



February 26, 2020

Chairman David Skaggs
Co-Chairwoman Allison Hayward
Office of Congressional Ethics
425 3rd Street, SW Suite 1110
Washington, DC 20024

Dear Chairman Skaggs and Co-Chairwoman Hayward:

We write to request that the Office of Congressional Ethics (“OCE”) investigate whether Representative Devin Nunes is receiving free legal services in violation of the Rules of the House of Representatives (“House rules”). Specifically, Representative Nunes retained an attorney who represents him in several defamation lawsuits in various courts where he seeks a total of nearly \$1 billion in damages. House rules prohibit a Member from receiving free legal services, unless the Member establishes a Legal Expense Fund (“LEF”). According to the House Legislative Resource Center, Representative Nunes has not filed any of the required reports to establish an LEF. The relevant facts detailed below establish that the OCE Board should authorize an investigation of Representative Nunes.

Representative Nunes’s overt involvement with the highly-publicized lawsuits threatens to establish a precedent that the Legal Expense Fund (“LEF”) regulations no longer apply to Members. Although Representative Nunes is entitled to legal representation and he may pursue any legal action to protect and defend his interests, he must comply with House rules. An OCE investigation will preserve Representative Nunes’s legal right to counsel while upholding well-established House rules and precedent.

House Rules Prohibit Members from Receiving Discounted or Free Legal Services

A Member of the House of Representatives “may not knowingly accept a gift” with limited exceptions.¹ A “gift” is defined to include “a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The

¹ RULES OF THE HOUSE OF REPRESENTATIVES OF THE U.S. 116TH CONG., H.R. DOC. NO. 115-177, at 983, Rule 25, cl. 5(a)(1)(A)(i) (“House Rules”).

term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.”² Therefore, gifts include legal services provided without charge or at a discount. A gift or discount for any gift from any source must fall below \$50 per occasion, and less than \$100 per year.³

Free (pro bono) legal services are subject to the gift rule and may only be accepted under the LEF regulations.⁴ Pursuant to the LEF regulations, a Member “who wishes to solicit and/or receive donations for a Legal Expense Fund, in cash or in kind, to pay legal expenses shall obtain the prior written permission of the Committee on Ethics.”⁵ Within one week of the approval of the LEF, documentation showing the existence of the fund must be provided to the Legislative Resource Center for public disclosure.⁶ The Member must also file quarterly disclosure reports for the LEF.⁷

The requirement of establishing a legal expense fund has two exceptions. *First*, Members may accept pro bono legal assistance without permission from the Committee on Ethics if the expenses are for the following purposes:

- To file an amicus brief in his or her capacity as a Member of Congress
- To participate in a civil action challenging the validity of any federal law or regulation; or
- To participate in a civil action challenging the lawfulness of an action of a federal agency, or an action of a federal official taken in an official capacity, provided that the action concerns a matter of public interest, rather than a matter that is personal in nature.⁸

Second, in “certain circumstances campaign funds may also be used to pay legal expenses.”⁹ However, both the “[Committee on Ethics] and the FEC should be consulted before campaign funds are used to pay any legal expenses.”¹⁰

² *Id.* at 5(a)(2)(A) (emphasis added).

³ *Id.* at 5(a)(1)(B)(i).

⁴ COMM. ON STANDARDS OF OFFICIAL CONDUCT, 110TH CONG., HOUSE ETHICS MANUAL 63-64 (2008), available at https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

⁵ H.R. COMM. ON ETHICS, 112TH CONG., LEGAL EXPENSE FUND REGULATIONS, Reg. 1.1., available at <https://ethics.house.gov/sites/ethics.house.gov/files/Pink%20Sheet%20With%20Regs.pdf>.

⁶ *Id.* at Reg. 4.1.

⁷ *Id.* at Reg. 4.2.

⁸ HOUSE ETHICS MANUAL, *supra* note 4, at 65.

⁹ *Id.*

¹⁰ *Id.*

Representative Nunes Is Receiving Legal Services

In 2019, attorney Steven S. Biss began representing Representative Nunes in numerous legal matters. Mr. Biss filed five lawsuits in federal and state courts alleging that media organizations and others made defamatory statements about him. He also sent a letter to Representative Ted Lieu and threatened to file an ethics complaint with the Committee on Ethics because of alleged defamatory statements.¹¹ In addition, Mr. Biss sent a letter to a Fresno County Deputy District Attorney accusing him of aiding and abetting in defamatory actions against Representative Nunes.¹²

Specifically, Mr. Biss's legal services for Representative Nunes include the following:

- March 19, 2019: Filed lawsuit against Twitter Inc. *et al.* in Virginia State Court in Henrico County. Representative Nunes seeks damages for defendants' negligence, defamation, insulting words, and conspiracy. He seeks damages of \$250,350,000, plus attorney's costs and fees.¹³
- April 8, 2019: Filed lawsuit on behalf of Representative Nunes against the McClatchy Company, et al. in Virginia State Court in Albemarle County. Rep. Nunes alleges defamation and conspiracy. Representative Nunes seeks damages of \$150,350,000, plus attorney's fees and costs.¹⁴
- September 4, 2019: Filed lawsuit on behalf of Representative Nunes against Fusion GPS and Campaign for Accountability in federal court in the Eastern District of Virginia. Representative Nunes alleges RICO and conspiracy claims. Representative Nunes seeks damages of 13,550,000.¹⁵
- September 30, 2019: Filed lawsuit on behalf of Representative Nunes against journalist Ryan Lizza in federal court in the Northern District of Iowa. Representative Nunes alleges defamation and conspiracy. Representative Nunes seeks damages of \$77,500,000.¹⁶

¹¹ Letter from Steven S. Biss. Att'y to Rep. Devin G. Nunes, to Rep. Ted Lieu (Dec. 31, 2019), attached as Exhibit A.

¹² Letter from Steven S. Biss. Att'y to Rep. Devin G. Nunes, to Andrew Janz, Fresno County Deputy District Att'y (Oct. 11, 2019), attached as Exhibit B.

¹³ Complaint, Nunes v. Twitter, Inc., et. al. (Va. Cir. Ct. March 19, 2019) (No. C49-1717), attached as Exhibit C.

¹⁴ Complaint, Nunes v. McClatchy Co., et. al. (Va. Cir. Ct. Apr. 8, 2019) (No. CL19-629), attached as Exhibit D.

¹⁵ Amended Complaint at 33, Nunes v. Fusion GPS & Campaign for Accountability (E.D. Va. Dec. 13, 2019) (Case 1:19-cv-01148-LO-TCB), attached as Exhibit E.

¹⁶ Complaint, Nunes v. Ryan Lizza & Hearst Magazines Inc. (N.D. Iowa Sept. 30, 2019) (No. 5:19-cv-04064-CJW-MAR), attached as Exhibit F.

- October 11, 2019: Sent a letter to a Fresno County Deputy District Attorney, Andrew Janz, alleging that he is “aiding and abetting the user or users of the @DevinCow Twitter account in the malicious harassment, cyberbullying, stalking and defamation of Mr. Nunes.”¹⁷
- December 3, 2019: Filed lawsuit on behalf of Representative Nunes against the Cable News Network, Inc. in federal court in the Eastern District of Virginia. Rep. Nunes alleges defamation and conspiracy. Representative Nunes seeks damages of \$435,350,000.¹⁸
- December 31, 2019: Sent a letter to Representative Ted Lieu, stating that Representative Nunes intends to request an ethics investigation and review if Representative Lieu refuses to retract an allegedly defamatory statement.¹⁹

Both Mr. Biss’s representation of Representative Nunes in litigation and his sending of letters on Representative Nunes’s behalf constitute legal services for purposes of House rules and the LEF regulations.

Representative Nunes Has Not Disclosed Payments for the Legal Services

There are three permissible sources of payment for Mr. Biss’s legal services under House rules: a legal expense fund, campaign funds, or Representative Nunes’s personal funds. Representative Nunes has not disclosed any of the required public reports necessary to establish that he has properly paid for the legal services using any permissible source.

First, Representative Nunes has not filed LEF reports from 2019 to present. As explained above, a House Member who receives free legal services or legal services paid by a third party, must contact the Committee on Ethics and establish an LEF. The LEF regulations require the Representative to file an initial report and periodic reports. As a result of the lack of any LEF reports, it appears that an LEF is not paying for Representative Nunes’s legal services.

Second, Representative Nunes’s campaign committee reports from 2019 to present do not list any payments to Mr. Biss. Representative Nunes may use campaign funds to pay for certain legal expenses after consultation with the Committee on Ethics and the Federal Election Commission (“FEC”). However, such expenditures must be included in the periodic campaign committee reports filed with the Federal Election Commission. Required FEC disclosures lack any record of campaign expenditures for Mr. Biss’s

¹⁷ Letter from Steven S. Biss to Andrew Janz, *supra* note 12.

¹⁸ Complaint at 46, Nunes v. Cable News Network, Inc. (E.D. Va. Dec. 3, 2019) (No. 3:19-cv-00889), attached as Exhibit G.

¹⁹ Letter from Steven S. Biss to Rep. Ted Lieu, *supra* note 11.

services. Therefore, it appears that Representative Nunes’s campaign committee is not paying for his legal services.

Finally, even if Representative Nunes argues that he is using his personal funds to pay for the legal services, he cannot accept any discount from Mr. Biss without violating House gift rules. Mr. Biss’s legal services include work that has spanned over nine months, five courts, and over eight defendants. The work includes lengthy and legally complex court filings, as well as demand letters to public officials. The legal services are time consuming and expensive, which has raised reported questions about whether Representative Nunes’s congressional salary can cover such legal expenses.²⁰ Even if Representative Nunes is paying for the legal services himself, he cannot receive them at a price that is lower than what Mr. Biss charges other clients for similar matters.

Without any known sources of payment for Representative Nunes’s significant and growing legal expenses, there is a basis to investigate the matter and determine whether he is complying with all applicable House rules governing legal expenses.

The Existence of a Contingency Fee Payment Agreement Would Not Provide Representative Nunes with an Exception to House Gift Rules

Representative Nunes may argue that he has not disclosed payments for legal services because he retained his attorney under a contingency fee payment agreement (*i.e.*, the lawyer will be reimbursed for costs he incurs if Representative Nunes prevails in the lawsuits). However, House gift rules do not have an exception for contingency fee agreements, and an OCE fact gathering is necessary to review such a claim.

Legal services provided under a contingency fee agreement can violate the gift rule as a result of the expenses the lawyer incurs on behalf of the Member in anticipation that the Member will later use money recovered from the suit to reimburse all or some of the expenses. In other words, the lawyer is providing “payment[s] in advance,” which are prohibited under the gift rule.²¹ Although it is reasonable to assume that the Committee on Ethics may approve certain contingency fee agreements on a case by case basis, there is no precedent establishing that all contingency fee agreements are permissible.

The Committee on Ethics has precedent for reviewing contingency fee agreements in defamation suits such as those brought by Representative Nunes. For example, Representative Jean Schmidt filed a defamation lawsuit and requested that the Committee on Ethics approve a contingency fee agreement to pay her attorneys. The Committee on Ethics “denied permission to enter into the so-called ‘contingency fee’ arrangement.”²² In

²⁰ See Kate Irby, *Devin Nunes lives on a congressman’s salary. How is he funding so many lawsuits?*, THE FRESNO BEE (Dec. 14, 2019), <https://www.fresnobee.com/news/local/article238287238.html>.

²¹ House Rules, *supra* note 1, at 5(a)(2)(A).

²² CHAIRMAN JO BONNER AND RANKING MEMBER LINDA T. SANCHEZ, U.S. COMM. ON ETHICS, IN THE MATTER OF ALLEGATIONS RELATED TO JEAN SCHMIDT, H.R. REP. NO. 112-195, at 11.

that matter, the Committee on Ethics found that “the phrase ‘contingency fee’ [was] a misnomer as [the lawyers] receipt of their fees [was] never contingent on the outcome of a matter.”²³

Moreover, an exception in the gift rule for all contingency fee agreements would swallow the LEF regulations. If such an exception existed, lawyers could easily disguise pro bono legal services as contingency fee agreements. In addition, contingency fee agreements could include a substantial discount in the market rate for legal fees, violating the prohibition on discounts (e.g., the lawyer receives 1% of any monetary judgement instead of the market rate of 33% or higher). Based on the nature of the extensive legal services that Representative Nunes continues to receive, the OCE and Committee on Ethics should review any alleged contingency fee agreement.

Most importantly, any claim that Representative Nunes is receiving services under a contingency fee does not apply to all of Mr. Biss’s legal services. Mr. Biss sent a letter to Representative Lieu threatening to bring an ethics complaint against him.²⁴ An ethics complaint will not result in a monetary award that could support payment under a contingency fee agreement. Similarly, the letter that Mr. Biss sent to Deputy District Attorney Janz demands certain actions but does not seek monetary damages that could support payment under a contingency fee agreement.

In sum, Representative Nunes has not disclosed the source of payments for the legal services he is receiving, and the possibility of a contingency fee agreement with his lawyer is not an absolute defense for a violation of the House gift rule.

The OCE Authorizes Preliminary Reviews When there is a “Reasonable Basis to Believe” that a Member has Violated House Rules

Pursuant to Rule 7 of the OCE Rules for the Conduct of Investigations, the “Board shall authorize a preliminary review of any allegation(s) when it determines there is a *reasonable basis* to believe the allegation(s) based on all the information then known to the Board.”²⁵ The OCE applies this low legal standard of proof to initiate preliminary reviews, while applying the higher standards of “probable cause” and “substantial reason to believe” to initiate second-phase reviews and referrals to the Committee on Ethics. “A *reasonable basis* to believe the allegation(s) exists when there is a reasonable and articulable basis for believing the allegation(s).”²⁶

(2011), available at <https://www.govinfo.gov/content/pkg/CRPT-112hrpt195/pdf/CRPT-112hrpt195.pdf>.

²³ *Id.* at 9.

²⁴ Letter from Steven S. Biss to Rep. Ted Lieu, *supra* note 11.

²⁵ OFF. OF CONG. ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS Rule 7(A), available at https://oce.house.gov/sites/congressionaethics.house.gov/files/OCE_Rules_Conduct_Investigations.pdf.

²⁶ *Id.* at Rule 7(A).

Based on undisputed facts, Mr. Biss has been providing legal services to Representative Nunes for nearly one year. The facts establish that Representative Nunes has not disclosed any source of payment for the legal services, either with an LEF or campaign funds. No facts support a reasonable basis to believe that Representative Nunes is personally paying for the legal services without a discount. Therefore, there is a reasonable basis to believe that Representative Nunes has improperly received legal services in violation of House gift rules.

Conclusion

An OCE preliminary review can determine whether Representative Nunes is complying with House rules. The OCE can learn during the initial 30-day period whether Representative Nunes has approval from the Committee on Ethics to accept the legal services. The OCE also has authority to collect information from Representative Nunes, Mr. Biss, and litigants from the relevant matters related to payments for Mr. Biss's legal services. This preliminary review is needed to address what appears to be a blatant violation of House rules.

For the foregoing reasons, we request that the OCE Board authorize a preliminary review of this matter.

I acknowledge that 18 U.S.C. § 1001 applies to the information provided.

Sincerely,

_____/s/_____

Kedric L. Payne
General Counsel and Senior Director, Ethics
Campaign Legal Center

_____/s/_____

Delaney N. Marsco
Legal Counsel
Campaign Legal Center

Exhibit A

STEVEN S. BISS

ATTORNEY AT LAW
300 WEST MAIN STREET, SUITE 102
CHARLOTTESVILLE, VIRGINIA 22903
TELEPHONE: 804-501-8272
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MATTER NO.

228-009

December 31, 2019

VIA EMAIL AND REGULAR MAIL

Ted Lieu
403 Cannon HOB
Washington, DC 20515
Marc.Cevasco@mail.house.gov
Corey.Jacobson@mail.house.gov

RE: Nunes v. Lieu

Dear Mr. Lieu:

I represent Devin G. Nunes.

As I am sure you are aware, the United States Constitution and the common law faithfully protect a person's "absolute" right to an unimpaired reputation. In *Rosenblatt v. Baer*, the United States Supreme Court expressly affirmed that:

“Society has a pervasive and strong interest in preventing and redressing attacks upon reputation.’ The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty ... The destruction that defamatory falsehood can bring is, to be sure, often beyond the capacity of the law to redeem. Yet, imperfect though it is, an action for damages is the only hope for vindication or redress the law gives to a man whose reputation has been falsely dishonored”.

383 U.S. 75, 92-93 (1966); *id.* *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 12 (1990) (“Good name in man and woman, dear my lord, Is the immediate jewel of their souls. Who steals my purse steals trash ... But he that filches from me my good name Robs me of that which not enriches him, And makes me poor indeed.”) (quoting WILLIAM SHAKESPEARE, *OTHELLO*, act 3 sc. 3)); *Fuller v. Edwards*, 180 Va. 191, 198, 22

S.E.2d 26 (1942) (“[o]ne’s right to an unimpaired limb and to an unimpaired reputation are, in each instance, absolute and has been since common law governed England. Indeed, an impaired reputation is at times more disastrous than a broken leg.”).

Consistent with the constitutional right of an individual to the uninterrupted enjoyment of his name and reputation, the United States Supreme Court has repeatedly and without exception recognized that libelous speech is not protected by the First Amendment. Simply put, there is “no constitutional value in false statements of fact.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 349-350 (1974); *id. United States v. Alvarez*, 132 S. Ct. 2537, 2560 (2012) (“false factual statements possess no First Amendment value.”); *Bose Corp. v. Consumers Union of the United States, Inc.*, 466 U.S. 485, 504 (1984) (same); *see also McKee v. Cosby*, 139 S.Ct. 675, 680 (2019) (Thomas, J., concurring) (“Before our decision in *New York Times [v. Sullivan]*, we consistently recognized that the First Amendment did not displace the common law of libel. As Justice Story explained, ‘The liberty of speech, or of the press, has nothing to do with this subject. They are not endangered by the punishment of libellous publications. The liberty of speech and the liberty of the press do not authorize malicious and injurious defamation.’ The Court consistently listed libel among the ‘well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem’”) (citations and quotations omitted)

Importantly, words tending to scandalize a public figure are, in the esteemed opinion of William Blackstone, “reputed more highly injurious than when spoken of a private man”. *McKee v. Cosby*, 139 S.Ct. at 679 (quoting 3 W. Blackstone, Commentaries * 124)). At common law, libel of a public official was deemed an offense “most dangerous to the people, and deserv[ing of] punishment, because the people may be deceived and reject the best citizens to their great injury, and it may be to the loss of their liberties.” *Id.* (quoting M. Newell, *Defamation, Libel and Slander* § 533 (1890) (quoting *Commonwealth v. Clap*, 4 Mass. 163, 169-170 (1808)); *accord White v. Nicholls*, 3 How. 266, 290 (1845))). In 1810, during the second term of United States President James Madison, the Supreme Court of New York affirmed a judgment entered in favor of a Member of Congress against a newspaper. The Court ruled that to publish of a Member of Congress that he is a “fawning sycophant”, a “misrepresentative of Congress”, a “grovelling office-seeker”, that he “abandoned his post in Congress”, that doubts existed as to both his “ability and integrity”, and that he received counterfeit money, is libellous:

“It is impossible to read the libel in this case, without understanding that the defendant meant to insinuate that the plaintiff had received the counterfeit money with intent to pass it ... I am perfectly satisfied that the libel contains a highly colored account of the proceedings, that it suppresses, for bad purposes, material facts, and that it conveys insinuations of the plaintiff’s guilt, unauthorized by the trial and the facts which transpired at the time of the trial; and if so, the inference of malice was inevitable.”

Thomas v. Crowell, 7 Johns. 264, 272-273 (NY 1810).

On December 30, 2019, you published an email to multiple persons throughout the United States that falsely accused Devin Nunes of numerous federal crimes. Naturally and as intended, your email was republished on Twitter:

jane says
@justjanedoee

@tedlieu just sent this email out libeling @DevinNunes, again. Devin needs to sue Ted.

Ted Lieu
FOR
CONGRESS



Recently, it was revealed that Devin Nunes had been working closely with Rudy Guiliani and his associate, Lev Parnas, to prop up Donald Trump's debunked conspiracy theories around Ukraine. And now that his involvement has come to light, we all have to ask: Why is a Member of Congress actively sabotaging efforts to investigate matters of national security?

When you swear an oath of office, you're taking a pledge: a pledge to serve your constituents faithfully, tirelessly, and honorably. But when Devin Nunes knowingly conspired to undermine our own government, he only thought about serving Donald Trump. It wasn't the first time -- in 2017, Devin Nunes got caught funneling classified information to thwart the Russia investigation -- and so long as he's in office, it likely won't be the last.

I don't take this stance lightly, but I firmly believe that Rep. Devin Nunes must be removed from the House Intelligence Committee in order to restore integrity and credibility to the chairpersonship. [If you agree, will you sign this petition today calling for Republican Leader Kevin McCarthy to remove Rep. Devin Nunes from the House Intelligence Committee?](#)

SIGN HERE: REMOVE REP. DEVIN NUNES FROM THE HOUSE INTELLIGENCE COMMITTEE

Best,
Ted

2:23 PM · Dec 30, 2019 · [Twitter Web Client](#)

[<https://twitter.com/justjanedoe/status/1211729649169883136>].

Your defamatory statements were read and republished in Virginia and elsewhere, e.g.:



[<https://twitter.com/skinner6775/status/1211818984900833280>].

Your actions are unlawful and grossly unethical. Your poisonous lack of civility infects, corrodes and degrades American society. It is needless and pointless, and it threatens to impair the important business of Congress. It must stop.

Demand is hereby made upon you as follows:

- 1. Immediately publish an email to each and every person on your mail list, retracting and renouncing your email and all statements about Devin Nunes in the email;**
- 2. Pin a copy of your retraction to your Twitter account, @tedlieu; and**
- 3. Issue a public apology to Devin Nunes for the harm caused by publication of your false statements; and**
- 4. Cease and desist from the publication of any further false and defamatory statements.**

Please understand: My client wishes to resolve this matter with you amicably and without litigation.

If you refuse to take the above action, however, he intends to request an investigation and review by the House Committee on Ethics and he will, if the matter is not fully resolved, pursue appropriate legal action to protect his name and reputation.

I trust you to do the right and honorable thing. Call or email me if you have any questions.

Yours very truly,

/s/ Steven S. Biss

Steven S. Biss

cc. Devin G. Nunes

cc. Hon. Ted. Deutch, Chairman
Hon. Kenny Marchant, Ranking Member
House Committee on Ethics
1015 Longworth House Office Building (LHOB)
Washington, DC 20515
Tom.rust@mail.house.gov
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Exhibit B

STEVEN S. BISS

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MATTER NO.

228-004

October 11, 2019

VIA EMAIL AND REGULAR MAIL

Andrew Narong Janz, Esquire
Fresno County District Attorney's Office
2220 Tulare Street, Suite 1000
Fresno, California 93721
damail@fresnocountyca.gov

RE: Devin G. Nunes

Dear Mr. Janz:

I represent Devin G. Nunes.

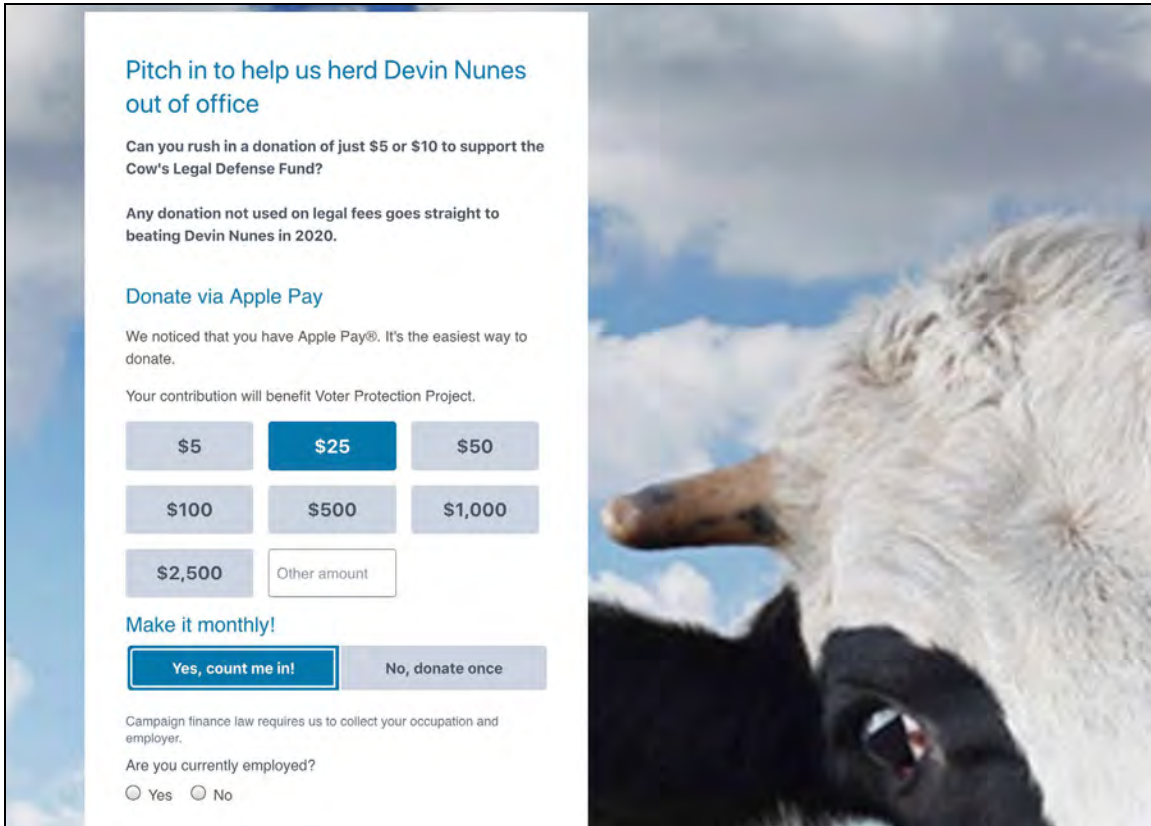
I write again – this time to address a matter of grave import and enormous consequence.

You are an Attorney and a State Prosecutor. You know that it is criminal and wrongful for any person to engage in cyberbullying, computer harassment, stalking and other threatening behavior. [See, e.g., Cal. Pen. Code § 653.2; Cal. Pen. Code § 653m; Cal. Pen. Code § 646.9]. Of course, threatening government officials of the United States is a Federal crime. [See, e.g., 18 U.S.C. § 111; 18 U.S.C. § 351(e)].

As you well know, for over two years, Mr. Nunes has been maliciously harassed, stalked, bullied online, threatened and egregiously defamed on Twitter by the user or users who post day and night, through the anonymous Twitter account, **@DevinCow**. [<https://twitter.com/DevinCow>].

In December 2018, you started the “Voter Protection Project”. [<http://protectvoting.org/leadership/>]. In March 2019, the *Fresno Bee* reported that you intended to provide a legal defense fund for **@DevinCow** through your PAC. [<https://www.fresnobee.com/news/politics-government/article228305684.html>].

As you well know, **@DevinCow** has been using your PAC to solicit funds to pay legal expenses, with any funds not used on legal fees to go “straight to beating Devin Nunes in 2020”:



It is unclear from a review of your FEC filings how much money has been raised for **@DevinCow** and how much has been disbursed to or for the benefit of **@DevinCow** [<https://docquery.fec.gov/pdf/962/201907269151675962/201907269151675962.pdf#navpanes=0>], although I note substantial disbursements to digital and communications consultants and the following payment to legal counsel in Richmond, Virginia:

| | | | | | |
|--|--|-------------|--|--|--|
| A. The Hawkins Law Firm | | | Date of Disbursement | | |
| Mailing Address 222 Monument Ave | | | MM / DD / YYYY 04 / 15 / 2019 | | |
| City Richmond | | State VA | Zip Code 23220 | | |
| Purpose of Disbursement Legal Consulting | | | FEC Identification Number C | | |
| Candidate Name | | | Transaction ID : VVB53AD6Q | | |
| Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President | | | Amount of Each Disbursement this Period 3000.00 | | |
| Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼ | | | Memo Item <input type="checkbox"/> | | |
| State: District: | | | | | |

Based upon the evidence I have reviewed, it appears that you or an agent or agents acting at your direction is coordinating, instigating, aiding and abetting the user or users of the **@DevinCow** Twitter account in the malicious harassment, cyberbullying, stalking and defamation of Mr. Nunes.

As you acknowledged in March 2019 to the *Fresno Bee*, you know the identity of the user or users of **@DevinCow**, and you are funding these persons.

This behavior is completely incompatible with your ethical and legal duties as a Fresno County Deputy District Attorney.

Demand is hereby made upon you as follows:

1. Immediately cause the user or users of @DevinCow to cease and desist from publishing any further false or defamatory statements of and concerning Mr. Nunes;

2. Immediately cause the @DevinCow Twitter account to retract all harassing, disparaging, false and defamatory tweets and retweets of and concerning Mr. Nunes, and apologize for the harm done to Mr. Nunes and his family;

3. Within one (1) business day of retraction and public apology, cause the termination of the @DevinCow Twitter account.

As a Deputy District Attorney, it would be egregious and irresponsible for you to continue to keep secret from the public the identity of **@DevinCow**.

You are legally, ethically and morally responsible to act now.

Call or email me if you have any questions.

Yours very truly,

/s/ Steven S. Biss

Steven S. Biss

cc. Devin G. Nunes

Exhibit C

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF HENRICO

DEVIN G. NUNES)
)
 Plaintiffs,)
)
 v.)
)
 TWITTER, INC.,)
 ELIZABETH A. "LIZ" MAIR,)
 MAIR STRATEGIES, LLC,)
 "DEVIN NUNES' MOM")
 [@DevinNunesMom])
 "DEVIN NUNES' COW")
 [@DevinCow])
)
 Defendants.)
 _____)

Case No. CU9-1715

**TRIAL BY JURY
IS DEMANDED**

COMPLAINT

Plaintiff, Devin G. Nunes, by counsel, files the following Complaint against defendants, Twitter, Inc. ("Twitter"), Elizabeth A. "Liz" Mair ("Mair"), Mair Strategies, LLC ("Mair Strategies"), "Devin Nunes' Mom" (@DevinNunesMom) and "Devin Nunes' cow" (@DevinCow), jointly and severally.

Plaintiff seeks (a) compensatory damages and punitive damages in an amount not less than **\$250,000,000.00**, (b) prejudgment interest on the principal sum awarded by the Jury from March 18, 2018 to the date of Judgment at the rate of six percent (6%) per year pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the "Code"), injunctive relief, and (d) court costs – arising out of defendants' negligence, defamation *per se*, insulting words, and civil conspiracy.

March 19 2019
RECEIVED & FILED IN OFFICE
Sharon Beaulieu
Deputy Clerk, Henrico Circuit Court

I. INTRODUCTION

1. Twitter is an information content provider.¹ Twitter creates and develops² content,³ in whole or in part, through a combination of means: (a) by explicit censorship

¹ The term “information content provider” means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service. *See Title 47 U.S.C. § 230(f)(3)*. The word *responsible* ordinarily has a normative connotation. *See The Oxford English Dictionary* 742 (2nd ed. 1998) (stating one definition of *responsible* as “Morally accountable for one’s actions.”). As one authority puts it: “[W]hen we say, ‘Every man is *responsible* for his own actions,’ we do not think definitely of any authority, law, or tribunal before which he must answer, but rather of the general law of right, the moral constitution of the universe....” James C. Fernald, *Funk & Wagnalls Standard Handbook of Synonyms, Antonyms, and Prepositions* 366 (1947). Synonyms for *responsibility* in this context are *blame*, *fault*, *guilt*, and *culpability*. *See Oxford American Writer’s Thesaurus* 747 (2nd ed. 2008). Accordingly, to be “responsible” for the development of offensive content, such as defamation, one must be more than a neutral conduit for that content. One is not “responsible” for the development of offensive content if one’s conduct was neutral with respect to the offensiveness of the content (as would be the case with the typical Internet bulletin board). We would not ordinarily say that one who builds a highway is “responsible” for the use of that highway by a fleeing bank robber, even though the culprit’s escape was facilitated by the availability of the highway. Twitter is “responsible” for the development of offensive content on its platform because it in some way specifically encourages development of what is offensive about the content. *FTC v. Accusearch, Inc.*, 570 F.3d 1187, 1198-1199 (10th Cir. 2009) (citing *Fair Housing of Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1168 (9th Cir. 2008) (“a website helps to develop unlawful content ...if it contributes materially to the alleged illegality of the conduct.”)).

² The word *develop* derives from the Old French *desveloper*, which means, in essence, to unwrap. Webster’s Third New International Dictionary 618 (2002) (explaining that *developer* is composed of the word *veloper*, meaning “to wrap up,” and the negative prefix *des*). The dictionary definitions for *develop* correspondingly revolve around the act of drawing something out, making it “visible,” “active,” or “usable.” *Id.* Thus, a photograph is developed by chemical processes exposing a latent image. *See id.* Land is developed by harnessing its untapped potential for building or for extracting resources. *See id.* Likewise, when confidential information is exposed to public view that information is “developed.” *See id.* (one definition of *develop* is “to make actually available or usable (something previously only potentially available or usable)”). *FTC v. Accusearch, Inc.*, 570 F.3d 1187, 1198 (10th Cir. 2009).

³ “Content” is information. It is the principal substance (such as written matter, illustrations, or music) offered by a website. [<https://www.merriam-webster.com/dictionary/content>].

of viewpoints with which it disagrees, (b) by shadow-banning conservatives, such as Plaintiff, (c) by knowingly hosting and monetizing content that is clearly abusive, hateful and defamatory – providing both a voice and financial incentive to the defamers – thereby facilitating defamation on its platform, (d) by completely ignoring lawful complaints about offensive content and by allowing that content to remain accessible to the public, and (e) by intentionally abandoning and refusing to enforce its so-called Terms of Service and Twitter Rules – essentially refusing to self-regulate – thereby selectively amplifying the message of defamers such as Mair, Devin Nunes’ Mom and Devin Nunes’ cow, and materially contributing to the libelousness of the hundreds of posts at issue in this action.

2. Twitter created and developed the content at issue in this case by transforming false accusations of criminal conduct, imputed wrongdoing, dishonesty and lack of integrity into a publicly available commodity used by unscrupulous political operatives and their donor/clients as a weapon. Twitter knew the defamation was (and is) happening. Twitter let it happen because Twitter had (and has) a political agenda and motive: Twitter allowed (and allows) its platform to serve as a portal of defamation in order to undermine public confidence in Plaintiff and to benefit his opponents and opponents of the Republican Party. In this case, Twitter contributed materially to the illegal conduct of defamers Mair, Devin Nunes’ Mom and Devin Nunes’ cow. Twitter, by its actions, intended to generate and proliferate the false and defamatory statements about Plaintiff in order to influence the outcome of the 2018 Congressional election and to intimidate Plaintiff and interfere with his important investigation of corruption by the

Clinton campaign and alleged Russian involvement in the 2016 Presidential Election. Twitter knowingly acted as a vessel of opposition research.

II. PARTIES

3. Plaintiff, Devin G. Nunes (“Nunes” or “Plaintiff”), is a citizen of California. Born October 1, 1973, Nunes has served in the United States House of Representatives since 2003. He currently represents California’s 22nd Congressional District, which is located in the San Joaquin Valley and includes portions of Tulare and Fresno Counties. He and his wife have three daughters. He is the author of the book, *Restoring the Republic*, which was published in September 2010. Nunes was born in Tulare, California. His family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County for three generations. Nunes raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother. Nunes graduated from Tulare Union High School. After associate’s work at College of the Sequoias, Nunes graduated from Cal Poly San Luis Obispo, where he received a bachelor’s degree in agricultural business and a master’s degree in agriculture. Nunes was first elected to public office as one of California’s youngest community college trustees in state history at the age of 23. As a member of the College of the Sequoias Board from 1996 to 2002, he was an advocate for distance learning and the expansion of programs available to high school students. In 2001, he was appointed by President George W. Bush to serve as California State Director for the United States Department of Agriculture’s Rural Development section. He left this post to run for California’s 21st Congressional District and now serves in the 22nd District as a result of redistricting in

2010. Nunes serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. He was appointed to the Ways and Means Committee in the 109th Congress and now serves as a Ranking Member of the Health Subcommittee and a member of the Trade Subcommittee, having served as Chairman of the Trade Subcommittee in the 113th Congress. Nunes previously served as a member of the House Budget Committee during the 111th Congress. In the 108th Congress, his first term in the House of Representatives, he served on the House Resources Committee, in which he was Chairman of the National Parks Subcommittee, and on the Agriculture and Veterans Affairs Committees. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government. Nunes authored the Hubbard Act of 2008 (H.R. 5825), which was named in honor of the Hubbard brothers of California – Jared, Nathan, and Jason. Jared and Nathan lost their lives serving in Iraq. Jason was discharged as a sole survivor, but was denied separation benefits upon leaving the Army. The Hubbard Act, which was enacted into law, provides sole survivors with numerous benefits that were already offered to other soldiers honorably discharged. It relieves sole survivors from repaying any portion of their enlistment bonus; entitles them to the educational benefits of the Montgomery GI Bill; and allows them to receive separation pay and transitional healthcare coverage. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>].

4. Nunes' career as a United States Congressman is distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity.

5. In 2018, during his last re-election for the 22nd Congressional District, Nunes endured an orchestrated defamation campaign of stunning breadth and scope, one that no human being should ever have to bear and suffer in their whole life. Unlike prior elections, where Nunes won by sweeping majorities, Nunes won on November 6, 2018 by a much narrower margin, receiving 52.7% of the 222,379 votes. [<https://www.nytimes.com/elections/results/california-house-district-22>]. The malicious, false and defamatory statements and relentless attacks on Nunes' reputation did not stop after he won the Congressional election in 2018. The defamation continues. It must be stopped.

6. Defendant, Twitter, is a Delaware corporation. Its principal executive office (headquarters) is in California. Twitter is a public company (NYSE:TWTR) with 35+ offices worldwide. In its 2017 annual report on Form 10-K, filed with the United States Securities and Exchange Commission ("SEC"), Twitter made the following representations about its business and primary service:

Twitter is the best place to see what's happening and what people are talking about. Every day, instances of breaking news, entertainment, sports, politics, big events and everyday interests happen first on Twitter. Twitter is where the full story unfolds with live commentary and where live events come to life unlike anywhere else. Our primary service can be accessed on a variety of mobile devices, at twitter.com and via SMS.

Our primary service, Twitter, is a global platform for public self-expression and conversation in real time. Twitter allows people to consume, create, distribute and discover content and has democratized content creation and distribution. The reach of Twitter content is not limited to our logged-in users on the Twitter platform, but rather extends to a larger global audience.

The public nature of the Twitter platform allows us and others to extend the reach of Twitter content beyond our properties. Media outlets and our platform partners distribute Tweets beyond our properties to complement their content by making it more timely, relevant and comprehensive. These outlets and partners also add value to our user experience by contributing content to our platform. Many of the world's most trusted media outlets, including the BBC, CNN, Bloomberg and the Associated Press, regularly use Twitter as a platform for content distribution.

Twitter is ubiquitous. Twitter is at home in Virginia. Twitter is registered to transact business in Virginia (VA SCC Id. No. F198299-2); it maintains a registered office and registered agent in Glen Allen, Virginia (Henrico County); millions of Virginians have Twitter accounts and use Twitter on a daily basis; Twitter targets Virginians every minute of every day with advertisements of all kinds and earns millions of dollars in revenues from its Virginia source customers. Twitter's technology platform and information database enables it to target citizens based on "audience attributes" like "geography, interests, keyword, television conversation, content, event and devices". Twitter's targeting capabilities allow it to develop content and act as a political action committee and, as happened in this case, to squelch the voice and assassinate the character of its political opponents. Twitter makes it possible "for advertisers to promote their brands, products and services, amplify their visibility and reach, and complement and extend the conversation around their advertising campaigns" in a variety of ways. Through the use of "Promoted Products", such as "Promoted Tweets",⁴ "Promoted Accounts" and

⁴ Using its "proprietary algorithm and understanding of each user's Interest Graph," Twitter delivers Promoted Tweets that are "intended to be relevant to a particular user." Twitter's goal is to "enable advertisers to create and optimize successful marketing campaigns – and pay either on impressions delivered or pay only for the user actions that are aligned with their marketing objectives."

“Promoted Trends”, Twitter enables advertisers to target Virginians based on a variety of factors, including a user’s “Interest Graph”.⁵

7. Defendant, Mair, is a citizen of Virginia. She lives and works in Arlington County. Mair joined Twitter in either 2007 or 2010. She currently operates a twitter account, titled “BrandValue\$4B”, with the handle/tag “@LizMair” and 37,900 followers. [https://twitter.com/LizMair?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor; see also <https://twitter.com/lizamair?lang=en>]. Mair’s Twitter profile discloses that she is a “Comms strategist. Blunt (‘16). Walker (‘12-‘15).⁶ Rand Paul (‘13). Perry (‘12) Fiorina (‘10); former RNC Online Comms Director; Tory; libertarian; Arsenal fan”. Mair claims that she is “the US’ leading right-of-center online communications operative”. [<https://www.lizmair.com/biography.php#navbar>]. In December 2015, Mair founded a super PAC called “Make America Awesome” (FEC Id. # C00594176), whose sole (and failed) purpose was to block and reverse Donald’s Trump’s ascent in politics by using “unconventional and cost-effective tactics”.⁷ Mair claims that since 2011 she has “advised multiple Fortune 500, FTSE 100 and other publicly-traded corporate clients, as

⁵ Twitter conducts surveillance on its users, collects data on its users and sells that data to advertisers and others. The “Interest Graph maps, among other things, interests based on users followed and actions taken on our platform, such as Tweets created and engagement with Tweets.”

⁶ Mair was terminated from the Walker campaign shortly after she tweeted derogatory and disparaging statements about the residents of Iowa. [<https://www.desmoinesregister.com/story/news/politics/2015/03/16/scott-walker-digital-chief-taken-swipes-iowa/24865861/>; <https://thehill.com/blogs/ballot-box/236052-under-fire-walker-aide-liz-mair-resigns>].

⁷ Plaintiff was a member of the Trump transition team, and is widely recognized for his arguments that the accusations that President Trump and his associates colluded with Russia are false. Mair is famous for her appearance on CNN, where she referred to then presidential candidate Donald Trump as a “loud mouth dick”. [https://www.realclearpolitics.com/video/2016/08/04/republican_strategist_liz_mair_trump_a_loud_mouth_dick.html].

well as numerous large trade associations and prominent non-profits on communications in the US, the UK and the EU.” On her *LinkedIn* profile, Mair admits that:

What do I do for these clients? Anonymously smear their opposition on the Internet.

More broadly? Get sh*t done.

[<https://www.linkedin.com/in/liz-mair-76b03a2/>]. During Nunes re-election campaign in 2018, Mair conspired with (and presumably was paid by) one or more as-yet unknown “clients” to attack and smear Nunes. True to her word on *LinkedIn*, Mair relentlessly smeared and defamed Nunes during the campaign, filming stunts at Nunes’ office in Washington, D.C. and posting them online, publishing videos on YouTube that falsely accused Nunes of multiple crimes, repeatedly publishing false and defamatory statements on Twitter,⁸ defaming Nunes online and to the press, and filing fraudulent ethics complaints against Nunes accusing him, *inter alia*, of violating House Ethics Rules, e.g.:

<https://www.youtube.com/watch?v=fOp7se7n9XI>;

https://www.youtube.com/watch?v=IHGYMcVN_SQ;

⁸ Mair falsely tweeted to her 37,900 followers, *inter alia*, that Nunes “voted for warrantless wiretapping and unlimited surveillance of Americans’ emails (incl Carter Page’s)” [<https://twitter.com/LizMair/status/1041873937427300352>]; that Nunes broke the law when he “spent contributions that are supposed to be used for the express purposes of the PAC or committee in question, and not for financing their personal lifestyle choices. That is a legal problem, not just an ethical or optics-related one” [<https://twitter.com/LizMair/status/1032990757869813761>]; and that Nunes leaked text messages between a lobbyist and Senator Mark Warner to Fox News [<https://twitter.com/LizMair/status/969409912366338049>]. Even after Nunes won the election, Mair continued to attack him, stating, *inter alia*, that Nunes was “still a clown with big league ethical issues that may well cost him his seat in 2020” [<https://twitter.com/LizMair/status/1095574579223949312>].

<https://www.youtube.com/watch?v=aUseOu2ReS4>,⁹

https://www.crowdpac.com/campaigns/386770/hold-devin-nunes-accountable?ref_code=share&utm_source=sharer-ask&utm_medium=receipt&utm_campaign=S0qacrwp4P2coDlGw1ujXljN1y7HxX&utm_content=20&source_code=tw-receipt-first;¹⁰

<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>;¹¹

<https://thehill.com/blogs/blog-briefing-room/news/398980-activist-group-trolls-nunes-with-new-sneakers-to-run-away-from>;

<https://swampaccountabilityproject.com/letter/>.

As part of her smear campaign on behalf of clients, Mair was out to “stick it” to Nunes in 2018. By her own admissions, she “hates Devin Nunes” and “dumped¹² a lot” on Nunes. [<https://twitter.com/LizMair/status/1046599052996096001>]. Mair tweeted “HOLY

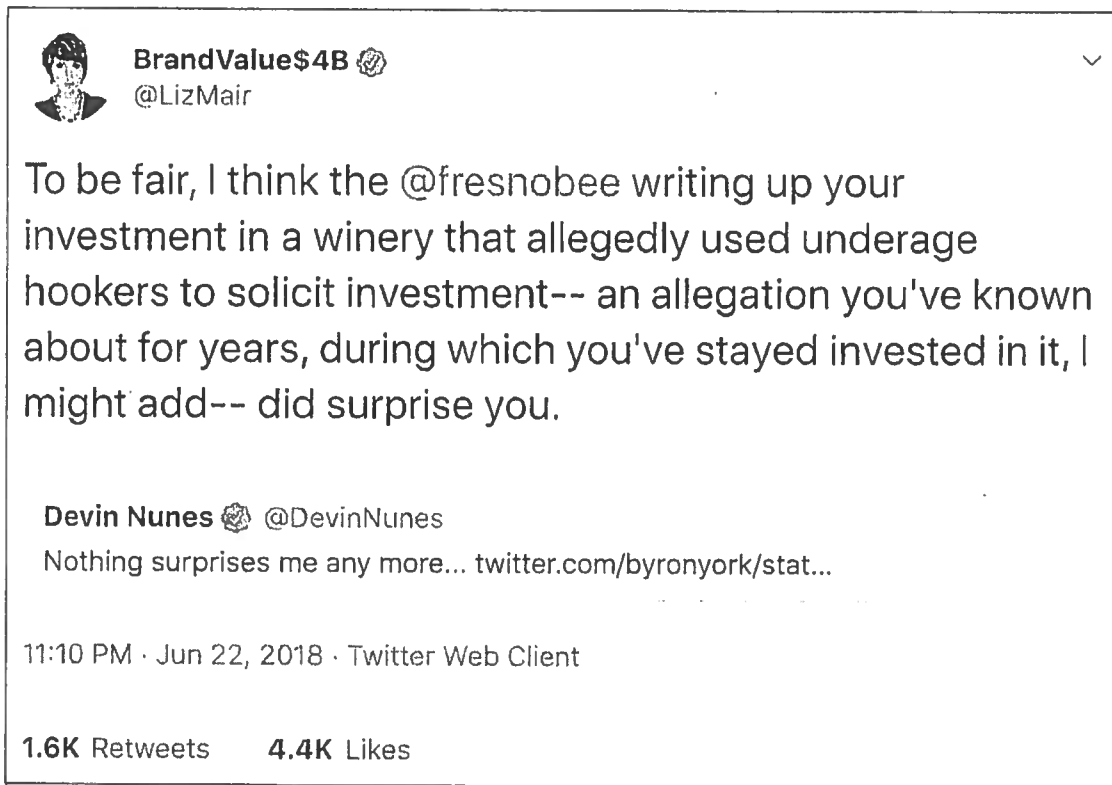
⁹ Among the false statements published by Mair in this video is that “Nunes is still entangled with a winery implicated in a scandal involving his co-investors, cocaine and child prostitutes”.

¹⁰ In this publication, Mair makes the following false statements about Nunes: “Ethical leadership in government? He’s invested in a winery that allegedly solicited capital by using underage prostitutes. Really”.

¹¹ Mair published the following statement to the *Fresno Bee*, “OCE [the Office of Congressional Ethics] should prioritize a review of Rep. Nunes’ investment and involvement in the Alpha Omega Winery, and the facts reported by The Fresno Bee. Such review should be undertaken as swiftly as possible”.

¹² Opposition research (also called “oppo” research) is the practice of collecting information on a political opponent or other adversary that can be used to discredit or otherwise weaken them. The information can include biographical, legal, criminal, medical, educational, or financial history or activities. “Oppo dumps” are used by political campaigns to systematically supply files of damaging information to press outlets, including matters of the public record, video footage from party archives and private collections, as well as private intelligence gathered by operatives.

CRAP; A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event”. [<https://twitter.com/LizMair/status/999407730220650497>]. Mair’s tweet, with an article by the *Fresno Bee* attached, implied that Nunes colluded with prostitutes and cocaine addicts, that Nunes does cocaine, and that Nunes was involved in a “Russian money laundering front”. One of Mair’s most egregious and defamatory tweets about Nunes was the following:



[<https://twitter.com/LizMair/status/1010359462891327490>]. At all times relevant to this action, Mair harbored spite, ill-will, actual malice, and a demonstrated desire to injure Nunes’ good name and reputation. Mair’s tweets about Nunes, for example, referred to the Congressman with disdain as “Dirty Devin”.

8. Defendant, Mair Strategies, is a Virginia limited liability company, active and in good standing. Mair is the sole member and manager of Mair Strategies. On its

website, www.mairstrategies.com, Mair Strategies claims to be a “boutique communications and public relations firm, with specialties in online, political, and crisis communications, as well as opposition research formulation and seeding.” Mair Strategies represents that it is an “entirely virtual firm staffed by politics veterans” – “the firm is ‘lean and mean’ and brings an aggressive, hard-hitting, presidential campaign-style approach to issues work it manages and executes for its clients.” [<https://www.mairstrategies.com/about.php#navbar>]. At all times relevant to this action, Mair acted within the scope of her employment for Mair Strategies, acted during work hours and while conducting Mair Strategies’ business, using a Twitter account that linked back to Mair Strategies, and with the knowledge and actual or apparent authority of Mair Strategies. Mair Strategies is liable for Mair’s defamation of Nunes under the doctrine of *respondeat superior*.

9. Defendant, Devin Nunes’ Mom, is a person who, with Twitter’s consent, hijacked Nunes’ name, falsely impersonated Nunes’ mother, and created and maintained an account on Twitter (@DevinNunesMom) for the sole purpose of attacking, defaming, disparaging and demeaning Nunes. Between February 2018 and March 2019, Twitter allowed @DevinNunesMom to post hundreds of egregiously false, defamatory, insulting, abusive, hateful, scandalous and vile statements about Nunes that without question violated Twitter’s Terms of Service and Rules, including a seemingly endless series of tweets that falsely accused Nunes of obstruction of justice, perjury, misuse of classified information, and other federal crimes:



Devin Nunes' Mom

@DevinNunesMom

Follow



Running around DC jumping from Ubers doing political stunts, obstructing an investigation he was supposed to lead, leaking classified info. And what about Central Valley's water infrastructure? I don't know about you but I'm getting tired of this bullshit. #RemoveNunes #Drewfor22



1:08

Andrew Janz @JanzAndrew

Nunes is compromised. Help me take this national security threat out of office. Every dollar goes to my grassroots campaign that can #removenunes

secure.actblue.com/contribute/pag...



Devin Nunes' Mom

@DevinNunesMom

Follow



This is going to be disastrous for #CA22 but please understand @DevinNunes' difficult situation. Between being eyeball-deep in a federal obstruction investigation and then cradling the president's balls full time, he just doesn't have time for you anymore. Surely you understand.



Devin Nunes' Mom @DevinNunesMom · 24 May 2018

I wonder who's paying @DevinNunes all this money to obstruct justice?



Washington Examiner @dcexaminer

Devin Nunes' fundraising explodes amid aggressive defense of Trump from Russia probe washex.am/2IKfili

24 128 367



Devin Nunes' Mom

@DevinNunesMom

Follow

Replying to @FoxNews @DevinNunes @FBI

@DevinNunes your district is looking for you?
Are you trying to obstruct a federal investigation again? You come home right this instant or no more Minecraft!

1:32 AM - 11 Jun 2018



Devin Nunes' Mom

@DevinNunesMom

Follow

On November 6 you have the choice between law and order or obstruction of justice.
#Drewfor22 #RemoveNunes #CA22

Andrew Janz @JanzAndrew

Great spot in @RollingStone. I'm proud to be the law and order candidate in this race. rollingstone.com/politics/polit...

9:04 PM - 25 Oct 2018



Devin Nunes' Mom

@DevinNunesMom

Follow



If you believe in law and order vote for @JanzforCongress. If you believe in obstruction of justice and perjury vote for @DevinNunes.

Muckmaker™ @RealMuckmaker

Devin Nunes protects witnesses who might have committed perjury
shareblue.com/adam-schiff-de...

8:57 PM - 3 Nov 2018

73 Retweets 200 Likes



Devin Nunes' Mom

@DevinNunesMom

Follow



When they say 'obstruction' they're talking about you, @DevinNunes.

MSNBC @MSNBC

Democrats now in the majority on the House Intel Cmte. had vowed that one of their first acts would be to authorize the release of more than 50 witness interview transcripts to Mueller to aid in his probe. on.msnbc.com/2UvTams

11:04 PM - 31 Jan 2019

In her endless barrage of tweets, Devin Nunes' Mom maliciously attacked every aspect of Nunes' character, honesty, integrity, ethics and fitness to perform his duties as a United States Congressman. Devin Nunes' Mom stated that Nunes had turned out worse than

Jacob Wohl;¹³ falsely accused Nunes of being a racist, having “white supremacist friends” and distributing “disturbing inflammatory racial propaganda”; falsely accused Nunes of putting up a “Fake News MAGA” sign outside a Texas Holocaust museum; falsely stated that Nunes would probably join the “Proud Boys”,¹⁴ “if it weren’t for that unfortunate ‘no masturbating’ rule”; disparagingly called him a “presidential fluffer and swamp rat”; falsely stated that Nunes had brought “shame” to his family; repeatedly accused Nunes of the crime of treason, compared him to Benedict Arnold, and called him a “traitor”, “treasonous shitbag”, a “treasonous Putin shill”, working for the “Kremlin”; falsely stated that Nunes was “100% bought and sold. He has no interest remaining for his constituents”; falsely accused Nunes of being part of the President’s “taint” team;¹⁵ falsely stated that Nunes was unfit to run the House Permanent Select Committee on Intelligence; falsely accused Nunes of “secretly hat[ing] the people he’s supposed to serve”; falsely accused Nunes of being a “lying piece of shit”; falsely stated that Nunes would lose custody of his children and was going to “the pen”; falsely accused Nunes of receiving pay for undermining “American Democracy”; falsely stated that Nunes was

¹³ Jacob Wohl has been publicly described as an “American far-right conspiracy theorist, fraudster, and internet troll.” On February 26, 2019, Twitter permanently suspended Wohl for violating its rules regarding creating and operating fake accounts. [https://en.wikipedia.org/wiki/Jacob_Wohl].

¹⁴ See [<https://www.splcenter.org/fighting-hate/extremist-files/group/proud-boys>]. The Proud Boys have been called a “white supremacists”, “extremist” and a “hate group”. Devin Nunes’ Mom accused Nunes of “running with those Nazi scumbags again”.

¹⁵ The verb “taint” means to contaminate morally or to affect with putrefaction. A “taint” is a contaminating mark or influence or a trace of a bad or undesirable substance or quality. [<https://www.merriam-webster.com/dictionary/taint>; <https://en.oxforddictionaries.com/definition/taint>]. The Urban Dictionary defines “taint” as the area of skin on a women between her vagina and her anus. [<https://www.urbandictionary.com/define.php?term=taint>].

“the most despicably craven GOP public official” and that “Devin might be a unscrupulous, craven, back-stabbing, charlatan and traitor, but he’s no Ted Cruz”; falsely stated that Nunes was “voted ‘Most Likely to Commit Treason’ in high school”; falsely stated that “The people of California’s Central Valley are upright folk who work hard, look you square in the eye and give you a firm handshake. And then there is @DevinNunes”; falsely stated that Nunes is “not ALL about deceiving people. He’s also about betraying his country and colluding with Russians”; stated “I don’t know about Baby Hitler, but would sure-as-shit abort baby Devin”; falsely stated that “Alpha Omega wines taste like treason”; falsely stated that “@DevinNunes wanted me to tell everyone that he’ll be releasing a pic soon to get ahead of that AMI thing, and that it only looks that way because of all the blow”; falsely suggested that Nunes might be willing to give the President a “blowjob”; falsely stated “@Devin Nunes look @SpeakerRyan is removing @Rep_Hunter from his committee seat because he’s corrupt and incompetent. I wonder why he let you keep yours?”; falsely accused Nunes of “covering up Trump’s conspiracy against the United States”; falsely accused Nunes of lying to Congress; falsely accused Nunes of suborning “perjury”; falsely stated that “@Devin Nunes is DEFINITELY a feckless cunt”; falsely stated that “[i]f you vote for @Devin Nunes the terrorists win”; falsely stated “please don’t call @DevinNunes compromised. He’s not at all. He’s a complete and total fucking traitor”; falsely stated that Nunes was a “spy” in Congress “passing along information to the subject of a federal investigation”; falsely stated that Nunes knows “a thing or two about throwing away evidence, don’t you Scabbers”;¹⁶ falsely claimed that Nunes was “WANTED” and hiding and “hopes he

¹⁶ “Scabbers” refers to Ron Weasley’s pet rat in the *Harry Potter* books.

doesn't get indicted"; falsely claimed that Nunes would "probably see an indictment before 2020"; and even falsely stated that Nunes has "herp-face". Many of the tweets were vile and repulsive, including tweets that depicted Nunes engaged in sexual acts with the President:



Devin Nunes' Mom hurled repeated insults at Nunes and other members of Congress. For instance, she tweeted the following to Representative Matt Gaetz (R-FL1):



Devin Nunes' Mom

@DevinNunesMom

Follow



Replying to @mattgaetz

You know @DevinNunes is getting really upset that he has to share Trump's rectum space with you. HE WAS THERE FIRST.

8:32 AM - 7 Feb 2019

Devin Nunes' Mom falsely accused Nunes of spending money at the "Spearmint Rhino", a strip club in Las Vegas [<https://spearmintrhino.com/>]:



Devin Nunes' Mom

@DevinNunesMom

Follow



You know I hate to be a nag, but if you hadn't spent it all in Vegas at the Spearmint Rhino you might still be able to afford you re-election campaign. But what do I know?

Steve Sebelius  @SteveSebelius

Oh, no! Fake news purveyor Devin Nunes says he may not have enough money to counter the mainstream media's deceitful lies (read—truthful reporting about his antics). Hope he makes his FEC deadline!

12:20 AM - 27 Jul 2018

Devin Nunes' Mom falsely accused Nunes of frequenting prostitutes and doing cocaine:



Devin Nunes' Mom

@DevinNunesMom

Follow



These two geniuses want to teach us all about environmental science. Never mind the fact that both of their expertise put together is worth less than a bag of dicks. When we have questions about hookers or Vegas strip clubs we'll call you, ok @DevinNunes?

Devin Nunes @DevinNunes

Thx @realDonaldTrump for bringing much needed attention to our flawed environmental policies! Forests should be managed properly and water should be allowed for farmers to grow food to feed people. Thx for supporting the people of San Joaquin Valley and Sierra Nevada mountains! [twitter.com/realDonaldTrump...](https://twitter.com/realDonaldTrump)

12:25 AM - 6 Aug 2018

136 Retweets 585 Likes



She falsely professed to know "all about the hookers and coke on boats" :



Devin Nunes' Mom

@DevinNunesMom

Follow



Oh there's so much they don't know, sweetie. I also hope they don't know about all the hookers and coke on boats. [twitter.com/enjanted/statu ...](https://twitter.com/enjanted/status...)

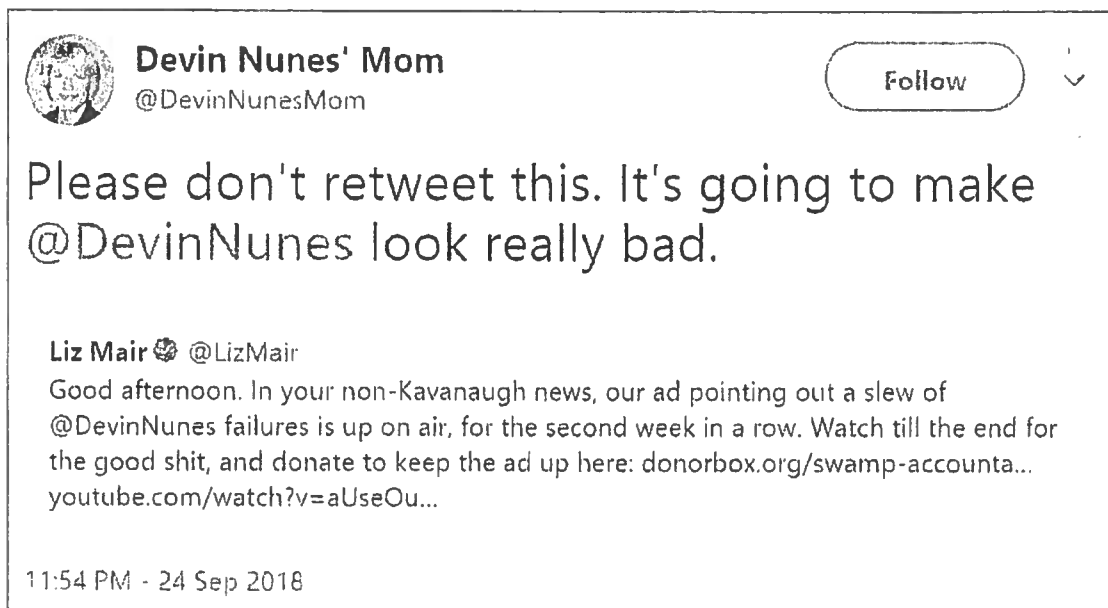
This Tweet is unavailable.

10:36 PM - 16 Dec 2018

17 Retweets 169 Likes



Devin Nunes' Mom even tweeted false and defamatory statements by Mair:



The sheer volume of defamatory tweets and the short time period over which they were published is staggering. In or about March 2019, after Nunes suffered substantial insult, humiliation, embarrassment, pain, mental suffering and damage to his reputation as a result of the unprecedented personal and professional attacks on his character, Twitter finally suspended Devin Nunes' Mom's account.

10. Defendant, "Devin Nunes' cow", a person who, with Twitter's consent, created and maintains an account on Twitter (@DevinCow) for the sole purpose of attacking and defaming Nunes. [<https://twitter.com/devincow?lang=en>]. @DevinCow has 1,204 followers.¹⁷ Like Devin Nunes' Mom, Devin Nunes' cow engaged a vicious defamation campaign against Nunes that lasted over a year. Devin Nunes' cow has made, published and republished hundreds of false and defamatory statements of and concerning Nunes, including the following: Nunes is a "treasonous cowpoke";

¹⁷ Mair actively encouraged her Twitter followers to "go follow Devin Nunes' Cow. No, really." [<https://twitter.com/LizMair/status/1017251733989453824>].

“prosecutors” were “investigating Devin Nunes”; “Nunes needs to be investigated. He knew the truth, yet conspired with a criminal, @realDonaldTrump, to conceal the facts from the investigation. Nunes is a criminal too”; “718 more days until your term is up, Devin. Unless Mueller indicts you first”; “724 more days, Devin, unless the indictment comes first”; “It’s on, Ranking Member Nunes. #nunesindictment”; “Devin Nunes is a traitor”; “Devin Nunes used Leadership PAC funds on luxury vacay in his family’s native Portugal”; Nunes hung out with the Proud Boys at a private invite-only fundraiser; “Devin’s boots are full of manure. He’s udder-ly worthless and its pasture time to move him to prison”; “Devin is whey over his head in crime ... I bet @DevinNunes’ cocaine yacht and underage prostitutes won Trump over #AlphaOmega!”.

11. The substance and timing of the tweets, retweets, replies and likes by Mair, Devin Nunes’ Mom and Devin Nunes’ cow demonstrates that all three bad actors were and are engaged in a joint effort, together and with others, to defame Nunes and interfere with his duties, employment and investigations of corruption as a United States Congressman. The purpose of the concerted defamation campaign was to cause immense pain, intimidate, interfere with and divert Nunes’ attention from his investigation of corruption and Russian involvement in the 2016 Presidential Election.

12. In addition to @LizMair, @DevinNunesMom and @DevinCow, between 2018 and the present, Twitter authorized the creation and operation of many other incendiary accounts whose sole purpose was (and is) to publish and republish (tweet and retweet) false and defamatory statements about Nunes. Among these additional Twitter accounts are “Fire Devin Nunes” (@fireDevinNunes) and “Devin Nunes’ Grapes” (@DevinGrapes). The additional Twitter accounts followed the same pattern as

@DevinNunesMom and @DevinCow, and published the same false and defamatory statements Nunes was involved in underage prostitution, etc. Fire Devin Nunes published memes of Nunes in prison attire. In a July 30, 2018 post, Devin Nunes' cow retweeted the following:



The Twitter attacks on Nunes were pre-planned, calculated, orchestrated and undertaken by multiple individuals acting in concert, over a continuous period of time exceeding a year. The full scope of the conspiracy, including the names of all participants and the level of involvement of donors and members of the Democratic Party, is unknown at this time and will be the subject of discovery in this action.

III. JURISDICTION AND VENUE

13. The Circuit Court for the County of Henrico has jurisdiction of this matter pursuant to § 17.1-513 of the Virginia Code (1950), as amended.

14. The Defendants are subject to personal jurisdiction in Virginia pursuant to Virginia's long-arm statute, § 8.01-328.1(A)(1), (A)(3) and (A)(4) of the Code, as well as the Due Process Clause of the United States Constitution. The Defendants are subject to general personal jurisdiction in Virginia. They engage in continuous and systematic business in Virginia. They all have minimum contacts with Virginia such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

15. Venue is proper in the Circuit Court for the County of Henrico pursuant to §§ 8.01-262(2-4) and 8.01-263(2) of the Code.

IV. STATEMENT OF ADDITIONAL MATERIAL FACTS

A. Twitter, Tweets and Retweets

16. Twitter is a social networking and micro-blogging service that allows users to post "tweets" and to "retweet" and "like" others' posts. "A tweet is a short text post ... delivered through Internet or phone-based text systems to the author's subscribers". *United States v. Feng Ling Liu*, 69 F.supp.3d 374, 377 (S.D.N.Y. 2014); <https://help.twitter.com/en/using-twitter/types-of-tweets> (in general, a "tweet" is a "message posted to Twitter containing text, photos, a GIF, and/or video"). A "retweet" is simply a repost of another Twitter user's tweet on a user's own profile to show to that user's own followers. [<https://help.twitter.com/en/using-twitter/retweet-faqs>].

17. Twitter's core product – Twitter – has over 321,000,000 active monthly users. A total of 500,000,000 tweets are sent every single day. 126,000,000 people use Twitter every day. There are over 69,000,000 Twitter users in the United States – over thirty-six percent (36%) of all Americans use the platform to publish and republish information. [https://www.washingtonpost.com/technology/2019/02/07/twitter-reveals-its-daily-active-user-numbers-first-time/?utm_term=.2a744974e596; <https://www.omnicoreagency.com/twitter-statistics/>].

18. Twitter generates revenues by selling advertising on its platform. In the year ended December 31, 2017, Twitter's total revenue was \$2.44 Billion Dollars. Of that sum, \$2.11 Billion Dollars consisted of revenue received from advertising.

19. Twitter uses its platform, including proprietary algorithms, selectively to convey its corporate/institutional viewpoint, its position on issues and candidates for office, such as Plaintiff, to influence the outcome of elections, such as the 2018 election for California's 22nd Congressional District, and as a dumping ground for "oppo research". Twitter is not a neutral platform such as an Internet bulletin board. To the contrary: as part and parcel of its Twitter's role as an internet content provider, Twitter and its CEO, Jack Dorsey, actively endorse and promote the many agendas of the Democratic Party.

B. Twitter's Terms of Service and Rules

20. For people who live in the United States, the "Twitter User Agreement" is comprised of "Terms of Service", a "Privacy Policy", the "Twitter Rules" and all incorporated policies. <https://twitter.com/en/tos>.

21. The Terms of Service (“Terms”) govern a user’s access to and use of Twitter’s services, including its various websites, SMS, APIs, email notifications, applications, buttons, widgets, ads, commerce services, and other covered services (“Services”). Twitter contends that by using the Services, a user agrees to be bound by the Terms. [<https://twitter.com/en/tos>].

22. Twitter recognizes that it owes a duty of reasonable care to all persons who use its platform. In order to protect the experience and safety of people who use Twitter, Twitter imposes limitations on the type of content and behavior that it allows. These limitations are set forth in the Twitter Rules. As a general rule, the Twitter Rules prohibit use of the platform for “any unlawful purposes or in furtherance of illegal activities.” Unlawful purposes and illegal activities include defamation, business disparagement and insulting words. Twitter represents that it believes in

“freedom of expression and open dialogue, but that means little as an underlying philosophy if voices are silenced because people are afraid to speak up. In order to ensure that people feel safe expressing diverse opinions and beliefs, we prohibit behavior that crosses the line into abuse, including behavior that harasses, intimidates, or uses fear to silence another user’s voice.”

To this end, the Twitter Rules expressly bar “abuse” and “hateful conduct”:

“Abuse: You may not engage in the targeted harassment of someone, or incite other people to do so. We consider abusive behavior an attempt to harass, intimidate, or silence someone else’s voice.”

...

Hateful conduct: You may not promote violence against, threaten, or harass other people on the basis of race, ethnicity, national origin, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease.

Hateful imagery and display names: You may not use hateful images or symbols in your profile image or profile header. You also may not use your username, display name, or profile bio to engage in abusive behavior, such as targeted harassment or expressing hate towards a person, group, or protected category.

Impersonation

You may not impersonate individuals, groups, or organizations in a manner that is intended to or does mislead, confuse, or deceive others. While you may maintain parody, fan, commentary, or newsfeed accounts, you may not do so if the intent of the account is to engage in spamming or abusive behavior.

[<https://help.twitter.com/en/rules-and-policies/twitter-rules>]. Twitter's rationale for prohibiting abusive behavior is as follows:

"On Twitter, you should feel safe expressing your unique point of view. We believe in freedom of expression and open dialogue, but that means little as an underlying philosophy if voices are silenced because people are afraid to speak up.

In order to facilitate healthy dialogue on the platform, and empower individuals to express diverse opinions and beliefs, we prohibit behavior that harasses or intimidates, or is otherwise intended to shame or degrade others."

Twitter acknowledges that:

"In addition to posing risks to people's safety, abusive behavior may also lead to physical and emotional hardship for those affected."

[<https://help.twitter.com/en/rules-and-policies/abusive-behavior>].¹⁸

23. Twitter can suspend or terminate an account or cease providing the user with all or part of the Services at any time for any or no reason, including, but not limited to, if Twitter believes: (i) the user has violated the Terms or the Twitter Rules, or (ii) the

¹⁸ The rationale for Twitter's "Hateful Conduct Policy" is similar:

"Twitter's mission is to give everyone the power to create and share ideas and information, and to express their opinions and beliefs without barriers. Free expression is a human right – we believe that everyone has a voice, and the right to use it. Our role is to serve the public conversation, which requires representation of a diverse range of perspectives.

We recognise that if people experience abuse on Twitter, it can jeopardize their ability to express themselves."

[<https://help.twitter.com/en/rules-and-policies/hateful-conduct-policy>].

user creates risk or possible legal exposure for Twitter. Twitter reserves the right to remove content that violates the User Agreement, including for example, content that constitutes or involves “unlawful conduct” or “harassment”. [<https://twitter.com/en/tos>].

24. @LizMair, @DevinNunesMom, @DevinCow, @fireDevinNunes, and @DevinGrapes repeatedly tweeted and retweeted abusive and hateful content about Nunes that expressly and undoubtedly violated Twitter’s Terms and Rules.

25. Twitter provides a means to report these violations of its Terms and Rules. [<https://help.twitter.com/en/rules-and-policies/twitter-report-violation>; <https://help.twitter.com/forms/abusiveuser>]. Twitter claims it reviews and takes action on reports of abusive behavior and hateful content. [<https://help.twitter.com/en/rules-and-policies/enforcement-options>].

26. Twitter publicly professes to monitor its platform, as part of its effort to self-regulate content and conduct and avoid regulation by both State and Federal Governments. [See, e.g., <https://mashable.com/2017/11/17/twitter-hate-speech-symbols-december-18/>; <https://www.cnn.com/2018/08/20/trump-says-its-very-dangerous-when-twitter-facebook-self-regulate-content-reuters.html>]. Over the course of 2018, upon information and belief, Twitter’s content moderators reviewed the accounts of @LizMair, @DevinNunesMom, @DevinCow, @fireDevinNunes, and @DevinGrapes, and were well aware of the defamation as it was occurring. Upon information and belief, Twitter users also reported the abusive behavior of Mair, Devin Nunes’ Mom, Devin Nunes’ cow and others to Twitter.

27. Twitter did nothing to investigate or review the defamation that appeared in plain view on its platform. Twitter consciously allowed the defamation of Nunes to

continue. As part of its agenda to squelch Nunes' voice, cause him extreme pain and suffering, influence the 2018 Congressional election, and distract, intimidate and interfere with Nunes' investigation into corruption and Russian involvement in the 2016 Presidential Election, **Twitter did absolutely nothing.** Twitter permitted @DevinNunesMom, for instance, to tweet and retweet with impunity throughout 2018. Twitter only suspended the account in 2019 after Nunes' real mother, Toni Dian Nunes, complained.

28. Twitter represents that it enforces its Terms and Rules equally and that it does not discriminate against conservatives who wish to use its "public square". This is not true. This is a lie. Twitter actively censors and shadow-bans conservatives, such as Plaintiff, thereby eliminating his voice while amplifying the voices of his Democratic detractors.

C. Shadow-Banning

29. Twitter is infamous for "shadow-banning"¹⁹ conservatives, including Nunes. *See, e.g.,* https://news.vice.com/en_us/article/43paqq/twitter-is-shadow-banning-prominent-republicans-like-the-rnc-chair-and-trump-jrs-spokesman;
<https://www.rt.com/usa/434682-twitter-shadowbanning-conservatives/>;

¹⁹ "Shadow banning" is the deliberate act of "making someone's content undiscoverable to everyone except the person who posted it, unbeknownst to the original poster." https://blog.twitter.com/official/en_us/topics/company/2018/Setting-the-record-straight-on-shadow-banning.html]. Shadowbanned users are not told that they have been affected. They can continue to post messages, add new followers and comment on or reply to other posts. But their messages may not appear in the feed, their replies may be suppressed and they may not show up in searches for their usernames. The only hint that such a thing is happening would be a dip in likes, favorites or retweets—or an ally alerting them to their disappearance. [<https://www.economist.com/the-economist-explains/2018/08/01/what-is-shadowbanning>].

[https://www.foxnews.com/transcript/role-of-social-media-in-political-influence;](https://www.foxnews.com/transcript/role-of-social-media-in-political-influence)
[https://www.breitbart.com/politics/2018/07/27/matt-gaetz-files-fec-complaint-against-twitter-over-shadowban/;](https://www.breitbart.com/politics/2018/07/27/matt-gaetz-files-fec-complaint-against-twitter-over-shadowban/) [https://thehill.com/homenews/house/399429-nunes-suggests-possible-legal-action-against-twitter-for-censoring;](https://thehill.com/homenews/house/399429-nunes-suggests-possible-legal-action-against-twitter-for-censoring)
[https://dailycaller.com/2018/08/16/twitter-ban-conservatives/;](https://dailycaller.com/2018/08/16/twitter-ban-conservatives/)
[https://dailycaller.com/2018/08/05/twitter-suspends-candace-owens/.](https://dailycaller.com/2018/08/05/twitter-suspends-candace-owens/)

30. In 2018, Twitter shadow-banned Plaintiff in order to restrict his free speech and to amplify the abusive and hateful content published and republished by Mair, Devin Nunes' Mom, Devin Nunes' cow, Fire Devin Nunes, Devin Nunes Grapes, and others. The shadow-banning was intentional. It was calculated to interfere with and influence the federal election and interfere with Nunes' ongoing investigation as a member of the House Permanent Select Committee on Intelligence.

31. Twitter's actions affected the election results. The combination of the shadow-ban and Twitter's refusal to enforce its Terms and Rules in the face of clear and present abuse and hateful conduct caused Nunes to lose support amongst voters. Twitter's actions also detracted from Nunes' investigation into corruption and Russian involvement in the 2016 Presidential Election.

32. Twitter's use of its platform as a portal for defamation by political operatives and their clients runs contrary to every tenet of American Democracy, including the guarantees of both the First Amendment and Article I, § 12 of the Virginia Constitution. In the words of the late United States Supreme Court Justice Oliver Wendell Holmes, Jr., "if there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought – not free thought

for those who agree with us but freedom for the thought that we hate.” *United States v. Schwimmer*, 279 U.S. 644, 654-655 (1929) (Holmes, J., dissenting).

COUNT I – NEGLIGENCE

33. Plaintiff restates paragraphs 1 through 32 of his Complaint, and incorporates them herein by reference.

34. Twitter is a “modern public square.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017). As the United States Supreme Court noted in *Packingham*, “on Twitter, users can petition their elected representatives and otherwise engage with them in a direct manner. Indeed, Governors in all 50 States and almost every Member of Congress have set up accounts for this purpose. In short, social media users employ these websites to engage in a wide array of protected First Amendment activity on topics as diverse as human thought.” 137 S. Ct. at 1735-1736 (internal citations and quotations omitted). The Court in *Packingham* went on to observe, in regard to social media sites like Twitter, that:

“These websites can provide perhaps the most powerful mechanisms available to a private citizen to make his or her voice heard. They allow a person with an Internet connection to ‘become a town crier with a voice that resonates farther than it could from any soapbox.’”

Id. at 1737 (citation omitted) (quoting *Reno v. American Civil Liberties Union*, 521 U. S. 844, 870 (1997)).

35. Access to Twitter is essential for meaningful participation in modern-day American Democracy. **A candidate without Twitter is a losing candidate.** The ability to use Twitter is a vital part of modern citizenship. A presence on Twitter is essential for an individual to run for office or engage in any level of political organizing in modern America. That is because Twitter is not merely a website: it is the modern town square. Twitter is equivalent to the private owner of a public forum who has fully opened its

property to the general public for purposes of permitting the public's free expression and debate. That is, in fact, what Twitter has always claimed to be: its stated mission is to "[g]ive everyone the power to create and share ideas instantly, without barriers"; its self-proclaimed guiding principle is that "[w]e believe in free expression and believe every voice has the power to impact the world"; and it has referred to itself as "the live public square, the public space - a forum where conversations happen."

36. As the private operator of a public square, Twitter owed Nunes a duty to exercise ordinary and reasonable care in the operation of its platform, so as not to cause harm to Nunes.

37. Twitter breached its duty of reasonable care. Twitter used its platform and allowed its platform to be used by others as a means to defame Nunes. Twitter failed to take action to enforce its Terms and Rules in the face of known abusive behavior and failed to reasonably monitor and police the platform to ensure that rampant abuse and defamation was not occurring.

38. As a direct and proximate result of Twitter's negligence, Nunes suffered actual damages in the amount of \$250,000,000, including pain, insult, embarrassment, humiliation, emotional distress and mental suffering, and injury to his personal and professional reputations.

COUNT II – DEFAMATION *PER SE*

39. Plaintiff restates paragraphs 1 through 38 of his Complaint, and incorporates them herein by reference.

40. The law of defamation protects a basic constitutional interest: the individual's right to personal security and the uninterrupted entitlement to enjoyment of

his reputation. *Gazette, Inc. v. Harris*, 229 Va. 1, 7, 325 S.E.2d 713 (1985) (citation omitted). In *Rosenblatt v. Baer*, Mr. Justice Stewart emphasized that:

“Society has a pervasive and strong interest in preventing and redressing attacks upon reputation.’ The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty ... The destruction that defamatory falsehood can bring is, to be sure, often beyond the capacity of the law to redeem. Yet, imperfect though it is, an action for damages is the only hope for vindication or redress the law gives to a man whose reputation has been falsely dishonored ... Surely if the 1950’s taught us anything, they taught us that the poisonous atmosphere of the easy lie can infect and degrade a whole society.”

383 U.S. 75, 92-93 (1966); *id. Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 12 (1990)

(“Good name in man and woman, dear my lord, Is the immediate jewel of their souls. Who steals my purse steals trash; ‘Tis something, nothing; ‘Twas mine, ‘tis his, and has been slave to thousands; But he that filches from me my good name Robs me of that which not enriches him, And makes me poor indeed.”) (quoting WILLIAM SHAKESPEARE, *OTHELLO*, act 3 sc. 3)).²⁰

41. As a citizen of the United States of America *and* as a United States Congressman sworn to uphold the Constitution and laws of this great country, Nunes has a fundamental constitutional interest and entitlement to the uninterrupted enjoyment of his reputation.

42. The First Amendment does not sanction slander or license libel. The Defendants enjoy absolutely no privilege to use Twitter as a weapon to defame.

²⁰ Libelous speech is not protected by the First Amendment. *Bose Corp. v. Consumers Union of the United States, Inc.*, 466 U.S. 485, 504 (1984) (cited in *Pendleton v. Newsome*, 290 Va. 162, 173, 772 S.E.2d 759 (2015)); *id. United States v. Alvarez*, 132 S. Ct. 2537, 2560 (2012) (“false factual statements possess no First Amendment value.”).

43. With the actual or apparent authority of Twitter, the Defendants, using accounts maintained on Twitter and by Twitter, made, published and republished numerous false factual statements, which are detailed verbatim above, about or concerning Nunes without privilege of any kind.

44. The false statements constitute defamation *per se*. The statements accuse and impute to Nunes the commission of crimes involving moral turpitude and for which Nunes may be punished and imprisoned in a state or federal institution. The statements impute that Nunes is infected with some contagious disease, where if the charge were true (and it is not), it would exclude Nunes from society. The statements impute to Nunes an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. Finally, Defendants' false statements also prejudice Nunes in his profession or trade as a United States Congressman.

45. Defendants' false statements have harmed Nunes and his reputation.

46. Nunes honorably serves as a United States Congressman. Defendants' false statements that Nunes is a "spy", that he works for the "Kremlin", that he is a "treasonous Putin shill" are especially egregious and insulting, considering that Nunes has sworn a solemn oath to uphold the Constitution and Laws of the United States of America and has dutifully discharged his duty to this Country for over a decade. The baseless accusation of a connection between Nunes and Russia impugns the honor, integrity and ethics of a United States Congressman and illustrates the desperate and cowardly attempt to manufacture evidence of "collusion" where none exists.

47. Defendants made the false statements with actual or constructive knowledge that they were false or with reckless disregard for whether they were false. Defendants acted with actual malice and reckless disregard for the truth for the following reasons:

a. Defendants intentionally employed a scheme or artifice to defame Nunes with the intent to cause him to lose the 2018 Congressional election. Defendants, in whole or in part, acted in concert with clients to accomplish an unlawful purpose through unlawful means, without regard for the Nunes' rights and interests.

b. Defendants knew that Nunes had and has not committed any crimes and did not engage in the unlawful and salacious behavior described in the tweets. There is no evidence in the public record to suggest that Nunes was (or is) the subject of any criminal complaint or criminal investigation, and there are certainly no indictments, arrests or convictions of any kind. Defendants' statements are total fabrications.

c. Defendants chose to manufacture and publish false and scandalous statements and use insulting words that were unnecessarily strong and that constitute violent, abusive and hateful language, disproportionate to the occasion, in order to undermine public confidence in Nunes and affect the election. The words chosen by the Defendants evince their ill-will, spite and actual malice.

d. Defendants did not act in good faith because, in the total absence of evidence, they could not have had an honest belief in the truth of their statements about Nunes.

e. Defendants reiterated, repeated and continued to republish false defamatory statements out of a desire to hurt Nunes and to permanently stigmatize him.

48. As a direct result of Defendants' defamation, Nunes suffered presumed damages and actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$250,000,000 or such greater amount as is determined by the Jury.

COUNT III – INSULTING WORDS

49. Plaintiff restates paragraphs 1 through 48 of his Complaint, and incorporates them herein by reference.

50. Defendants' insulting words, in the context and under the circumstances in which they were written and tweeted, tend to violence and breach of the peace. Like any reasonable person, Nunes was humiliated, disgusted, angered and provoked by the Defendants' insulting words.

51. Defendants' words are fighting words, which are actionable under § 8.01-45 of the Virginia Code (1950), as amended.

52. As a direct result of Defendants' insulting words, Nunes suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$250,000,000 or such greater amount as is determined by the Jury.

COUNT IV – COMMON LAW CONSPIRACY

53. Plaintiff restates paragraphs 1 through 52 of his Complaint, and incorporates them herein by reference.

54. Beginning in February 2018 and continuing through the present, Mair, Devin Nunes' Mom and Devin Nunes' cow, acting as individuals, combined, associated, agreed or acted in concert with each other and/or with one or more "clients" or other donors, non-profits, operatives or agents of the Democratic Party (whose identity is unknown at this time) for the express purposes of injuring Nunes, intentionally and unlawfully interfering with his business and employment as a United States Congressman, and defaming Nunes. In furtherance of the conspiracy and preconceived plan, the Defendants engaged in a joint scheme the unlawful purpose of which was to destroy Nunes' personal and professional reputations and influence the outcome of a federal election.

55. The Defendants acted intentionally, purposefully, without lawful justification, and with the express knowledge that they were defaming Nunes. As evidenced by their concerted action on Twitter, the Defendants acted with the express and malicious intent to cause Nunes permanent injury.

56. The Defendants' actions constitute a conspiracy at common law.

57. As a direct result of the Defendants' willful misconduct, Nunes suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$250,000,000 or such greater amount as is determined by the Jury.

COUNT V – INJUNCTION

58. Plaintiff restates paragraphs 1 through 57 of his Complaint, and incorporates them herein by reference.

59. In order to protect Nunes's property interests and his reputation, Nunes requests the Court (a) to Order Twitter to reveal the names and contact information of the persons behind the accounts "Devin Nunes' Mom", "Devin Nunes' cow", "Fire Devin Nunes" and "Devin Nunes Grapes", and (b) to permanently enjoin and order Twitter to suspend @LizMair, @DevinNunesMom and @DevinCow and to deactivate all hyperlinks to all tweets, retweets, replies and likes by @LizMair, @DevinNunesMom and @DevinCow that contain false and defamatory statements about Nunes.

60. The identity of those behind these Twitter accounts is a matter of great public concern. Whether the accounts are controlled by wealthy Democrats, the Democratic National Committee, an opposition research firm, such as Fusion GPS [<http://www.fusiongps.com/>], the "Russians", the "Chinese", or some other foreign government or non-governmental organization (NGO), the corruption of American Democracy and society by intentional falsehoods, fraud and defamation must stop.

61. Nunes has no adequate remedy at law. Without Court intervention and an injunction, Nunes will suffer actual and irreparable injury to his property interests and personal rights by the mere fact that Defendants' defamatory tweets can be retweeted and republished forever by third-parties.

62. There is a substantial likelihood that Nunes will succeed on the merits of his claims.

Nunes alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Nunes believes that substantial additional evidentiary support, which is in the exclusive possession of Twitter, Mair, Mair Strategies, Devin Nunes Mom, Devin Nunes' cow and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Nunes reserves his right to amend this Complaint upon discovery of additional instances of Defendants' wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF


WHEREFORE, Devin G. Nunes respectfully requests the Court to enter Judgment against the Defendants, jointly and severally, as follows:

- A. Compensatory damages in the amount of \$250,000,000.00 or such greater amount as is determined by the Jury;
- B. Punitive damages in the amount of \$350,000.00 or the maximum amount allowed by law;
- C. Prejudgment interest from March 18, 2018 until the date Judgment is entered at the maximum rate allowed by law;
- D. Postjudgment interest at the rate of six percent (6%) per annum until paid;
- E. Attorney's Fees and Costs;
- F. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: March 18, 2019

DEVIN G. NUNES



By: /s/ Steven S. Biss

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Email: stevenbiss@earthlink.net

Counsel for Plaintiff, Devin G. Nunes

Exhibit D

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE 15:59:53

TESTE: _____
CLERK/DEPUTY CLERK

DEVIN G. NUNES)
)
Plaintiffs,)
)
v.)
)
THE MCCLATCHY COMPANY)
ELIZABETH A. "LIZ" MAIR,)
)
-and-)
)
MAIR STRATEGIES, LLC)
)
Defendants.)
_____)

Case No. CL19-629

**TRIAL BY JURY
IS DEMANDED**

COMPLAINT

Plaintiff, Devin G. Nunes, by counsel, files the following Complaint against defendants, The McClatchy Company ("McClatchy"), Elizabeth A. "Liz" Mair ("Mair"), and Mair Strategies, LLC ("Mair Strategies"), jointly and severally.

Plaintiff seeks (a) compensatory damages and punitive damages in an amount not less than **\$150,000,000**, (b) prejudgment interest on the principal sum awarded by the Jury from May 23, 2018 to the date of Judgment at the rate of six percent (6%) per year pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the "Code"), injunctive relief, and (d) court costs – arising out of defendants' defamation *per se* and common law conspiracy.

I. INTRODUCTION

1. This is a case about character assassination and a public company that weaponized its powerful pen and used it as a terrible sword.

2. Throughout 2018, McClatchy and its reporter, MacKenzie Mays, acting in concert with a Virginia political operative and her handlers, schemed to defame Plaintiff and destroy his reputation. The central purpose of the scheme was to interfere with Plaintiff's Congressional investigation of corruption by the Clinton campaign and alleged "collusion" between the Trump campaign and Russia during the 2016 presidential election.¹ Using the enormous power of McClatchy's nation-wide resources, McClatchy

¹ McClatchy is well-known for publishing false stories meant to advance the false narrative that associates of Donald J. Trump colluded with Russia to hack the 2016 presidential election. In April 2018, for instance, McClatchy published an article representing that Justice Department Special Counsel Robert Mueller had evidence that Donald Trump's lawyer, Michael Cohen, secretly visited Prague during the 2016 presidential campaign. [<https://www.mcclatchydc.com/news/politics-government/white-house/article208870264.html>] ("Mueller Has Evidence Cohen Was In Prague In 2016, Confirming Part Of Dossier"). The McClatchy story was presented as confirmation of an essential claim of the "Steele dossier" (a collection of allegations of collusion between Trump associates and Russia that were manufactured by a former British spy, Christopher Steele, cited in the most prominent accusations against the President's team). According to the Steele dossier, Cohen was a leading figure in the Trump-Russia collusion/conspiracy. The dossier represents that Cohen went to Prague in 2016 to have a conspiratorial meeting with Russian officials about the Kremlin's campaign to hack the 2016 U.S. presidential election. McClatchy's story about Cohen was not confirmed by *any* other media outlet, and Mueller's indictment of Cohen did not allege Cohen had this meeting in Prague or that he conspired with Russians at all to hack the U.S. election. McClatchy further attempted to defend the dossier's veracity with a follow-up piece claiming Cohen's cell phone had sent signals off cell towers in the Prague vicinity. [<https://www.mcclatchydc.com/news/investigations/article219016820.html>] ("Cell signal puts Cohen outside Prague around time of purported Russian meeting"). Once again, no other media outlet could confirm the McClatchy story, which, like the previous story, was thoroughly contradicted by both Mueller's Cohen indictment and Mueller's final Report. [*see* <https://assets.documentcloud.org/documents/5779700/AG-March-24-2019-Letter-to-House-and-Senate.pdf>] ("**The Special Counsel's investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 U.S. presidential election.**")].

and its co-conspirators relentlessly attacked Plaintiff both in print and digitally – falsely and maliciously accusing Plaintiff of horrible crimes and improprieties, falsely attributing to him knowledge he did not have, implying that he was involved with cocaine and underage prostitutes, and imputing to Plaintiff dishonesty, unethical behavior, lack of integrity, and an unfitness to serve as a United States Congressman. Defendants’ statements were knowingly false and grossly offensive. They evince a heedless, palpable and reckless disregard for the truth.

3. True and honorable journalists serve a vital role in our republic, informing the American people about crucial matters that affect their lives and the country at large. The Defendants in this case abandoned the role of journalist, and chose to leverage their considerable power to spread falsehoods and to defame the Plaintiff for political and financial gain.

II. PARTIES

4. Plaintiff, Devin G. Nunes (“Nunes” or “Plaintiff”), is a citizen of California. Born October 1, 1973, Nunes has served in the United States House of Representatives since 2003. He currently represents California’s 22nd Congressional District, which is located in the San Joaquin Valley and includes portions of Tulare and Fresno Counties. He and his wife have three daughters. He is the author of the book, *Restoring the Republic*, which was published in September 2010. Nunes was born in Tulare, California. His family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County for three generations. Nunes raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother.

Nunes graduated from Tulare Union High School. After associate's work at College of the Sequoias, Nunes graduated from Cal Poly San Luis Obispo, where he received a bachelor's degree in agricultural business and a master's degree in agriculture. Nunes was first elected to public office as one of California's youngest community college trustees in state history at the age of 23. As a member of the College of the Sequoias Board from 1996 to 2002, he was an advocate for distance learning and the expansion of programs available to high school students. In 2001, he was appointed by President George W. Bush to serve as California State Director for the United States Department of Agriculture's Rural Development section. He left this post to run for California's 21st Congressional District and now serves in the 22nd District as a result of redistricting in 2010. Nunes serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. He was appointed to the Ways and Means Committee in the 109th Congress and now serves as a Ranking Member of the Health Subcommittee and a member of the Trade Subcommittee, having served as Chairman of the Trade Subcommittee in the 113th Congress. Nunes previously served as a member of the House Budget Committee during the 111th Congress. In the 108th Congress, his first term in the House of Representatives, he served on the House Resources Committee, in which he was Chairman of the National Parks Subcommittee, and on the Agriculture and Veterans Affairs Committees. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the

intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government. Nunes authored the Hubbard Act of 2008 (H.R. 5825), which was named in honor of the Hubbard brothers of California – Jared, Nathan, and Jason. Jared and Nathan lost their lives serving in Iraq. Jason was discharged as a sole survivor, but was denied separation benefits upon leaving the Army. The Hubbard Act, which was enacted into law, provides sole survivors with numerous benefits that were already offered to other soldiers honorably discharged. It relieves sole survivors from repaying any portion of their enlistment bonus; entitles them to the educational benefits of the Montgomery GI Bill; and allows them to receive separation pay and transitional healthcare coverage. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>].

5. Nunes' career as a United States Congressman is distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity.

6. In 2018, during his last re-election for the 22nd Congressional District and while he served as a Member of the House Permanent Select Committee on Intelligence investigating corruption by the Clinton campaign and alleged Russian "collusion" during the 2016 Presidential Election, Nunes endured a multi-front, orchestrated defamation campaign of stunning breadth and scope, one that no human being should ever have to bear and suffer in their whole life.

7. This case involves the subversive efforts of McClatchy and its confederates to use the press as a for-pay political weapon.

8. Defendant, McClatchy, is a Delaware corporation, headquartered in California. McClatchy is a public company (NYSE:MNI) with operations in fourteen

(14) states, as well as national news coverage broadcast to Virginia and elsewhere through a Washington D.C. based bureau. The following table summarizes McClatchy's media companies, their digital platforms, newspaper circulation, and total unique visitors:

| Media Company | Website | Location | Total UV ^(b) | Circulation ^(a) | |
|---------------------------------|---------------------------|---------------------|----------------------------|----------------------------|-----------|
| | | | | Daily | Sunday |
| <i>Miami Herald</i> | www.miamiherald.com | Miami, FL | 10,523,000 | 78,786 | 122,944 |
| <i>The Kansas City Star</i> | www.kansascity.com | Kansas City, MO | 4,912,000 | 98,046 | 137,517 |
| <i>Star-Telegram</i> | www.star-telegram.com | Fort Worth, TX | 4,161,000 | 181,289 | 169,300 |
| <i>The Charlotte Observer</i> | www.charlotteobserver.com | Charlotte, NC | 4,078,000 | 75,329 | 108,372 |
| <i>The Sacramento Bee</i> | www.sacbee.com | Sacramento, CA | 4,042,000 | 103,283 | 205,946 |
| <i>The News & Observer</i> | www.newsobserver.com | Raleigh, NC | 3,732,000 | 77,043 | 100,286 |
| <i>The State</i> | www.thestate.com | Columbia, SC | 3,084,000 | 41,650 | 91,929 |
| <i>El Nuevo Herald</i> | www.elnuevoherald.com | Miami, FL | 3,133,000 | 23,948 | 31,960 |
| <i>Lexington Herald-Leader</i> | www.kentucky.com | Lexington, KY | 2,231,000 | 46,268 | 70,370 |
| <i>The News Tribune</i> | www.thenewstribune.com | Tacoma, WA | 1,782,000 | 36,187 | 84,424 |
| <i>The Wichita Eagle</i> | www.kansas.com | Wichita, KS | 1,722,000 | 35,642 | 80,139 |
| <i>The Fresno Bee</i> | www.fresnobee.com | Fresno, CA | 1,694,000 | 55,713 | 92,982 |
| <i>McClatchy DC Bureau</i> | www.mcclatchydc.com | | 1,519,000 | N/A | N/A |
| <i>Idaho Statesman</i> | www.idahostatesman.com | Boise, ID | 1,497,000 | 31,894 | 56,312 |
| <i>The Modesto Bee</i> | www.modbee.com | Modesto, CA | 1,332,000 | 33,426 | 58,175 |
| <i>Belleville News-Democrat</i> | www.bnd.com | Belleville, IL | 978,000 | 19,333 | 49,503 |
| <i>The Tribune</i> | www.sanluisobispo.com | San Luis Obispo, CA | 882,000 | 17,079 | 27,520 |
| <i>The Telegraph</i> | www.macon.com | Macon, GA | 806,000 | 19,169 | 23,716 |
| <i>The Island Packet</i> | www.islandpacket.com | Hilton Head, SC | 766,000 | 15,436 | 16,528 |
| <i>The Herald</i> | www.heraldonline.com | Rock Hill, SC | 762,000 | 9,672 | 12,100 |
| <i>Tri-City Herald</i> | www.tri-cityherald.com | Kennewick, WA | 762,000 | 18,255 | 29,487 |
| <i>The Bradenton Herald</i> | www.brandenton.com | Bradenton, FL | 695,000 | 17,825 | 22,311 |
| <i>Ledger-Enquirer</i> | www.ledger-enquirer.com | Columbus, GA | 595,000 | 14,573 | 17,355 |
| <i>Sun Herald</i> | www.sunherald.com | Biloxi, MS | 590,000 | 20,833 | 30,016 |
| <i>The Sun News</i> | www.thesunnews.com | Myrtle Beach, SC | 578,000 | 21,144 | 27,167 |
| <i>Centre Daily Times</i> | www.centredaily.com | State College, PA | 577,000 | 11,399 | 14,415 |
| <i>The Bellingham Herald</i> | www.bellinghamherald.com | Bellingham, WA | 563,000 | 10,124 | 13,214 |
| <i>The Olympian</i> | www.theolympian.com | Olympia, WA | 516,000 | 12,314 | 27,685 |
| <i>Merced Sun-Star</i> | www.mercedsunstar.com | Merced, CA | 481,000 | 9,993 | — |
| <i>The Herald-Sun</i> | www.heraldsun.com | Durham, NC | 371,000 | 8,177 | 8,613 |
| <i>The Beaufort Gazette</i> | www.beaufortgazette.com | Beaufort, SC | ^(b) N/A | 4,738 | 5,068 |
| | | | 59,364,000 | 1,148,568 | 1,735,354 |

McClatchy's media companies range from large daily newspapers and news websites serving metropolitan areas to non-daily newspapers with news websites and online platforms serving small communities. For the full year ended December 31, 2018, McClatchy had 66.4 million average monthly unique visitors to its online platforms and 3.9 billion page views of its digital products. McClatchy's primary sources of revenues are digital and print advertising (national and major accounts, retail accounts, classifieds and direct marketing) and audience subscriptions. Audience revenues include either digital-only subscriptions or bundled subscriptions, which include both digital and print.

McClatchy is at home in Virginia. Its print newspapers are delivered to businesses and consumers throughout Virginia, including Albemarle County, every day by large distributors and independent contractors. Its digital media is transmitted to Virginia via active websites and content providers, such as www.fresnobee.com and www.twitter.com. This case involves McClatchy's delivery to and publication of defamatory statements in Albemarle County and throughout Virginia, and the publication of false and defamatory statements by McClatchy and its agents and co-conspirators who were, at all relevant time, physically present in Virginia.

9. McClatchy and its media companies, including the *Fresno Bee*, regularly use Twitter as part of their businesses. [<https://twitter.com/mcclatchy?lang=en&lang=en>; https://twitter.com/FresnoBee?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor]. As of April 5, 2019, McClatchy followed 2,218 persons on Twitter and had 11,400 followers. The *Fresno Bee* (@FresnoBee) followed 721 persons and had 87,000 Twitter followers. Many of McClatchy's reporters and editors also use Twitter. [See, e.g. https://twitter.com/MackenzieMays?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor (MacKenzie Mays); <https://twitter.com/marekthebee?lang=en> (Marek Warszawski); <https://twitter.com/josephkieta?lang=en> (Joseph Kieta)].

10. To maximize the insult, embarrassment, humiliation, and injury to Nunes' reputation and as evidence of its actual malice, McClatchy chose to publish its false and defamatory statements (detailed below *in haec verba*) **both** in print in newspapers, **and** online via its websites, including www.fresnobee.com and www.mcclatchydc.com/, **and** to the Twitter universe. On May 23, 2018, for instance, McClatchy published the following article written by MacKenzie Mays ("Mays"):

BUSINESS

A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event

BY MACKENZIE MAYS

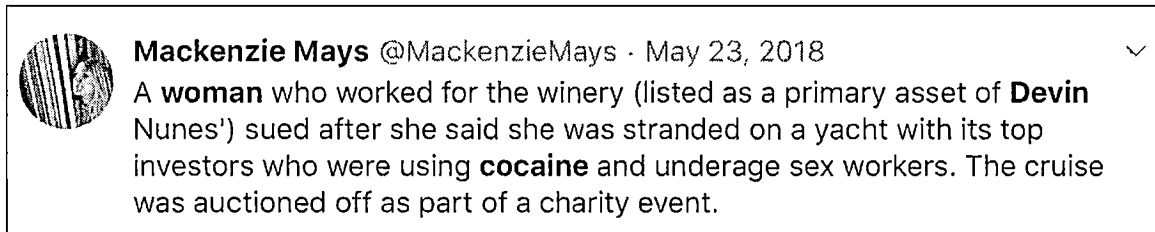
MAY 23, 2018 11:56 AM, UPDATED MAY 24, 2018 02:46 PM



[<https://www.fresnobee.com/news/business/article210912434.html>]. As of April 5, 2019, Mays followed 5,654 persons on Twitter and had 5,151 followers. In furtherance of McClatchy's scheme to defame Nunes and injure his reputation,² Mays tweeted and

² The timing of McClatchy's publication of the Yacht/Cocaine/Prostitutes article on May 23, 2018 demonstrates that the article was part of a scheme to defame Nunes. McClatchy published the article during the 2018 Congressional election campaign, just weeks before the June 5, 2018 primary. The story was not "news" in 2018, however. As was well-known to McClatchy, the incident aboard the yacht in 2015 and the lawsuit that followed were extensively reported on by *Winebusiness* in 2016. [<https://www.winebusiness.com/news/?go=getArticle&dataid=176634>]. *Winebusiness* is a monthly magazine with a distribution throughout North America. It is the leading producer of information, events and resources for the wine industry in the United States. [<https://www.winebusiness.com/company/>]. *Winebusiness'* coverage of the incident aboard the yacht was a matter of common knowledge, for instance, on Twitter. [*E.g.*, <https://twitter.com/msgoddessrises/status/845320410493206529>].

republished the Yacht/Cocaine/Prostitutes article to her 5,151 followers on Twitter with the following message:



[<https://twitter.com/MackenzieMays/status/999366435368398848>]. In her tweet, Mays chose to emphasize the words “**woman**”, “**Devin**” and “**cocaine**”.³

McClatchy’s Yacht/Cocaine/Prostitutes Story

11. The McClatchy Yacht/Cocaine/Prostitutes article reported about an incident that was alleged to have occurred on board a yacht⁴ in 2015. The incident involved an employee of the Alpha Omega Winery. Nunes was (and is) a limited partner of the Alpha Omega Winery. As an event for charity, the yacht had been auctioned off for a day’s use by a third-party. Guests aboard the yacht⁵ were alleged to have used cocaine and engaged in sex with seemingly underage prostitutes. The employee of Alpha Omega Winery later sued the Winery over the incident.

³ On May 24, 2018, Mays republished the Yacht/Cocaine/Prostitutes story to a new target audience – the print and online readers of the *Spokesman-Review*. [<http://www.spokesman.com/stories/2018/may/24/a-yacht-cocaine-prostitutes-winery-partly-owned-by/>].

⁴ The name of the yacht is the USS Alpha Omega. McClatchy intentionally concealed from readers the fact that the yacht is ***not*** owned by the Alpha Omega Winery.

⁵ In the article, Mays falsely stated that the guests were 25 of the Winery’s “top investors”. In truth, Mays knew that the individuals on the yacht were not affiliated with the Alpha Omega Winery in any way. In November 2016, the Winery publicly stated that “[n]o one in the group had any personal or business connection to the winery or its owners, and no Alpha Omega staff knew anyone in the group.” [<https://www.winebusiness.com/news/?go=getArticle&dataid=176634>].

12. The defamatory implication (the gist) of McClatchy’s Yacht/Cocaine/Prostitutes story was that Nunes was involved in the cocaine/sex fueled “fundraiser.” This is immediately evident from the prominent placement of Nunes’ name alongside “prostitutes” and “cocaine” in the story’s headline (“**A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event**”). The headline also materially mischaracterizes the event aboard the yacht as a “fundraiser”.⁶ It was not a fundraiser at all. It was a cruise resulting from a charitable donation. The McClatchy headline intentionally omitted the word “charity” and labeled the event a “fundraiser” in a clear effort to imply it was a political fundraising event that a politician like Congressman Nunes would naturally attend. Furthermore, the online versions of the story are punctuated by a prominent picture of Nunes and multiple film clips of him. Indeed, the entire purpose of every element of the Yacht/Cocaine/Prostitutes article – the headline, the photo, the film clips, and the text itself – is to link Nunes to an event that McClatchy actually knew before publication he had no involvement with.

13. McClatchy succeeded in linking the cocaine/sex-fueled “fundraiser” with “prostitutes” to Nunes. The defamatory meaning of the article was clearly understood by all who read and saw McClatchy’s publication. NBC News, Capitol Hill Correspondent, Kasie Hunt (“Hunt”), has 421,500 followers on Twitter:

Kasie Hunt 

@kasie



@NBCNews Capitol Hill Correspondent. Host, @KasieDC, Sundays 7-9 pm ET on @MSNBC. Once & therefore always #Wire1 at The Associated Press.

📍 Washington, DC  Joined January 2008

2,123 Following **421.5K** Followers

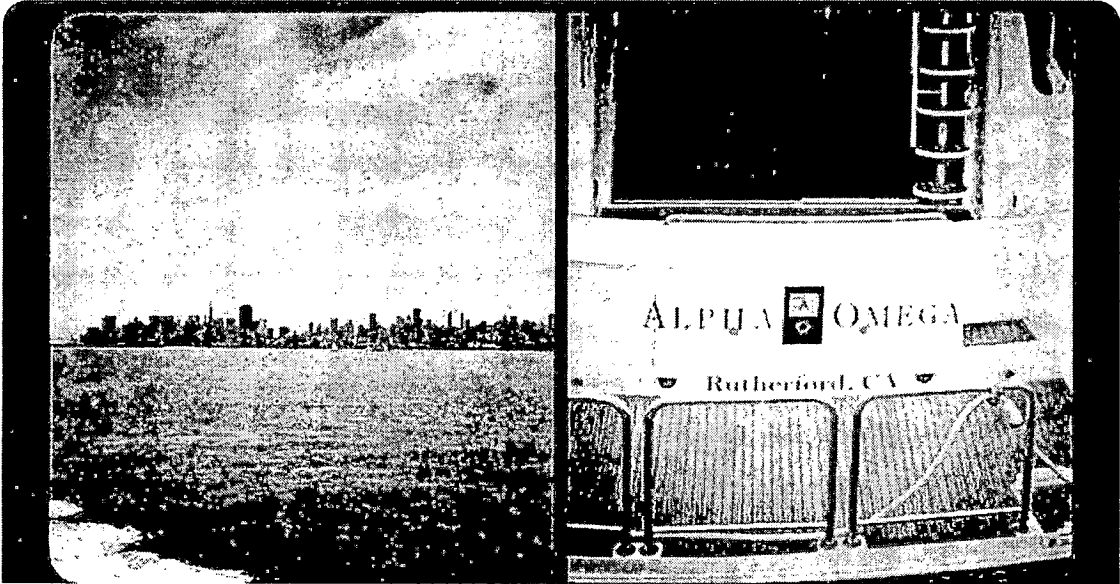
⁶ The employee’s lawsuit alleges that the event was a “charity fundraiser”.

Hunt tweeted the following:

 **Kasie Hunt** 
@kasie

Sex with prostitutes (including public ratings of their services) and cocaine on a yacht party thrown by winery partly owned by Devin Nunes

Managing partner and owner is Nunes friend; winery says Nunes is totally uninvolved in day to day decisions



A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundrai...
A Napa Valley winery settled a sexual harassment claim with an employee in a case that alleges a fundraiser linked to the company's top investors featured ...
fresnobee.com

6:19 AM · May 24, 2018 · Twitter for iPhone

14. The Yacht/Cocaine/Prostitutes story contains multiple intentional falsehoods:

a. The story falsely states that “[i]t’s unclear ... if he [Nunes] was ... **affiliated with the fundraiser.**” In truth, prior to McClatchy’s publication of the article, McClatchy had been expressly informed by the Alpha Omega Winery that Nunes had no affiliation whatsoever with the event. There was nothing “unclear” about it. McClatchy knew that Nunes had no affiliation with the “fundraiser”, yet still claimed (falsely) that “[i]t’s unclear ... if he was ... affiliated with the fundraiser.” McClatchy’s statements are provably false because they mispresent McClatchy’s and Mays’ knowledge and state of mind and because it is absolutely false to imply, infer or insinuate that Nunes had any involvement of any kind in or with the incident aboard the yacht.

b. McClatchy’s statement that it was “**unclear ... if he [Nunes] was aware of the lawsuit**” is similarly false and defamatory. At the time it published the Yacht/Cocaine/Prostitutes article, McClatchy had no reason to believe that Nunes was ever made aware of the lawsuit. By ascribing to Nunes “aware[ness]” of the lawsuit and by failing to state how and when Nunes became aware of the lawsuit, McClatchy imputed dishonesty and wrongdoing to Nunes. McClatchy made it appear as if Nunes and his “friend” suppressed the fact that a lawsuit had been filed against the Winery.

c. McClatchy’s Yacht/Cocaine/Prostitutes article originally stated (falsely) that Alpha Omega Winery sold wine to “**Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election**” (emphasis added), falsely implying that Nunes had a conflict of interest and acted unethically and improperly during his investigation of alleged Russian “collusion”. McClatchy’s article originally stated as follows:

While Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election, there has been little mention of the lawsuit.

McClatchy's statement was blatantly false because the wine sale occurred in 2013 and the "Russian meddling investigation" did not begin until 2017. Recognizing the blatant falsehood, McClatchy performed two edits on the sentence. In the first edit, McClatchy repeated the assertion that Alpha Omega sold wine to Russians while Nunes led the investigation, but added a tweet from Alpha Omega that declared the wine sale to Russia had occurred in 2013. After the first edit, the sentence read:

While Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election, there has been little mention of the lawsuit.

(Note: In response to the story, Alpha Omega Winery called attention to a tweet about the wine sale.)

Alpha Omega Winery
@AOWinery

The only time Alpha Omega did business in Russia was in 2013 when a broker handled a one-time transaction for 22 cases of wine.

3:41 PM · Mar 23, 2017

18 45 people are talking about this

Winebusiness.com wrote about the suit in 2016 but did not mention Nunes.

McClatchy then performed a second edit – a stealth edit.⁷ McClatchy deleted the Alpha Omega tweet and changed the language of the passage to specify that the sale was in 2013 and that the “discovery” of the sale – no longer the sale itself – occurred “amid” Nunes’ investigation. In its final form, the sentence reads as follows:

⁷ “Stealth edits” are silent but substantial changes in content or tone to a piece of published media. For instance, in 2017, the Washington Post silently rewrote an article on Russian hackers, changing the reported details radically in just the first few hours following publication when it became clear that the original version contained serious factual errors. After multiple outlets drew public attention to the Post’s lack of editorial acknowledgement of the alterations, the Post added an editor’s note to the piece. [<https://publiceditor.blogs.nytimes.com/2016/03/17/new-york-times-bernie-sanders-coverage-public-editor/>].

Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients in 2013. The discovery came amid Nunes' ongoing involvement in a federal investigation of Russian meddling into the presidential election.

McClatchy failed to attach a note to the story to indicate that edits had been made or that the story originally contained the false claim that Alpha Omega's wine sale to Russia occurred during Nunes' Russia investigation. In this regard, McClatchy perpetrated a fraud on its readers, abandoned journalistic standards, integrity and ethics [e.g., <https://www.spj.org/pdf/spj-code-of-ethics.pdf>], and even violated its own Code of Business Conduct and Ethics with regard to fair dealing. http://media.corporate-ir.net/media_files/IROL/87/87841/McClatchy%20Code%20of%20Conduct%202018%20web.pdf ("Our goal is to be regarded as a company that does business with integrity. Accordingly, each employee should endeavor to deal fairly with the Company's customers, suppliers, competitors and employees. You must never take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair-dealing practices.")].

d. Compounding its intentional manipulation, stealthy concealment and unfair business practices, on June 14, 2018 the "editorial board" of the *Fresno Bee* published a statement purporting to rebut criticism from Nunes over the Yacht/Cocaine/Prostitutes story. The *Bee* stated the following:

"Claim: 'The Fresno Bee also falsely reported that Alpha Omega sold wine to Russia while Mr. Nunes led an investigation of that country.'

Fact: The story reported that Alpha Omega sold wine to Russian clients in 2013. A Russian alcohol distributor called Luding lists Alpha Omega as one of its American suppliers. The discovery of that relationship came as Nunes and his committee looked into the suspected election meddling. It should be noted that Alpha Omega tweeted it only did business in Russia in 2013. That involved a single transaction for 22 cases. But Luding still lists Alpha Omega on its website."

[\[https://www.fresnobee.com/opinion/editorials/article213209074.html\]](https://www.fresnobee.com/opinion/editorials/article213209074.html). Rather than admit the fact that the original Yacht/Cocaine/Prostitutes article contained a material misrepresentation and that McClatchy had secretly edited the article after being caught in a lie, the *Fresno Bee* adamantly refused to acknowledge they had falsely reported that the wine sale occurred “**while**” Nunes led the Russia investigation. The original false report, the attempt to hide it with an unacknowledged stealth edit, and the absolute denial in the June op-ed that the false report was published at all, demonstrates McClatchy’s reckless disregard for the truth. This conduct is a gross departure from accepted journalistic standards and evidences spite, ill-will and criminal intent.

e. McClatchy’s fraudulent editorial practices regarding Congressman Nunes did not stop in June 2018. McClatchy continued to exhibit a reckless disregard for the truth. In an October 3, 2018 interview with the *Visalia Times Delta*, *Fresno Bee* executive editor and senior vice president, Joe Kieta (“Kieta”), represented that he was proud that the *Bee* had never had to issue a retraction on its coverage of Nunes. [\[https://www.visaliatimesdelta.com/story/news/politics/elections/2018/10/03/devin-nunes-escalates-war-against-fresno-bee/1503743002/\]](https://www.visaliatimesdelta.com/story/news/politics/elections/2018/10/03/devin-nunes-escalates-war-against-fresno-bee/1503743002/). Kieta’s statement was patently deceitful. He hid from readers the fact that, while the *Fresno Bee* did not subject its Nunes coverage to retractions – which are public acknowledgements of mistakes – the *Bee* did print false statements about Nunes, corrected those statements through stealth edits (which it concealed from readers), and then deceptively refused to acknowledge that any of this occurred at all. During the interview with the *Visalia Times Delta*, Kieta also did not hesitate to slander Nunes. Kieta said, “Nunes ... doesn’t care about the truth”. Kieta’s insulting and hurtful statements about Nunes illustrate both the depth of

McClatchy's actual malice and the professional shortcomings in McClatchy's editorial leadership.

15. In furtherance of the scheme to defame Nunes, McClatchy chose to spread the poison in its Yacht/Cocaine/Prostitutes article to the farthest reaches of its readership in Virginia and throughout the United States. In addition to publication via print media and publication online, McClatchy chose to republish the false and defamatory Yacht/Cocaine/Prostitutes article to yet another target audience – the *Fresno Bee's* **87,000** Twitter followers:

Fresno Bee @FresnoBee

SPECIAL REPORT: A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event

A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundrai...
A Napa Valley winery settled a sexual harassment claim with an employee in a case that alleges a fundraiser linked to the company's top investors featured ...
fresnobee.com

3:15 PM · May 23, 2018 · TweetDeck

The Yacht/Cocaine/Prostitutes article was republished online and retweeted and posted on the Internet hundreds of thousands of times. It travelled through social media like wildfire. Readers understood McClatchy's statements to mean that Nunes was involved with cocaine and underage prostitutes. The defamatory meaning of the statements in the Yacht/Cocaine/Prostitutes article was apparent from the words carefully chosen by McClatchy. [See, e.g., <https://www.mercurynews.com/2018/05/24/rep-devin-nunes-linked-to-napa-winery-that-allegedly-held-prostitutes-and-cocaine-cruise/> (“A new report links California Republican Congressman Devin Nunes to a lawsuit concerning a Napa Winery's San Francisco Bay cruise that allegedly featured prostitutes and cocaine. The link was made by a California newspaper Nunes recently described in extremely unflattering terms.”).⁸ McClatchy's words obviously had their desired effect – they linked Nunes to “underage prostitutes” and cocaine”, see, e.g.:

<https://twitter.com/adamparkhomenko/status/999384522335584256?lang=en;>⁹

https://www.youtube.com/watch?v=gIc_16_vaH4 (“Devin Nunes just got caught up in a disgusting yacht, cocaine, prostitute scandal”);

<https://www.politico.com/story/2018/05/25/devin-nunes-russia-probe-fundraising-609492> (“On Wednesday, a report in the Fresno Bee linked Nunes to a winery that allegedly held a wild cocaine-and-prostitutes evening yacht cruise – a winery where the congressman is a part-owner.”);

⁸ In February 2018, Nunes described the *Fresno Bee* as a “left-wing rag” and a “joke”. McClatchy obviously harbored a grudge against Nunes as a result of Nunes' statements about the *Fresno Bee*.

⁹ Adam Parkhomenko (@AdamParkhomenko) is a Democratic strategist and political advisor to Hillary Clinton who lives and works in McLean, Virginia. In May 2018, when he republished McClatchy's article in Virginia, Parkhomenko had over 250,000 followers on Twitter. [See <https://twitter.com/AdamParkhomenko?lang=en>].

<https://www.usatoday.com/media/cinematic/video/35299723/nunes-linked-winery-sued-over-coke-prostitute-yacht-party/>;

<https://twitter.com/DavidCayJ/status/1049287537137782784> (“Underage hookers, cocaine & @DevinNunes – a story never denied by winery that paid a hush money settlement. The Fresno politician works to ensure there is no serious Congressional investigation of Putin's illegal aid to Trump campaign”).

16. Defendant, Mair, is a citizen of Virginia. She lives and works in Arlington County. Mair joined Twitter in either 2007 or 2010. She currently operates a twitter account titled “BeingSuedByDevinNunes”,¹⁰ with the handle/tag “@LizMair”. As of April 5, 2019, Mair followed 309 Twitter accounts/users and had 44,000 followers. [https://twitter.com/LizMair?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor; see also <https://twitter.com/lizamair?lang=en>]. Mair’s Twitter profile discloses that she is a “Comms strategist. Blunt (‘16). Walker (‘12-‘15).¹¹ Rand Paul (‘13). Perry (‘12) Fiorina (‘10); former RNC Online Comms Director; Tory; libertarian; Arsenal fan”.

¹⁰ Prior to March 19, 2019, Mair’s username on Twitter was “BrandValue\$4B”. After Plaintiff filed suit against Mair and others in the Circuit Court for the County of Henrico [*Nunes v. Twitter et al.*, Case CL19-1715], Mair changed her username to “BeingSuedByDevinNunes”. Mair is a political operative and a digital terrorist for-hire. Her job on behalf of her benefactors is to target the opposition, carry out smear campaigns in coordination with third-parties in Virginia and elsewhere in the United States, and, in the process, to create extreme negative publicity for the targets, in this case Plaintiff. Mair is conscious that Twitter is an echo-chamber. She intentionally changed her identity on Twitter to exploit Plaintiff’s name solely to obtain more followers and to maliciously increase the audience, scope and breadth of her false and defamatory statements.

¹¹ Mair was terminated from the Walker campaign shortly after she tweeted derogatory and disparaging statements about the residents of Iowa. [<https://www.desmoinesregister.com/story/news/politics/2015/03/16/scott-walker-digital-chief-taken-swipes-iowa/24865861/>; <https://thehill.com/blogs/ballot-box/236052-under-fire-walker-aide-liz-mair-resigns>].

Mair claims that she is “the US’ leading right-of-center online communications operative”. [<https://www.lizmair.com/biography.php#navbar>]. In December 2015, Mair founded a super PAC called “Make America Awesome” (FEC Id. # C00594176), whose sole (and failed) purpose was to block and reverse Donald’s Trump’s ascent in politics by using “unconventional and cost-effective tactics”.¹² Mair claims that since 2011 she has “advised multiple Fortune 500, FTSE 100 and other publicly-traded corporate clients, as well as numerous large trade associations and prominent non-profits on communications in the US, the UK and the EU.” On her *LinkedIn* profile, Mair admits that:

What do I do for these clients? Anonymously smear their opposition on the Internet.

More broadly? Get sh*t done.

[<https://www.linkedin.com/in/liz-mair-76b03a2/>]. During Nunes’ re-election campaign in 2018, Mair conspired with (and presumably was paid by) one or more as-yet unknown “clients” to attack and smear Nunes. True to her word on *LinkedIn*, Mair relentlessly smeared and defamed Nunes throughout 2018, filming stunts at Nunes’ office in

¹² Plaintiff was a member of the Trump transition team. Plaintiff is widely recognized for his emphatic and repeated statements throughout 2018 that the accusations of “collusion” between the Trump campaign and the Russians were 100% false. [https://www.realclearpolitics.com/video/2018/09/16/devin_nunes_shocking_number_of_americans_have_drunk_the_russia_kool-aid_truly_believe_gop_is_controlled_by_kremlin.html]. As evidenced by Attorney General Barr’s summary of the Mueller Report, Plaintiff was 100% correct in his assessment. At all times relevant to this case, Mair harbored spite, ill-will, actual malice, and a desire to hurt Nunes because of Nunes’ support for President Trump and Mair’s deep-seeded hatred of Trump. Mair is famous for her appearance on CNN, where she referred to presidential candidate Donald Trump as a “loud mouth dick”. [https://www.realclearpolitics.com/video/2016/08/04/republican_strategist_liz_mair_trump_a_loud_mouth_dick.html].

Washington, D.C. and posting them online, publishing videos on YouTube that falsely accused Nunes of multiple crimes, repeatedly publishing false and defamatory statements on Twitter,¹³ defaming Nunes online and to the press, and filing fraudulent ethics complaints against Nunes accusing him, *inter alia*, of violating House Ethics Rules, e.g.:

<https://www.youtube.com/watch?v=fOp7se7n9XI>;

https://www.youtube.com/watch?v=IHGYMcVN_SQ;

<https://www.youtube.com/watch?v=aUseOu2ReS4>;¹⁴

https://www.crowdpac.com/campaigns/386770/hold-devin-nunes-accountable?ref_code=share&utm_source=sharer-ask&utm_medium=receipt&utm_campaign=S0qacrvwpg4P2coDIgw1ujXlJN1y7HxX&utm_content=20&source_code=tw-receipt-first;¹⁵

¹³ Mair falsely tweeted to her then 37,900 followers, *inter alia*, that Nunes “voted for warrantless wiretapping and unlimited surveillance of Americans’ emails (incl Carter Page’s)” [<https://twitter.com/LizMair/status/1041873937427300352>]; that Nunes broke the law when he “spent contributions that are supposed to be used for the express purposes of the PAC or committee in question, and not for financing their personal lifestyle choices. That is a legal problem, not just an ethical or optics-related one” [<https://twitter.com/LizMair/status/1032990757869813761>]; and that Nunes leaked text messages between a lobbyist and Senator Mark Warner to Fox News [<https://twitter.com/LizMair/status/969409912366338049>]. Even after Nunes won the election, Mair continued to attack him, stating, *inter alia*, that Nunes was “still a clown with big league ethical issues that may well cost him his seat in 2020” [<https://twitter.com/LizMair/status/1095574579223949312>].

¹⁴ Among the false statements published by Mair in this video is that “Nunes is still entangled with a winery implicated in a scandal involving his co-investors, cocaine and child prostitutes”.

¹⁵ In this publication, Mair makes the following false statements about Nunes: “Ethical leadership in government? He’s invested in a winery that allegedly solicited capital by using underage prostitutes. Really.”

<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>,¹⁶

<https://thehill.com/blogs/blog-briefing-room/news/398980-activist-group-trolls-nunes-with-new-sneakers-to-run-away-from>;

<https://swampaccountabilityproject.com/letter/>.

17. Throughout 2018, Mair was out to “stick it” to Nunes. By her own admissions on Twitter, she “hates Devin Nunes” and “dumped¹⁷ a lot” on Nunes. [<https://twitter.com/LizMair/status/1046599052996096001>]. In furtherance of the conspiracy between Mair and McClatchy, Mair pitched false narratives to McClatchy. McClatchy knew that Mair was a paid political operative, and, specifically, that she was being paid by “clients” to smear Nunes. McClatchy accepted Mair’s preconceived storylines, and agreed to print them. Mair offered egregious soundbites to McClatchy that McClatchy simply republished in articles without any fact-checking. [*E.g.*, <https://www.mcclatchydc.com/news/politics-government/article215099780.html> (“the fact is, the FEC is not going to look favorably on a dude who uses his tax-exempt political entity like a personal slush fund, flying himself to Boston to watch them while apparently engaging in no activity relevant to the purpose of the political organization,”

¹⁶ In this article written by Mays, Mair published the following statement to McClatchy’s *Fresno Bee*, “OCE [the Office of Congressional Ethics] should prioritize a review of Rep. Nunes’ investment and involvement in the Alpha Omega Winery, and the facts reported by The Fresno Bee. Such review should be undertaken as swiftly as possible”.

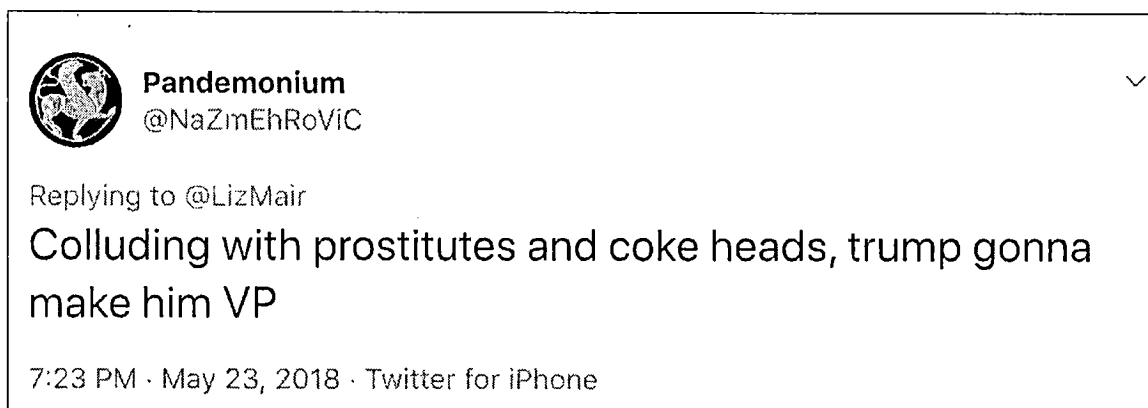
¹⁷ Opposition research (also called “oppo” research) is the practice of collecting information on a political opponent or other adversary that can be used to discredit or otherwise weaken them. The information can include biographical, legal, criminal, medical, educational, or financial history or activities. “Oppo dumps” are used by political campaigns to systematically supply files of damaging information to press outlets, including matters of the public record, video footage from party archives and private collections, as well as private intelligence gathered by operatives.

said Liz Mair”). Mair and McClatchy coordinated their defamation campaign against Nunes. On many occasions, Mair tweeted McClatchy’s articles to her 37,900 followers on the same day the articles were published by McClatchy. Mair and McClatchy, acting in concert, escalated the defamation. In her May 23, 2018 tweet, with Mays’ article attached, Mair wrote:



[<https://twitter.com/LizMair/status/999407730220650497>]. Mair’s May 23, 2018 tweet implied that Nunes colluded with prostitutes and cocaine addicts. Mair’s tweet was

retweeted 1,200 times and liked 1,600 times. Those who read Mair's tweet clearly understood its defamatory meaning. *See, e.g.:*



While the conspiracy with McClatchy continued, Mair tweeted one of her most egregious and defamatory statements about Nunes:



[<https://twitter.com/LizMair/status/1010359462891327490>].¹⁸ Mair’s disdain and malice towards Nunes is exemplified by her reference to him as “Dirty Devin Nunes”. [<https://twitter.com/LizMair/status/1020037699472850945> (“Dirty Devin Nunes has perfected the art of converting attacks on the DOJ and the Democratic leadership ‘cabal’ (his actual word choice to describe people like Chuck Schumer and Adam Schiff) into whopping, great loads of cash naively donated by Republicans thousands of miles away from places like Fresno, Visalia and Tulare”)].

18. Defendant, Mair Strategies, is a Virginia limited liability company, active and in good standing. Mair is the sole member and manager of Mair Strategies. On its website, www.mairstrategies.com, Mair Strategies claims to be a “boutique communications and public relations firm, with specialties in online, political, and crisis communications, as well as opposition research formulation and seeding.” Mair Strategies represents that it is an “entirely virtual firm staffed by politics veterans” – “the firm is ‘lean and mean’ and brings an aggressive, hard-hitting, presidential campaign-style approach to issues work it manages and executes for its clients.” [<https://www.mairstrategies.com/about.php#navbar>]. At all times relevant to this action, Mair acted within the scope of her employment for Mair Strategies, acted during work hours and while conducting Mair Strategies’ business, using a Twitter account that linked back to Mair Strategies, and with the knowledge and actual or apparent authority of Mair Strategies. Mair Strategies is liable for Mair’s defamation of Nunes under the doctrine of *respondeat superior*.

¹⁸ Upon information and belief, McClatchy and its reporters, including Mays, were among the 1,644 persons who retweeted Mair’s June 22, 2018 tweet and/or one of 4,424 people who liked the tweet.

19. The purpose of the concerted defamation campaign was to cause immense pain, intimidate, interfere with and divert Nunes' attention from his investigation of corruption and alleged Russian involvement in the 2016 Presidential Election. The substance and timing of the publication of McClatchy's online articles and the tweets, retweets, replies and likes by Mair and McClatchy reporters demonstrates that McClatchy and Mair were engaged in a joint effort, together and with others, to defame Nunes and interfere with his duties, employment and investigations of corruption as a United States Congressman. The attacks on Nunes were pre-planned, calculated, orchestrated and undertaken by multiple individuals acting in concert, over a continuous period of time throughout 2018. The full scope of the conspiracy, including the names of all participants and the level of involvement of any agents or instrumentalities of foreign governments, is unknown at this time and will be the subject of discovery in this action.

III. JURISDICTION AND VENUE

20. The Circuit Court for the County of Albemarle has jurisdiction of this matter pursuant to § 17.1-513 of the Code.

21. The Defendants are subject to personal jurisdiction in Virginia pursuant to Virginia's long-arm statute, § 8.01-328.1(A)(1), (A)(3) and (A)(4) of the Code, as well as the Due Process Clause of the United States Constitution. The Defendants are subject to general jurisdiction and specific jurisdiction in Virginia. They engage in continuous and systematic business in Virginia. McClatchy owns property and investments in Charlottesville, Virginia. [*see, e.g.*, <http://investors.mcclatchy.com/news-releases/news-release-details/mcclatchy-launches-moonlighting-demand-jobs-marketplace-websites>; <https://www.mcclatchy.com/our-impact/investments>]; <https://twitter.com/Moonlighting>;

<https://www.linkedin.com/company/moonlighting-llc/>;

<https://www.facebook.com/Moonlighting/>]. McClatchy reporters are physically present in Virginia and conducting business in Virginia virtually every day. McClatchy publishes hundreds of stories every year on matters of unique concern to Virginians. McClatchy derives substantial revenue from its property and business in Virginia. The Defendants each have minimum contacts with Virginia such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

22. Venue is proper in the Albemarle Circuit Court pursuant to §§ 8.01-262(3-4) and 8.01-263(2) of the Code.

COUNT I – DEFAMATION PER SE

(Against McClatchy)

23. Plaintiff restates paragraphs 1 through 22 of his Complaint, and incorporates them herein by reference.

24. The law of defamation protects a basic constitutional interest: the individual's right to personal security and the uninterrupted entitlement to enjoyment of his reputation. *Gazette, Inc. v. Harris*, 229 Va. 1, 7, 325 S.E.2d 713 (1985) (citation omitted). In *Rosenblatt v. Baer*, Mr. Justice Stewart emphasized that:

“‘Society has a pervasive and strong interest in preventing and redressing attacks upon reputation.’ The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty ... The destruction that defamatory falsehood can bring is, to be sure, often beyond the capacity of the law to redeem. Yet, imperfect though it is, an action for damages is the only hope for vindication or redress the law gives to a man whose reputation has been falsely dishonored ... Surely if the 1950's taught us anything, they taught us that the poisonous atmosphere of the easy lie can infect and degrade a whole society.”

383 U.S. 75, 92-93 (1966); *id. Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 12 (1990) (“Good name in man and woman, dear my lord, Is the immediate jewel of their souls. Who steals my purse steals trash; ‘Tis something, nothing; ‘Twas mine, ’tis his, and has been slave to thousands; But he that filches from me my good name Robs me of that which not enriches him, And makes me poor indeed.”) (quoting WILLIAM SHAKESPEARE, *OTHELLO*, act 3 sc. 3)).¹⁹

25. Words like those employed by McClatchy and Mair in this case tending to scandalize a public figure are, in the words of William Blackstone, “reputed more highly injurious than when spoken of a private man”. 3 W. Blackstone, *Commentaries* * 124. At common law, libel of a public official was deemed an offense ““most dangerous to the people, and deserv[ing of] punishment, because the people may be deceived and reject the best citizens to their great injury, and it may be to the loss of their liberties.”” M. Newell, *Defamation, Libel and Slander* § 533 (1890) (quoting *Commonwealth v. Clap*, 4 Mass. 163, 169-170 (1808)); *accord White v. Nicholls*, 3 How. 266, 290 (1845). As a citizen of the United States of America *and* as a United States Congressman sworn to uphold the Constitution and laws of this great country, Nunes has a fundamental, core interest, private right and entitlement to the uninterrupted enjoyment of his reputation. The First Amendment neither alters Nunes’ common law rights nor does it license libel or slander. The Defendants enjoy absolutely no privilege to use the Internet or social media as a weapon to defame.

¹⁹ Libelous speech is not protected by the First Amendment. *Bose Corp. v. Consumers Union of the United States, Inc.*, 466 U.S. 485, 504 (1984) (cited in *Pendleton v. Newsome*, 290 Va. 162, 173, 772 S.E.2d 759 (2015)); *id. United States v. Alvarez*, 132 S. Ct. 2537, 2560 (2012) (“false factual statements possess no First Amendment value.”).

26. McClatchy, using the Internet, print media and Twitter, made, published and republished numerous false factual statements of and concerning Nunes. These statements are detailed verbatim above. McClatchy published the false statements without privilege of any kind. After publishing the May 23, 2018 Yacht/Cocaine/Prostitutes hit piece, McClatchy continued to defame Nunes:

a. On May 31, 2018, the “Fresno Bee Editorial Board” implied that Nunes was dishonest, unethical and concealing information from the *Bee*. McClatchy stated that “on the one hand, you can give your account of what you understood the situation to be, explain how what happened on the boat was repugnant to your values, and explain why you continue to be an investor. Chances are the answers would be straightforward. The affair would likely fade from view.²⁰ But if you are Devin Nunes, you choose to be silent and offer no answers to The Bee’s questions.” McClatchy further stated that “it would be hard to imagine he [Nunes] did not learn of this ill-fated cruise soon after it happened since Robin Baggett, the winery owner, is a good friend of the congressman’s who invited him to invest in the first place.” These statements are defamatory by implication. [<https://www.fresnobee.com/opinion/article212299034.html>].

b. On June 8, 2018, in furtherance of the conspiracy to defame Nunes, McClatchy published a story written by Mays about an ethics complaint filed against Nunes by the left-wing non-profit group, “American Democracy Legal Fund” (“ADLF”). The ethics complaint was a sham. According to Mays, the ADLF complaint asked the Office of Congressional Ethics (“OCE”) to “investigate whether Nunes was on

²⁰ The statements published by the *Fresno Bee* on May 31, 2018 demonstrate that the *Bee* did not honestly believe that Nunes had any involvement in the yacht incident.

the yacht” during the incident reported on in Mays’ May 23, 2018 article. **McClatchy had no business republishing the ADLF ethics complaint. Mays knew that Nunes was not on the yacht and had never been alleged to be on the yacht. Mays knew the truth. There were obvious reasons, therefore, to doubt the veracity of the ADLF ethics complaint. [See *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968) (“[R]ecklessness may be found where there are obvious reasons to doubt the veracity of the informant.”); *Zerangue v. TSP Newspapers, Inc.*, 814 F.2d 1066, 1071 (5th Cir. 1987) (“[C]ourts have upheld findings of actual malice when a defendant failed to investigate a story weakened by inherent improbability, internal inconsistency, or apparently reliable contrary information.”); see *ZS Associates, Inc. v. Synygy, Inc.*, 2011 WL 2038513, at * 4 (E.D. Pa. 2011) (“The [fair report] privilege was not ‘intended to permit a person maliciously to institute a judicial proceeding, alleging false and defamatory charges, then to circulate a press release or other communication based thereon, and, ultimately to escape liability by invoking the fair report privilege’”) (citations and quotation omitted)]. McClatchy published the ADLF ethics complaint in spite of its actual knowledge of the true facts, and in furtherance of the scheme or artifice to defame Nunes. Mays used a “straw man” (ADLF) to do indirectly what Mays could not do directly – publish false statements that Nunes was on the yacht with prostitutes and cocaine. McClatchy’s June 8, 2018 article recklessly republished the ADLF complaint and a number of patently false statements alleged to be attributed to the ADLF, including:**

““At best, congressman Nunes' company hosted an event featuring sex workers and illegal drug use, and even worse, it is possible he participated in illegal activity along with his business partners,’ said Brad Woodhouse, treasurer of the American Democracy Legal Fund, based in D.C. ‘Nunes’ constituents deserve a prompt and thorough investigation to determine exactly what took place and the extent to which congressman Nunes was involved.’”

[<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article212769539.html>]. Mays republished the June 8, 2018 article to her

Twitter followers. [<https://twitter.com/MackenzieMays/status/1005227658496520192>].

As a republisher of a defamatory statement, McClatchy is subject to the same liability as the original publisher, ADLF.

c. On June 14, 2018, McClatchy falsely accused Nunes of lying and spreading “fake news” about the Fresno Bee in a YouTube video.

[<https://twitter.com/MackenzieMays/status/1007385433301372928>;

<https://twitter.com/josephkieta/status/1007386853656260608>].

d. On July 11, 2018, in furtherance of the conspiracy to defame Nunes, McClatchy published a story written by Mays about ethics complaints filed against Nunes by “left-leaning federal government watchdog group” “Campaign for Accountability” and the “Swamp Accountability Project”.²¹ The complaints were total shams. According to Mays, the Swamp Accountability Project was an “anti-Trump group in D.C.” Mays concealed the fact that Mair is an opposition research operative who admittedly smears targets, such as Nunes, for pay from as-yet anonymous clients. This was a crucial omission, since it would have revealed Mair’s motives and cast grave doubt on her credibility and veracity *and* on the credibility and veracity of her handlers.

²¹ Mair operates the Swamp Accountability Project. Mair prepared and filed the ethics complaint, which McClatchy eagerly regurgitated.

Mays quoted parts of the Swamp complaint. The complaint falsely stated and/or implied that Nunes had violated the House ethics rules and code of conduct [<https://ethics.house.gov/publication/code-official-conduct>] and should be investigated. [<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>]. Mays republished the June 11, 2018 article via Twitter. <https://twitter.com/MackenzieMays/status/1017146181355360257>].

e. On July 19, 2018, McClatchy published an article that falsely accused Nunes of misusing campaign funds. In the article, Mair was quoted accusing Nunes of corruption, and once again McClatchy failed to inform readers of Mair's employment with Mair Strategies, an opposition research company that, in Mair's own words, "smears" targets for paying clients [<https://www.mcclatchydc.com/news/politics-government/article215099780.html>]. McClatchy reporter, Kate Irby, tweeted the article to her 6,000+ followers on Twitter in Virginia and else throughout the United States. [<https://twitter.com/kateirby/status/1019930527799881728>].²²

27. At all times relevant to this action, Mair acted as a co-conspirator and agent of McClatchy. While the conspiracy between Mair and McClatchy continued, Mair made, published and republished numerous false factual statements of and concerning Nunes. These statements are detailed verbatim above. Mair published the false statements without privilege of any kind. McClatchy is liable for Mair's false and defamatory statements as a matter of law.

28. The false statements constitute defamation *per se*. The statements accuse and impute to Nunes the commission of crimes involving moral turpitude and for which

²² On July 19, 2018, Mair tweeted on the same subject matter. [<https://twitter.com/LizMair/status/1020037699472850945>].

Nunes may be punished and imprisoned in a state or federal institution. The statements impute to Nunes an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. Finally, McClatchy's false statements also prejudice Nunes in his profession and employment as a United States Congressman.

29. By publishing the Yacht/Cocaine/Prostitutes article in print, on the Internet, and by tweeting it to the Twitter universe, McClatchy knew or should have known that its defamatory statements would be republished over and over by third-parties to Nunes' detriment. Republication by both identified subscribers and Twitter users, such as Kasie Hunt, and by anonymous persons was the natural and probable consequence of McClatchy's actions and was actually and/or presumptively authorized McClatchy. In addition to the original publications of the Yacht/Cocaine/Prostitutes hit piece, McClatchy is liable for the republications of the false and defamatory statements by third-parties under the doctrine (the "republication rule") announced by the Supreme Court of Virginia in *Weaver v. Home Beneficial Co.*, 199 Va. 196, 200, 98 S.E.2d 687 (1957) ("where the words declared on are slanderous per se their repetition by others is the natural and probable result of the original slander.").

30. McClatchy's false statements have harmed Nunes and his reputation.

31. McClatchy made the false statements with actual or constructive knowledge that they were false or with reckless disregard for whether they were false. McClatchy acted with actual malice and reckless disregard for the truth for the following reasons:

a. McClatchy conceived a story line in advance of any investigation and then consciously set out to make the evidence conform to the preconceived story. McClatchy pursued and regurgitated preconceived narratives about Nunes that it knew to be false, and intentionally employed a scheme or artifice to defame Nunes with the intent to interfere with and impede Nunes' investigations of corruption and alleged "collusion" during the 2016 presidential campaign and to cause Nunes to lose the 2018 Congressional election. McClatchy and its reporters acted intentionally, purposefully and in concert with Mair to accomplish an unlawful purpose through unlawful means, without regard for the Nunes' rights and interests.

b. McClatchy knew its statements were false, and possessed information that demonstrated the falsity of their statements. In a YouTube video published by Nunes on June 18, 2018 in response to McClatchy's Yacht/Cocaine/Prostitutes hit piece, Nunes pointed out the following:

Statement provided by the winery:

The Fresno Bee cited false information stating that the people aboard the boat were Alpha Omega investors. In fact, as we informed the Bee, those aboard the boat had no personal or business connection to the winery or its owners.

Statement provided by the winery:

Furthermore, a Bee editorial claimed it's unclear if Mr. Nunes was affiliated with the fundraiser for the boat, when in fact we repeatedly told the Bee that he had no affiliation with it whatsoever.

Statement provided by the winery:

The Fresno Bee also falsely reported that Alpha Omega sold wine to Russia while Mr. Nunes led an investigation of that country. We would appreciate it if the Fresno Bee would stop regurgitating false stories when it has the facts.

[https://www.youtube.com/watch?v=mj9_Bsd1LPQ]. McClatchy published a knowingly false report that the Alpha Omega Winery sold wine to Russia “**while**” Nunes, as a member of the House Permanent Select Committee on Intelligence, led an investigation into alleged Trump-Russia “collusion”. McClatchy compounded its wrongdoing by retracting the falsity via a deceitful stealth edit to the Yacht/Cocaine/Prostitutes article. After being confronted by Nunes, McClatchy refused to acknowledge either the original falsehood or the stealth edit in their op-ed addressing this precise question. Finally, McClatchy boss, Kieta, bragged that the *Fresno Bee* has never “had to” issue a retraction on Nunes coverage, implying that the *Bee* has never made any factual mistakes that had to be corrected. McClatchy’s fraudulent, deceitful, deceptive, unethical and untruthful actions and omissions, which occurred over a six month period in 2018, show its actual malice towards Nunes.

c. McClatchy, and its reporters, editors and publishers abandoned all journalistic standards in writing, editing and publishing the Yacht/Cocaine/Prostitutes article. One newspaper, the *Visalia Times-Delta*, would not even touch the story. [<https://www.visaliatimesdelta.com/story/news/politics/elections/2018/10/03/devin-nunes-escalates-war-against-fresno-bee/1503743002/>] (“The Times-Delta/Advance-Register did not pursue the story because editors decided the lawsuit’s ties to Nunes were

tenuous. There were no allegations that Nunes was involved in any way with the charity event, aside from being an investor in the winery.”). Mays behaved more like a political operative than a journalist. For instance, in August 2018 Mays coordinated efforts with Nunes’ opponent in his Congressional race and with protestors to stage a stunt at Nunes’ office. During the stunt, the building manager called the police and Mays was thrown out of the building. [<https://twitter.com/MackenzieMays/status/1029395004819533824>]. Nunes’ opponent republished the false statements in McClatchy’s Yacht/Cocaine/Prostitutes hit piece. On October 11, 2018, for instance, he tweeted the following statement about Nunes:



d. McClatchy relied on sources, such as the ADLF, that it knew to be wholly debunked and unreliable.

e. McClatchy was in possession of information, including statements from the Alpha Omega Winery, that demonstrated that McClatchy's statements about Nunes were false.

f. In article after article, McClatchy and its reporters exhibited an institutional hatred for Nunes, spite, ill-will and the intent to hurt Nunes and impugn his character. [See, e.g., <https://twitter.com/MarekTheBee/status/1047940239681933312> (“Joe McCarthy, Karl Marx, Alexander The Great ... and @DevinNunes. Just another propagandist”); <https://twitter.com/MackenzieMays/status/1047969215141969920> (accusing Nunes of lying in a mailer)]. On January 25, 2018, McClatchy misrepresented that Nunes “said he’d seen secret intelligence reports backing Trump’s claims that President Barack Obama had ‘wiretapped’ his offices, but it turned out the documents came from the administration.” Nunes never said reports he saw supported Trump claims that his offices had been wiretapped. In truth, Nunes repeatedly said there was no evidence Trump’s office had been wiretapped. [See, e.g., <https://www.nytimes.com/2017/03/16/us/politics/richard-burr-mark-warner-trump-wiretap.html>; <https://www.nytimes.com/2017/03/15/us/politics/trump-wiretap-claim-obama-comey-congress.html?module=inline> (“The Republican chairman of the House Intelligence Committee, Representative Devin Nunes of California, told reporters on Capitol Hill that ‘I don’t think there was an actual tap of Trump Tower’ and that Mr. Trump, if taken literally, is simply ‘wrong.’”)]. Between 2017 and March 22, 2019, McClatchy’s most prominent national reporters were at the forefront of advancing the false narrative that Trump campaign associates and allies colluded with Russia to influence the 2016 election. McClatchy published over twenty (20) articles in which it

went all in on the false narrative.²³ Nunes posed a threat to McClatchy. Between 2017 and March 22, 2019 – when the Attorney General announced Special Counsel Mueller found no collusion between the Trump campaign and Russia – Nunes argued emphatically that there was no “collusion” between Trump associates and Russia to hack the 2016 presidential election, and that McClatchy was perpetuating a hoax and lying to the American people. McClatchy defamed Nunes in order to interfere with Nunes’ investigation and to hinder his work debunking the collusion allegations in general and the Steele dossier in particular.

g. McClatchy exhibited extreme bias in its reporting, editing and publishing concerning Nunes. On August 21, 2018, *Vice News* interviewed Kieta. Kieta made the following statements:

“VICE NEWS: So you're kind of just giving up on that pocket of the readership or the community that believes Devin Nunes.

KIETA: I wouldn't say I'm giving up on them, but I do think that there's some people who, you're just never gonna convince them.”

[<https://www.facebook.com/VICENewsTonight/videos/534622466994510/>;

<https://www.youtube.com/watch?v=LO-X8MMTRco>]. Newspapers should be in the

²³ Throughout 2018, McClatchy published false stories to stoke the Russian “collusion” narrative. In addition to stories about Cohen and Prague, McClatchy attacked Cleta Mitchell, an attorney who represented the National Rifle Association (“NRA”) for years. McClatchy completely fabricated a story that Ms. Mitchell had “concerns about [the NRA’s] ties to Russia and its possible involvement in channeling Russian funds into the 2016 elections to help Donald Trump.” [<https://www.mcclatchydc.com/news/politics-government/congress/article205412394.html>; <https://www.foley.com/mitchell-comments-on-being-falsely-implicated-in-trump-russia-investigation-08-31-2018/>; <https://www.foley.com/mitchell-comments-on-being-falsely-implicated-in-trump-russia-investigation-08-31-2018/>; <https://www.wsj.com/articles/anatomy-of-a-fusion-smear-1535757026>]. McClatchy’s hit pieces on Cohen, Mitchell and Nunes clearly demonstrate that McClatchy was an active participant in a calculated and concerted political operation, using information taken from a for-pay opposition research firm (Fusion GPS), for the sole purpose of furthering the Russian “collusion” narrative.

business of reporting the truth, not trying to “convince” their readers to vote against a candidate for office. Coupled with Kieta’s other statements about Nunes described above in this Complaint, Kieta’s statement to *Vice News* evidences McClatchy’s political agenda and extreme bias towards Nunes. It was not long before Kieta flip-flopped and attempted to back-track on his admission of bias. When he was asked about the *Vice News* quote later in a radio interview with Valley Public Radio, Kieta flatly denied that the question he had been asked had anything to do with Nunes or his supporters. [Again, the question was, “So you're kind of just giving up on that pocket of **the readership or the community that believes Devin Nunes.**” (emphasis added)]. When asked directly by Valley Public Radio about his “convince” quote, Kieta stated:

“So that quote was taken during an interview I did with Vice News a few months ago. And the question was asked to me, ‘Are you just giving up on people who don’t agree with you?’ It had nothing to do with Nunes supporters, it had nothing to do with the Nunes campaign in specific.”

[<https://www.kvpr.org/post/look-inside-40-page-nunes-mailer-targeting-fresno-bee>].

Kieta’s actions illustrate the extent to which McClatchy will compound lies about Nunes.

h. McClatchy chose to manufacture and publish false and scandalous statements and use insulting words that were unnecessarily strong and that constitute violent, abusive and hateful language, disproportionate to the occasion, in order to undermine public confidence in Nunes, distract Nunes from the Russia investigation, and affect the 2018 election. The words chosen by the McClatchy evince their ill-will, spite and actual malice.

i. McClatchy did not act in good faith because, in the total absence of evidence, it could not have had an honest belief in the truth of its statements about Nunes.

j. McClatchy reiterated, repeated and continued to republish the false defamatory statements about Nunes, including the Yacht/Cocaine/Prostitutes hit piece, out of a desire to hurt Nunes and to permanently stigmatize him. McClatchy's stories about Nunes were among the *Fresno Bee's* most-read stories of 2018, a fact that was emphasized by the *Bee*. [<https://www.fresnobee.com/news/local/article223345580.html>; <https://twitter.com/MackenzieMays/status/1078718800982208512>].

k. McClatchy initiated the defamation in retaliation and reprisal, and went out of their way to publish and then republish false statements about Nunes that McClatchy knew were untrue.

l. Nunes loudly and publicly, in advertisements and on YouTube, demanded a retraction of McClatchy's defamatory statements. McClatchy not only refused to retract, but they retaliated against Nunes and doubled-down on their concerted efforts to injure Nunes, forcing Nunes to spend hundreds of thousands of dollars (with mailers, radio, television and digital ads) defending himself against the malicious attacks that went on for months through the 2018 Congressional election.

32. As a direct result of McClatchy's defamation, Nunes suffered presumed damages and actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$150,000,000 or such greater amount as is determined by the Jury.

COUNT II – COMMON LAW CONSPIRACY

(Against All Defendants)

33. Plaintiff restates paragraphs 1 through 32 of his Complaint, and incorporates them herein by reference.

34. Beginning in 2018 and continuing through the present, McClatchy (including reporters such as Mays acting within the scope of their employment for McClatchy), Mair and Mair Strategies combined, associated, agreed or acted in concert together and with one or more “clients”, opposition research firms, strategic intelligence firms, donors, non-profits, operatives or agents (whose identity is unknown at this time)²⁴ for the express purposes of injuring Nunes, intentionally and unlawfully impeding and interfering with his business and employment as a United States Congressman, and defaming Nunes. In furtherance of the conspiracy and preconceived plan, McClatchy, Mair and Mair Strategies engaged in a joint scheme the unlawful purpose of which was to destroy Nunes’ personal and professional reputations, advance the goals of the dark money behind the paid-for smear campaign, interfere with Nunes’ duties as a United States Congressman, and influence the outcome of a federal election.

35. McClatchy, Mair and Mair Strategies acted intentionally, purposefully, without lawful justification, and with the express knowledge that they were defaming

²⁴ The House Permanent Select Committee on Intelligence oversees the nation’s intelligence agencies, including components of the Departments of Defense, Homeland Security, Justice, State, Treasury and Energy. Nunes is Ranking Member of the House Permanent Select Committee on Intelligence. It is in the nation’s interest to expose the persons behind McClatchy and Mair’s smear campaign and the attempts to interfere with Nunes’ investigations as a United States Congressman, whether such persons be domestic operatives or agents/instrumentalities of foreign governments.

Nunes. As evidenced by their concerted action online and via Twitter, the Defendants acted with the express and malicious intent to cause Nunes permanent injury.

36. The Defendants' actions constitute a conspiracy at common law.

37. As a direct result of the Defendants' willful misconduct, Nunes suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$150,000,000 or such greater amount as is determined by the Jury.

COUNT III – INJUNCTION

(Against McClatchy)

38. Plaintiff restates paragraphs 1 through 37 of his Complaint, and incorporates them herein by reference.

39. In order to protect Nunes's property interests and his reputation, Nunes requests the Court to permanently enjoin and order McClatchy to deactivate all hyperlinks to all online articles and all tweets, retweets, replies and likes by McClatchy or any of its agents that contain false and defamatory statements about Nunes.

40. Nunes has no adequate remedy at law. The continued publication of the offending defamation on the Internet constitutes an ongoing nuisance and trespass upon Nunes' reputation and interests in his name.

41. Without Court intervention and an injunction, Nunes will suffer actual and irreparable injury to his property interests and personal rights by the mere fact that Defendants' defamatory tweets can be retweeted and republished forever by third-parties.

42. There is a substantial likelihood that Nunes will succeed on the merits of his claims.

Nunes alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Nunes believes that substantial additional evidentiary support, which is in the exclusive possession of McClatchy, Mair, Mair Strategies, and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Nunes reserves his right to amend this Complaint upon discovery of additional instances of Defendants' wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Devin G. Nunes respectfully requests the Court to enter Judgment against the Defendants, jointly and severally, as follows:

A. Compensatory damages in the amount of \$150,000,000 or such greater amount as is determined by the Jury;

B. Punitive damages in the amount of \$350,000 or the maximum amount allowed by law;

C. An injunction against McClatchy;

D. Prejudgment interest from May 23, 2018 until the date Judgment is entered at the maximum rate allowed by law;

E. Postjudgment interest at the rate of six percent (6%) per annum until paid;

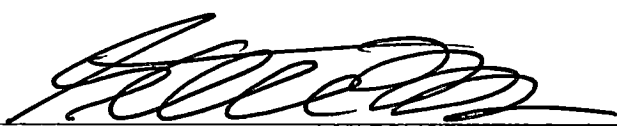
F. Attorney's Fees and Costs;

G. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: April 8, 2019

DEVIN G. NUNES

By: 

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Counsel for Plaintiff, Devin G. Nunes

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

DEVIN G. NUNES)
)
Plaintiff,)
)
v.)
)
FUSION GPS a/k/a BEAN, LLC)
GLENN SIMPSON)
)
-and-)
)
CAMPAIGN FOR ACCOUNTABILITY,)
INC.)
)
Defendants.)
_____)

Case 1:19-cv-1148-LO-TCB

**TRIAL BY JURY
IS DEMANDED**

AMENDED COMPLAINT

Plaintiff, Devin G. Nunes (“Plaintiff”), by counsel, Pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure (the “Rules”), files the following Amended Complaint against defendants, Fusion GPS a/k/a Bean, LLC (“Fusion GPS”), Glenn Simpson (“Simpson”) and Campaign for Accountability, Inc. (“CfA”), jointly and severally.

Plaintiff seeks (a) compensatory damages, statutory damages (threefold the actual damages sustained), and punitive damages in the sum of **\$9,900,000.00**, plus (b) prejudgment interest on the principal sum awarded by the Jury at the rate of six percent per year from January 25, 2018 pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the “Code”), (c) a reasonable attorney’s fee, (d) post-judgment interest, and (e) court costs – arising out of the Defendants’ acts of racketeering activity in violation of Title 18 U.S.C.

§ 1962(a-c), conspiracy to violate Title 18 U.S.C. § 1962(a-c), and common law conspiracy.

I. INTRODUCTION

1. This is a case about active, coordinated and ongoing corruption, fraud and obstruction of justice by Fusion GPS, its founder, Glenn Simpson, and the CfA – wrongdoing now admitted to in a book written by Simpson and his partner, Peter Fritsch, titled, ironically, *Crime in Progress: Inside the Steele Dossier and the Fusion GPS Investigation of Donald Trump* (“*Crime in Progress*”), and chronicled in the detailed December 2019 report of the Office of the Inspector General.

2. The Defendants are persons associated in fact (a RICO enterprise) who engage in interstate commerce by the use of one or more instrumentalities, including, but not limited to, the Internet, computers, telephones, mails and facsimile. In 2018, the Defendants received income derived, directly or indirectly, from a pattern of racketeering activity and have used or invested such income, directly or indirectly, in the establishment or operation of an enterprise engaged in, or the activities of which affect, interstate commerce. Through a pattern of racketeering activity, involving acts of wire fraud in violation of Title 18 U.S.C. § 1343 and acts of obstruction of justice in violation of Title 18 U.S.C. §§ 1503(a), 1512(b), 1512(d) and 1513(e), the Defendants have maintained, directly or indirectly, an interest in or control of an enterprise which is engaged in, or the activities of which affect, interstate commerce. While associated with such enterprise, the Defendants conducted or participated, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity. Between 2018 and the

present, the Defendants have engaged in activity that is prohibited by Title 18 U.S.C. §§ 1962(a), 1962(b), and 1962(c).

3. The Defendants' ongoing and continuous racketeering activities are part of a joint and systematic effort to intimidate, harass, threaten, influence, interfere with, impede, and ultimately to derail Plaintiff's congressional investigation into Russian intermeddling in the 2016 U.S. Presidential Election. In furtherance of their conspiracy, the Defendants, acting in concert and with others, filed fraudulent and retaliatory "ethics" complaints against Plaintiff that were solely designed to harass and intimidate Plaintiff, to undermine his Russia investigation, and to protect Simpson, Fusion GPS and others from criminal referrals.

4. Plaintiff was injured in his business, property and reputation by Defendants' racketeering activity and tortious misconduct. Plaintiff brings this action (a) to recover money damages for injuries caused by the Defendants' racketeering activity, (b) for disgorgement of the ill-gotten gains and fruits of Defendants' unlawful enterprise, (c) to impose reasonable restrictions on Defendants' future activities, including Defendants' use of fraudulent opposition research and fraudulent "ethics" complaints to intimidate members of Congress and other law enforcement officers in the performance of their official duties, (d) to enjoin the Defendants from committing wire fraud and from obstructing justice, and (e) to order the dissolution or reorganization of Fusion GPS and the CfA so as to prevent or restrain the Defendants from committing fraud, lying to the Federal Bureau of Investigation ("FBI"), Department of Justice ("DOJ"), Congress and Senate, obstructing justice, and violating Title 18 U.S.C. § 1962 in the future.

II. PARTIES

5. Plaintiff has served in the United States House of Representatives since 2003. He currently represents California's 22nd Congressional District, which is located in the San Joaquin Valley and includes portions of Tulare and Fresno Counties. He is the author of the book, *Restoring the Republic*, which was published in September 2010. Plaintiff was born in Tulare, California. His family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County for three generations. He raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother. Plaintiff graduated from Tulare Union High School. After associate's work at College of the Sequoias, he graduated from Cal Poly San Luis Obispo, where he received a bachelor's degree in agricultural business and a master's degree in agriculture. Plaintiff was first elected to public office as one of California's youngest community college trustees in state history at the age of 23. As a member of the College of the Sequoias Board from 1996 to 2002, he was an advocate for distance learning and the expansion of programs available to high school students. In 2001, he was appointed by President George W. Bush to serve as California State Director for the United States Department of Agriculture's Rural Development section. He left this post to run for California's 21st Congressional District and now serves in the 22nd District as a result of redistricting in 2010. Plaintiff serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. He was appointed to the Ways and Means Committee in the 109th Congress and now serves as a Ranking Member of the Health

Subcommittee and a member of the Trade Subcommittee, having served as Chairman of the Trade Subcommittee in the 113th Congress. Plaintiff previously served as a member of the House Budget Committee during the 111th Congress. In the 108th Congress, his first term in the House of Representatives, he served on the House Resources Committee, in which he was Chairman of the National Parks Subcommittee, and on the Agriculture and Veterans Affairs Committees. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government, most of which are located in Virginia within the Alexandria Division. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>].

6. Created in 1977, the House Permanent Select Committee on Intelligence (the “House Intelligence Committee”) oversees the nation’s intelligence agencies, including components of the Departments of Defense, Homeland Security, Justice, State, Treasury and Energy. Consistent with its mission and jurisdiction, the House Intelligence Committee has the authority and power, *inter alia*, to conduct investigations, issue subpoenas for the production of memoranda, documents and records or other material, to compel testimony from witnesses, and to make criminal referrals to the DOJ. [https://republicans-intelligence.house.gov/uploadedfiles/hpsci_rules_of_procedure_-_115th_congress.pdf; <https://www.govinfo.gov/content/pkg/HMAN-115/pdf/HMAN-115.pdf>].

7. On March 1, 2017, the House Intelligence Committee approved a bipartisan “Scope of Investigation” to guide the Committee in its investigation into the Russian active measures campaign that targeted the 2016 U.S. Presidential Election. Plaintiff confirmed that the “Intelligence Committee has been investigating Russia for years and warning about the Putin regime’s hostile international actions, its aggression in cyber space, and its influential international propaganda campaigns. The committee is determined to continue and expand its inquiries into these areas, including Russian activities related to the 2016 U.S. elections. On a bipartisan basis, we will fully investigate all the evidence we collect and follow that evidence wherever it leads.” In its investigation, the Committee publicly vowed to conduct interviews, take witness testimony and to “seek access to and custody of all relevant information, including law enforcement and counterintelligence information, consistent with the Committee’s oversight jurisdiction and investigative responsibilities.” [\[https://intelligence.house.gov/news/documentsingle.aspx?DocumentID=217\]](https://intelligence.house.gov/news/documentsingle.aspx?DocumentID=217).

8. Defendant, Fusion GPS, is a Delaware limited liability company headquartered in Washington, D.C. Fusion GPS represents that it “provides premium research, strategic intelligence, and due diligence services to corporations, law firms, and investors worldwide.” [\[http://www.fusiongps.com/\]](http://www.fusiongps.com/). In truth, Fusion GPS is a political war room for hire that specializes in dirty tricks and smears. As a regular way of doing business, it smears the opposition on behalf of its undisclosed clients. As disclosed and admitted in *Crime in Progress*, one of Fusion GPS’s main targets in 2018 and 2019 was Plaintiff. Upon information and belief, many of Fusion GPS’ clients, agents and donors are located in Virginia. Fusion GPS repeatedly uses the same means and methods: it creates fake “dossiers” and supplies the fraudulent documents and information to

“friendlies” in the media for dissemination online and via social media. In 2018, for instance, Fusion GPS used newspaper conglomerate, The McClatchy Company (“McClatchy”), as a media sympathizer to propagate falsehoods and obstruct Plaintiff in the performance of his duties as Chairman of the House Intelligence Committee. Another technique employed by Fusion GPS is “astro-turfing”. Astroturfing is the attempt to create an impression of widespread grassroots support for a position, where no such support actually exists. Fusion GPS uses multiple “cut-outs”, online identities and fake pressure groups to mislead the public into believing that its positions on behalf of clients are correct and/or commonly held. CfA is regularly used by astroturfers like Fusion GPS. [<https://fortune.com/2016/08/19/google-transparency-project-2/>].

9. Defendant, Simpson, is a principal of Fusion GPS. Simpson manages Fusion GPS and is its “public” face. In 2016, Simpson conspired with Perkins Coie, LLP (“Perkins Coie”), Orbis Business Intelligence, Ltd. (“Orbis”) and Christopher Steele (“Steele”) to manufacture a compendium of fake “intelligence” reports that Simpson and Steele provided to the FBI and DOJ and then leaked to mainstream media outlets, for the express purpose of instigating and promoting the false narrative that the Trump campaign or persons associated with it colluded with Russians. [<https://gop.com/meet-fusion-gps/>]. At all times material to this case, Simpson and Fusion GPS shared a common goal with the Democratic National Committee (“DNC”) and the Hillary Clinton presidential campaign of using the false and defamatory statements in the Steele/Fusion “dossier” to poison the minds of voters against candidate Donald Trump (“Trump”) and to influence the outcome of 2016 Presidential Election.

10. Orbis is a corporation organized and existing under the laws of the United Kingdom. Steele founded Orbis in 2009. [<https://orbisbi.com/about-orbis/>]. Orbis describes itself as a leading corporate intelligence consultancy. [<https://orbisbi.com/>]. Steele graduated from Cambridge University in 1986 with a degree in social and political science. He worked for British intelligence, MI6, until 2008.

11. Perkins Coie is an international law firm [<https://www.perkinscoie.com/en/>] with offices worldwide. Marc E. Elias (“Elias”) is the chair of Perkins Coie’s Political Law Group. [<https://www.perkinscoie.com/en/professionals/marc-e-elias.html>]. Michael Sussmann (“Sussmann”) is a partner at Perkins Coie. Sussmann, a former Justice Department official, represents that he is “a nationally-recognized privacy, cybersecurity and national security lawyer. He is engaged on some of the most sophisticated, high-stakes matters today, such as his representation of the Democratic National Committee and Hillary Clinton’s presidential campaign in their responses to Russian hacking in the 2016 presidential election.” Sussman is often quoted in the *Wall Street Journal*. [<https://www.perkinscoie.com/en/professionals/michael-sussmann.html>].

12. Defendant, CfA, is a dark money, partisan, left-wing 501(c)(3) nonprofit organization that uses the Freedom of Information Act, litigation, and “aggressive communications” to target government officials, principally conservative Republicans. [<https://campaignforaccountability.org/about/>].¹ CfA claims (ironically) that it “works on

¹ CfA was founded in 2015 by alumni of prominent left-wing opposition research super PAC, American Bridge 21st Century, and Citizens for Responsibility and Ethics in Washington (CREW), an “advocacy group” that uses “aggressive legal action, in-depth research, and bold communications” to target Republican officeholders. [[See https://www.citizensforethics.org/who-we-are/](https://www.citizensforethics.org/who-we-are/)]. Daniel E. Stevens (“Stevens”), CfA’s executive director, lives in Springfield, Virginia.

behalf of the public interest to expose corruption, negligence and unethical behavior wherever it may occur.” As part of its business, CfA operates a website, a Twitter account (@Accountable_Org), a Facebook account, a YouTube channel, and publishes articles via Medium. In 2017, CfA received a total of \$994,811 in contributions and grants. In 2018, CfA received a total of \$1,270,480 in contributions and grants. CfA does not disclose the identities of its donors. However, it has been widely reported that one of CfA’s major donors is the left-wing funding/incubation non-profit, New Venture Fund. [<https://www.influencewatch.org/non-profit/new-venture-fund/>; <http://www.siliconbeat.com/2016/07/19/googles-secretive-and-deep-pocketed-foe-heavily-funded-by-gates-hewlett-foundations/>]. All three (3) CFA “ethics” complaints against Plaintiff at issue in this action are directly connected to Fusion GPS. The first complaint was for allegedly leaking information on Fusion GPS; the second was for allegedly leaking text messages from and to Adam Waldman, a lawyer for Christopher Steele; and the third complaint was about wineries that Fusion GPS just happened to be researching and spreading lies about.

13. On August 1, 2019, the *Daily Caller* revealed that CfA engaged Fusion GPS as an “independent contractor” in 2018 and paid Fusion GPS nearly \$140,000 for unspecified “research”. [<https://dailycaller.com/2019/08/01/liberal-watchdog-fusion-gps-trump/>] (“**Liberal Watchdog Group That Targeted Google And Devin Nunes Paid Fusion GPS \$140K For Research**”).

14. On November 25, 2019, Simpson released *Crime in Progress*. He did so to get out front of the information about Fusion GPS’ clandestine operations that he knew

would be revealed in discovery. In *Crime in Progress*, Simpson, *inter alia*, admitted the following facts:

- “Fusion ordinarily didn’t work on congressional races, but as the election drew closer, the firm began to mull a few ways it could have an impact. Later, it would decide to design and launch a more systematic cyber-monitoring campaign, but first it went small, focusing on a single congressional district in California’s heavily agricultural Central Valley. That solidly red seat happened to have been occupied since 2003 by one Devin Nunes”. [pp. 292-294].
- “Fusion had no illusions about being able to topple Nunes, but the notion of digging into his record made many at the firm salivate. His bumbling investigation of Trump-Russia was amusing, in some respects, and Fritsch had taken up Senator Lindsey Graham’s reference to him as Inspector Clouseau, after the incompetent police inspector in the Pink Panther movies. But there were far more serious issues at stake here, too: In his fiercely partisan stewardship of the Russia investigation, Nunes had also undermined the intelligence and law enforcement agencies and inflicted damage on dedicated crime fighters like Bruce Ohr. And he was a threat to Mueller’s ability to do his job. When Fritsch asked Fusion staff for volunteers to look into Nunes, every hand shot up”. [294].
- “While he described himself as a farmer on the midterm ballot, Nunes hadn’t been one for a decade. Three years after he was first elected, he had quietly sold off his shares of the family farm and invested the proceeds in a Napa Valley winery nearly two hundred miles from his district”. [295].²

² For every Fusion GPS “research” project, there is a corresponding “ethics” complaint levelled against Plaintiff. On June 8, 2018, American Democracy Legal Fund (“ADLF”) filed a complaint with the Office of Congressional Ethics (“OCE”) over McClatchy’s “yacht” story. On July 11, 2018, CfA filed a complaint with OCE relating to his investment in the Napa Valley winery. On July 11, 2018, political operative Liz Mair (“Mair”) and Swamp Accountability Project (“Swamp”) filed a complaint with OCE over the “yacht” story. On July 23, 2018, Campaign Legal Center (“CLC”) filed a complaint with the Federal Election Commission (“FEC”) over Plaintiff’s private jet travel. And, on August 9, 2018, Paul Buxman, Daniel O’Connell and Hope Nisly sued Plaintiff over his ballot designation as a farmer.

- “Some of his spending appeared to violate campaign finance rules. Fusion discovered ‘fundraising’ trips to Las Vegas and Boston during which Nunes spent more than \$130,000 on high-end hotels, meals, and NBA tickets, at the expense of his campaign committees. The Boston fundraisers appeared to have been outings to see his favorite NBA team, the Boston Celtics. (Nunes idolized Larry Bird). In March 2018, Fusion found, Nunes charged more than \$11,000 to his campaign for a private plane charter, despite House ethics rules that generally forbid noncommercial travel”. [295].
- “Nunes also spent tens of thousands of dollars in PAC money on wine from the wineries in which he held stakes”. [295].
- “In the end, Fusion found an obscure bit of litigation that lit up the race. In May, weeks after that discovery, Nunes’s ownership stake in the Napa winery Alpha Omega became national news when The Fresno Bee reported on a lawsuit filed in California state court by a young woman who had worked serving wine at a 2015 tasting event aboard the winery’s sixty-two-foot yacht” [295-296].
- “Nunes spent tens of thousands of dollars on television, radio, and Facebook advertisements attacking the Bee for its coverage of the lawsuit, drawing more attention to the case. In the end, Nunes would win re-election in November with 52.7 percent of the vote, his lowest margin of victory ever”. [296].

15. On December 9, 2019, the Office of the Inspector General, United States Department of Justice, released its “**Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation**” (the “IG Report”). [<https://www.justice.gov/storage/120919-examination.pdf>].³ The IG Report confirmed that the Steele/Fusion “dossier”, bought and paid for by Fusion GPS, was a complete fabrication. The IG Report confirms that the putative author⁴ of the “dossier”, Steele, told

³ Two witnesses, Simpson and Jonathan Winer, refused to be interviewed for the IG Report.

⁴ Fusion GPS tasked Nellie Ohr to research then-candidate Trump and his Russian business associates, which involved searching Russian and other foreign language websites and databases and providing periodic reports detailing her findings. Nellie stopped working for Fusion GPS on September 24, 2016. Upon information and belief, Nellie and/or Simpson authored intelligence reports that Steele included in the “dossier”.

FBI agents at a meeting in Rome that his reports were raw intelligence, not vetted information, and that a person passing some of the most important information to him was a “boaster” and “egotist” who might well “engage in some embellishment.” But that alarming description never made it to DOJ, where officials were using some of Steele’s reports to support a secret court order authorizing surveillance on a former Trump campaign aide, Carter Page (“Page”). The IG Report further reveals that the Central Intelligence Agency (“CIA”) dismissed the Steele “dossier” as “internet rumor.” And when the FBI eventually interviewed the person described as Steele’s “primary subsource,” that subsource claimed that Steele’s reports had gone far beyond what he had been told. The source, who is not identified in the IG Report, “raised doubts about the reliability of Mr. Steele’s descriptions of information in his election reports,” saying Mr. Steele had “misstated or exaggerated” what he had been told. Though Steele represented that Donald Trump’s supposed 2013 encounter with Russian prostitutes had been “confirmed” by a hotel staff member, the IG Report revealed that source actually told the FBI that the story of the purported episode at Moscow’s Ritz Carlton was just “rumor and speculation.” Similarly, the source had passed on information about a visit to Moscow during the presidential campaign by Page. But the source told FBI agents that he had given Steele no evidence to support one striking claim in the “dossier”: that Page had been offered a lucrative brokerage fee in the sale of part of the Russian oil giant Rosneft. Another of Steele’s claims that drew wide media coverage was that candidate Trump’s personal lawyer, Michael D. Cohen (“Cohen”), had traveled to Prague during the 2016 campaign to meet with Russian agents and discuss the hacking of the Democrats. The IG Report flatly concluded that the claim was “not true.”

16. Steele considered Donald Trump to be his “main opponent”, as did Fusion GPS and its clients, Perkins Coie, the DNC and the Clinton campaign. Steele was “desperate” that Donald Trump not get elected, as was Fusion GPS, Perkins Coie, the DNC and Hillary Clinton. The outright fabrications in the Steele “dossier” are the product of a joint collaborative effort between Steele and Fusion GPS. Steele and Fusion GPS, acting in concert, lied to the FBI and spread lurid and fake anecdotes in order to obstruct the FBI’s Crossfire Hurricane investigation. Fusion GPS and Steele wanted to make it appear to the FBI that there was a “crime in progress”, when, in truth, it was all a coordinated fraud. The fabrication of raw intelligence and the misrepresentation and concealment of information provided by sources is an ordinary part of Fusion GPS’ criminal operations, and one that threatens to persist in the future.

III. JURISDICTION AND VENUE

17. The United States District Court for the Eastern District of Virginia has subject matter jurisdiction over this action pursuant to Title 28 U.S.C. § 1331 (Federal Question), § 1332 (Diversity) and § 1367 (Supplemental Jurisdiction). The parties are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest, costs and fees.

18. Each of the Defendants is subject to personal jurisdiction in Virginia pursuant to Virginia’s long-arm statute, § 8.01-328.1(A)(1), (A)(3) and (A)(4) of the Code, as well as the Due Process Clause of the United States Constitution. The Defendants are subject to both general and specific personal jurisdiction. They engage in continuous and systematic business in Virginia. They have minimum contacts with Virginia such that the exercise of personal jurisdiction over them comports with traditional notions of fair play

and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

19. Venue is proper in the Alexandria Division of the United States District Court for the Eastern District of Virginia pursuant to Title 18 U.S.C. § 1965(a) and Title 28 U.S.C. § 1391(b). The Defendants reside, are found, have agents, and transact affairs in Virginia. The vast majority of Trump campaign foreign policy meetings between June 2016 and September 2016 occurred in Virginia in Arlington County and Fairfax County. Many of the key witnesses to the Defendants' corrupt business practices – including former FBI director, James Comey ("Comey"), Andrew McCabe ("McCabe"), Bruce Ohr, and Fusion GPS contractor, Nellie Ohr – reside in Virginia.

IV. STATEMENT OF THE FACTS

20. On April 12, 2015, Hillary Rodham Clinton declared her candidacy for President of the United States. She officially received the nomination of the Democratic Party on July 26, 2016 at the Democratic National Convention.

21. During the 2016 presidential campaign, the Clinton campaign and the DNC paid Perkins Coie a total of \$12.4 million. Perkins Coie did not provide \$12.4 million in legal services to the Clinton campaign and the DNC during the 2016 presidential election cycle. Rather, Perkins Coie, with the knowledge and authority of the Clinton campaign and the DNC, acted as a conduit to funnel campaign funds (\$1 Million Dollars) to Fusion GPS in order to create a false narrative about opposition Republican presidential candidate Donald Trump.

A. *The Fraudulent “Steele Dossier”*

22. In April 2016, Elias on behalf of Perkins Coie engaged Fusion GPS on behalf of the Clinton campaign and the DNC to prepare a salacious “dossier” that could be used to smear Trump. The Clinton campaign and the DNC, through Perkins Coie, funded Fusion GPS’s opposition research through the end of October 2016, days before the Presidential Election. [<https://www.nytimes.com/2017/10/24/us/politics/clinton-dnc-russia-dossier.html>] (“**Clinton Campaign and Democratic Party Helped Pay for Russia Trump Dossier**”); [https://www.washingtonpost.com/world/national-security/clinton-campaign-dnc-paid-for-research-that-led-to-russia-dossier/2017/10/24/226fabf0-b8e4-11e7-a908-a3470754bbb9_story.html].⁵

23. Perkins Coie chose Fusion GPS to smear opposition candidate Trump because of Fusion GPS’ well-documented history of defamation, dirty tricks and its pattern and practice of using fabricated “dossiers” and the media to intimidate and smear targets. [E.g. <https://www.wsj.com/articles/SB10001424052702304203604577397031654422966>

⁵ The revelation that the Clinton campaign and the DNC had paid Fusion GPS emerged from an October 24, 2017 letter filed in court by Perkins Coie. In pertinent part, the letter states:

“Fusion GPS approached Perkins Coie in early March of 2016 and ... expressed interest in an engagement with the Firm in connection with the 2016 presidential election to continue research regarding then-Presidential candidate Donald Trump, research that Fusion GPS had conducted for one or more other clients during the Republican primary contest ... To assist in its representation of the DNC and Hillary for America, Perkins Coie engaged Fusion GPS”.

[https://www.washingtonpost.com/world/national-security/clinton-campaign-dnc-paid-for-research-that-led-to-russia-dossier/2017/10/24/226fabf0-b8e4-11e7-a908-a3470754bbb9_story.html]; [<https://assets.documentcloud.org/documents/4116755/PerkinsCoie-Fusion-PrivelegeLetter-102417.pdf>].

(“**The President’s Hit List**”); <https://www.scribd.com/document/354721041/Testimony-of-Thor-Halvorsen-to-the-Senate-Committee-on-the-Judiciary-7-26-2017> (“Thank you for the opportunity to provide testimony about Fusion GPS, its role in a multi-billion-dollar corruption case benefitting the Venezuelan regime, and how they violate [FARA]”); <http://infodio.com/20170114/fusion/gps/derwick/associates/venezuela/corruption> (“**Fusion GPS link to Derwick Associates: Venezuela's most corrupt criminal gang**”); <https://www.theatlantic.com/politics/archive/2017/07/bill-browders-testimony-to-the-senate-judiciary-committee/534864/> (“Veselnitskaya, through Baker Hostetler, hired Glenn Simpson of the firm Fusion GPS to conduct a smear campaign against me and Sergei Magnitsky in advance of congressional hearings on the Global Magnitsky Act. He contacted a number of major newspapers and other publications to spread false information that Sergei Magnitsky was not murdered, was not a whistle-blower, and was instead a criminal. They also spread false information that my presentations to lawmakers around the world were untrue.”); <https://thefederalist.com/2017/10/10/u-s-media-help-russia-destabilize-united-states/> (“**Does U.S. Media Help Russia Destabilize The United States?**”)].

24. Fusion GPS hired Orbis to create the “dossier” to smear Trump and help in disseminating the scandalous accusations to the media.

25. At the time Fusion GPS hired Orbis, Steele acted as a paid informant for the FBI.

26. Steele, acting in concert and combination with Fusion GPS, created a compendium of “Company “Intelligence Report[s]” that Simpson and Steele ultimately

delivered to the FBI for the purpose of influencing the FBI's Crossfire Hurricane investigation.

27. The various "Company Intelligence Report[s]" that are part of the "dossier" manufactured by Steele and Fusion GPS are complete fabrications.

28. Fusion GPS paid Orbis approximately \$170,000 for the fraudulent Steele "dossier".

B. Fusion GPS, Simpson and Steele Leak The Fraudulent "Steele Dossier"

29. The Republican National Committee ("RNC") held its presidential nominating convention in Cleveland, Ohio, from July 18-21, 2016.

30. Trump won the Republican nomination for President of the United States.

31. On July 31, 2016, the FBI officially launched operation "Crossfire Hurricane". [<https://www.nytimes.com/2018/05/16/us/politics/crossfire-hurricane-trump-russia-fbi-mueller-investigation.html>].

32. Between July 31, 2016 and September 23, 2016, Fusion GPS and Simpson, acting in concert with Steele, leaked the Steele "dossier" to the FBI, DOJ, State Department, and multiple "journalists" who were friendly to presidential candidate, Clinton. By September 23, 2016, the so-called "dossier" was in the hands of at least nine (9) media outlets, including the *Wall Street Journal*, *Washington Post*, the *New Yorker*, *McClatchy*, and *Yahoo News*. [https://www.washingtonpost.com/politics/hero-or-hired-gun-how-a-british-former-spy-became-a-flash-point-in-the-russia-investigation/2018/02/06/94ea5158-0795-11e8-8777-2a059f168dd2_story.html].

33. Steele was "desperate" to see Donald Trump defeated in the 2016 Presidential election. [<https://thehill.com/opinion/white-house/425739-fisa-shocker-doj>]

[official-warned-steele-dossier-was-connected-to-clinton](#) (Associate Deputy Attorney General Bruce Ohr (“Bruce Ohr”) told congressional investigators that “Christopher Steele was, as I said, desperate that Trump not be elected.”)]. Steele’s personal bias and lack of veracity was well-known to Fusion GPS and Simpson. Fusion GPS and Simpson commissioned the Steele “dossier” and leveraged Steele’s extreme political bias and motive to lie. On October 11, 2016, Steele met with Deputy Assistant Secretary of State Kathleen Kavalec (“Kavalec”). Steele admitted to Kavalec that his “research” was political and that he was facing an Election Day deadline to make it public. Steele told Kavalec that his “client” (Fusion GPS) was “keen to see this information come to light prior to November 8,” the date of the 2016 presidential election. [<https://thehill.com/opinion/white-house/442592-steeles-stunning-pre-fisa-confession-informant-needed-to-air-trump-dirt>]. Notwithstanding is contemporaneous admissions of extreme bias against then-candidate Trump, Steele lied to the OIG and stated that any claim of bias was “ridiculous”.

34. On October 21, 2016, the FBI used part of the Steele/Fusion “dossier” – Company Intelligence Report (CIR) 94 – to seek a warrant to spy on Carter W. Page (“Page”) pursuant to the Foreign Intelligence Surveillance Act of 1978 (“FISA”). The FISA application, signed by Comey, falsely represented to the FISA Court that the information in the application was “VERIFIED”:

All information is considered unclassified except where otherwise shown.

~~TOP SECRET//NOFORN~~

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT
2016 OCT [REDACTED]
LEEANN FLYNN HALL
CLERK OF COURT

Classify By: J23J98T32
Reason: (C)
Derived From: FBI NSICG, dated 10-[REDACTED]-2016
Declassify On: [REDACTED]

b1-1
b3-1
b7A-1

(S) IN RE CARTER W. PAGE, A U.S. PERSON.

Docket Number: [REDACTED]

b1-1
b3-1
b7A-1

(U) VERIFIED APPLICATION

35. The Steele/Fusion “dossier” accusations of collusion between the Trump campaign or persons associated with it and Russians have never been verified. They cannot be verified because they are false. They were manufactured by Steele and Fusion GPS out of whole cloth. The creation of unverifiable “intelligence” is a hallmark of Fusion GPS’ ordinary way of doing business.

36. The FISA application discloses that Steele was approached by Fusion GPS through Simpson⁶ (referred to in the application as an “identified US person”), and that Perkins Coie (referred to in the application as a “US-based law firm”) had hired Fusion GPS “to conduct research regarding Candidate #1s [Trump] ties to Russia.” The FISA

⁶ Simpson formerly was an investigative reporter for the *Wall Street Journal*. He has a long history of working with the FBI and reporting on corruption and influence in and around Russia. Simpson orchestrated Fusion GPS’ media outreach program and dissemination of the Steele/Fusion “dossier” to the Government agencies and the media. [<https://dailycaller.com/2019/03/04/glenn-simpson-jonathan-winer-dossier/>; <https://dailycaller.com/2017/07/13/details-emerge-about-trump-dossier-firms-media-outreach-campaign/>].

application confirms that Steele and Fusion GPS “have a long-standing business relationship”. The FISA application does not identify Steele’s “sub-source(s)”.⁷

37. On October 31, 2016, *Mother Jones* published an article entitled, “**A Veteran Spy Has Given the FBI Information Alleging a Russian Operation to Cultivate Donald Trump**”. [<https://www.motherjones.com/politics/2016/10/veteran-spy-gave-fbi-info-alleging-russian-operation-cultivate-donald-trump/>].⁸ The source of the *Mother Jones* article was Steele. Steele spoke with *Mother Jones*’ reporter, David Corn, at Simpson’s behest.⁹ *Mother Jones* reported that Steele “now works” for Fusion GPS,

⁷ Simpson told Bruce Ohr that Steele’s main source wasn’t in Moscow but, rather, was a “former Russian intelligence figure in Washington”. Bruce Ohr’s notes quote Simpson as follows: “[m]uch of the collection about the Trump campaign ties to Russia comes from a former Russian intelligence officer (? not entirely clear) who lives in the US”. [<https://thehill.com/hilltv/rising/417535-questions-grow-about-fbi-vetting-of-christopher-steeles-russia-expertise>].

⁸ On October 10, 2016, Simpson told Bruce Ohr that he (Simpson) asked Steele to talk to *Mother Jones*. [<https://thehill.com/hilltv/rising/401185-the-handwritten-notes-exposing-what-fusion-gps-told-doj-about-trump> (“Glen [sic] asked Chris to speak to the Mother Jones reporter. It was Glen’s Hail Mary attempt [to influence the election],” Ohr wrote.”)].

⁹ In October 2016, the FBI “suspended” its relationship with Steele because of Steele’s flagrant breaches of FBI trust and protocol. According to the FISA application:

(U) ~~(S//NF)~~ In or about late October 2016, however, after the Director of the FBI sent a letter to the U.S. Congress, which stated that the FBI had learned of new information that might be pertinent to an investigation that the FBI was conducting of Candidate #2, Source #1 told the FBI that he/she was frustrated with this action and believed it would likely influence the 2016 U.S. Presidential election. In response to Source #1’s concerns, Source #1 independently, and against the prior admonishment from the FBI to speak only with the FBI on this matter, released the reporting discussed herein to an identified news organization. Although the FBI continues to assess Source #1’s reporting is reliable, as noted above, the FBI has suspended its relationship with Source #1 because of this disclosure.

which *Mother Jones* described as “a US firm that gathers information on Russia for corporate clients”. *Mother Jones* revealed that Steele “was assigned the task of researching Trump’s dealings in Russia and elsewhere, according to the former spy [Steele] and his associates [Simpson] in this American firm.” *Mother Jones* quoted a “fiery letter” from Democratic Senator Harry Reid (“Reid”) to Comey that disclosed the following:

“In my communications with you and other top officials in the national security community, it has become clear that you possess explosive information about close ties and coordination between Donald Trump, his top advisors, and the Russian government ... The public has a right to know this information.”

Reid was briefed on the “Steele Dossier” sometime prior to the end of August 2016.

38. In November 2016, Steele met in Great Britain with David J. Kramer (“Kramer”), director of the McCain Institute for International Leadership, a private foundation associated with the late-U.S. Senator John McCain (“McCain”). [<https://www.mccaininstitute.org/staff/david-j-kramer/>]. The purpose of the meeting was to brief Kramer on behalf of Senator McCain, who at the time was an outspoken critic of the Trump candidacy. Steele and/or Simpson gave Kramer a copy of the first sixteen reports in the Steele/Fusion “dossier” for redelivery to Senator McCain. Kramer, a former State Department official and a Trump detractor, leaked (republished) the DNC-financed Steele/Fusion “dossier” to, *inter alia*, *BuzzFeed News*.

39. Kramer met with *BuzzFeed’s* Ken Bensinger (“Bensinger”) during the 2016 Christmastime holidays. Bensinger took cellphone photos of the entire Steele/Fusion “dossier”. [<https://www.washingtontimes.com/news/2019/mar/14/david-kramer-spread-steele-dossier-around-washingt/>]; *see also* [<https://www.mcclatchydc.com/news/nation-world/national/article160622854.html>] (“At least a dozen national media organizations had

a copy of the Steele dossier before it became public but hadn't published details because much of the information had not been corroborated").¹⁰

40. On January 10, 2017, CNN reported that "intelligence chiefs" had briefed President-Elect Trump and President Obama on the accusations contained in the "Steele Dossier". CNN described the Steele/Fusion "dossier" as "Classified". [<https://www.cnn.com/2017/01/10/politics/donald-trump-intelligence-report-russia/index.html>].

41. On January 10, 2017, after publication of the CNN report, Bensinger published the Steele/Fusion "dossier". The "full document" linked to Bensinger's story was the cell phone copy of the Steele/Fusion Dossier" that Bensinger obtained from Kramer. [<https://www.buzzfeednews.com/article/kenbensinger/these-reports-allege-trump-has-deep-ties-to-russia>; <https://www.nytimes.com/2017/01/11/us/politics/donald-trump-russia-intelligence.html?module=inline>].¹¹

42. On January 11, 2017, the *New York Times* revealed that Fusion GPS was behind the "dossier". [https://www.nytimes.com/2017/01/11/us/politics/donald-trump-russia-intelligence.html?smid=tw-nytimes&smtyp=cur&_r=0]. The *Wall Street Journal*

¹⁰ McCain gave Comey a copy of the "Trump dossier" on January 6, 2017. [<https://www.mcclatchydc.com/news/nation-world/national/article160622854.html>]. Comey briefed President-elect Trump on the "dossier" that same day. Briefing the President-elect was the "brainchild" of Director of National Intelligence James Clapper ("Clapper"), who also had the "dossier". [<https://thefederalist.com/2018/04/20/comeys-memos-indicate-dossier-briefing-of-trump-was-a-setup/>].

¹¹ On January 10, 2017, Ben Smith ("Smith"), editor-in-chief of *BuzzFeed*, advised the staff of *BuzzFeed News* that there were "**real solid reasons to distrust**" the veracity of the allegations contained in the "Trump dossier". Smith tweeted the note he sent to his staff. [<https://twitter.com/BuzzFeedBen/status/818978955965464580/photo/1>].

revealed that Steele was the author. [<https://www.wsj.com/articles/christopher-steele-ex-british-intelligence-officer-said-to-have-prepared-dossier-on-trump-1484162553>].

C. The Congressional Investigation

43. Plaintiff was one of the leading and most vocal members of Congress to advocate for a thorough investigation of the role that Fusion GPS and the Steele/Fusion “dossier” played in advancing the “Russia collusion” narrative. Fusion GPS and Simpson harbored spite and ill-will towards Plaintiff as a result. Using the same corrupt practices employed on the FBI during operation Crossfire Hurricane, Fusion GPS and Simpson decided to smear Plaintiff as a result of his tenacious efforts in 2017 to expose Fusion GPS’ nefarious activities.

44. On August 24, 2017, in his capacity as Chairman of the House Intelligence Committee, Plaintiff authorized subpoenas to both DOJ and FBI for all documents they had relating to their relationship with Steele and/or the Steele/Fusion “dossier”. [<http://i2.cdn.turner.com/cnn/2017/images/09/06/chm.ltr.to.ag.sessions.re.subpoena.comp-liance--1.september.17.pdf>]. All subpoenas authorized by Plaintiff were issued pursuant to a constitutionally authorized investigation by a Committee of the U.S. House of Representatives with jurisdiction over intelligence and intelligence-related activities—activities designed to protect the United States and its citizens from potential cyber-attacks now and in the future.

45. In a September 1, 2017 letter to Attorney General, Jeff Sessions (“Sessions”), Plaintiff stated as follows:

On August 24, 2017, the House Permanent Select Committee on Intelligence (“Committee”) served subpoenas on the Attorney General, in his capacity as head of the Department of Justice (“DOJ”), and the Director of the Federal Bureau of Investigation (“FBI”) for production of documents relevant to the Committee’s ongoing investigation of Russian interference in the 2016 U.S. presidential election, including allegations of collusion between the Trump campaign and the Russians.

The subpoenas directed DOJ and FBI to produce any and all documents relating to the agencies’ relationship with former British Secret Intelligence Service officer Christopher Steele and/or the so-called “Trump Dossier,” including those memorializing FBI’s relationship with Mr. Steele, any payments made to Mr. Steele, and efforts to corroborate information provided by Mr. Steele and his sub-sources—whether directly or via Fusion GPS. The subpoenas also directed DOJ and FBI to provide copies of any Foreign Intelligence Surveillance Act (FISA) applications submitted to the Foreign Intelligence Surveillance Court (FISC)—whether or not approved by the FISC—incorporating information provided by Mr. Steele, his sub-sources, and/or Fusion GPS.

Plaintiff’s letter pointed out the lack of cooperation he had received in 2017 in obtaining responses to Russia-investigation related requests:

Resort to compulsory process was necessary because of DOJ’s and FBI’s insufficient responsiveness to the Committee’s numerous Russia-investigation related requests over the past several months. On multiple occasions, through written requests and direct engagements, the Committee has sought but failed to receive responsive testimony or documents from DOJ and FBI. For example, to date the Committee has not received a meaningful response to its May 9, 2017, request to Attorney General Sessions. Additionally, on May 16, 2017, the Committee sent a letter asking then-Acting Director Andrew McCabe to participate in a voluntary interview, and produce relevant documents. The Committee received no reply until May 27—more than two months later—when DOJ declined the interview request and indicated that “the Department is not prepared to respond further to your request at this time.”

46. On October 4, 2017, Plaintiff, in his capacity as Chairman of the House Intelligence Committee, authorized subpoenas for documents and to compel testimony

from Simpson and his Fusion GPS partners Peter Fritsch¹² and Thomas Catan.¹³ <https://www.cnn.com/2017/10/10/politics/fusion-gps-subpoenas-devin-nunes/index.html>; <https://www.cnn.com/2017/10/18/politics/fusion-gps-partners-plead-fifth-before-house-intel/index.html> (noting that Fusion GPS' attorney revealed that Fritsch and Catan invoked their Fifth Amendment rights not to answer questions before the Committee)].

47. Plaintiff also issued a subpoena to Fusion GPS' bank, TD Bank, for the company's financial records. Fusion GPS sought a temporary restraining order and preliminary injunction to block release of the bank records. Fusion GPS failed in its effort to prevent disclosure of the bank records. *Bean, LLC v. John Doe Bank*, 291 F.Supp.3d 34 (D. D.C. 2018). The bank records produced by Fusion GPS revealed that the Clinton campaign, the DNC and Perkins Coie paid for Fusion GPS' anti-Trump research. [<https://thehill.com/homenews/house/354796-nunes-signs-off-on-new-subpoenas-in-russia-investigation>; <https://www.washingtonexaminer.com/byron-york-in-dossier-probe-fusion-gps-asks-court-to-stop-house-from-seeing-bank-records>].

¹² Fritsch is a co-founder of Fusion GPS and partner of Simpson's. Fritsch was responsible for running opposition research for Fusion GPS on Theranos. [https://www.washingtonpost.com/investigations/journalism-for-rent-inside-the-secretive-firm-behind-the-trump-dossier/2017/12/11/8d5428d4-bd89-11e7-af84-d3e2ee4b2af1_story.html ("Fusion GPS bills itself as a corporate research firm, but in many ways it operates with the secrecy of a spy agency ... Fusion worked to blunt aggressive reporting on the medical-device company Theranos, which was later found to have problems with its novel blood-testing technology. It was also hired to ward off scrutiny of the nutritional supplement company Herbalife, which ultimately paid \$200 million to distributors to settle claims by regulators ... Fusion's work on the dossier went beyond ordinary opposition research, the kind that might explore a candidate's past legislative history or embarrassing gaffes — known in the industry as "votes and quotes." Instead, it paid a former British spy to compile intelligence from unnamed Russian sources.")].

¹³ Catan is the third partner of Fusion GPS. Like Simpson and Fritsch, he used to work for the Wall Street Journal. [<https://www.wsj.com/news/author/thomas-catan>].

48. On August 22, 2017, Simpson testified before the Senate Intelligence Committee. Simpson claimed he originally hired Steele to research Trump's business activities in Russia:

“I would say that's broadly why I asked him to see what he could find out about Donald Trump's business activities in Russia ... I'll just stress that we weren't looking for – at least it wasn't at the forefront of my mind there was going to be anything involving the Russian government per se, at least not that I recall.

https://www.feinstein.senate.gov/public/_cache/files/3/9/3974a291-ddbe-4525-9ed1-22bab43c05ae/934A3562824CACA7BB4D915E97709D2F.simpson-transcript-redacted.pdf (pp. 78-79)].¹⁴

49. On November 14, 2017, Simpson testified behind closed doors before the House Intelligence Committee. He was accompanied by three (3) lawyers.

50. On January 17, 2018, the House Intelligence Committee published an unclassified, redacted transcript of Simpson's testimony in executive session. [<https://docs.house.gov/meetings/IG/IG00/20180118/106796/HMTG-115-IG00-20180118-SD002.pdf>].

51. It was immediately obvious to Representatives and reporters alike that Simpson had lied in his testimony to the House Intelligence Committee. [*See, e.g.*,

¹⁴ The IG Report concluded that Simpson's reasons for hiring Steele included far more than simply research on Trump's "business activities" in Russia:

“In May 2016, Simpson met Steele at a European airport and inquired whether Steele could assist in determining Russia's actions related to the 2016 U.S. elections, whether Russia was trying to achieve a particular election outcome, whether candidate Donald Trump had any personal and business ties in Russia, and whether there were any ties between the Russian government and Trump and his campaign.”

[<https://www.justice.gov/storage/120919-examination.pdf> (p. 93)].

<https://www.powerlineblog.com/archives/2018/01/simpson-tried-to-deceive-congress-on-the-fusion-gps-obama-doj-connection.php> (“**SIMPSON TRIED TO DECEIVE CONGRESS ON THE FUSION GPS/OBAMA DOJ CONNECTION**”); <https://dailycaller.com/2018/09/17/bruce-ohr-testimony-fusion-gps-glenn-simpson/> (“DOJ official Bruce Ohr testified that he met with Fusion GPS founder Glenn Simpson in August 2016. That conflicts with what Simpson told a congressional committee in November. He [Simpson] said he did not meet Ohr until after the 2016 election ... Department of Justice (DOJ) official Bruce Ohr told Congress in August that he met before the 2016 election with Glenn Simpson, a direct contradiction to what the Fusion GPS founder said in a congressional deposition in 2017”); <https://www.tabletmag.com/jewish-news-and-politics/253004/fusion-gps-donald-trump> (“**Did Glenn Simpson Lie to Congress?**”); <https://www.washingtontimes.com/news/2018/may/31/glenn-simpson-accused-lying-congress-sen-charles-g/> (“**Why key architect of the anti-Trump dossier is now accused of lying to Congress**”).

52. In fact, Simpson lied to *both* the House of Representatives *and* the United States Senate about his role and involvement in advancing the anti-Trump smear campaign before and after the 2016 presidential election. The following testimony by Simpson to the House Intelligence Committee was knowingly and willfully false:

Q You've never heard from anyone in the U.S. Government in relation to those matters, either the FBI or the Department of Justice?

A After the election. I mean, during the election, no.

Q What did you hear after and from whom and when?

A I was asked to provide some information to the Justice Department.

Q By whom and when?

A It was by a prosecutor named Bruce Ohr, who was following up.

You know, I can't remember when. It was sometime after Thanksgiving, I think.

Q Thanksgiving of 2016?

A Yes.

Simpson also knowingly and willfully lied to the Senate Judiciary Committee. His statement to the Senate Judiciary Committee on August 22, 2017 that he “had no client after the [2016 presidential] election” was an “outright lie”. As Senator Grassley observed:

“For example, when the Committee staff interviewed Glenn Simpson in August of 2017, Majority staff asked him: ‘So you didn’t do any work on the Trump matter after the election date, that was the end of your work?’ Mr. Simpson answered: ‘I had no client after the election.’ As we now know, that was extremely misleading, if not an outright lie.”

[<https://thefederalist.com/2018/12/04/grassley-fusion-gps-founder-ceo-glenn-simpson-lied-senate-testimony/>; <https://www.breitbart.com/politics/2018/05/29/grassley-fusion-gps-founder-gave-extremely-misleading-testimony-about-trump-work/>].

53. Simpson knew that there was a substantial likelihood that he could be indicted for making false statements to the FBI and DOJ, lying to Congress and the Senate, and for obstructing justice. Simpson knew that it was a Federal crime to “corruptly”

influence, obstruct, or impede, or endeavor to influence, obstruct or impede the House Intelligence Committee in its Russia investigation.¹⁵

54. Fearing a criminal referral for Simpson's false statements to the FBI and DOJ, for lying to Congress and the Senate, and for obstructing the House Intelligence Committee in its Russia investigation, the Defendants directly and aggressively retaliated against Plaintiff, employing the same or similar pattern, practices, means and methods as Fusion GPS and Simpson had employed multiple times in the past to smear the opposition. [See, e.g., *Halvorssen v. Simpson*, Case 2:18-cv-02683-ENV-RLM (E.D.N.Y.) (Document 1) (Simpson creates a phony "dossier" that he passes on to "friendly journalists" and/or associates who use the negative information to smear the target); see *id Crime In Progress*, *supra*; and *IG Report*, *supra*].

D. The Retaliatory Ethics Complaints

55. On January 25, 2018, as news of Simpson's perjury was being widely reported, CfA, acting in concert with Fusion GPS, faxed an "ethics" complaint against Plaintiff to the Office of Congressional Ethics ("OCE").¹⁶

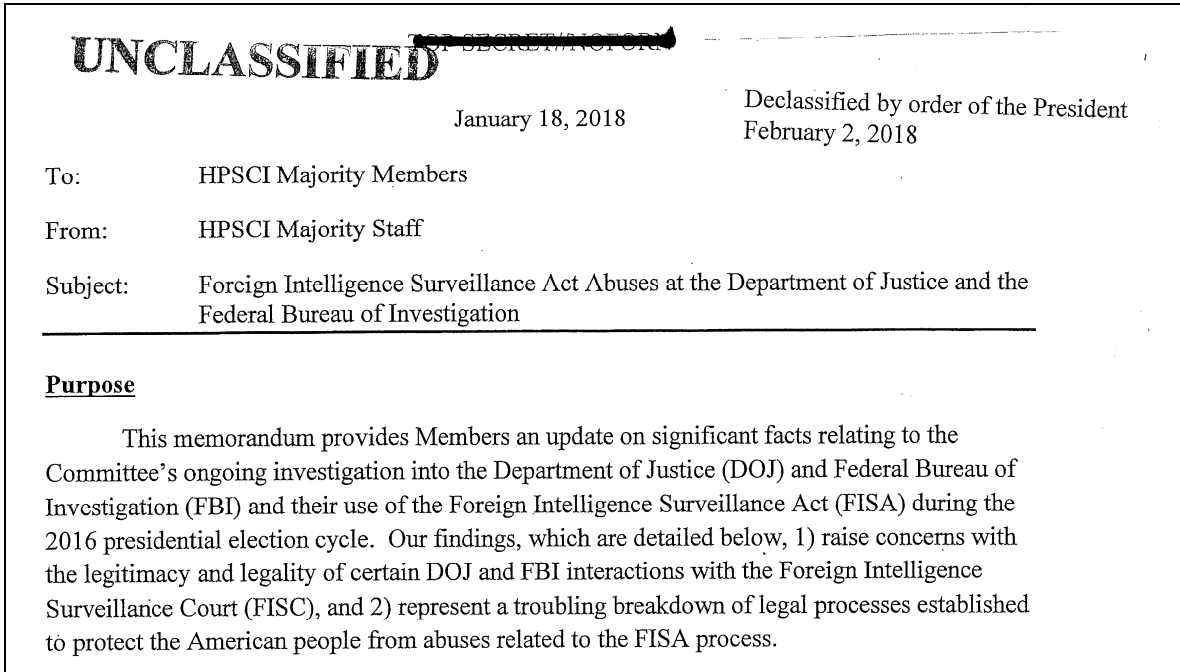
56. The purpose of Defendants' first "ethics" complaint was to threaten and intimidate Plaintiff, impede his communications with "conservative" members of the press, chill reporting of Fusion GPS and Simpson's wrongdoing, interfere with Plaintiff's

¹⁵ As used in Title 18 U.S.C. § 1505, the term "corruptly" means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information. *18 U.S.C. § 1515(b)*.

¹⁶ In addition to CfA, Fusion GPS and Simpson ran numerous other political operations against Plaintiff using McClatchy, Mair, Swamp, ADLF and others. All coordinated operations were designed to impede Plaintiff's congressional investigation.

congressional investigation into Fusion GPS and the “Steele Dossier”, and dissuade Plaintiff from making criminal referrals to the DOJ.

57. On February 2, 2018, President Trump declassified a memorandum prepared by House Intelligence Committee staff that discussed Foreign Intelligence Surveillance Act at the DOJ and FBI. The memorandum began as follows:



Upon publication of the memorandum, Defendants, acting in concert, stepped up their efforts to interfere in Plaintiff’s investigation.

58. On March 1, 2018, CfA faxed a second “ethics” complaint against Plaintiff to OCE. This time, CfA falsely accused Plaintiff and staff members acting at his direction of having leaked to the press private text messages between Senator Mark Warner and Adam Waldman, a lawyer connected to Steele, in which Senator Warner tried to arrange a meeting with Steele.

59. Defendants' intended goal was to undermine confidence in Plaintiff, harass and overwhelm him with litigation, and distract him from his duties as a member of the House Intelligence Committee.

60. On July 11, 2018, CFA faxed a third "ethics" complaint to OCE, this time falsely stating that Plaintiff "violated federal law and House ethics rules by failing to include information on his personal financial disclosure forms and accepting an impermissible gift." An accompanying press release published on CFA's website contained the following defamatory clickbait headline:

Ethics Complaint Against Rep. Devin Nunes for Lying About His Investments in Several California Companies

[\[https://campaignforaccountability.org/work/ethics-complaint-against-rep-devin-nunes-for-lying-about-his-investments-in-several-california-companies/\]](https://campaignforaccountability.org/work/ethics-complaint-against-rep-devin-nunes-for-lying-about-his-investments-in-several-california-companies/).

61. CFA's third ethics complaint was the result of a joint effort that included Michael Seeley ("Seeley"), a political activist and long-time member of Southern California Americans for Democratic Action ("SCADA"), a left-wing, populist political organization committed to liberal politics, liberal policies, and a liberal future. [\[https://www.adasocal.org/board_members_1\]](https://www.adasocal.org/board_members_1). Upon information and belief, Fusion GPS and/or CFA directed Seeley to make a request under the California Public Records Act ("PRA") for emails received by Plaintiff's wife, Elizabeth, an elementary school teacher. Seeley's request targeting Plaintiff's wife ended up costing the Tulare County Office of Education thousands of dollars in unnecessary cost and expense. Seeley published Elizabeth Nunes' emails online and included the names and email addresses of numerous

school administrators and teachers, resulting in extensive harassment of these innocent, hard-working citizens of Tulare County, including hateful accusations that they teach bigotry and racism. [<https://www.scribd.com/user/399236302/Michael-Seeley>]. In fact, the school was so concerned about security problems resulting from this situation that it adopted enhanced security measures.

62. In addition to CfA, Fusion GPS, upon information and belief, recruited additional bad actors, including political operative Mair, and encouraged and enticed them to participate in the coordinated attacks upon Plaintiff. Mair works for anonymous, dark money clients. In her own words, she “anonymously smear[s]” her clients’ opposition “on the internet”. [<https://www.linkedin.com/in/liz-mair-76b03a2/>] (“What do I do for these clients? Anonymously smear their opposition on the Internet.”)]. Mair controls the Swamp Accountability Project (“Swamp”), a dark money group run out of Alexandria, Virginia. On the same day CfA filed its third complaint, Swamp filed an “ethics” complaint against Plaintiff. [<https://swampaccountabilityproject.com/letter/>]. It was no coincidence. It was, as Mair boasts, a planned and extremely well-organized smear campaign. The organized and coordinated attacks on Plaintiff bear all the hallmarks of a Fusion GPS smear operation.

63. The purpose of the Fusion GPS/CfA “ethics” complaints and other coordinated action undertaken by Fusion GPS was to create negative publicity for Plaintiff, to harass, intimidate and distract Plaintiff, to cast a pall upon the Congressional investigation into the role that Fusion GPS, Simpson and the Steele/Fusion “dossier” played in advancing the “Russia collusion” narrative, and to dissuade Plaintiff from pursuing criminal charges against Simpson and Fusion GPS. Just as they had done with Halvorsen and many others, Fusion GPS, acting in concert with CfA and Mair,

coordinated the attacks on Plaintiff with McClatchy, a newspaper with a known axe to grind against Plaintiff. Each of the “ethics” complaints filed against Plaintiff was leaked to McClatchy and immediately reported by McClatchy in the *Fresno Bee*. [E.g., <https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>].

64. On September 6, 2018, the *Federalist* reported that CfA refused to comment when asked if they had collaborated with Seeley in submitting the FRA request for Elizabeth Nunes’ emails. [<https://thefederalist.com/2018/09/06/resistance-torches-devin-nunes-family-dared-expose-intel-agencies-collusion-democrats/>] (“Devin Nunes is precisely why we know anything about Hillary Clinton and the Democratic National Committee's dishonest and bizarre activities. No wonder he’s a huge Democrat target”).

65. Although CfA defended Fusion GPS in its initial “ethics” complaint, Plaintiff did not know and could not have discovered the depth of the concerted effort between Fusion GPS and CfA to injure and intimidate Plaintiff and interfere with his congressional investigation.

66. On March 22, 2019, Special Counsel Robert Mueller submitted his confidential report entitled “Report on the Investigation into Russian Interference in the 2016 Presidential Election” (the “Mueller Report”). The Special Counsel and his staff of 19 lawyers, assisted by a team of approximately 40 FBI agents, intelligence analysts, forensic accountants, and other professional staff, issued more than 2,800 subpoenas, executed nearly 500 search warrants, obtained more than 230 orders for communication records, issued almost 50 orders authorizing use of pen registers, made 13 requests to foreign governments for evidence, and interviewed approximately 500 witnesses.

67. The Mueller Report proves that the Steele/Fusion “dossier” was false and misleading in all material respects.

68. On August 1, 2019, Plaintiff learned that CfA paid Fusion GPS almost \$140,000 in 2018 to conduct “research”.

69. CfA collaborated with Fusion GPS to weaponize the ethics process against Plaintiff. The “ethics” complaints, reported by media sympathizer McClatchy as if legitimate, were, in fact, deceitful political attacks designed to intimidate Plaintiff and obstruct his congressional investigation.

70. In 2017, after Trump won the presidential election, the Democracy Integrity Project (“TDIP”) paid Fusion GPS and firms tied to it and Steele more than \$3.8 million to continue opposition “research” on Trump and alleged “collusion” with “Russia”. TDIP paid \$3.3 million to Fusion GPS, another \$250,000 to “Walsingham Partners Ltd.”, a London-based firm owned by Steele and his partner, Christopher Burrows, nearly \$130,000 to “Edward Austin Ltd.”, a London-based intelligence consultancy operated by Edward Baumgartner, a Fusion GPS contractor, and another \$148,000 to the law firm Zuckerman Spaeder, which has represented Fusion GPS in a variety of dossier-related legal matters. Perkins Coie paid \$1 million to Fusion GPS in 2016 to investigate Trump. The payments made by TDIP are more than three times what the DNC and the Clinton campaign paid Fusion GPS and Steele during the 2016 presidential campaign to investigate Donald Trump’s possible ties to Russia. [<https://dailycaller.com/2019/04/01/fusion-gps-steele-soros-millions/>].

71. As *Crime in Progress* and the December 2019 IG Report both confirm, Fusion GPS’ dirty tricks and pattern of obstructing justice continue to the present day.

COUNT I - RICO

72. Plaintiff restates paragraphs 1 through 71 of this Amended Complaint and incorporates them herein by reference.

73. Fusion GPS, Simpson and CfA corruptly and by threatening letters or communications influenced, obstructed and impeded, or endeavored to influence, obstruct or impede, the due administration of justice in violation of Title 18 U.S.C. § 1503(a).

74. Fusion GPS, Simpson and CfA knowingly used intimidation, threatened, and attempted to corruptly persuade Plaintiff, and engaged in misleading conduct toward Plaintiff with the intent to influence, prevent or delay the testimony of Plaintiff, other members of the House Intelligence Committee, and other third-parties in an official proceeding in violation of Title 18 U.S.C. § 1512(b)(1). Fusion GPS, Simpson and CfA also knowingly used intimidation, or attempted to do so, and engaged in misleading conduct toward Plaintiff with the intent to cause or induce Plaintiff to withhold one or more criminal referrals to the DOJ in violation of Title 18 U.S.C. § 1512(b)(2).

75. Fusion GPS, Simpson and CfA intentionally harassed Plaintiff and thereby hindered, delayed, prevented or dissuaded Plaintiff and other members of the House Intelligence Committee, or attempted to do so, from (a) reporting to a law enforcement officer of the United States, including the FBI and/or DOJ, the commission or possible commission of a Federal offense, (b) seeking the arrest of Simpson, other officers and employees of Fusion GPS, and/or Steele, and (c) causing a criminal prosecution to be sought or instituted, in violation of Title 18 U.S.C. § 1512(d)(2-4).

76. Fusion GPS, Simpson and CfA knowingly, with the intent to retaliate, took action harmful to Plaintiff, including interference with Plaintiff's lawful employment and

livelihood as a U.S. Congressman, for providing to a law enforcement officer truthful information relating to the commission or possible commission of a Federal offense by Fusion GPS, Simpson and/or other officers and employees of Fusion GPS in violation of Title 18 U.S.C. § 1513(e).

77. Fusion GPS and Simpson, together with Orbis and Steele, corruptly created and supplied a fraudulent document – the “Steele Dossier” – and made false statements to the FBI, DOJ, State Department, and to Congress for the express purpose of influencing the outcome of the 2016 U.S. Presidential election and, thereafter, to topple a sitting President. In his capacity as a United States Congressman, Plaintiff investigated the allegations of “collusion” between the Trump campaign and persons associated with it and Russia. Plaintiff investigated the role of Fusion GPS, Simpson and the “Steele Dossier” in advancing the “Russia collusion” narrative. Plaintiff discovered that Fusion GPS and Simpson committed multiple federal crimes, including violations of Title 18 U.S.C. §§ 1001 and 1505. Through a pattern of racketeering activity that, *inter alia*, involved acts of wire fraud in violation of 18 U.S.C. § 1343 and obstruction of justice in violation of Title 18 U.S.C. §§ 1503, 1512 and 1513, the Defendants engaged in concerted action the purpose of which was to harass, intimidate, influence, obstruct and impede Plaintiff’s investigation, to dissuade Plaintiff from making a criminal referral, and to injure Plaintiff’s reputation. The Defendants functioned as a continuing unit. As an “astroturfer”, Fusion GPS and Simpson chose CfA, Mair and McClatchy as fronts or “cut-outs” for the smear campaign. The Defendants controlled the specific means and methods employed by the enterprise, the nature and timing of the smear campaign launched in January 2018, and they pursued a common goal of intimidation and harassment.

78. Plaintiff has been injured in his business, property and reputation by reason of Defendants' multiple violations of Title 18 U.S.C. § 1962, described above. Defendants proximately caused Plaintiff's loss. Their collusion to smear Plaintiff and to obstruct his congressional investigation of Fusion GPS and the "Steele Dossier" and their actions in levelling the fraudulent "ethics" complaints led directly to Plaintiff's injuries. Defendants have engaged in at least two acts of racketeering activity (wire fraud and obstruction of justice), one of which occurred after the effective date of Part 1, Chapter 96 of Title 18 of the United States Code and the last of which occurred within ten years after the commission of a prior act of racketeering activity. Defendants operated or managed an enterprise through a pattern of racketeering activity. Defendants continue to engage in related racketeering activity, the direct purpose of which is to intimidate and harm Plaintiff and to interfere with his congressional investigation, which continues. The nature of the Defendants' racketeering activity (including its multiple schemes or artifices), its continuity (over many years in the case of Fusion GPS and Simpson), its relatedness (same *modus operandi* as has been used against multiple other targets, same media sympathizer, McClatchy, same or similar purposes, results, and methods of commission), and its breadth (the sheer number of victims), is such that there is a threat that it will continue indefinitely and be repeated in the future. Defendants' past misconduct, including aggressive smear campaigns undertaken against Halvorssen, Browder, Trump and Plaintiff, by its nature projects into the future with the threat of repetition. Indeed, Fusion GPS was paid \$3,300,000 in 2017 to continue the campaign against President Trump.

79. As a direct and proximate cause of the Defendants' violations of Title 18 U.S.C. § 1962(a-c), Plaintiff suffered injury and loss.

80. In accordance with 18 U.S.C. § 1964(c), Plaintiff seeks threefold the damages he has sustained, the costs of this suit, and reasonable attorney's fees incurred.

COUNT II – RICO CONSPIRACY

81. Plaintiff restates paragraphs 1 through 80 of this Amended Complaint and incorporates them herein by reference.

82. Beginning in or about January 2018 and continuing through the present, Fusion GPS and Simpson combined, associated, agreed or acted in concert with CfA and others, including Mair, for the express purposes of injuring Plaintiff through a pattern of racketeering activity and acts of racketeering in violation of Title 18 U.S.C. § 1962.

83. Defendants acted intentionally, purposefully, without lawful justification, and with the express knowledge that they were injuring Plaintiff's business and reputation.

84. As a direct and proximate cause of the Defendants' violations of Title 18 U.S.C. § 1962(d), Plaintiff suffered injury and loss.

85. In accordance with 18 U.S.C. § 1964(c), Plaintiff seeks threefold the damages he has sustained, the costs of this suit, and reasonable attorney's fees incurred.

COUNT III – COMMON LAW CONSPIRACY

86. Plaintiff restates paragraphs 1 through 85 of this Amended Complaint and incorporates them herein by reference.

87. The Defendants' actions, detailed above, constitute a conspiracy at common law.

88. As a direct result of the Defendants' willful misconduct, Plaintiff suffered damage and incurred loss, including, but not limited to, injury to his business and reputation, court costs, and other damages.

CONCLUSION

Fusion GPS, Simpson and Steele fraudulently developed the Steele/Fusion “dossier” and disseminated it to U.S. Government officials and the press as if the salacious accusations were true. Plaintiff investigated this wrongdoing, causing Fusion GPS and Simpson to retaliate against him and to take action that was intended to harass, intimidate and influence Plaintiff in the performance of his congressional investigation. That retaliation and obstruction of justice consisted of a coordinated effort by the Defendants to manufacture “ethics” complaints against Plaintiff and to utilize the press (McClatchy) as a weapon to pressure Plaintiff to back off his investigation of Fusion GPS and Simpson. Defendants’ corrupt acts of racketeering are part of their regular way of doing business. That way of doing business must end here and now.

Plaintiff alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Plaintiff believes that substantial additional evidentiary support, which is in the exclusive possession of the Defendants and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Plaintiff reserves his right to amend this Complaint upon discovery of additional instances of the Defendants’ wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court to enter Judgment against the Defendants, jointly and severally, as follows:

A. Compensatory damages in the amount of \$3,300,000 or such greater amount as is determined by the Jury;

B. Threefold damages in the sum of \$9,900,000.00;

C. Punitive damages in the amount of \$350,000 or the maximum amount allowed by law;

D. Disgorgement of all income and profit obtained by the enterprise from or as a result of the alleged racketeering activity;

E. Injunctive relief in accordance with Title 18 U.S.C. § 1964;

F. Dissolution and/or reorganization of Fusion GPS and CfA to prevent these Defendants from engaging in wrongdoing in the future;

G. Prejudgment interest at the maximum rate allowed by law;

H. Postjudgment interest on the principal sum of the Judgment entered against Google from the date of Judgment until paid;

I. Attorney's Fees, Expert Witness Fees and Costs;

J. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: December 13, 2019

DEVIN G. NUNES

By: /s/ Steven S. Biss

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2019 a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to counsel for the Defendants and all interested parties receiving notices via CM/ECF.

By: /s/Steven S. Biss

Steven S. Biss (VSB # 32972)
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Charlottesville, Virginia 22903
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Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Counsel for the Plaintiff

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
Western Division

| | | |
|------------------------|---|------------------------|
| DEVIN G. NUNES |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. _____ |
| |) | |
| |) | |
| RYAN LIZZA |) | TRIAL BY JURY |
| |) | IS DEMANDED |
| |) | |
| -and- |) | |
| |) | |
| HEARST MAGAZINES, INC. |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

COMPLAINT

Plaintiff, Devin G. Nunes, by counsel, files the following Complaint against defendants, Ryan Lizza (“Lizza”) and Hearst Magazines, Inc., the publisher of *Esquire* magazine (“Hearst” or “*Esquire*”), jointly and severally.

Plaintiff seeks (a) compensatory damages and punitive damages in the sum of **\$75,000,000.00**, (b) prejudgment interest on the principal sum awarded by the Jury from the date of the commencement of this action until the date of Judgment, and (c) costs incurred – arising out of the Defendants’ defamation and common law conspiracy.

In support of his claim, Plaintiff states the following facts:

I. INTRODUCTION

1. Lizza is a high-profile, left-wing political journalist, well-known for his extreme bias towards Plaintiff.¹ Lizza was a fixture of the main stream media until December 2017, when his then-employer – *The New Yorker* magazine – summarily severed all ties and publicly terminated Lizza because of “improper sexual conduct”. [<https://www.nytimes.com/2017/12/11/business/ryan-lizza-sexual-misconduct.html>; <https://www.wigdorlaw.com/ryan-lizza-sexual-misconduct/>]. Lizza’s name had been included in the “**Shitty Media Men**” list that circulated in response to allegations published about Harvey Weinstein. [<https://www.politico.com/story/2017/12/11/new-yorker-fires-ryan-lizza-sexual-misconduct-290504>]. In June 2018, *Esquire* announced that it had hired Lizza as the magazine’s chief political correspondent. [<https://splinternews.com/this-is-how-easy-it-is-for-a-man-accused-of-sexual-misconduct-1826675779>]. Lizza only lasted a short time at *Esquire*. During his brief tenure, however, he physically traveled to Sibley, Iowa, where he lurked around Plaintiff’s grammar-school aged nieces and stalked members of Plaintiff’s family, reducing Plaintiff’s sister-in-law to tears. [<https://thefederalist.com/2018/10/02/ryan-lizzas-hit-piece-on-devin-nunes-extended-family-is-deeply-flawed/>].

2. On September 30, 2018, Lizza and *Esquire* knowingly and recklessly injured Plaintiff’s reputation with a scandalous hit piece that intentionally disparaged Plaintiff and his family, accused Plaintiff of dishonesty, deceit, conspiracy, and unethical practices, and severely impugned his integrity and skills as a United States Congressman.

¹ [See, e.g., <https://www.newyorker.com/news/news-desk/how-the-white-house-and-republicans-blew-up-the-house-russia-investigation>; <https://twitter.com/RyanLizza/status/987185831642304515>].

Lizza and *Esquire* published the hit piece online and, acting in concert with others, targeted Plaintiff via social media. The false and defamatory statements were foreseeably republished millions of times, including in thousands of print and digital magazines distributed and sold in Iowa, read by Iowans in Iowa.

3. In this case, Plaintiff seeks money damages for the insult, pain, embarrassment, humiliation, mental suffering, anguish, and injury to his good name and professional reputation in Iowa and elsewhere, caused by the Defendants' defamation. The Defendants published click-bait, sensationalist, egregious misstatements simply to sell magazines and, in Lizza's case, to distract readers from his negative image and history as a sexual predator and to improve his standing. The Defendants' had an axe to grind against Plaintiff, and wrote the hit piece in order to accomplish a nefarious purpose. Defendants' misconduct exemplifies the very worst of modern "journalism". They should be punished for their unlawful actions and a very strong message needs to be sent to prevent other so-called "journalists" from acting in a similar way.

II. PARTIES

4. Plaintiff, Devin G. Nunes ("Plaintiff"), is a citizen of California. Born October 1, 1973, Plaintiff has served in the United States House of Representatives since 2003. He and his wife have three daughters. Plaintiff is the author of the book, *Restoring the Republic*, which was published in September 2010. Plaintiff's family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County, California, for three generations. Plaintiff raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother. Plaintiff's parents, brother

and sister-in-law all live and work in Sibley, Iowa. They have operated a dairy farm in Sibley for more than a decade. Plaintiff currently serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government. He authored the Hubbard Act of 2008 (H.R. 5825), which was named in honor of the Hubbard brothers of California – Jared, Nathan, and Jason. Jared and Nathan lost their lives serving in Iraq. Jason was discharged as a sole survivor, but was denied separation benefits upon leaving the Army. The Hubbard Act provides sole survivors with numerous benefits that were already offered to other soldiers honorably discharged. It relieves sole survivors from repaying any portion of their enlistment bonus; entitles them to the educational benefits of the Montgomery GI Bill; and allows them to receive separation pay and transitional healthcare coverage. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>].

5. Plaintiff's career as a United States Congressman is distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity. The qualities disparaged by Defendants – Plaintiff's honesty, veracity, integrity, ethics, judgment and performance as United States Congressman – are particularly valuable to Plaintiff and are absolutely

necessary in the conduct of public office, including Plaintiff's then-role as Chairman of the House Intelligence Committee.

6. Defendant, Lizza, is, upon information and belief, a citizen of Virginia or the District of Columbia. Lizza wrote the hit piece at issue in this action for Hearst for publication in *Esquire* magazine.

7. Defendant, Hearst, is a Delaware corporation. Its headquarters and principal place of business is New York. Hearst publishes *Esquire* magazine. Hearst is a unit of Hearst Corporation, a global media, information and services company. Hearst's print and digital assets reach 155 million readers and site visitors each month – two-thirds of all millennials, and over 80% of Gen Z and millennial women in the country. *Esquire* magazine has a total print circulation of 759,922, 97% of which are subscriptions. [<http://www.esquiremediakit.com/r5/home.asp>]. Upon information and belief, Hearst has hundreds of thousands of print and digital subscribers and viewers who live and work in Iowa.

III. JURISDICTION AND VENUE

8. The United States District Court for the Northern District of Iowa has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. The parties are citizens of different States, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest, costs and fees.

9. The Defendants are subject to specific personal jurisdiction in Iowa. They transact substantial business in Iowa and committed multiple acts of defamation in whole or part in Iowa. They have minimum contacts with Iowa such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and

substantial justice and is consistent with the Due Process clause of the United States Constitution. Defendants purposefully availed themselves of the privilege of doing business in Iowa. Defendants' defamation was purposefully directed at Iowa. Plaintiff's claims arise directly from and specifically relate to Defendants' publication of false and defamatory statements in Iowa. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984).

10. Venue is proper in the Western Division of the United States District Court for the Northern District of Iowa. A substantial part of the events giving rise to the claims stated in this action occurred in Osceola County within the Western Division of the United States District Court for the Northern District of Iowa.

IV. STATEMENT OF THE FACTS

11. At all times relevant to this action, Lizza had a Twitter account that he used to conduct his business on behalf of *Esquire*:



12. On September 30, 2018, Hearst published an article in *Esquire* magazine written by Lizza entitled “**Devin Nunes’s Family Farm Is Hiding a Politically Explosive Secret**”. [<https://www.esquire.com/news-politics/a23471864/devin-nunes-family-farm-iowa-california/> (the “Lizza Hit Piece”)].

13. On September 30, 2018, Lizza republished the Lizza Hit Piece to a new target audience – his 230,000+ followers on Twitter:



[<https://twitter.com/ryanlizza/status/1046543162964156416?lang=en>].

14. On multiple occasions, *Esquire* republished the Lizza Hit Piece to its 400,000+ Twitter followers. [<https://twitter.com/esquire/status/1046550720676327424>; <https://twitter.com/esquire/status/1046754438365491202>]. On March 28, 2019, *Esquire* gratuitously republished the Lizza Hit Piece together with the following false and defamatory statement:



Esquire @esquire

As Devin Nunes throws stones in congress re: the Russia investigation, here's a friendly reminder regarding his hypocrisy esqr.co/YbZKMmm via @RyanLizza

Devin Nunes's Family Farm Is Hiding a Politically Explosive Secret
Why did Devin Nunes's parents and brother cover their tracks after quietly moving their family farm to Iowa? Ryan Lizza went to Iowa in search of the truth...
esquire.com

10:22 AM · Mar 28, 2019 · SocialFlow

[<https://twitter.com/esquire/status/1111272460299763712>].

15. On September 30, 2018, Lizza's girlfriend, Olivia Nuzzi ("Nuzzi"), a correspondent with *New York* magazine, tweeted the Lizza Hit Piece to her 200,000 Twitter followers:



[<https://twitter.com/Olivianuzzi/status/1046551283891621889>]. Acting in concert with Lizza, Nuzzi coordinated and heavily promoted Lizza's smear campaign, including his appearance on CNN:

 **Olivia Nuzzi**
@Olivianuzzi

 @RyanLizza is coming up on @CNN to discuss his incredible @esquire story about Devin Nunes. If you haven't yet, read it here:



Devin Nunes's Family Farm Is Hiding a Politically Explosive Secret
Why did Devin Nunes's parents and brother cover their tracks after quietly moving their family farm to Iowa? Ryan Lizza went to Iowa in search of the truth...
[esquire.com](https://www.esquire.com)

1:12 PM · Oct 1, 2018 · [Twitter for iPhone](#)

<https://twitter.com/Olivianuzzi/status/1046810204724187148>].

16. On October 1, 2018, the then-editor-in-chief of *Esquire*, Jay Fielden (“Fielden”), combined and acted together with Lizza and Nuzzi to further advertise the Lizza Hit Piece and Lizza’s appearance on CNN to spread the defamation to CNN’s millions of viewers. Fielden published additional false and defamatory statements about Plaintiff:



Jay Fielden ✓
@JayFielden



Tune in to [@CNN](#) at 1:45 to hear more about [@RyanLizza](#)'s Coen-Brothers-esque odyssey tracking down why [@RepDevinNunes](#) hasn't exactly been honest about where his family's 2,000 dairy cows call home. [#strangerthanfiction](#) [esquire.com/news-politics/...](#) via [@Esquire](#)



Devin Nunes's Family Farm Is Hiding a Politically Explosive Secret
Why did Devin Nunes's parents and brother cover their tracks after quietly moving their family farm to Iowa? Ryan Lizza went to Iowa in search of the truth...
[esquire.com](#)

10:40 AM · Oct 1, 2018 · [Twitter Web Client](#)

[\[https://twitter.com/JayFielden/status/1046771891040587777\]](https://twitter.com/JayFielden/status/1046771891040587777).

17. Between September 30, 2018 and the present, Lizza, Nuzzi, Fielden and *Esquire's* combined 800,000+ Twitter followers and other third-parties republished the Lizza Hit Piece millions of times.

18. On October 2, 2018, Lizza republished the Lizza Hit Piece to a new target audience: the subscribers and viewers of the online publication, *RealClearPolitics*. [https://www.realclearpolitics.com/2018/10/02/is_nunes039s_family_farm_hiding_a_politically_explosive_secret_455042.html] (“**Is Nunes's Family Farm Hiding a Politically Explosive Secret?**”).

19. The Lizza Hit Piece was a deeply flawed and desperate attempt by the Defendants (a) to target Plaintiff ahead of the November 2018 Congressional election, (b) to undermine confidence in Plaintiff and interfere with his official duties as Chairman of the House Intelligence Committee to investigate Russian interference in the 2016 Presidential election, and (c) to retaliate against Plaintiff for exposing corruption, including the DNC/Clinton campaign’s role in funding the salacious “Steele dossier”. [<https://www.breitbart.com/politics/2018/10/01/devin-nunes-parents-stalked-iowa-move/>; <https://twitter.com/TomFitton/status/1047176155118411777>].

20. From start to finish, the Lizza Hit Piece is a legion of lies. The click-bait headline falsely states or implies that Plaintiff owned an interest in his family’s farm in Sibley, Iowa, and that Plaintiff was involved in hiding a “Politically Explosive Secret”. Plaintiff does not own an interest in his family’s dairy farm in Iowa, never has, and is not involved in any way in its operations. The Lizza Hit Piece falsely accuses Plaintiff, the “head of the House Intelligence Committee and one of President Trump’s biggest defenders”, of being involved in covering-up a “secret”, to wit:

- “Devin Nunes’s Family Farm Is Hiding a Politically Explosive Secret”.
- “So why did [Plaintiff’s] parents and brother cover their tracks after quietly moving the farm to Iowa? Are they hiding something politically explosive?”

- “Devin Nunes has a secret”.
- “Which brings us back to Nunes’s secret”.
- “So here’s the secret: The Nunes family dairy of political lore—the one where his brother and parents work—isn’t in California. It’s in Iowa”.
- “There’s nothing particularly strange about a congressman’s family moving. But what is strange is that the family has apparently tried to conceal the move from the public—for more than a decade”.
- “Why would the Nuneses, Steve King, and an obscure dairy publication all conspire to hide the fact that the congressman’s family sold its farm and moved to Iowa?”
- “On the other hand, [Plaintiff] and his parents seemed to have concealed basic facts about the family’s move to Iowa. It was suspicious”.

21. The false claim that Plaintiff “conspired” with his own family, Congressman King, and an Iowa dairy publication to “hide” his family’s “secret” move to Iowa is utterly unsupported by any evidence. It is a malicious lie made out of whole cloth that spread like wildfire throughout mainstream media and on social media as a result of publication of the Lizza Hit Piece.

22. The Lizza Hit Piece falsely portrays Lizza as a hard-working reporter earnestly investigating a real story on the ground in Iowa, being stalked and intimidated by Plaintiff’s family. In truth, as was reported almost immediately after publication of the Lizza Hit Piece, while he was in Sibley, Lizza stalked Plaintiff’s grammar-school aged nieces, behaved like a sex offender or pedophile cruising the local neighborhood for victims, frightened a family member to tears, and exploited a grieving mother.

23. Viewed in context and as a whole, the Lizza Hit Piece, directly and/or by implication, made the following false and defamatory statements about Plaintiff:

- a. “Devin Nunes has a secret”.
- b. Plaintiff used his position as Chairman of the House Intelligence Committee as a “battering ram to discredit the Russia investigation and protect Donald Trump at all costs, even if it means shredding his own reputation and the independence of the historically nonpartisan committee in the process”.
- c. Plaintiff “used the Intelligence Committee to spin a baroque theory about alleged surveillance of the Trump campaign that began with a made-up Trump tweet about how ‘Obama had my ‘wires tapped’ in Trump Tower’”.²
- d. “Devin; his brother, Anthony III; and his parents, Anthony Jr. and Toni Dian, sold their California farmland in 2006. Anthony Jr. and Toni Dian, who has also been the treasurer of every one of Devin’s campaigns since 2001, used their cash from the sale to buy a dairy eighteen hundred miles away in Sibley, a small town in northwest Iowa where they—as well as Anthony III, Devin’s only sibling, and his wife, Lori—have lived since 2007 ... [W]hat is strange is that the family has apparently tried to conceal the move from the public—for more than a decade”.

² Lizza’s statements are knowingly false for two (2) reasons. First, following President Trump’s tweet, Nunes immediately and publicly stated there was no evidence of a wiretap in Trump Tower, even if there was legitimate concern about other surveillance. <https://thefederalist.com/2017/03/23/heres-why-nunes-obama-spying-revelations-are-such-a-big-deal/>. Second, there is no dispute that there was surveillance of the Trump campaign. It was laid out in great detail throughout both the mainstream media and the conservative press, which widely reported that Trump associates were targeted by FBI informants, FISA wiretaps, national security letters, and more. Based on his review of the public record, Lizza knew his statements about Plaintiff were false.

e. “Why would the Nuneses, Steve King, and an obscure dairy publication all conspire to hide the fact that the congressman’s family sold its farm and moved to Iowa?”

f. “Devin Nunes was the public figure at the heart of this, and he had no financial interest in his parents’ Iowa dairy operation. On the other hand, he and his parents seemed to have concealed basic facts about the family’s move to Iowa. It was suspicious. And his mom, who co-owns the Sibley dairy, is also the treasurer of his campaign”.

g. “I laid out the facts I had uncovered in Sibley, including the intimidation of sources and the Devin Nunes angle, and asked him for advice. ‘I’d tell that story,’ he said. He paused and added, ‘We’re a sanctuary church, if you need a place to stay. You’re safe here!’”

h. “Is it possible the Nuneses have nothing to be seriously concerned about? Of course, but I never got the chance to ask because Anthony Jr. and Representative Nunes did not respond to numerous requests for interviews.”³

³ The Lizza Hit Piece was sensational and scandalous. Lizza even exploited the death of Brenda Hoyer’s son to promote his false narrative about Plaintiff and his family. Lizza wrote:

“Then she told me something that knocked the wind out of me: ‘My son recently took his life.’ It came out of nowhere, and I barely knew how to respond. His name was Bailey. He was seventeen and he had died thirteen days ago. This was the first day the coffee shop had been open since his death. I noticed a Bible verse in chalk behind the counter: ‘Do not fear for I have redeemed you. I have summoned you by name. You are mine.’ The Lantern, I later learned, was actually a ministry that, according to its website, provides ‘a safe place where everyone is welcome.’ I liked it there and decided to make it my office while I was in Sibley”.

24. The Lizza Hit Piece ascribes and imputes to Plaintiff conduct, characteristics and conditions, including dishonesty, deception, lying, conspiracy, corruption, bias, lack of integrity and ethics, that would adversely affect his fitness to be a United States Congressman and/or businessperson. The strong defamatory gist and false implication from the Lizza Hit Piece is that Plaintiff was involved in, covered-up, used his office to cover up, conspired with others to conceal, or was aware of criminal wrongdoing.

25. The Lizza Hit Piece was republished by third-parties millions of times on the Internet and via social media, *e.g.*:

<https://www.rawstory.com/2018/09/one-devin-nunes-family-sold-farms-moved-iowa-decade-ago-still-calls-farmer/>

(“All but one of Devin Nunes’ family sold their farms and moved to Iowa over a decade ago — why are they hiding?”);

<https://www.motherjones.com/politics/2018/10/devin-nunes-family-farm-california/>

(“What an Explosive Story About Devin Nunes’ Family Farm Means for His High-Profile House Race”);

<https://fresnocountydemocrats.org/nunes-iowa-family-farm-exposed/>

(“It is disgusting that Devin Nunes has been lying for years about his family farm, pretending he is one of us. Devin has shown once again that he’s left the Valley and the values we hold dear behind just to make a profit. His family moving their farm to Iowa and lying to Californians to protect Devin’s political career is just the latest and most heinous example”);

<https://www.washingtonpost.com/politics/2018/10/02/just-how-politically-explosive-is-devin-nunes-secret-esquire-uncovered/>

(“Just how ‘politically explosive’ is the Devin Nunes secret that Esquire uncovered?”);

<https://www.salon.com/2018/10/01/devin-nunes-family-farm-may-use-undocumented-immigrant-labor/>

(“Devin Nunes’ family farm likely using undocumented labor - The reporter who covered the story was tailed by members of Nunes' family as he conducted his interviews”);

<https://www.bloomberg.com/opinion/articles/2018-10-04/dairy-farmers-like-devin-nunes-flee-california-for-the-midwest>

(“Devin Nunes Isn’t the Only Dairy Farmer Souring On California”);

<https://twitter.com/kylegriffin1/status/1046776772853944320>

(“Devin Nunes’ family secretly relocated their dairy farm from California to Iowa more than a decade ago. The farm reportedly relies heavily on the work of undocumented immigrants, according to Ryan Lizza in Esquire”);

<https://twitter.com/GlennThrush/status/1046819941100507136>

(“What’s impressive about this amazing @RyanLizza story is that he doesn’t caricature Nunes’ positions on immigration to better ‘peg’ the story. He just lets the ambiguities and ironies pile up like dishes in a sink”);

<https://twitter.com/ikebarinholtz/status/1046567609930579970>

(“This is BONKERS and Devin Nunes simply has to go. Bravo @RyanLizza”);

<https://twitter.com/AynRandPaulRyan/status/1046750851874734082>

(“‘Things got weird’ should be the Republican’s 2020 campaign slogan. Add one more scandal to the GOP #CultureOfCorruption”);

<https://twitter.com/evepeyser/status/1046834244880928770>

(“check out @RyanLizza’s investigation into Devin Nunes’ secret family dairy farm in Iowa”);

<https://twitter.com/SaysHummingbird/status/1047143285196828673>

(“Devin Nunes has a secret”);

<https://twitter.com/awprokop/status/1046564541054808064>

(“Come for Devin Nunes being deceptive about his biography, stay for Nunes’s parents, brother, and sister-in-law *following @RyanLizza around* as he reports in Iowa”);

<https://twitter.com/TrueFactsStated/status/1158447685571174400>

(“Devin Nunes's Family Farm Moved to Iowa, Employs Undocumented Workers”).

26. The Lizza Hit Piece was knowingly and intentionally flawed. Lizza came to Sibley with a preconceived storyline. He fabricated a “secret” where none existed. [See, e.g., <https://thefederalist.com/2018/10/02/ryan-lizzas-hit-piece-on-devin-nunes-extended-family-is-deeply-flawed/> (“It turns out that Nunes doesn’t have a secret, that he’s not a hypocrite on immigration policy, and that the Iowans Lizza met were wary of

him slowly driving around town while children were at play because they discovered Lizza had recently been fired from his job for sexual misconduct ... Since it's beyond creepy to be lurking around a congressman's young nieces and other family members, Lizza makes the case that he has a reason other than his well-established animus toward Nunes for doing so ... In interviews with more than half a dozen residents of Sibley, Iowa, they told a far different story. Lizza arrived in town and began slowly driving around neighborhoods in a dark car with out of town license plates. One neighbor of the Nunes family told me he spotted the car slowly driving by a Nunes family residence. This is in a small town where children play freely, and neighbors keep an eye out for each other. He expressed his concern to the family. Another resident told me that he encountered a Nunes family member crying because she'd discovered that the man who was surveilling her house had recently been fired for sexual misconduct. With three grammar-school aged daughters, she was concerned for their safety ... In conversations with other residents of the town, they say that Lizza lied or mischaracterized other interactions as well. A woman who recently experienced the tragic death of her son and who had shown hospitality to Lizza was used for "color" in the story"); *see also* [*'Collateral Damage': Iowa Town Residents Angered by Esquire Hit Piece on Devin Nunes*<https://www.breitbart.com/politics/2018/10/01/devin-nunes-parents-stalked-iowa-move/> (**"Disgraced Reporter Ryan Lizza Stalks Devin Nunes' Parents in Iowa"**); <https://www.breitbart.com/politics/2018/10/07/collateral-damage-iowa-town-residents-angered-by-esquire-hit-piece-on-devin-nunes/> (**"'Collateral Damage': Iowa Town Residents Angered by Esquire Hit Piece on Devin Nunes"**)].

COUNT I – DEFAMATION

27. Plaintiff restates paragraphs 1 through 26 of this Complaint, and incorporates them herein by reference.

28. Lizza and Hearst made and published to third-parties, including, but not limited to, Nuzzi, to advertisers, subscribers, readers, viewers and followers of *Esquire*, and to print media, mainstream media and social media, numerous false factual statements of and concerning Plaintiff. These statements are detailed verbatim above. Lizza and Hearst's false and defamatory statements were published and republished within the past year without privilege, justification or legal excuse of any kind. The false and defamatory statements were not published in good faith or through misinformation or mistake. Lizza and Hearst published the words intentionally to harm Plaintiff's reputation.

29. By publishing the Lizza Hit Piece in print magazines distributed in Iowa and throughout the United States, on the Internet and via social media such as Twitter, Lizza and Hearst knew or should have known that their false and defamatory statements about Plaintiff would be republished over and over by third-parties millions of times to Plaintiff's detriment and injury. By tweeting the Lizza Hit Piece themselves and by encouraging others to tweet, retweet and post the Lizza Hit Piece to Twitter, Lizza and Hearst created an unreasonable risk that the defamatory matter in the Lizza Hite Piece would be communicated by third-parties. Republication by print media, mainstream media, and via social media in 2018 and 2019 was the natural, foreseeable, reasonably expected and probable consequence of Lizza and Hearst's actions and was actually and/or

presumptively authorized by Lizza and Hearst. Lizza and Hearst are liable for the republications of the false and defamatory statements by third-parties.

30. Lizza and Hearst's false statements constitute defamation *per se* or defamation *per quod*. The statements impute to Plaintiff an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. Lizza and Hearst's statements also prejudice Plaintiff in his profession as a United States Congressman.

31. Lizza and Hearst's false statements caused Plaintiff to suffer and incur both presumed and actual damages. Lizza and Hearst's false statements caused Plaintiff to suffer loss of standing in his professional field, insult, pain, embarrassment, humiliation, and mental suffering, harm to his name and reputation, out-of-pocket loss and other actual damages.

32. Lizza and Hearst acted with actual malice and reckless disregard for the truth for the following reasons:

a. Lizza and Hearst and their editors and publishers violated their own code or standards of ethics and abandoned all journalistic standards in writing, editing and publishing the Lizza Hit Piece. <https://members.newsleaders.org/resources-ethics-hearst> ("We place our readers' interests above all others, and dedicate ourselves to the principles of truthfulness, fairness and independence. We understand that the free flow of accurate information is vital to our system of government and the foundations of our economy ... The deliberate introduction of false information into our newspapers will not be tolerated"); <https://www.spj.org/ethicscode.asp> ("Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and

the foundation of democracy. Ethical journalism strives to ensure the free exchange of information that is accurate, fair and thorough. An ethical journalist acts with integrity. The Society declares these four principles as the foundation of ethical journalism and encourages their use in its practice by all people in all media”)].

b. Lizza and Hearst conceived a story line in advance of any investigation and then consciously set out to make the evidence conform to the preconceived story. Lizza and Hearst pursued and regurgitated the preconceived narrative that they knew to be false.

c. Lizza and Hearst published the preconceived narrative out of a desire to embarrass Plaintiff, undermine confidence in his abilities to act as Chairman of the House Intelligence Committee, and influence the 2018 Congressional election

d. Lizza and Hearst knowingly presented half-truths and sensational statements in an effort to sell magazine and online subscriptions.

e. The Lizza Hit Piece evinces extreme bias, ill-will and a desire to hurt Plaintiff. Lizza and *Esquire* chose to manufacture and publish false statements about Plaintiff and to use unnecessarily strong and violent language, disproportionate to the occasion. Lizza and Hearst did not act in good faith because, in the total absence of evidence, they could not have had an honest belief in the truth of their statements about Plaintiff.

f. Lizza and Hearst published the false defamatory statements out of a desire to gain notoriety, increase advertising and other revenues for Hearst, with reckless disregard for the consequences.

g. Lizza and Hearst relied on sources, including anonymous and unnamed persons, they knew were wholly unreliable and had an axe to grind against Plaintiff.

h. Lizza, Nuzzi, Hearst and their agents repeated, reiterated and republished the Lizza Hit Piece out of a desire to injure Plaintiff and to spread the poison in the pool.

33. Lizza and Hearst directed false and defamatory statements at Plaintiff with the specific intent to harm Plaintiff's reputation. They lacked reasonable grounds for any belief in the truth of their statements. They acted with willful and wanton disregard for the rights and safety of Plaintiff.

34. As a direct result of Lizza and Hearst's defamation, Plaintiff suffered presumed damages and actual damages, including, but not limited to, insult, pain and suffering, emotional distress and trauma, insult, anguish, stress and anxiety, public ridicule, humiliation, embarrassment, indignity, damage and injury to his personal and professional reputations, loss of enjoyment of life, diminished future earning capacity, out-of-pocket expenses and costs, in the sum of \$75,000,000.00 or such greater amount as is determined by the Jury.

35. Prior to filing this action, Plaintiff gave notice to the Defendants and made a demand for retraction of the defamatory statements at issue. The Defendants have failed and/or refuse to retract or withdraw the defamatory statements.

COUNT II – COMMON LAW CONSPIRACY

36. Plaintiff restates paragraphs 1 through 35 of his Complaint, and incorporates them herein by reference.

37. Beginning in 2018 after *Esquire* hired him and continuing through the present, Lizza combined, associated, agreed or acted in concert with Nuzzi, with agents of *Esquire*, including Fielden, with agents and employees of CNN, and with others in social media for the express purposes of promoting, publishing and republishing the Lizza Hit Piece, defaming and injuring Plaintiff, and intentionally and unlawfully impeding and interfering with his business and employment as a U.S. Congressman. In furtherance of the conspiracy and preconceived plan, Lizza engaged in a joint scheme with others the unlawful purpose of which was to injure Plaintiff's personal and professional reputations, advance the left-wing goals of Nuzzi and Hearst, interfere with Plaintiff's duties as a United States Congressman, and influence the outcome of the 2018 Congressional election.

38. The Lizza Hit Piece posted to the Internet on September 30, 2018. Lizza coordinated publication and republication of the defamation with CNN. CNN agreed to participate in the conspiracy and spread the false statements. Within hours, CNN had cameras on the ground in both Iowa and California at Plaintiff's family's farms seeking comment.

39. Lizza acted intentionally, purposefully, without lawful justification, and with the express knowledge that he and his confederates were defaming Plaintiff and impugning his character. As evidenced by their concerted action online and via Twitter, Lizza and Nuzzi acted with the express and malicious intent to cause Plaintiff permanent harm.

40. Lizza's actions constitute a conspiracy at common law.

41. As a direct result of Lizza's willful misconduct, Plaintiff suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$75,000,000.00 or such greater amount as is determined by the Jury.

Plaintiff alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Plaintiff believes that substantial additional evidentiary support, which is in the exclusive possession of Lizza, Nuzzi, Fielden and Hearst and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Plaintiff reserves his right to amend this Complaint upon discovery of additional instances of the Defendants' wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Plaintiff, Devin G. Nunes, respectfully requests the Court to enter Judgment against Lizza and Hearst, jointly and severally, as follows:

A. Compensatory damages in the amount of \$75,000,000.00 or such greater amount as is determined by the Jury;

B. Punitive damages in the amount of \$2,500,000.00 or the maximum amount allowed by Iowa law;

C. Prejudgment interest from September 30, 2019 until the date Judgment is entered at the maximum rate allowed by law;

- D. Postjudgment interest at the maximum rate allowed by law;
- E. Costs and such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: September 30, 2019

DEVIN G. NUNES

By: /s/ Joseph M. Feller

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Of Counsel for the Plaintiff

*(Application for Admission Pro Hac Vice
To be Filed)*

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

| | | |
|--------------------------|---|----------------------|
| DEVIN G. NUNES |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. _____ |
| |) | |
| CABLE NEWS NETWORK, INC. |) | TRIAL BY JURY |
| |) | IS DEMANDED |
| Defendants. |) | |
| _____ |) | |

COMPLAINT

Plaintiff, Devin G. Nunes, by counsel, files the following Complaint against defendant, Cable News Network, Inc. (“CNN”).

Plaintiff seeks (a) compensatory damages and punitive damages in an amount not less than **\$435,350,000**, (b) prejudgment interest on the principal sum awarded by the Jury from November 22, 2019 to the date of Judgment at the rate of six percent (6%) per year pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the “Code”), and (c) court costs – arising out of CNN’s defamation and common law conspiracy.

I. INTRODUCTION

1. CNN is the mother of fake news. It is the least trusted name. CNN is eroding the fabric of America, proselytizing, sowing distrust and disharmony. It must be held accountable.

2. On November 22, 2019, CNN published a demonstrably false hit piece about Plaintiff. CNN intentionally falsified the following facts:

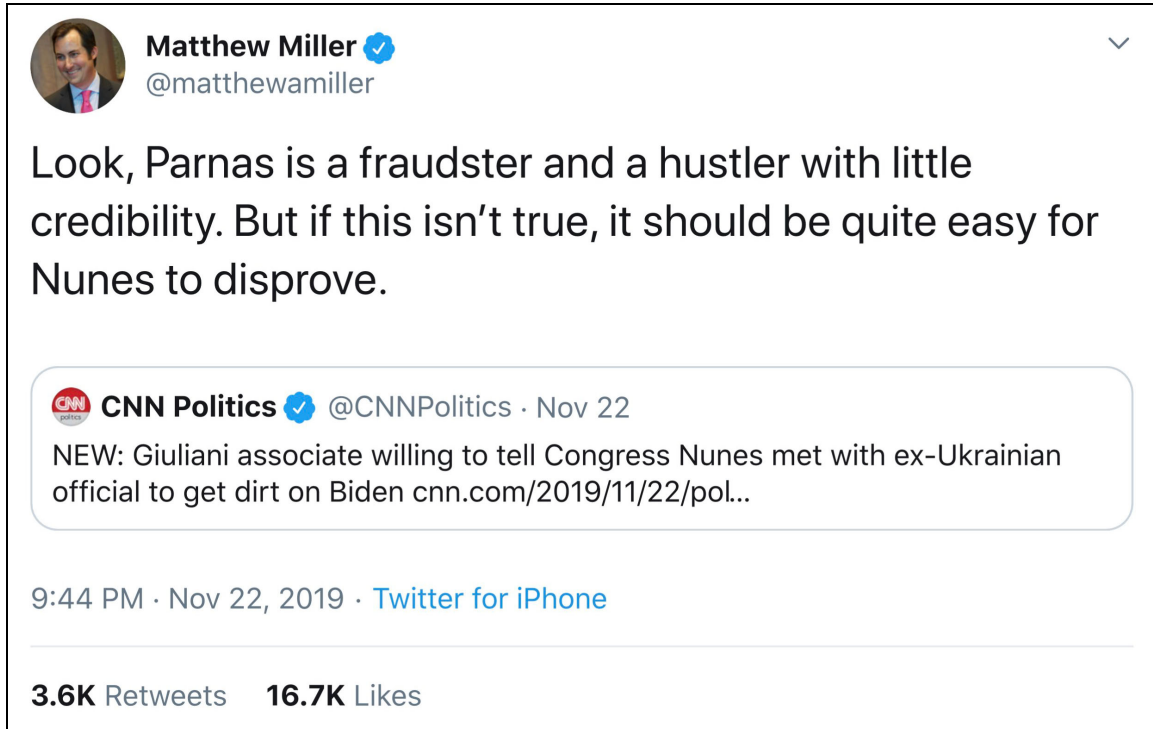
| <p style="text-align: center;">CNN (Fake News)</p> | <p style="text-align: center;"><i>THE TRUTH</i></p> |
|---|---|
| <p>Devin Nunes was in Vienna last year</p> | <p style="text-align: center;">Devin Nunes did not go to Vienna or anywhere else in Austria in 2018</p> <p style="text-align: center;">Between November 30, 2018 and December 3, 2018, Devin Nunes visited <u>Benghazi, Libya</u> on official business of the House Intelligence Committee to discuss security issues with General Khalifa Haftar</p> <p style="text-align: center;">Devin Nunes also traveled to <u>Malta</u>, where he met with U.S. and Maltese officials, including Prime Minister Joseph Muscat, and participated in a repatriation ceremony for the remains of an American World War II Soldier missing in action</p> |
| <p>Devin Nunes met with Victor Shokin to “discuss digging up dirt on Joe Biden”</p> | <p style="text-align: center;">Devin Nunes has never met Viktor Shokin</p> <p style="text-align: center;">“This meeting never took place. Viktor Shokin doesn’t know and hasn’t even heard of” Devin Nunes</p> <p style="text-align: center;">https://www.washingtonpost.com/politics/top-house-democrat-says-ethics-probe-of-nunes-is-likely-over-alleged-meeting-with-ukrainian-about-bidens/2019/11/23/0dde6b22-0e0a-11ea-97ac-a7ccc8dd1ebc_story.html</p> <p style="text-align: center;">“A person close to Shokin also has denied the claim”</p> <p style="text-align: center;">https://www.washingtonpost.com/politics/nunes-denies-allegation-he-met-with-top-ukrainian-prosecutor-about-bidens/2019/11/24/34644688-0edf-11ea-bf62-eadd5d11f559_story.html</p> <p style="text-align: center;">“Shokin denied that he met with Nunes”</p> <p style="text-align: center;">https://www.washingtonpost.com/politics/2019/11/25/devin-nunes-ukraine-allegations-explained/</p> |
| <p>Devin Nunes began communicating with Lev Parnas around the time of the Vienna trip</p> | <p style="text-align: center;">Devin Nunes did not communicate with Parnas in December 2018 around the time of the “Vienna trip” (a trip that never happened)</p> |

3. The “trusted” source of CNN’s fake news story was a man indicted by the United States Government, charged with multiple Federal crimes – a man who faces years in a Federal penitentiary – Lev Parnas (“Parnas”):



It was obvious to everyone – including disgraceful CNN – that Parnas was a fraudster and a hustler. It was obvious that his lies were part of a thinly-veiled attempt to obstruct justice and to trick either the United States Attorney or House Intelligence Committee

Chairman, Adam Schiff (“Schiff”), into offering “immunity” in return for “information” about Plaintiff – a prominent United States Congressman and Ranking Member of the House Intelligence Committee. There were obvious reasons to doubt the veracity and accuracy of the information Parnas provided. MSNBC Justice and Security Analyst, Matthew Miller, aptly stated:



[<https://twitter.com/matthewamiller/status/1198069740733976576>].

II. PARTIES

4. Plaintiff, Devin G. Nunes (“Nunes” or “Plaintiff”), is a citizen of California. Born October 1, 1973, Nunes has served in the United States House of Representatives since 2003. He currently represents California’s 22nd Congressional District, which is located in the San Joaquin Valley and includes portions of Tulare and Fresno Counties. He and his wife have three daughters. He is the author of the book, *Restoring the Republic*, which was published in September 2010. Nunes was born

in Tulare, California. His family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County for three generations. Nunes raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother. Nunes graduated from Tulare Union High School. After associate's work at College of the Sequoias, Nunes graduated from Cal Poly San Luis Obispo, where he received a bachelor's degree in agricultural business and a master's degree in agriculture. Nunes was first elected to public office as one of California's youngest community college trustees in state history at the age of 23. As a member of the College of the Sequoias Board from 1996 to 2002, he was an advocate for distance learning and the expansion of programs available to high school students. In 2001, he was appointed by President George W. Bush to serve as California State Director for the United States Department of Agriculture's Rural Development section. He left this post to run for California's 21st Congressional District and now serves in the 22nd District as a result of redistricting in 2010. Nunes serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. He was appointed to the Ways and Means Committee in the 109th Congress and now serves as a Ranking Member of the Health Subcommittee and a member of the Trade Subcommittee, having served as Chairman of the Trade Subcommittee in the 113th Congress. Nunes previously served as a member of the House Budget Committee during the 111th Congress. In the 108th Congress, his first term in the House of Representatives, he served on the House Resources Committee, in which he was Chairman of the National Parks Subcommittee,

and on the Agriculture and Veterans Affairs Committees. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government, most of which is located in Virginia. Nunes authored the Hubbard Act of 2008 (H.R. 5825), which was named in honor of the Hubbard brothers of California – Jared, Nathan, and Jason. Jared and Nathan lost their lives serving in Iraq. Jason was discharged as a sole survivor, but was denied separation benefits upon leaving the Army. The Hubbard Act, which was enacted into law, provides sole survivors with numerous benefits that were already offered to other soldiers honorably discharged. It relieves sole survivors from repaying any portion of their enlistment bonus; entitles them to the educational benefits of the Montgomery GI Bill; and allows them to receive separation pay and transitional healthcare coverage. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>]. Nunes’ career as a United States Congressman is distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity.

5. Defendant, CNN, is a Delaware corporation, headquartered in Georgia. CNN is a division of WarnerMedia. WarnerMedia is an operating segment of AT&T, Inc. (NYSE:T). CNN is part of WarnerMedia’s “Turner” business unit. The Turner business unit operates television networks and related properties that offer branded news, entertainment, sports and kids multiplatform content for consumers around the world. In the United States, its networks and related businesses and brands include TNT; TBS;

Adult Swim; truTV; Turner Classic Movies; Turner Sports; Cartoon Network; Boomerang; and CNN. Turner's digital properties include the CNN digital network, www.cnn.com. According to AT&T, the CNN digital network is "the leading digital news destination, based on the number of average monthly domestic multi-platform unique visitors and videostarts for the year ended December 31, 2018." CNN's digital platforms deliver news 24 hours a day, seven days a week, from almost 4,000 journalists in every corner of the globe. CNN claims that it reaches more individuals on television, the web and mobile devices than any other cable television news organization in the United States. In addition to its massive television and digital footprint, CNN employs multiple social media accounts as a means to publish its statements in Virginia and worldwide. As of November 22, 2019, @CNN had over 43,500,000 followers on Twitter; @CNNPolitics had over 2,900,000 followers; @cnni had over 9,200,000 followers; @CNNPhillipines had over 530,000 followers; and @cnnbrk had over 56,000,000 followers. In addition to CNN's corporate and institutional use of Twitter, most of CNN's reporters use Twitter to spread stories to readers, viewers and voters in Virginia and elsewhere. [See, e.g., @jaketapper (2,200,000 followers)].

6. Vicky Ward ("Ward") is a senior reporter for CNN, covering "the intersection of power, money and corruption". [<https://www.cnn.com/profiles/vicky-ward>]. Ward wrote the hit piece at issue in this action, and republished it extensively via her social media accounts: LinkedIn, Twitter and Facebook. Ward has 3,983 followers on LinkedIn. [<https://www.linkedin.com/in/vickypjward/detail/recent-activity/>]. Ward has 73,300 followers on Twitter. [<https://twitter.com/vickypjward?lang=en>]. In addition to Twitter and LinkedIn, Ward uses Facebook to republish her articles. She has 1,044

Facebook followers. Ward's Facebook profile is set to "public", meaning that her posts are available to all 2.45 BILLION monthly active users of Facebook. [<https://www.facebook.com/VickyPJWard/>].

7. Chris Cuomo ("Cuomo") anchors CNN's "Cuomo Prime Time", a 9:00 p.m. nightly news program, where Cuomo "tests power with newsmakers and politicians from both sides of the aisle, and reports on the latest breaking news from Washington and around the world". [<https://www.cnn.com/profiles/chris-cuomo-profile>]. Between his two accounts, @ChrisCuomo and @CuomoPrimeTime, Cuomo has over 1,500,000 followers on Twitter. [<https://twitter.com/CuomoPrimeTime>]. Cuomo is famous for his brash style, having recently threatened to assault a man who referred to him as "Fredo". According to Nielsen, Cuomo Prime Time is CNN's most-watched program among total viewers and adults 25-54 with an average of 1,000,000+/- viewers. [<https://www.adweek.com/tvnewser/october-2019-ratings-cnn-posts-significant-year-over-year-audience-growth-bolstered-by-its-democratic-debate/419277/>].

8. At all times relevant to this action, Ward and Cuomo acted as agents of CNN within the scope of their employment and authority. Ward and Cuomo used CNN's networks and properties to disseminate the false and defamatory statements at issue in this case as part of a scheme to boost CNN's ratings and further the House Democrats' impeachment "inquiry". CNN reviewed, approved and ratified the fake news prior to publication.

9. Edward Brian MacMahon, Jr. ("MacMahon"), an attorney from Middleburg, Virginia, and Joseph Bondy ("Bondy"), represent Parnas in connection with a Federal criminal indictment returned against Parnas on October 9, 2019, charging

Parnas with the Federal crimes (felony) of conspiracy to defraud the United States in violation of Title 18 U.S.C. § 371, making false statements to the Federal Election Commission (“FEC”) in violation of Title 18 U.S.C. § 1001, and falsification of records in a Federal investigation in violation of Title 18 U.S.C. § 1519.

10. Viktor Mykolayovych Shokin (“Shokin”) is a former Prosecutor General of Ukraine.

11. Joseph R. Biden, Jr. is the former Vice-President of the United States. While visiting Kiev in December 2015, Biden threatened Ukrainian President Petro Poroshenko that, if he did not fire Shokin, the U.S. would hold back its \$1 billion in loan guarantees. In January 2018, Biden specifically recalled the threat: “I looked at them and said, 'I’m leaving in six hours. If the prosecutor is not fired, you’re not getting the money.’ Well, son-of-a-b*tch. He got fired. And, they put in place someone who was solid”. [\[https://www.nytimes.com/2019/05/01/us/politics/biden-son-ukraine.html\];](https://www.nytimes.com/2019/05/01/us/politics/biden-son-ukraine.html) [https://www.realclearpolitics.com/video/2019/09/27/flashback_2018_joe_biden_brags_at_cfr_meeting_about_withholding_aid_to_ukraine_to_force_firing_of_prosecutor.html;](https://www.realclearpolitics.com/video/2019/09/27/flashback_2018_joe_biden_brags_at_cfr_meeting_about_withholding_aid_to_ukraine_to_force_firing_of_prosecutor.html) <https://thefederalist.com/2019/09/24/watch-joe-biden-brag-about-bribing-ukraine-to-fire-the-prosecutor-investigating-his-sons-company/>]. Shokin was dismissed by the Ukrainian Parliament in late March 2016.

12. Dmitry Firtash (“Firtash”) is a Ukrainian oligarch, who lives in Vienna, Austria. In 2013, Firtash was indicted by the United States on multiple counts of racketeering, money laundering, conspiracy, and aiding and abetting. *USA v. Firtash*, Case 1:13-cv-515 (N.D. Ill.) (pending). On March 12, 2014, Firtash was arrested in Vienna by Austrian law enforcement on request of the United States. He was released on

bond several days later, but barred from leaving Austria. The United States thereafter submitted a request to the Republic of Austria to extradite Firtash. A Vienna Court ordered Firtash to be extradited to the United States. Firtash submitted a writ to the Austria Supreme Court requesting a retrial. The Austrian Supreme Court has not yet ruled on Firtash's writ.

III. JURISDICTION AND VENUE

13. The United States District Court for the Eastern District of Virginia has subject matter jurisdiction over this action pursuant to Title 28 U.S.C. § 1332 (Diversity) and § 1367 (Supplemental Jurisdiction). The parties are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest, costs and fees.

14. CNN is subject to personal jurisdiction in Virginia pursuant to Virginia's long-arm statute, § 8.01-328.1(A)(1), (A)(3) and (A)(4) of the Code, as well as the Due Process Clause of the United States Constitution. CNN is subject to general personal jurisdiction and specific personal jurisdiction. CNN engages in continuous and systematic business in Virginia. It committed multiple intentional torts and acts of defamation in whole or part in Virginia, causing Plaintiff substantial injury in Virginia. CNN has minimum contacts with Virginia such that the exercise of personal jurisdiction over it comports with traditional notions of fair play and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

15. Venue is proper in the Richmond Division of the United States District Court for the Eastern District of Virginia pursuant to Title 18 U.S.C. § 1391(b)(1).

IV. STATEMENT OF FACTS

16. On August 12, 2019, after speaking *ex parte* with a Democratic staff member of the House Intelligence Committee, an anonymous “whistleblower” filed a complaint with Michael Atkinson, the Inspector General of the Intelligence Community (“Atkinson”). The anonymous complaint, based entirely on hearsay, states in part:

In the course of my official duties, I have received information from multiple U.S. Government officials that the President of the United States is using the power of his office to solicit interference from a foreign country in the 2020 U.S. election. This interference includes, among other things, pressuring a foreign country to investigate one of the President’s main domestic political rivals. The President’s personal lawyer, Mr. Rudolph Giuliani, is a central figure in this effort. Attorney General Barr appears to be involved as well.

17. On September 24, 2019, the United States House of Representatives announced an impeachment “inquiry” into U.S. President Donald Trump.

18. Between October 3, 2019 and October 31, 2019, Schiff conducted secretive interviews in connection with the Democrats’ impeachment inquiry. On October 31, 2019, a divided House of Representatives approved guidelines that cleared the way for nationally televised hearings in mid-November.

19. On October 10, 2019, Parnas was arrested at Dulles International Airport on charges that he schemed to funnel foreign money to U.S. politicians while trying to influence U.S.-Ukraine relations. At the time of his arrest, he had a one-way ticket on a flight out of the country. [https://www.washingtonpost.com/politics/two-business-associates-of-trumps-personal-lawyer-giuliani-have-been-arrested-and-are-in-custody/2019/10/10/9f9c101a-eb63-11e9-9306-47cb0324fd44_story.html]. As a result of his arrest, Parnas’ position as a reliable source of information was compromised.

20. On October 23, 2019, Parnas was released from custody on a \$1,000,000 secured bond. The Court required Parnas to surrender his passport; restricted his travel to

Virginia and D.C. to meet with lawyers; placed him on home detention with G.P.S. monitoring; and imposed multiple other restrictions on Parnas. The Court's complete lack of trust and confidence in Parnas, as evidenced by the bail disposition, was a matter of public record known to CNN. [https://www.cnn.com/politics/live-news/impeachment-inquiry-10-10-2019/h_10c49544ade8af0943742f340e377f13].

21. Not long after his release from custody, Parnas began to concoct a plan to obstruct the impeachment inquiry and, ultimately, to obtain favorable treatment, concessions and/or immunity from criminal prosecution.

22. With full knowledge of press accounts of the impeachment inquiry, Parnas started to manufacture stories that he believed would assist him in obtaining a deal with the United States Attorney and/or Schiff. Parnas claimed that not long before Ukrainian President Zelensky was inaugurated on May 20, 2019, he (Parnas) journeyed to Kiev to deliver a warning to the country's new leadership. Parnas stated that he told a representative of the incoming Ukraine government that it had to announce an investigation into President Trump's political rival, Joe Biden, and his son, or else Vice President Mike Pence would not attend the swearing-in of the new president, and the United States would freeze aid.

23. The problem with Parnas' story, as was reported by the *New York Times* on November 10, 2019, is that the story is knowingly false. Parnas' business partner (and co-Defendant in the pending criminal prosecution), Igor Fruman ("Fruman"), publicly confirmed to the *New York Times* that **"Mr. Parnas's claim was false; the men never raised the issues of aid or the vice president's attendance at the inauguration"**. [<https://www.nytimes.com/2019/11/10/nyregion/trump-ukraine-parnas-fruman.html>].

24. Parnas also lied about his connections with President Trump. Parnas told Ward that when he attended a White House Hanukkah party with Rudolph Giuliani (“Giuliani”) in December 2018, they huddled with the President privately. Parnas stated that President Trump gave him instructions for a secret “James Bond mission” to find material on Joe Biden. [<https://www.cnn.com/2019/11/15/politics/parnas-trump-special-mission-ukraine/index.html>]. In truth, Parnas and Fruman, posed for a one-minute photo with the President, and walked away.

“‘He [Parnas] has said a few things lately that are completely untrue and provably untrue,’ Mr. Giuliani said. ‘I don’t know what he’s doing. He claims we had a meeting with the president at the Hanukkah party, in December 2018. Someone should remind Lev that there were five witnesses including his good friend, Igor Fruman, who all say categorically untrue. Provably by records. He’s trying to make himself very important ... We never had that meeting with the president. He just made it up ... What he said was, we had a long private meeting in which the president instructed him to do things. False. Untrue ... His lawyer [Bondy] makes these comments that are not only untrue, they are provably untrue ... He’s getting very poor counsel.’”

[<https://www.washingtontimes.com/news/2019/nov/26/fbi-file-lev-parnas-rolex-watches-5000-trump-memen/>].

25. In addition to CNN’s actual knowledge (a) that Parnas had lied to the FEC (resulting in the Federal indictment and pending charges) and (b) that after his arrest, Parnas began circulating false and fantastical stories about a “warning” to Ukraine’s new leadership and a “James Bond mission” – stories that were demonstrably false – CNN also knew from its review of “court filings” that a judgment had been entered by the United States District Court for the Eastern District of New York against Parnas in 2016, and that the judgment creditor had commenced proceedings in Florida in 2019 to collect the judgment. [<https://www.cnn.com/2019/10/29/politics/lev-parnas-republican-rudy-giuliani/index.html>]. CNN knew from the court filings that the claim against Parnas

resulted from his “deliberate, coercive and well-orchestrated scheme to steal \$350,000 from Plaintiff by fraudulently inducing Plaintiff to enter into the Loan” [See, e.g., *Case 2:11-cv-05537-ADS-ARL (E.D.N.Y) (Document 1)*].

26. CNN also knew from prior reporting that Parnas was a “hustler”, and not in the “good way”. On October 23, 2019, CNN published a story, written by Ward, that highlighted the fact that Parnas’ “business and networking activities over the past year had raised red flags with several prominent businessmen and their attorneys”. Ward noted many examples of Parnas’ shady dealings:

“Bruce Marks, an attorney in Philadelphia who represents prominent Eastern Europeans, told CNN in recent days there was a Russian proverb that applied to Fruman and Parnas. ‘Don't go in the forest if you're afraid of wolves,’ Marks said. ‘And **these guys, they just weren't wolves, I mean they were radioactive wolves.**’

...

South Florida attorney Robert Stok told CNN in an interview that Parnas and Fruman came to a wealthy client of his seeking money, claiming they were so short on cash they couldn't even pay for Parnas' newborn son's bris. Stok said the men asked Felix Vulis, a Russian-American natural resources magnate, if he could kick in some money for the event. They had also promised to open doors for Vulis through their connections to Giuliani and others ... When they were slow to repay, Vulis sued. Vulis told their since-indicted associate David Correia over text message he had been ripped off, and that he planned to tell Giuliani, Ayers and others that Parnas and Fruman would face a lawsuit”.

[<https://www.cnn.com/2019/10/23/politics/parnas-fruman-hustle-profit-access-giuliani/index.html>].

27. From all the evidence in its possession, CNN was well-aware that Parnas was a renowned liar, a fraudster, a hustler, an opportunist with delusions of grandeur, a man in financial *in extremis* laboring under the weight of a \$500,000 civil judgment, and an indicted criminal defendant with a clear motive to lie. CNN and Ward knew that Parnas was not just a wolf in sheep's clothing, he was a “radioactive” wolf.

28. Prior to November 22, 2019, CNN knew that Parnas and his attorneys or other political operatives were shopping a story to the press that made claims about the Plaintiff, implicating him in efforts to get “dirt” on Joe Biden and his son, Hunter Biden. CNN knew that no other news outlet would touch the salacious story because *none* of the “facts” provided could be verified.

29. In spite of its actual knowledge of Parnas’ pattern of fraud and false statements and in spite of serious doubts as to Parnas’ veracity and the truth and accuracy of his statements,¹ CNN published Parnas’ statements as if they were true. Although other media outlets immediately recognized Parnas’ serious credibility issues [*see, e.g.*, <https://www.msn.com/en-us/news/politics/giuliani-associate-lev-parnas-claims-to-have-hard-evidence-of-wrongdoing-for-trump-impeachment-inquiry/ar-BBXbRYu> (Parnas is

¹ The CNN Article, in pertinent part, is based entirely on hearsay statements provided to CNN by Parnas’ attorney, Bondy. Nowhere in the Article does CNN actually state that Ward *ever* spoke with Parnas directly. The necessary inferences to be drawn from CNN’s publication of Bondy’s statements are: (1) prior to publication, CNN confirmed that Bondy was fully authorized to speak for his client, (2) prior to publication, CNN confirmed that Bondy accurately conveyed *in haec verba* Parnas’ statements, (3) the statements are Parnas’ statements conveyed through his agent, Bondy, and (4) Parnas has first-hand knowledge of the truth of the statements conveyed through Bondy. An agent (here, Bondy) may take actions that are binding on the principal (Parnas) in only a limited number of ways. First, the agent may act with “actual authority” – that is, where “the agent reasonably believes, in accordance with the principal’s manifestations to the agent, that the principal wishes the agent so to act,” Restatement (Third) of Agency § 2.01 (Am. Law Inst. 2005), which may be actual or implied, *see id.* § 2.02. Second, the agent may act with “apparent authority,” which binds a principal to a third party “when a third party reasonably believes the actor has authority to act on behalf of the principal and that belief is traceable to the principal’s manifestations.” *Id.* § 2.03. Third, an action taken by a putative agent without actual or apparent authority may nonetheless be binding on the principal if the principal subsequently ratifies the action, *see id.* § 4.01, which “retroactively creates the effects of actual authority,” *id.* § 4.02(1). In this case, publication of the CNN Article and the content of the Article itself establishes Bondy acted with Parnas’ actual or apparent authority. It is also reasonable to infer that prior to publication, CNN confirmed with Bondy that Parnas was aware Bondy was speaking with CNN and that Parnas ratified Bondy’s actions.

“a dubious character who could make a problematic witness”)], CNN ignored known “red flags” and proceeded to publish the fake news sponsored by a “radioactive” wolf in sheep’s clothing.

30. On November 22, 2019, CNN published the following article on its digital network written by Ward:



[<https://www.cnn.com/2019/11/22/politics/nunes-vienna-trip-ukrainian-prosecutor-biden/index.html>] (the “CNN Article”).

31. The CNN Article contains numerous egregiously false and defamatory statements, including:

a. Plaintiff had **“meetings ... in Vienna last year with a former Ukrainian prosecutor to discuss digging up dirt on Joe Biden”**. This statement is demonstrably false. Plaintiff was not in Vienna in 2018. Between November 30, 2018 and December 3, 2018, when CNN claims Plaintiff was in “Vienna”, Plaintiff was actually in Libya and Malta. While in Libya, the delegation traveled to Benghazi on a fact-finding mission in which they met with General Haftar to discuss security issues both inside Libya and in the wider region. During the meeting in Libya, Plaintiff was photographed with General Haftar:



A planned stop in Tripoli for talks with officials there was cancelled due to security concerns. During the same trip, Plaintiff met with Prime Minister Joseph Muscat of

Malta to discuss security and intelligence issues related to Malta, the European Union, and Libya. While in Malta, Plaintiff was photographed with Prime Minister Muscat:



And, significantly, Plaintiff participated in a repatriation ceremony for a fallen World War II Army Air Corps service member, whose remains were handed over for return to the United States for DNA testing, to alert family members, and for proper burial. The repatriation ceremony in Malta for the World War II Soldier was photographed, *see, e.g.:*



At no time during his visits to Libya or Malta did Plaintiff or his staff ever meet any Ukrainians or have any discussions with anyone about the Bidens. Parnas, or those behind his fake news operation, chose “Vienna” for one reason: that is where Firtash lives.² In a November 1, 2019 article published by CNN, Parnas claimed to have a strong connection to Firtash. [<https://www.cnn.com/2019/11/01/politics/parnas-firtash-giulianities/index.html>]. By placing Plaintiff in the same city as Firtash, Parnas would be able to fabricate more fake news, including that Plaintiff was working with the indicted oligarch Firtash on some nefarious plot.

² When the story was first shopped to media outlets, the story was that Plaintiff was meeting with Firtash in Vienna. After Parnas was indicted and charged by the United States Government, the story changed and Plaintiff was meeting with Shokin.

b. **“Nunes met with Shokin in Vienna last December”**. This statement is demonstrably false. Plaintiff was not in Vienna in December 2018. Further, he has never met Shokin; never spoken to Shokin; and never communicated with Shokin. Parnas fabricated the story after reviewing congressional records that show Plaintiff and members of his staff traveled to “Europe” between November 30 and December 3, 2018. [<http://clerk.house.gov/foreign/reports/2019q1mar04.pdf>]. Despite multiple immediate public denials by Shokin and his associates of CNN’s false claim, CNN refuses to retract and apologize for its fake news.

c. **“[Parnas] and Nunes began communicating around the time of the Vienna trip”**. This statement is demonstrably false. Plaintiff and Parnas could not have communicated around the time of the “Vienna trip” because, in fact, there was no Vienna trip. Further, there were no communications whatsoever between Plaintiff and Parnas at or around the time identified for the fictitious Vienna trip, November 30, 2018 – December 3, 2018. CNN could never have verified this fake news because, in truth, it is unverifiable.

d. **“Parnas ... worked to put Nunes in touch with Ukrainians who could help Nunes dig up dirt on Biden and Democrats in Ukraine”**. This statement is demonstrably false. Plaintiff never worked with Parnas, other Ukrainians, or anyone else to dig up dirt on Biden or other Democrats in Ukraine.

e. **“Parnas helped arrange meetings and calls in Europe for Nunes last year”**. This statement is demonstrably false without a scintilla of evidence to support it.

f. **“Nunes worked to push similar allegations of Democratic corruption. Nunes had told Shokin of the urgent need to launch investigations into Burisma, Joe and Hunter Biden, and any purported Ukrainian interference in the 2016 election”.** This statement is a total fabrication. CNN simply chose to publish the false statements of a source (Parnas) who had no first-hand knowledge of conversations between Plaintiff and Shokin because no conversations ever took place. CNN disregarded “red flags” and accepted the word of known liar, a con man and hustler, who CNN knew had every reason to lie.

g. **“Nunes planned the trip to Vienna after Republicans lost control of the House in the mid-term elections on Nov. 6, 2018. Mr. Parnas learned through Nunes' investigator, Derek Harvey, that the Congressman had sequenced this trip to occur after the mid-term elections yet before Congress' return to session, so that Nunes would not have to disclose the trip details to his Democrat colleagues in Congress”.** These non-sensical statements are patently false and unverifiable. They were simply made up by Parnas, acting in concert with CNN. CNN published the false statements as fact with reckless disregard for the truth, without any verification, contrary to every standard of journalistic ethics and integrity.

h. **“[F]ollowing a brief in-person meeting in late 2018, Parnas and Nunes had at least two more phone conversations, and ... Nunes instructed Parnas to work with Harvey on the Ukraine matters ... [S]hortly after the Vienna trip, [Parnas] and Harvey met at the Trump International Hotel in Washington, where they discussed claims about the Bidens as well as allegations of Ukrainian election interference ... Following this, ... Nunes told Parnas that he was conducting his own**

investigation into the Bidens and asked Parnas for help validating information he'd gathered from conversations with various current and former Ukrainian officials, including Shokin. Parnas said that Nunes told him he'd been partly working off of information from the journalist John Solomon, who had written a number of articles on the Biden conspiracy theory for the Hill". These statements are patently false and unverifiable. Plaintiff has never met Parnas. It is Plaintiff's standard operating procedure to refer matters to his staff. The statements attributed to Plaintiff are false. Parnas fabricated these communications, and CNN published the false facts, again, without any effort to verify.

32. On November 22, 2019 at 9:00 p.m., at the same time CNN published the CNN Article on its digital network, Ward appeared on Cuomo's television program "Cuomo Prime Time". During the broadcast, Cuomo and Ward vouched for the story as if it were fact, doubled-down, and published further defamatory statements about Plaintiff, including:

“CUOMO: All right, so next big question. How do we know that Nunes met with Shokin?

WARD: So, it gets interesting. So, Shokin tells Lev Parnas ... And what's interesting is that Nunes comes back and tries to recruit Lev Parnas. He does recruit Lev Parnas to merge his effort, his and Rudy Giuliani's investigations, with his.”

...

CUOMO: Devin Nunes, at the hearing, saying, 'This is crazy that the President would want Ukraine to look at the Bidens.' The prosecutor who was the one at the center of all the controversy ... met with Nunes in Vienna—

WARD: Right.

CUOMO: --last December. So, before all this other stuff that they're saying was just about one phone call—

WARD: Way before.

CUOMO: Months before. Shokin then tells Parnas, the shady guy, at the center of all this.

WARD: Right.

CUOMO: And then Nunes' staffer meets with Parnas – Parnas?

WARD: Well so does Nunes. Nunes meets with Parnas. Nunes speaks to Parnas several—

CUOMO: About dirt on the Bidens?

WARD: [S]everal times. Yes, they're asked to merge operations, essentially. So, in other words, you know, this whole impeachment, Chris, is about a shadow foreign policy.

CUOMO: Right.

WARD: That Devin Nunes appears to have ... some involvement in.

CUOMO: So, he knew it was going on ... He knew they were looking for dirt on the Bidens.

WARD: Right. He is a drama in the – in this play himself. And ... yet, he has not told anyone about this.

...

CUOMO: What is the chance of getting to him [Shokin] on this because, obviously, he can confirm or deny also.

WARD: Well, you know, I have his phone number. So, I've texted him. I've got to him. We've reached out to him. He's not talking.

...

CUOMO: [S]houldn't he [Plaintiff] have disclosed ... that he went over to ... Vienna, Austria, to meet with Shokin?

WARD: Well what's so intriguing, for want of a better word, about his whole trip was the timing of it. And, in fact, his aide, Derek Harvey told Lev Parnas that the timing of it was very deliberate. It was done right after the Republicans lost the House in the midterms, but before the Democrats took over in January.

CUOMO: Why[?]

WARD: Because once the Democrats took over, he would have had to ... disclose the details of it. So, this is why nobody has known, until now, what Devin Nunes was doing last December."

After Ward, Cuomo paraded Katie Hill ("Hill") before the camera so CNN could get Hill to publish further defamatory statements about Plaintiff. Hill resigned from Congress in October 2019 amid allegations of an improper sexual relationship with a staff member and after shocking pornographic pictures of her appeared on the Internet.

[<https://www.dailymail.co.uk/news/article-7609835/Katie-Hill-seen-showing-Nazi-era-tattoo-smoking-BONG-NAKED.html>]; [https://www.youtube.com/watch?v=D5PD-](https://www.youtube.com/watch?v=D5PD-pIFeok)

[pIFeok](https://www.youtube.com/watch?v=D5PD-pIFeok)]. CNN published the following exchange between Cuomo and Hill:

CUOMO: Can you believe this? Help me understand this Vicky Ward reporting. Devin Nunes, I guess, being Chairman, you don't have to tell people what you're going. But putting in the record, 'I'm going to Vienna with a couple of staffers,' and you know you're investigating all this Ukraine stuff and you don't mention that you met with the guy at the center of the whole situation? ... But he had to know that we were going to find out. It's not like these players are exactly, you know, lock-lipped, you know, that these guys that we're dealing with. And he sat in the hearings, Katie. I don't know how much of them you saw but ... every time they bring up 'The President wanted Ukraine to get dirt on the Bidens,' he was, 'Oh man, I can't believe!' And he even said, 'I can't believe,' you know, and in some words that you guys would think this was possible when he knew damn well that he was trying to.

HILL: He was doing it. Yes.

CUOMO: Unless Parnas' lawyer is lying because Shokin ... hasn't confirmed it yet. Nunes says he won't answer any questions.

...

HILL: Look, I don't know if he ... thought he would never get found out. But you know he's going to deny it until the day he dies ... It's just ... where we're at, unfortunately, with Republicans right now, is that there's ... zero shame in lying, just straight-up lying constantly.

[<http://transcripts.cnn.com/TRANSCRIPTS/1911/22/CPT.01.html>].

33. CNN coordinated publication of the false and defamatory statements about Plaintiff across each of its platforms. CNN published the CNN Article to multiple new target audiences, including CNN's 32,000,000+ Facebook followers and CNN's 56,000,000+ Twitter followers in Virginia and around the World:



 **CNN** 
@CNN 

EXCLUSIVE: An associate of President Trump's personal lawyer Rudy Giuliani is willing to testify that Rep. Devin Nunes met with an ex-Ukraine official to get dirt on Joe Biden, his lawyer says



Exclusive: Giuliani associate willing to tell Congress Nunes met with ex-Ukraini...
A lawyer for an indicted associate of Rudy Giuliani told CNN that his client is willing to tell Congress about meetings the top Republican on the House ...
[cnn.com](https://www.cnn.com)

9:21 PM · Nov 22, 2019 · [SocialFlow](#)

 **CNN International** 
@cnni 

EXCLUSIVE: An associate of President Trump's personal lawyer Rudy Giuliani is willing to testify that Rep. Devin Nunes met with an ex-Ukraine official to get dirt on Joe Biden, his lawyer says



Exclusive: Giuliani associate willing to tell Congress Nunes met with ex-Ukraini...
A lawyer for an indicted associate of Rudy Giuliani told CNN that his client is willing to tell Congress about meetings the top Republican on the House ...
[cnn.com](https://www.cnn.com)

9:25 PM · Nov 22, 2019 · [SocialFlow](#)



CNN's goal was to inflict maximum damage to Plaintiff's reputation Worldwide and to cause him to be removed from the impeachment inquiry. At the same time CNN tweeted the CNN Article, Ward, Cuomo, Vaughn Sterling, Jake Tapper, and a host of other CNN employees republished the CNN Article to their millions of Twitter followers, *e.g.*:



Vicky Ward ✓
@VickyPJWard






NEW: Indicted Giuliani associate Lev Parnas is willing to tell Congress about meetings Devin Nunes—the top Republican on the House Intelligence Committee—had in Vienna last year with a former Ukrainian prosecutor to discuss digging up dirt on Joe Biden.




Giuliani associate willing to tell Congress Nunes met with ex-Ukrainian official ...
A lawyer for an indicted associate of Rudy Giuliani tells CNN that his client is willing to tell Congress about meetings the top Republican on the House ...
[cnn.com](https://www.cnn.com)

9:08 PM · Nov 22, 2019 · [Twitter Web App](#)

9.7K Retweets **24.2K** Likes

 **Cuomo Prime Time** 
@CuomoPrimeTime 


An indicted associate of Rudy Giuliani is willing to tell Congress about meetings in Vienna between Devin Nunes and a former Ukrainian prosecutor. As [@VickyPJWard](#) tells [@ChrisCuomo](#), the purpose of the meetings was to discuss digging up dirt on Joe Biden. cnn.it/2QKrPhY



6:40 240.1K views

9:44 PM · Nov 22, 2019 · [Twitter Media Studio](#)


1.5K Retweets **3.6K** Likes

 **Vaughn Sterling** ✓
@vplus

CNN BREAKING ---->

Giuliani associate PARNAS willing to tell Congress that Rep NUNES met with ex-Ukrainian official to get dirt on BIDEN

[@ChrisCuomo](#) and [@VickyPJWard](#) will break it down shortly on CNN - [@CuomoPrimeTime](#)



Giuliani associate willing to tell Congress Nunes met with ex-Ukrainian official ...
A lawyer for an indicted associate of Rudy Giuliani tells CNN that his client is willing to tell Congress about meetings the top Republican on the House ...
[cnn.com](#)

9:03 PM · Nov 22, 2019 · [Twitter Web App](#)



The breadth of CNN's publication is staggering.

34. The defamation continued on November 23, 2019. Ward tweeted the following:

 **Vicky Ward** ✓
@VickyPJWard

Giuliani to FOX today: "I do not believe that Devin Nunes met with Shokin. ... And if he did, there would have been nothing wrong with it."

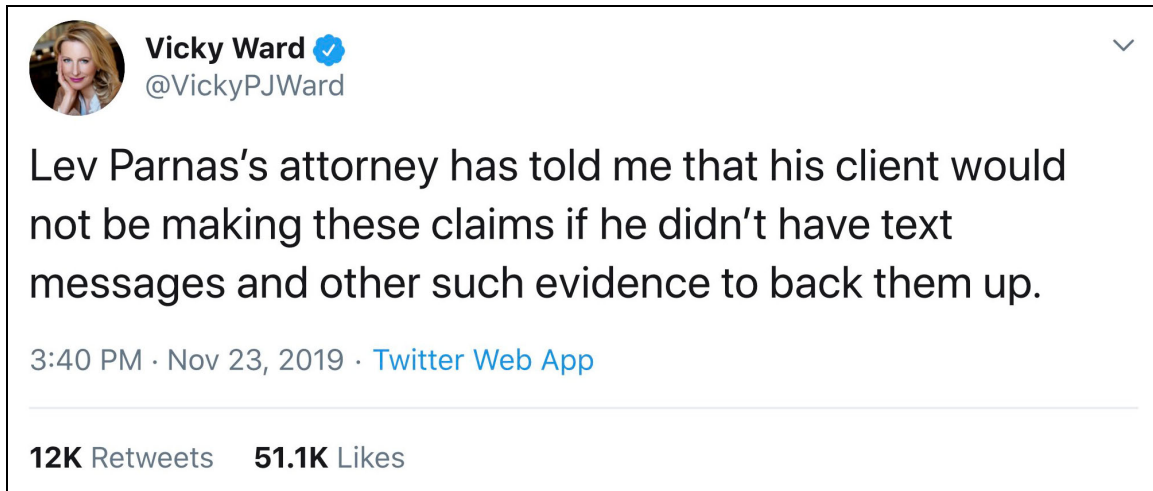
I'd beg to differ on that.

 EXCLUSIVE: Giuliani reacts to impeachment inquiry after se...
President Trump's personal attorney Rudy Giuliani joins Ed Henry for an exclusive interview on 'America's News HQ.' F...
[youtube.com](#)

3:17 PM · Nov 23, 2019 · [Twitter Web App](#)

329 Retweets **1.4K** Likes

Ward's tweet stated or implied that a meeting between Plaintiff and Shokin actually occurred *and* that, if the meeting had occurred, there would have been something wrong with it. In another tweet, Ward also confirmed that the entire CNN Article was based on information she received from Parnas (through Bondy). Ward falsely implied that there were "text messages and other such evidence" to back up the fake news about Plaintiff:



There is no such evidence.

35. The defamatory gist of the CNN Article was clear to everyone. On November 22, 2019 and, thereafter, multiple third-parties republished the CNN Article, *e.g.*:



 **Phil Arballo**
@PhilArballo2020

#DevinNunesGotCaught




Exclusive: Giuliani associate willing to tell Congress Nunes met with ex-Ukraini...
A lawyer for an indicted associate of Rudy Giuliani told CNN that his client is willing to tell Congress about meetings the top Republican on the House ...
[cnn.com](https://www.cnn.com)


9:32 PM · Nov 22, 2019 · [Twitter for iPhone](#)

[\https://secure.actblue.com/donate/arb_dd_search_1909_nunes?gclid=EAIAIQobChMIwcKpvKiV5gIVyODIC1BegNfEAAAYASAAEgKHN_D_BwE


(“#DevinNunesGotCaught Devin Nunes met with Ukrainians to get dirt on Joe Biden -- he took part in Donald Trump’s impeachable offense”).

 **Michael Avenatti** ✓
@MichaelAvenatti


As I mentioned last night, neither Parnas nor his attorney [@josephabondy](#) are playing games. Nunes must be criminally prosecuted for the felony he committed and he should immediately be removed from the committee.

 **Maxine Waters** ✓
@RepMaxineWaters

Nunes is an unhinged liar! He knows he met with Shokin in Vienna. This sounds like the midnight visit to the White House to try and prove a lie against Obama. Remember that? Parnas is going to out Nunes. Impeachment proceedings will reveal him and his lies.

 **Ryan Lizza** ✓
@RyanLizza

If this CNN report is accurate, that would mean that Nunes and his colleagues sat there every day accusing Schiff of meeting with the whistleblower (he didn't) and never disclosed that Nunes met with Shokin to get dirt on Biden.

 **Grant Stern** ✓
@grantstern

A new CNN report from [@VickyPJWard](#) just gave 100% credence to what Rep. Swalwell said about [#DevinNunes](#) being a fact witness to the [#impeachment](#) inquiry.

[#DevinNunesGotCaught](#) meeting one of the former Ukrainian prosecutors with Lev Parnas' help.

COUNT I – DEFAMATION PER SE

36. Plaintiff restates paragraphs 1 through 35 of his Complaint, and incorporates them herein by reference.

37. CNN, using its vast digital network, television network and resources, and social media network, made, published and republished numerous false factual statements of and concerning Plaintiff. These statements are detailed verbatim above. CNN published the false statements without privilege of any kind.

38. CNN's false statements constitute defamation *per se*. The statements accuse and impute to Plaintiff the commission of felonies and crimes involving moral turpitude and for which Plaintiff may be punished and imprisoned in a state or federal institution. The statements impute to Plaintiff an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment, including dishonesty, lack of candor, fraud and concealment, lack of ethics, self-dealing and conflicts of interest. CNN's false statements prejudice Plaintiff in his profession and employment as a United States Congressman.

39. By publishing the CNN Article on the Internet, by talking about Plaintiff on Cuomo's show, and by tweeting the CNN Article to the Twitter universe, CNN knew or should have known that its defamatory statements would be republished over and over by third-parties to Plaintiff's detriment. Indeed, there have been millions of republications to date. Republication by both CNN subscribers and viewers and Twitter users was the natural and probable consequence of CNN's actions and was actually and/or presumptively authorized by CNN. In addition to its original publications online, on air, and on Twitter, CNN is liable for the republications of the false and defamatory

statements by third-parties under the doctrine (the “republication rule”) announced by the Supreme Court of Virginia in *Weaver v. Home Beneficial Co.*, 199 Va. 196, 200, 98 S.E.2d 687 (1957) (“where the words declared on are slanderous per se their repetition by others is the natural and probable result of the original slander.”).

40. CNN’s false statements have harmed Plaintiff and his reputation.

41. CNN made the false statements with actual or constructive knowledge that they were false or with reckless disregard for whether they were false. CNN acted with actual malice and reckless disregard for the truth for the following reasons:

a. CNN, in fact, entertained serious doubts as to both the veracity of its source, Parnas, and the truth and accuracy of the statements in the CNN Article. In spite of these serious doubts, CNN published Parnas’ demonstrably false statements as if they were true and later directly vouched for the truth of the statements. The three (3) pillars of Parnas’ story are demonstrably false:

- **Devin Nunes was not in Vienna in December 2018;**
- **Devin Nunes has never met Shokin;**
- **Devin Nunes never communicated with Parnas in December 2018 at the time of the “Vienna trip” (that also never happened).**

CNN knew Parnas was an unreliable source. CNN failed to reasonably assess the veracity of its sole source prior to publication. *Compare, e.g., Wells v. Liddy*, 2002 WL 331123, at * 4-5 (4th Cir. 2002).

b. CNN misrepresented the extent of its investigation and knowledge, misrepresented that it had verified Parnas’ story, and deliberately minimized the

credibility problems of its source. CNN knew its statements were materially false, and possessed information that demonstrated the falsity of its statements.

c. CNN conceived the story line in advance of any investigation and then consciously set out to publish statements that fit the preconceived story.

d. CNN deliberately ignored source material, including Parnas' phone records, that would have demonstrated that Parnas' statements were absolutely false.

e. CNN and its reporters, editors and publishers abandoned all journalistic standards and integrity, including CNN's own code of ethics, in writing, editing and publishing the CNN Article. CNN did not seek the truth or report it. CNN betrayed the truth for the sake of its political and ideological slant, and institutional bias against President Trump and Plaintiff. CNN did not confirm facts and verify Parnas' information before releasing it. The CNN Article was nothing less than opposition research. CNN rushed to get the story out in order to blunt the disastrous spectacle of the House Democrats' impeachment inquiry, and to hurt the leader of the Republican opposition. CNN misrepresented facts and oversimplified issues in promoting the fake news story. In spite of multiple reports on November 23, 2019, November 24, 2019 and November 25, 2019, confirming that Shokin never met with Plaintiff, CNN refused to update or correct its story. CNN withheld from the public key pieces of information about Parnas that bore directly upon his veracity, reliability and motivations. CNN deliberately distorted facts to support its false narrative that Plaintiff concealed from the House Intelligence Committee a clandestine effort to "dig up dirt on the Bidens". Rather than minimize harm, CNN set out to inflict maximum pain and suffering on Plaintiff in order to support the impeachment effort and to undermine due process and the search for

the truth. In promoting fake news about secret meetings in Vienna with a corrupt former Ukraine prosecutor, CNN pandered to lurid curiosity. CNN never once considered the long-term implications of the extended reach and permanence of its various online, on air, and social media publications. CNN abjectly failed to act independently. Rather, it accepted and published the false statements of an indicted criminal, a known fraudster, known liar, known hustler, with a motive to lie. Whereas other media outlets refused to take the bait, CNN eagerly published Parnas' lies. CNN refuses to be accountable; refuses to acknowledge its mistakes; refuses to retract; refuses to correct; refuses to clarify; and refuses to apologize. [<https://cnnsoc185.wordpress.com/vision-statement/>; <https://www.warnermediagroup.com/company/corporate-responsibility/telling-the-worlds-stories/journalistic-integrity>; <https://www.spj.org/ethicscode.asp>].

f. CNN intentionally employed a scheme or artifice to defame Plaintiff with the intent to obstruct, interfere with and impede the impeachment inquiry. CNN, Ward and Cuomo acted intentionally, purposefully and in concert with Parnas to accomplish an unlawful purpose through unlawful means, without regard for the Plaintiff's rights and interests.

g. CNN chose to manufacture and publish false and scandalous statements and use insulting words that were unnecessarily strong and that constitute violent, abusive and hateful language, disproportionate to the occasion, in order to foment controversy, undermine public confidence in Plaintiff, and hinder him from performing his duties as Ranking Member of the House Intelligence Committee. The ulterior purpose of the CNN Article is to advance the impeachment inquiry, to seed doubt in the minds of Americans, and to influence the outcome of the 2020 election.

h. The words chosen by CNN, Ward and Cuomo evince their ill-will, spite and actual malice.

i. CNN, acting in concert with Parnas, manufactured the claims about Plaintiff out of whole cloth. CNN did not act in good faith because, in the total absence of evidence, it could not have had an honest belief in the truth of its statements about Plaintiff or in the veracity of Parnas.

j. CNN harbors an institutional hatred, extreme bias, spite and ill-will towards Plaintiff, the GOP and President Trump, going back many years. CNN is notorious for making false claims about Republicans and publishing fake news that later has to be retracted. For example, in August 2017, CNN published a story smearing then-Trump ally, Anthony Scaramucci. CNN stated that Scaramucci was connected to a Russian investment fund that was supposedly under investigation by the U.S. Senate. Scaramucci threatened to take immediate legal action. CNN retracted the fake news and fired three reporters over the incident. [<https://www.foxnews.com/politics/cnn-faced-100m-lawsuit-over-botched-russia-story>]; [<https://www.nytimes.com/2017/09/05/business/media/cnn-retraction-trump-scaramucci.html>] (“**At CNN, Retracted Story Leaves an Elite Reporting Team Bruised**”). In December 2017, CNN was again caught peddling fake news, this time misrepresenting that Donald Trump, Jr. had advance notice from WikiLeaks of documents that WikiLeaks planned to release during the 2016 presidential campaign. [<https://www.nytimes.com/2017/12/08/business/media/cnn-correction-donald-trump-jr.html>] (“**CNN Corrects a Trump Story, Fueling Claims of ‘Fake News’**”). In July 2018, CNN published a blockbuster fake news story, heavily promoted by Cuomo on his

show, that Michael Cohen was prepared to tell Robert Mueller that President Trump knew in advance about a meeting with Russians at Trump Tower. [<https://www.cnn.com/2018/07/26/politics/michael-cohen-donald-trump-june-2016-meeting-knowledge/index.html>]. In August 2019, CNN's Brian Stelter allowed a psychiatrist to falsely claim that President Trump was "as destructive ... as Hitler, Stalin and Mao" and that he "may be responsible for many more million deaths than they were". [<https://www.cnn.com/videos/tv/2019/08/25/exp-two-psychiatrists-discuss-coverage-of-trump.cnn>]. Between 2017 and the present, CNN has been at the forefront of the advancement of false narratives about the Trump campaign, Trump associates, collusion with Russia, and now Ukraine. Plaintiff poses a threat to CNN. Between 2017 and March 22, 2019, Plaintiff emphatically argued that there was no "collusion" between Trump associates and Russia to hack the 2016 presidential election, and that CNN and others were perpetuating a hoax and lying to the American people. Most recently, as Ranking Member of the House Intelligence Committee, Plaintiff spearheaded Republican efforts to investigate and defend the truth during the impeachment inquiry. CNN is out to get the Plaintiff. CNN's reporting is part of a coordinated opposition research smear campaign against Plaintiff that has been ongoing since at least 2018. [[See https://dailycaller.com/2019/11/27/fusion-gps-devin-nunes/](https://dailycaller.com/2019/11/27/fusion-gps-devin-nunes/)]. In furtherance of the operation, CNN defamed Plaintiff in order to drum up negative publicity and manufacture an "ethical" issue, where none exists. CNN knew that its reporting would then be used by political operatives to file "ethics" complaints. And, in fact, as a result of CNN's publication of the CNN Article, Plaintiff now faces a potential ethics

investigation. [<https://thehill.com/homenews/house/471994-nunes-faces-potential-ethics-review-over-alleged-meeting-with-ukrainian>].

k. Publication of the CNN Article was an unmitigated act of retaliation against Plaintiff. Plaintiff stopped talking to CNN in the spring/summer of 2017. He told CNN that he would not talk until CNN retracted its fake news stories. CNN refused. In 2018, Plaintiff pointed out that CNN was the Democratic Party's "leading propaganda" tool. He reiterated that he would not talk to CNN:

Ryan Saavedra 
@RealSaavedra 

CNN tries to question Rep. [@DevinNunes](#) (R-CA) who responds in the best possible manner.

Just say no to CNN.

KEEPING THEM HONEST
EVERYTHING OLD IS NUNES AGAIN 
5:45 PM PT
AC360°

♡ 12.8K 11:19 PM - Jul 23, 2018 

Plaintiff refuses to speak with CNN, and this angers CNN. That anger manifested itself in the CNN Article and CNN's willingness to publish the demonstrably false statements of Parnas. The CNN Article is an act of retribution against Plaintiff.

l. CNN also initiated the defamation on November 22, 2019 in retaliation and reprisal for Plaintiff and the Republican's investigation and defense of President Trump at the impeachment inquiry. CNN went out of its way to publish and then republish false statements about Plaintiff that CNN knew were untrue.

m. CNN reiterated, repeated and continued to republish the false defamatory statements about Plaintiff out of a desire to hurt Plaintiff and to permanently stigmatize him, even after CNN learned that Parnas had lied.

n. Plaintiff loudly and publicly notified CNN that its false statements were demonstrably untrue. The *Washington Post* published three (3) stories in which Shokin and his associates denied ever meeting Plaintiff. CNN disregarded all these communications, and continues to stand by its fake news. *Daniczek v. Spencer*, 2016 WL 153086, at * 12 (E.D. Va. 2016) ("Spencer neglects that malice may be inferred under aggravating circumstances, including disregard for communications by others and the appearance of reprisal.").

42. As a direct result of CNN's defamation, Plaintiff suffered presumed damages and actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$435,000,000 or such greater amount as is determined by the Jury.

COUNT II – COMMON LAW CONSPIRACY

43. Plaintiff restates paragraphs 1 through 42 of his Complaint, and incorporates them herein by reference.

44. Beginning in October 2019 and continuing through the present, CNN (including agents such as Ward acting within the scope of their employment for CNN), combined, associated, agreed or acted in concert with Parnas and his attorneys, and, upon information and belief, an opposition research firm (whose identity is unknown at this time) for the express purposes of injuring Plaintiff, intentionally and unlawfully impeding and interfering with his business and employment as a United States Congressman, and defaming Plaintiff. In furtherance of the conspiracy and preconceived plan, CNN and its co-conspirators engaged in a joint scheme the unlawful purpose of which was to destroy Plaintiff's personal and professional reputations, interfere with Plaintiff's duties as a United States Congressman, including the performance of his duties as Ranking Member of the House Intelligence Committee during the impeachment inquiry, and to further the goal of the ongoing opposition research smear campaign against Plaintiff.

45. CNN acted intentionally, purposefully, without lawful justification, and with the express knowledge that it was defaming Plaintiff. As evidenced by its concerted actions online, on air, and via Twitter, CNN acted with the express and malicious intent to cause Plaintiff permanent injury.

46. CNN's actions constitute a conspiracy at common law.

47. As a direct result of CNN's willful misconduct, Plaintiff suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket

expenses, in the sum of \$435,000,000 or such greater amount as is determined by the Jury.

Plaintiff alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Plaintiff believes that substantial additional evidentiary support, which is in the exclusive possession of CNN, Ward, Cuomo, Parnas, Bondy, MacMahon, and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Plaintiff reserves his right to amend this Complaint upon discovery of additional instances of CNN's wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Devin G. Nunes respectfully requests the Court to enter Judgment against CNN as follows:

- A. Compensatory damages in the amount of \$435,000,000 or such greater amount as is determined by the Jury;
- B. Punitive damages in the amount of \$350,000 or the maximum amount allowed by law;
- C. Prejudgment interest from November 22, 2019 until the date Judgment is entered at the maximum rate allowed by law;
- D. Postjudgment interest at the rate of six percent (6%) per annum until paid;
- E. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: December 3, 2019

DEVIN G. NUNES

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