
25

26 245. As a direct result of the publication of the
27 statements described in 245-249 (and 223-225) Plaintiff has been
28 damaged in reputation, Plaintiff's business has been placed in

1 jeopardy, and Plaintiff has suffered emotional injury, all to
2 his damage in a sum to exceed \$2,000,000.

3 246. As a direct result of the publication of the
4 statements described in paragraphs 245-249 (and 223-225)
5 Plaintiffs Charles C. Johnson and Got News, LLC have been
6 damaged in reputation and have suffered pecuniary damages of
7 lost business and lost investments due to damaged business
8 reputation, as well as the need for Plaintiff to file this
9 lawsuit to defend his good name and the related costs from
10 attorney's fees, in an amount exceeding \$2,000,000.

12 247. Defendant Howard's conduct in publishing the
13 statements described in paragraphs 245-249 (and 223-225) was
14 done with knowledge that the statements were false or with
15 reckless disregard for whether they were true or false at a time
16 when defendant had serious doubt as to whether they were true,
17 thereby warranting an award of punitive damages in a sum of not
18 less than \$20,000,000.

20 WHEREFORE, plaintiff prays judgment against defendants in
21 Count III and IV of his Complaint and for such damages as are
22 fair and reasonable, together with interest and costs, and such
23 other and further relief, as the court shall deem proper.

24 **Count V: Invasion of Privacy - False Light**
25 **(Against All Defendants)**

26 232. Plaintiff restates and incorporates by reference, as
27 if fully set forth herein, all prior allegations of this
28 Complaint.

1 233. Defendants have given publicity to fictional matters
2 not of public concern, and have falsely and publicly attributed
3 these fictional and outrageous acts to Plaintiffs in an effort
4 to harm Plaintiffs.

5 234. Defendants have twisted Plaintiff's words and the
6 context in which they were made to such an extraordinary degree
7 as to given them a highly offensive meaning not originally
8 present, all in an effort to harm Plaintiffs.

9 235. Defendants have presented Plaintiffs to the public in
10 a false light, and either knew precisely that they were
11 misrepresenting Plaintiffs to the public, or Defendants acted in
12 reckless disregard as to the falsity of the publicized matter
13 and the false light in which Plaintiffs would be placed.

14 236. As a direct result of the publication of the
15 statements described in Counts I-IV, Plaintiff has been damaged
16 in reputation, Plaintiff's business has been placed in jeopardy,
17 and Plaintiff has suffered emotional injury, all to his damage
18 in a sum to exceed \$2,000,000.

19 237. As a direct result of the publication of the
20 statements described in Counts I-IV, Plaintiffs Charles C.
21 Johnson and Got News, LLC have been damaged in reputation and
22 have suffered pecuniary damages of lost business and lost
23 business investments, due to damaged business reputation, as
24 well as the need for Plaintiff to file this lawsuit to defend
25
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28

1 his good name and the related costs from attorney's fees, in an
2 amount exceeding \$2,000,000.

3 238. Defendants' conduct in publishing the statements
4 described in Counts I-IV was done with knowledge that the
5 statements were false or with reckless disregard for whether
6 they were true or false at a time when defendant had serious
7 doubt as to whether they were true, thereby warranting an award
8 of punitive damages in a sum of not less than \$20,000,000.
9

10 WHEREFORE, plaintiff prays judgment against Defendants on
11 Count V of this Complaint and for such damages as are fair and
12 reasonable, together with interest and costs, and such other and
13 further relief as the court shall deem proper.
14

15 **COUNT VI-42 U.S.C. § 1983 - Conspiracy to Interfere with Civil**

16 **Rights**

17 **Under the Fourteenth Amendment**

18 (AGAINST ALL DEFENDANTS)

19 232. The allegations contained in all paragraphs above are
20 incorporated by reference as if fully set forth.
21

22 233. Because of Defendants' use of "securedrop" and "burner
23 accounts," Plaintiffs are unable to identify anonymous content
24 creators *Cmcalumna* and *ChekhovsGum(ItsGonnaPop!)*.

25 234. For the same reasons, Plaintiffs are unable to serve
26 the anonymous content creators with a lawsuit for defamation,
27 and are thus unable to exercise their right to bring defamation
28 claims against the independent content creators.

1 235. Defendants have conspired for the purpose of depriving
2 Plaintiffs their right to file a defamation lawsuit under the
3 Fourteenth Amendment of the United States Constitution. *Zinermon*
4 *v. Burch*, 494 u.s. 113 (1990).

5 236. Specifically, Defendants Gawker, Trotter, and Howard
6 conspired with anonymous content creators *Cmcalumna* and
7 *ChekhovsGum(ItsGonnaPop!)* and others to defame Plaintiffs and
8 deprive them of their civil rights by inciting defamatory
9 rumors, developing means to keep anonymous content creators
10 identities a secret, by then hiding behind the anonymous unpaid
11 content creators while publishing the defamatory statements, and
12 by refusing and potentially destroying any information which
13 would allow the anonymous content creators to be identified.
14

15 237. Defendant Gawker has demonstrated a track record and a
16 procedure, which Plaintiffs have established, of inciting
17 defamatory statements from anonymous content creators,
18 publishing said statements, and then skirting liability by
19 carefully and subtly publishing their own thoughts on the
20 statements without confirming or denying them, playing it all
21 off as "news."
22

23 238. Defendants are state actors by virtue of their use of
24 CDA § 230, in that they use that statute as a shield to enable
25 them to take otherwise illegal and unconstitutional actions.
26
27
28

1 239. When a state actor inserts itself between an
2 individual and the individual's realization of his rights, such
3 is Constitutionally impermissible.

4 240. As a result of the foregoing, Plaintiffs Charles C.
5 Johnson and Got News, LLC have been damaged in reputation and
6 have suffered pecuniary damages of lost business and lost
7 business investments, due to damaged business reputation, as
8 well as the need for Plaintiff to file this lawsuit to defend
9 his good name and the related costs from attorney's fees, in an
10 amount exceeding \$2,000,000.

11
12 WHEREFORE, plaintiff prays judgment against Defendants
13 on Count VI of this Complaint and for such damages as are fair
14 and reasonable, together with interest and costs, and such other
15 and further relief as the court shall deem proper.

16 **DEMAND FOR JURY TRIAL**

17
18 Plaintiff requests a trial by jury, on all issues in this
19 case which are so triable.

20
21
22
23
24 Dated this DECEMBER 9, 2015

25
26 
Charles C. Johnson

27
28 **INDEX OF EXHIBITS**

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