

Andrew Ivchenko (#021145)
ANDREW IVCHENKO PLLC
4960 South Gilbert Road, #1-226
Chandler, AZ 85249
Phone: (480) 250-4514
Aivchenkopllc@gmail.com

Steven C. Ames (to be admitted *pro hac vice*)
Attorney-at-Law
P.O. Box 193
Moline, IL 61266
Phone: (309) 714-1770
sca@mchsi.com

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

ANDREW IVCHENKO AND RENEE
IVCHENKO, husband and wife,

Plaintiffs,

vs.

DAVID S. GINGRAS; TRAVIS PAUL
GRANT and MARIEL LIZETTE GRANT,
husband and wife; KYLE DAVID GRANT;
JOHN and JANE DOES I-X; BLACK
CORPORATIONS I-X; and WHITE
COMPANIES I-X,

Defendants.

Case No. CV2021-093562

COMPLAINT
(Tier Two)

Jury Trial Demanded

Plaintiffs ANDREW IVCHENKO and RENEE IVCHENKO (hereinafter
“Plaintiffs” or “Plaintiff Andrew Ivchenko” or “Plaintiff Renee Ivchenko”), husband and

wife, through their undersigned counsel, for their Complaint against Defendants, allege the following:

1. The court system is a powerful tool for resolving disputes in an organized and hopefully somewhat civilized manner. But like any powerful tool, the court system is subject to abuse by both lawyers and litigants alike.

2. This case arises from, and seeks compensation for, an *extreme* example of such abuse that has occurred over a period of nineteen months, and continues on an ongoing basis.

3. This is an action to recover damages arising for abuse of process and causes of action related to cyber harassment maliciously and wrongfully commenced and continued by Defendants against Plaintiffs in the State of Arizona. Defendants have engaged in a wide variety of unlawful, tortious, and unethical conduct including, but not limited to: abuse of process, invasion of privacy based on appropriation, false light invasion of privacy, violation of A.R.S. §§ 44-7901/7902, and multiple/repeated violations of the Arizona Rules of Professional Conduct including, but not limited to: ER 3.1 (prohibiting a lawyer from bringing an action or asserting any position in litigation without a good faith basis in law and fact); ER 3.2 (requiring a lawyer to make reasonable efforts to expedite litigation); ER 3.4(d) (making a frivolous discovery request); ER 8.4 (violating the Rules of Professional Conduct; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct that is prejudicial to the administration of justice).

PARTIES

4. Plaintiffs reside in Maricopa County, Arizona.

5. Defendant DAVID S. GINGRAS (“Defendant Gingras”) is an attorney licensed to practice law in the State of Arizona.

6. Defendants TRAVIS PAUL GRANT, MARIEL LIZETTE GRANT and KYLE DAVID GRANT (the “Grant Defendants”) are mugshot website operators who reside in, and operate businesses in, Florida. At all times relevant to this action, the Grant Defendants have owned and operate mugshot websites, including www.publicpolicerecord.com and www.usbondsmen.com (the “Websites”), and as defined by A.R.S. § 44-7901(4).

7. The Grant Defendants and Defendant Gingras are referred to herein collectively as the “Defendants.”

INTRODUCTION

8. The Grant Defendants are First Amendment opportunists that exploit arrest information and inappropriate images in booking photos to create misleading advertisements designed to generate substantial advertising revenue from the victims whose images have been misappropriated.

9. The Grant Defendants do not inform the public; instead, the Grant Defendants exploit booking photos and arrest information for purely commercial purposes. As the Sixth Circuit recently observed, these “[b]ooking photos—snapped in the vulnerable and embarrassing moments immediately after an individual is accused, taken into custody, and deprived of most liberties—fit squarely within this realm of embarrassing and humiliating information. More than just vivid symbols of criminal accusation, booking photos convey guilt to the viewer.” *Detroit Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d 478, 482 (6th Cir. 2016) (citations and quotations omitted). The Grant Defendants’ business model is to exploit this embarrassing and humiliating information that falsely conveys guilt for their own commercial gain. Once these images are online, they live on in perpetuity. They serve as the digital scarlet letter of our times, permanently affecting the reputation of those who have paid their debt to society.

1 10. The online dissemination of arrest information and images in booking
2 photos creates substantial barriers for those attempting to reintegrate into society from
3 finding employment, housing, and starting a new life. "[N]early one out of every three
4 American adults"—77.7 million people—has been arrested and, thus, could be impacted.
5 See Gary Fields & John R. Emshwiller, *America Busted: As Arrest Records Mount,*
6 *Consequences Last a Lifetime*, WALL ST. J., Aug. 19, 2014, at A1. Abuse of these
7 records by profiteers such as the Grant Defendants cuts against efforts for criminal
8 justice reform and rehabilitation of those who have made mistakes in their pasts.
9 Moreover, in many cases arrestee's are never charged, are adjudicated not guilty, or their
10 charges are dismissed for various reasons, including through diversion programs.
11 Mugshot companies have wide-sweeping negative effects on not only those directly
12 impacted but on the community as a whole.

13 11. In response to the proliferation of mugshot website operators, such as the
14 Grant Defendants, numerous states have passed statutes relating to the exploitation of
15 mugshots, most recently Arizona. On August 27, 2019, HB2191 became effective law as
16 Arizona Revised Statute §§ 44-7901, 7902; Mugshot website operators; prohibited acts;
17 exceptions (the "Arizona Mugshot Statute"). The new law defines mugshot website
18 companies as "mugshot website operators" and prohibits their operation for commercial
19 purposes, which the law defines to include "any purpose in which the [mugshot website
20 operator] can reasonably anticipate the receipt of monetary gain from the direct or
21 indirect use of the public record." A.R.S. § 39-121.03(D); A.R.S. § 44-7901(2). The
22 Arizona Mugshot Statute also prescribes hefty *minimal* damages that mugshot website
23 companies will have to pay to those affected if they do not comply with the law.

24 12. The Grant Defendants' conduct that is the subject of this civil action
25 involves ongoing online activity directed against Plaintiffs. Defendants own and operate
mugshot websites including www.publicpolice-record.com and www.usbondsmen.com,
on which they use the arrest information and booking photos of millions of arrestees

1 throughout the United States for their own purely commercial purposes. The Grant
2 Defendants use software to “scrape” arrest information, including booking photos, from
3 the Maricopa County Sheriff’s Office’s website, and the websites of other law
4 enforcement agencies in Arizona who post booking photos online, for all, or
5 substantially all, arrestees, albeit for a limited duration of time, typically three days. The
6 Grant Defendants then use the arrest information from the victims whose identities and
7 likenesses have been misappropriated to create original content in the form of
8 advertisements that serve two purposes: 1) to attract third party advertisers to the
9 website; and 2) generate pay-per-click advertising revenue.

10 13. Parties who litigate or otherwise complain against the Defendants, such as
11 Plaintiffs, are often singled out for additional online harassment and cyberstalking.

12 14. This is an individual action seeking damages, declaratory, and injunctive
13 relief for the violation of the Arizona Mugshot Statute, misappropriation of name and
14 likeness, and false light under applicable decisional law in Arizona. Plaintiffs seeks
15 redress for injuries caused by, and an injunction enjoining, the unlawful conduct of the
16 Grant Defendants, KYLE DAVID GRANT, his brother TRAVIS PAUL GRANT, and
17 Travis Paul Grant’s wife, MARIEL LIZETTE GRANT, all doing business in
18 conjunction with the Websites, as well as damages against their attorney, Defendant
19 DAVID S. GINGRAS.

20 15. “A disclosed booking photo casts a long, damaging shadow over the
21 depicted individual.” *Detroit Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d
22 478, 482 (6th Cir. 2016). For this reason, law enforcement agencies and the State of
23 Arizona do not intend for booking photos and arrest information to be used in this way
24 or to be available online to the public indefinitely. The Maricopa County Sherriff’s
25 Office, for example, only posts arrest photos for three days, after which they are taken
down. The Arizona Mugshot Statute makes crystal clear that the public policy of
Arizona is that arrest information and photos published for a limited time by Arizona

1 law enforcement agencies are not to be “scraped” and then disseminated indefinitely for
2 the Grant Defendants’ purely commercial purposes. Yet, that is precisely how the Grant
3 Defendants’ illegal scheme operates.

4 16. To further their illegal scheme and maximize its commercial effect, the
5 Grant Defendants use analytics and search optimization tools to ensure that each
6 booking photo is among the first search results found when an arrestee’s name is entered
7 into a search engine such as Google, Bing or Yahoo. Such conduct contributes
8 substantially to the illegality of the Grant Defendants’ use of the arrest information and
9 booking photos.

10 17. Contrary to the Grant Defendants’ false representations, the Websites are
11 not a public safety service or media outlets. If they were, the Grant Defendants would
12 not select what information and which booking photos remain on the Websites based on
13 extorted payments, which occurred prior to the enactment of the Florida mugshot statute
14 on or about July 18, 2018 (FL Stat § 901.43, Dissemination of Arrest Booking
15 Photographs) (the “Florida mugshot statute”), or for any other reasons they decide.

16 18. The Grant Defendants hide behind the false pretense that they are a media
17 organization, post these mugshots and create advertisements out of them solely in order
18 to profit by generating advertising revenue through Google Ads and, at least up until
19 July 18, 2018, extorted payments. Companies pay for Google Ads so that people will
20 notice their business whenever they are searching Google. These companies only have to
21 pay a website owner whenever someone clicks on the ad. This is known as cost-per-click
22 (CPC) or pay-per-click (PPC) advertising. The Grant Defendants generate substantial
23 revenue through the misleading manner in which they use these booking photos as
24 advertisements to induce users of their Websites to click on the banner ads.

25 19. Also contrary to the Grant Defendants’ false representations, the Grant
Defendants refuse to remove someone’s mugshot from the Websites even if the arrestee
has been found innocent of any crime, or has otherwise had their charges dropped, not

1 filed, expunged, or dismissed as part of a diversion program. Prospective employers (or
2 anyone else) conducting a web search find, in many cases, misinformation indicating
3 that people are still charged, incarcerated, or on parole years even after release or an
4 adjudication of not guilty. The Grant Defendants intentionally and maliciously set up the
5 Websites to give the false impression people are incarcerated or have been adjudged
6 guilty of a crime. The end result for many arrestees is continuous emotional distress, job
7 loss, broken families, and homelessness. The end result for the Grant Defendants is
8 substantial profits.

9 20. Upon information and belief, Defendant Gingras was arrested by the San
10 Francisco Sheriff's Department on or about June 29, 1999, and bound over to Maricopa
11 County, Arizona and charged with twelve violations of A.R.S. § 13-1405, Sexual
12 conduct with a minor, a class 6 felony (Case No. CR1999-093685-A). Upon information
13 and belief, Defendant Gingras' mugshot (see e.g.,
14 <http://jaburgwilk.blogspot.com/2013/08/david-gingras-molester.html>) and arrest records
15 (see e.g., <http://jaburgwilk.blogspot.com/2013/08/david-gingras-molestation.html>)
16 appear on the internet, but do not appear on the Grant Defendants' Websites even though
17 they regularly post booking photos and arrest records of other arrestees from California
18 and Arizona. Attached hereto as Exhibit A, and incorporated herein by reference, is a
19 true and correct copy of Defendant Gingras' mugshot and arrest records.

20 21. Upon information and belief, Defendants TRAVIS PAUL GRANT and
21 KYLE DAVID GRANT have mugshots and arrest records that appear on the internet
22 (see, e.g. www.issuedbailbondshq.com and www.travisgrant.com), but do not appear
23 on the Grant Defendants' Websites even though they regularly post booking photos and
24 arrest records of other arrestees from Florida. Attached hereto as Exhibit B, and
25 incorporated herein by reference, is a true and correct copy of the mugshots and arrest
records for Defendants TRAVIS PAUL GRANT and KYLE DAVID GRANT.

22. The Grant Defendants are notorious operators of mugshot Websites, on which millions of arrestees appear. Several online sites have been established by aggrieved parties to expose the nefarious and illegal activities of the Grant Defendants, including <https://rapsheetsorgkyledavidgrant.wordpress.com>.

23. Plaintiff Andrew Ivchenko is a lawyer based in Phoenix, Arizona. Plaintiff Andrew Ivchenko has been admitted to practice law in the State of Arizona since 2002, and the State of Ohio since 1989.

24. Since in or around May 2019 until June 26, 2020, Plaintiff Renee Ivchenko, represented by two separate law firms, litigated against the Grant Defendants, represented by Defendant Gingras, in connection with the removal of her booking photos and arrest information from the Websites, where this information was posted since her arrest in April 2018, as well as related damages.

25. From December 2019 until June 26, 2020, the Grant Defendants and Defendant Gingras committed abuse of process through vexatious litigation and “scorched earth” tactics designed to drain Plaintiffs’ financial resources, and to the present time have targeted Plaintiffs in a relentless cyberstalking campaign designed to dissuade Plaintiff Andrew Ivchenko from pursuing actions against them under the Arizona Mugshot Statute on behalf of his clients, including an ongoing class action lawsuit.

26. This action seeks to put an end to the Grant Defendants' online harassment of Plaintiffs, and obtain monetary compensation for the damages they have caused. The Grant Defendants will continue to cause Plaintiffs harm until they are enjoined from intentionally and maliciously violating Plaintiffs' rights.

JURISDICTION/VENUE

27. Plaintiffs are a married couple that reside in Maricopa County, Arizona.

28. Defendant Gingras resides in Maricopa County, Arizona.

1 29. The Grant Defendants are mugshot website operators who reside in, and
2 operate businesses in, Florida. The Grant Defendants own and operate mugshot
3 Websites, including www.publicpolicerecord.com and www.usbondsmen.com, as
4 defined by A.R.S. § 44-7901(4).

5 30. Defendant Gingras and the Grant Defendants are being sued in their
6 individual capacities. This Court has jurisdiction over the Grant Defendants under
7 Arizona's long-arm rule and applicable decisional law, which allows for assertion of
8 personal jurisdiction over a non-resident consistent with federal constitutional due
9 process. Ariz. R. Civ. P. 4.2(a).

10 31. Under the provisions of A.R.S. 44-7902(A), the Grant Defendants, as
11 mugshot website operators that publish a subject individual's criminal justice record for
12 a commercial purpose on a publicly accessible website, are deemed to be transacting
13 business in this state.

14 32. Plaintiffs are informed and believe, and based on that information and
15 belief allege, that at all times mentioned in this complaint, the Grant Defendants were
16 the agents and employees of their codefendants and in doing the things alleged in this
17 complaint were acting within the course and scope of such agency and employment.

18 33. At all material times, the Grant Defendants (i) committed a tortious act
19 within this state, and (ii) are engaged in substantial and not isolated activity within this
20 state. Sufficient minimum contacts exist between the Grant Defendants and the state of
21 Arizona to satisfy the due process requirements of the United States Constitution. These
22 include directly targeting their Websites to the state, knowingly interacting with
23 residents of the forum state via their Websites, or through sufficient other related
24 contacts.

25 34. The Grant Defendants solicit customers in the state of Arizona. Upon
information and belief, the Grant Defendants have many paying customers who reside in
the state of Arizona who each use the Grant Defendants' respective services in the state

1 of Arizona. Upon information and belief, the Grant Defendants conduct continuous and
2 systematic business in the state of Arizona.

3 35. Defendants JOHN and JANE DOES I-X; BLACK CORPORATIONS I-
4 X; and WHITE COMPANIES I-X, are persons, partnerships, corporations or
5 unincorporated associates subject to suit in a common name whose names are unknown
6 to Plaintiffs and who are wholly or partially responsible for the acts complained of,
7 including those who have participated in managing, organizing, marketing, facilitating,
8 and profiting from the operations of the Websites, and therefore, designated by fictitious
9 names pursuant to Rule 10(d), Arizona Rule of Civil Procedure. Plaintiffs will ask leave
10 of the Court to substitute the true names of the said parties prior to the entry of judgment
11 herein.

12 36. Maricopa County is a proper venue, pursuant to A.R.S. §12-401(1). The
13 acts and conduct of Defendants occurred in Maricopa County. The Grant Defendants'
14 Websites are available to people in Maricopa County. Defendant Gingras resides in
15 Maricopa County.

16 37. Based on the characteristics of this action, this case should be assigned
17 Tier 2 pursuant to Rule 26.2(b)(2).

18 **ALLEGATIONS COMMON TO ALL CLAIMS**

19 **Preliminary Events**

20 38. Plaintiffs are individuals and are now, and at all times mentioned in this
21 complaint were, residents of Maricopa County, Arizona.

22 39. In or around April of 2018, the Maricopa County Sheriff's Office (the
23 "Sheriff's Office") arrested Plaintiff Renee Ivchenko.

24 40. Following the arrest, the Sheriff's Office photographed Plaintiff Renee
25 Ivchenko. The Sheriff's Office made the photograph (the "Mugshot") publicly available
on a government website.

1 41. Defendant's Websites are privately-owned, publicly-available websites
2 that post mugshots and other criminal justice information about various people without
3 their consent, who have been arrested. The Websites generate income and the Grant
4 Defendants utilize the Websites for commercial purposes and pecuniary gain.

5 42. In or around April 2018, the Grant Defendants, without Plaintiff Renee
6 Ivchenko's permission, consent or authorization, published her criminal justice records
7 (the "Records") and booking photo ("Mugshot") on the Websites for purely commercial
8 purposes.

9 43. Despite Plaintiff Renee Ivchenko's demand that the Grant Defendants
10 remove this information from the Websites, the Grant Defendants refused to do so.
11 Plaintiffs filed suit against the Grant Defendants in Maricopa County on May 9, 2019
12 (Case No. CV2019-090493) ("Case No. 1").

13 44. Defendant Mariel Lizette Grant was served with a Summons and
14 Complaint in Case No. 1 on May 16, 2019.

15 45. On or about May 18, 2019, Plaintiffs conducted an internet search of
16 Renee Ivchenko's name, and her booking photo and arrest information no longer
17 appeared on the Websites.

18 46. Plaintiff Renee Ivchenko's attorney, Plaintiff Andrew Ivchenko, was
19 contacted by Defendant Gingras on May 23, 2019, who stated that he was representing
20 the Grant Defendants. Due to a holiday, the parties did not have further communication
21 until May 28, 2019. The next day the Grant Defendants filed a Notice of Removal,
22 removing the case to the United States District Court for the District of Arizona.

23 47. Plaintiff Andrew Ivchenko exchanged several emails with Defendant
24 Gingras discussing the case over a period of three days. The parties were not in
25 agreement concerning the merits of the case. Plaintiff Renee Ivchenko voluntarily

1 dismissed her lawsuit under F.R.C.P. 41(a)(1)(A)(i) on May 31, 2019, having achieved
2 her goal of getting her booking photo and arrest records removed from the Websites.

3 **The Defendants' Abuse of Process**

4 48. After asserting her legal rights against several mugshot website operators,
5 including the Grant Defendants, Plaintiff Renee Ivchenko's booking photo and arrest
6 information was posted on a Twitter site on February 19, 2019, operated by an unknown
7 individual with an apparently fake account name of "Jennifer Becker" (the "Twitter
8 Site"), and on a second revenge site until such time as the site was taken down for
9 unknown reasons a few months later.

10 49. Additional defamatory statements were made on the Twitter Site on
11 September 15, 2019 and September 18, 2019, this time directed against both Plaintiffs.
12 Upon information and belief, Plaintiffs concluded that the Grant Defendants or someone
13 associated with them made these postings. As a result, Plaintiffs filed suit against the
14 Grant Defendants in Maricopa County on December 17, 2019 for defamation and
15 additional causes of action related to the previous posting of Plaintiff Renee Ivchenko's
16 booking photo and arrest information on the Websites, including on the Twitter Site in
17 question (Case No. CV2019-015355) ("Case No. 2"). The Plaintiffs were represented in
18 Case No. 2 by Dickinson Wright PLLC. The Grant Defendants were represented by
19 Defendant Gingras.

20 50. During the early stages of Case No. 2, it became apparent to Plaintiffs that
21 numerous other parties adversely affected by the actions of the Grant Defendants wanted
22 to join the lawsuit, and assert their rights under the Arizona Mugshot Statute. Since the
23 Arizona Mugshot Statute only became effective on August 27, 2019, Plaintiff Renee
24 Ivchenko had no standing at the time to assert a claim under this statute, although she,
25 and the twenty anonymous Plaintiffs that joined the action, all asserted common law
claims against the Grant Defendants.

1 51. Plaintiffs filed an amended complaint on February 27, 2020, which
2 included the addition of twenty Doe Plaintiffs. The Amended Complaint added a count
3 for twenty violations of the Arizona Mugshot Statute. The Amended Complaint no
4 longer included a count for defamation, and accordingly dropped Plaintiff Andrew
5 Ivchenko as a party.

6 52. Plaintiffs pursued their defamation claims involving the Twitter Site
7 postings made in September 2019 through an independent action against unknown Doe
8 defendants, which was filed in Maricopa County on May 28, 2020 (Case No. CV2020-
9 093379). That case is still ongoing.

10 53. The Defendants have continuously and falsely argued that Plaintiff Renee
11 Ivchenko was guilty of having committed a crime due to a preliminary guilty plea made
12 as part of a diversion program after her arrest on April 21, 2018, when in fact charges
13 against her were dismissed by prosecution motion on September 21, 2018.

14 54. Defendant Gingras operates a Twitter site at
15 <https://twitter.com/davidsgingras?lang=en> (the “Gingras Twitter Site”). Upon
16 information and belief, Defendant Gingras attempted to use his Twitter site to make
17 contact with the publisher of the Twitter Site defaming Plaintiffs, including the publisher
18 of a second Twitter site doing the same, by encouraging them to contact him.

19 55. Upon information and belief, Defendant Gingras eventually removed this
20 tweet from his Twitter site.

21 56. Once Case No. 2 was filed, the Defendants committed abuse of process by
22 initiating vexatious litigation and “scorched earth” tactics designed to drain Plaintiff
23 Renee Ivchenko’s financial resources and intimidate her to drop the lawsuit. *See*
24 *Nienstedt v. Wetzel*, 133 Ariz. 348, 354, 651 P.2d 876, 882 (Ariz. App. 1982) (imposing
25 liability for abuse of process where the ulterior or collateral purpose involved was for
the purpose of exhausting the opponent's financial resources.).

1 57. On January 24, 2020, Defendant Gingras posted on the Gingras Twitter
2 Site a copy of an e-mail from a client, in which the client and the Defendants suggested,
3 among other things, that they would engage in vexatious litigation in Case No. 2. Upon
4 information and belief, this e-mail was sent to Defendant Gingras by the Grant
5 Defendants. Attached hereto as Exhibit C, and incorporated herein by reference, is a true
6 and correct copy of this tweet.

7 58. Prior to the January 24, 2020 tweet, and throughout the course of Case No.
8 2, Defendant Gingras, via e-mail, repeatedly and aggressively threatened Plaintiffs and
9 Plaintiffs' attorney with Rule 11 sanctions, motions for attorney's fees, and civil
10 lawsuits.

11 59. Defendant Gingras was suspended from the practice of law by the Arizona
12 Supreme Court on December 5, 2008, for a period of 30 days, and placed on probation
13 for two years. This suspension was due to Defendant Gingras' violation of a MAP
14 contract requiring him to completely abstain from using alcohol, other drugs, or any
15 other mood-altering or mind-altering chemicals for three years. This contract was
16 violated when Defendant Gingras was arrested for driving under the influence during the
17 probationary period. Attached hereto as Exhibit D, and incorporated herein by reference,
18 is a true and correct copy of the Arizona bar's ruling involving Defendant Gingras, as
19 well as an excerpt for the Lawyer Regulation section of *Arizona Attorney* magazine,
dated October 2009.

20 60. Throughout the litigation involving the parties, Defendant Gingras has
21 acted in a hostile, erratic and highly unprofessional manner. Upon information and
22 belief, Defendant Gingras' past issues with the criminal justice system and the Arizona
23 bar, combined with the nature of this case, has caused him to react in this manner
24 towards Plaintiffs. In an e-mail dated November 30, 2020, Plaintiff Andrew Ivchenko
25 advised Defendant Gingras that he was conflicted in this case and should consider
withdrawing. Defendant Gingras refused this request.

1 61. Upon information and belief, Defendant Gingras attempted to gain
2 leverage against Plaintiff Andrew Ivchenko by filing a groundless bar complaint against
3 him, which was dismissed by the Arizona Bar on May 28, 2020.

4 62. Despite robust communication between the parties in Case No. 2, without
5 ever mentioning or requesting payment pursuant to Rule 41 in connection with Case No.
6 1, Defendants unnecessarily filed an aggressive, multi-page Motion for Costs on
7 February 7, 2020 that sought recovery of approximately \$400 in costs based on
8 Plaintiffs' previous dismissal of Case No. 1. Had the Defendants asked, the Plaintiffs
9 would have agreed to pay the requested \$400 rather than waste the parties' and the
10 court's resources on that trivial matter.

11 63. Upon information and belief, that motion was used by the Defendants only
12 as a vehicle to intimidate and smear Plaintiff Renee Ivchenko and to create yet another
13 public record containing her arrest information and booking photo. Attached hereto as
14 Exhibit E, and incorporated herein by reference, is a true and correct copy of the Motion
for Costs.

15 64. On February 20, 2020, Plaintiffs' attorney in Case No. 2, David N.
16 Ferrucci, indicated to Defendant Gingras in writing that Plaintiffs were planning on
17 amending their complaint within the 21-day time-period provided by the rules, which
18 would include dropping a defamation claim. Nonetheless, Defendant Gingras filed a
19 summary judgment motion the following day, February 21, 2020 (the "Summary
20 Judgment Motion"), making aggressive arguments in connection with that defamation
21 claim, and took that opportunity to once again insert Plaintiff Renee Ivchenko's booking
22 photo and detailed arrest information, and upon information and belief, court documents
23 that had no bearing on the case, into the motion. Attached hereto as Exhibit F, and
24 incorporated herein by reference, is a true and correct copy of the Summary Judgment
25 Motion.

1 65. Plaintiffs filed their response to the Summary Judgment Motion April 1,
2 2020. Attached hereto as Exhibit G, and incorporated herein by reference, is a true and
3 correct copy of Plaintiffs' Response to the Summary Judgment Motion.

4 66. Upon information and belief, the transparent purpose of filing the
5 Summary Judgment Motion one day after being notified that Plaintiffs would be
6 amending their Complaint was to cause Plaintiffs further embarrassment, knowing full-
7 well that various online reporting services would publish the case and thereby keep
8 Plaintiff Renee Ivchenko's booking photos and arrest information, inserted throughout
9 the motion, memorialized for eternity in yet another online publication.

10 67. Upon information and belief, the Defendants were engaging in gratuitous
11 and vexatious litigation conduct in Case No. 2, and were going to great lengths to smear
12 and harass any litigant that dared to challenge their illegal activities in Arizona. Plaintiff
13 Renee Ivchenko was the only identified Plaintiff in Case No. 2, the other twenty
14 plaintiffs were anonymous Jane and John Does.

15 68. Defendants removed Case No. 2 to the U.S. District Court for the District
16 of Arizona on April 3, 2020 (Case No. CV-20-00674-PHX-MTL).

17 69. Although Plaintiff Andrew Ivchenko was no longer a party in the action
18 due to the amended complaint, the Defendants gratuitously inserted his name in the case
19 caption, so that the various online reporting services that publish Federal cases would
20 pick up the case, where it would then appear in a Google search of his name.

21 70. Upon information and belief, this action on the part of the Defendants was
22 also designed to increase the exposure of Renee Ivchenko's Mugshot and Records,
23 which had been gratuitously inserted into the aforementioned motions submitted by the
24 Defendants.

25 71. On that same day, the Defendants filed a Notice of Pending Motion, which
did not include the Summary Judgment Motion. Attached hereto as Exhibit H, and

1 incorporated herein by reference, is a true and correct copy of the Notice of Pending
2 Motion.

3 72. In response, and pursuant to Arizona District Court Local Rule LRCiv
4 3.6(c), Plaintiff Renee Ivchenko filed a Notice of Pending Motion on April 17, 2020,
5 which included the Summary Judgment Motion. Attached hereto as Exhibit I, and
6 incorporated herein by reference, is a true and correct copy of Plaintiff Renee Ivchenko's
7 Notice of Pending Motion.

8 73. In response to Plaintiff Renee Ivchenko's motion, the Defendants
9 withdrew their Summary Judgment Motion by filing a Notice of Withdrawal of Pending
10 Motion on April 20, 2020. Attached hereto as Exhibit J, and incorporated herein by
11 reference, is a true and correct copy of the Notice of Withdrawal of Pending Motion.

12 74. Upon information and belief, this heavily briefed Summary Judgment
13 Motion was used solely as a tool to intimidate Plaintiffs and cause a needless
14 expenditure of financial resources, with the hope that Plaintiffs would drop the case.

15 75. All of Plaintiff Renee Ivchenko's claims in Case No. 2 (including, but not
16 limited to, the cause of action for defamation) were timely as a matter of law pursuant to
17 A.R.S. § 12-541, because they were based on statements published within one year prior
18 to the filing of Case No. 2.

19 76. The Defendants knew the statute of limitations for defamation claims in
20 Arizona was one year pursuant to A.R.S. § 12-541.

21 77. The Defendants intentionally decided to make false factual allegations in
22 the Motion for Summary Judgment to falsely make it appear that one or more of Plaintiff
23 Renee Ivchenko's claims did not state timely claims for relief.

24 78. Specifically, the Defendants knew from the complaint that the defamation
25 claims were not based on the publication of Plaintiff Renee Ivchenko's mugshot on the
Websites beginning in April 2018, but rather on comments alleged to be made by the
Grant Defendants or someone associated with them on the Twitter Site in September

2019; this was well-within one year before the Complaint in Case No. 2 was filed on December 17, 2019.

79. The decision to assert defenses based on statements published on Twitter prior to September 2019, and on information published on the Grant Defendants' Websites beginning in April 2018, was done solely to make it appear the Complaint's defamation claims were time-barred or lacked merit even though such claims were, in fact, timely as a matter of law.

80. Defendants engaged in an abuse of process during the course of the litigation involving Case No. 2, by seeking to delay and avoid a disposition on the merits of the case for as long as possible and for the improper purpose of making the case as expensive as possible, thereby increasing the odds that Plaintiffs would be unable to bear the cost of defense.

81. By doing so, Defendants hoped to force Plaintiff Renee Ivchenko to drop the lawsuit, and also discourage Plaintiff Andrew Ivchenko from representing clients against the Grant Defendants.

82. The Defendants prevailed in their strategy involving Case No. 2, and the case was eventually dismissed by the plaintiffs in that case for financial reasons.

83. The plaintiffs' motion to dismiss was filed on May 19, 2020, and while this motion was pending before the Court the Defendants filed an unnecessary Motion to Consolidate Cases on June 10, 2020, in an attempt to consolidate Case No. 2 with a separate case involving twenty other John and Jane Doe plaintiffs represented by Plaintiff Andrew Ivchenko (*John Doe I, et al. v. Travis Paul Grant, et al.*, Arizona District Court Case No. CV-20-01142-SMB). Attached hereto as Exhibit K, and incorporated herein by reference, is a true and correct copy of Defendants' Motion to Consolidate Cases.

84. Upon information and belief, the Defendants' reason for attempting to consolidate the two cases was to keep Plaintiffs' names in the case caption, which would

1 allow them to “dox” Plaintiffs and increase the online exposure of Plaintiff Renee
2 Ivchenko’s Mugshot and Records.

3 85. Doxing involves publishing private or identifying information about a
4 particular individual on the internet, typically with malicious intent. The Defendants’
5 Motion emphasized that the Court should use the lower case number and caption when
6 consolidating the cases, which was the case originally filed by the Plaintiffs. *See Exhibit*
7 *K*, pgs. 2, 3 and 5.

8 86. In response to Plaintiffs’ motion to dismiss, Defendants unsuccessfully
9 tried to obtain attorney’s fees from Plaintiff Renee Ivchenko only, and not from any of
10 the other plaintiffs in that case. In his Affidavit in support of Defendants’ motion for
11 attorneys fees, Defendant Gingras stated that “Defendants incurred costs in the amount
12 of \$36.00 paid to the City of Scottsdale for the purpose of obtaining evidence (police
13 reports and body camera video) which directly relates to the defense of Mrs. Ivchenko’s
14 claims.”

15 87. Defendant Gingras’ request for the police reports and body camera video
16 was made even though Plaintiff Renee Ivchenko dropped her defamation claims in the
17 original Complaint by filing an Amended Complaint on February 27, 2020, and
18 regardless, there was no cause of action that would plausibly have required Defendants’
19 attorney to obtain this information to defend his clients. Attached hereto as *Exhibit L*,
20 and incorporated herein by reference, is a true and correct copy of Defendant Gingras’
21 billing affidavit (Case No. CV-20-00674-PHX-MTL, *Doc* 15-1, ¶ 17, Filed 05/22/20).

22 88. Upon information and belief, Defendant Gingras had no legitimate reason
23 to obtain the police reports and body camera video relating to Plaintiff Renee Ivchenko,
24 and Defendant Gingras was aware of this fact and attempted to cover it up in the eyes of
25 the Court by adding the language that this information “directly relates to the defense of
[Plaintiff Renee Ivchenko’s] claims.

1 89. Upon information and belief, Defendant Gingras provided the Grant
2 Defendants with the police reports and body camera video he obtained relating to
3 Plaintiff Renee Ivchenko's arrest, and had actual or constructive notice that they would
4 be used by them to further intimidate and embarrass the Plaintiffs.

5 90. On May 7, 2020, Defendant Gingras contacted Plaintiff Renee Ivchenko's
6 attorney and demanded that the parties establish a date to take her deposition within
7 "two weeks," which he insisted be in-person and videotaped. This request was made
8 before the Defendants had answered the complaint and any discovery had commenced,
9 and purportedly related to a motion in a separate case involving the Defendants and
10 Plaintiff Andrew Ivchenko in which Plaintiff Renee Ivchenko was not a party, and in
11 which the Defendants had not been served.

12 91. Upon information and belief, the Defendants' threat to take Plaintiff Renee
13 Ivchenko's deposition was for no legitimate reason and was used as a tool to intimidate
14 Plaintiff Renee Ivchenko and cause her even more needless expenditure of financial
15 resources.

16 92. Case No. 2 was dismissed without prejudice on June 26, 2020, excepting
17 Plaintiff Renee Ivchenko, whose common law claims were dismissed with prejudice, as
18 she had dismissed Case No. 1 against Plaintiffs after they removed her arrest
19 information from their Websites.

20 93. The Court also denied the Defendants' Motion to Consolidate.

21 **Cyber Harassment, Civil Conspiracy and Defendant Gingras'**

22 **Aiding and Abetting**

23 94. The Grant Defendants' harassment of Renee Ivchenko continued when
24 they misappropriated her name by establishing the website www.reneeivchenko.com, on
25 which they posted her booking photo in or around November 2020. Plaintiffs sent the
hosting company (Godaddy) a subpoena in connection with their ongoing case involving
the aforementioned Twitter defamation (Maricopa County Superior Court Case No.

CV2020-093379) to find out who had set up this website. The response showed that it was Defendant TRAVIS PAUL GRANT, who obtained the web page address on July 4, 2020. Attached hereto as Exhibit M, and incorporated herein by reference, is a true and correct copy of Godaddy's subpoena response.

95. Defendant TRAVIS PAUL GRANT established the www.reneeivchenko.com website after the case involving Plaintiff Renee Ivchenko had been dismissed, but while a separate case involving Plaintiff Andrew Ivchenko and twenty other John and Jane Doe plaintiffs represented by him, not including Plaintiff Renee Ivchenko, was pending (*John Doe I, et al. v. Travis Paul Grant, et al.*, Arizona District Court Case No. CV-20-01142-SMB).

96. Upon information and belief, the Grant Defendants also obtained a web page address in Plaintiff Andrew Ivchenko's name, www.andrewivchenko.com, on August 17, 2020. The later site was is devoid of content, but the bottom of the site includes the notation "This will be fun."

97. Upon information and belief, the Defendants are criminally and civilly liable for cyberstalking Plaintiffs. For instance, under Florida law a court could find that the creation of the website, www.reneeivchenko.com, with the republishing of the mugshot, arrest records and police video, as well as other derogatory information relating to Plaintiff Renee Ivchenko, constitutes Cyberstalking by Impersonation - To engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person; causing substantial emotional distress to that person and serving no legitimate purpose. See Section 784.048(1)(d), Fla. Stat.

98. The websites created in Plaintiffs' misappropriated names serve no legitimate purpose. The Grant Defendants intentionally used the identity of a litigant and an attorney in an effort to further embarrass and/or harass which Plaintiffs interpret as a strategy to seek to apply pressure to not litigate legitimate contested claims.

1 99. Upon information and belief, two of Plaintiff Andrew Ivchenko's clients
2 were also represented by The Rosenstein Law Group, PLLC, located in Scottsdale,
3 Arizona, in lawsuits filed in Maricopa County Superior Court against the Grant
4 Defendants (Case Nos. CV2020-055202, filed September 24, 2020, and CV2020-
5 055722, filed November 6, 2020).

6 100. Plaintiff Andrew Ivchenko informed Defendant Gingras by e-mail on
7 November 20, 2020, that he would be coordinating his efforts in the litigation against the
8 Grant Defendants with the Rosenstein Law Group, and that his clients would be filing
9 individual actions against the Grant Defendants.

10 101. Defendant Gingras responded by email that same day, and threatened
11 "Nevertheless, I will remind you that filing groundless lawsuits without probable cause
12 and with malice is both unethical and unlawful, and doing so will expose you and
13 anyone else involved to significant personal liability."

14 102. Upon information and belief, shortly after Defendant Gingras sent Plaintiff
15 Andrew Ivchenko his e-mail response, one of these clients had her booking photo and
16 arrest information placed on the home page of the Grant Defendants'
17 www.publicpolice-record.com website. The home page included the arrest booking photo
18 and other derogatory commentary pertaining to one of the attorneys in The Rosenstein
19 Law Group, who was part of their litigation team.

20 103. The home page also included the addition of Plaintiff Renee Ivchenko's
21 booking photo, detailed documentation pertaining to her participation in a diversion
22 program, and the actual police video from her arrest, the latter two of which had been
23 acquired by Defendant Gingras. These were the only three people that appeared on the
24 www.publicpolice-record.com home page.

25 104. Upon information and belief, based on the timeline of events and
communications between the parties involved, the reposting of the criminal justice

1 information by the Grant Defendants was meant to harass and intimidate Plaintiffs, the
2 other parties and their attorneys and was retaliatory in nature.

3 105. On December 5, 2020, Plaintiff Andrew Ivchenko sent Defendant Gingras
4 an e-mail objecting to the cyber harassment of the three individuals on the Grant
5 Defendants' Websites. On December 6, 2020, Mr. Gingras acknowledged that his clients
6 had published this information, further stating, "I've said this before and I'll say it again
7 – litigation is like war. That's just a fact.... Suing can often cause far more harm to the
8 plaintiff than whatever events they are suing over. Just ask Barbra Streisand. I could
9 draw other comparison [sic], but probably the most accurate one is this: asking the
10 [Grant Defendants] not to make public comments about the case (and the participants) is
11 kind of like a rapist telling their victim not to scream during the assault."

12 106. Upon information and belief, Defendant Gingras further aids and abets his
13 clients, including the Grant Defendants, by using "doxing" as an intimidation strategy.
14 Doxing concerns publishing private or identifying information about a particular
15 individual on the internet, typically with malicious intent.

16 107. Despite efforts to conceal the aforementioned client's identity in the
17 lawsuit filed against the Grant Defendants by the Rosenstein Law Group, the Defendants
18 assumed who the Jane Doe plaintiff was. In retaliation, the Grants included her mugshot
19 and criminal justice information on the front page of their www.publicpolice.com
20 website, along with the booking and arrest records pertaining to Plaintiff Renee
21 Ivchenko.

22 108. To further enhance the doxing effect, Defendant Gingras also included
23 hyperlinks to the individual who he simply assumed was the plaintiff and then added her
24 mugshot and criminal justice information in his pleadings and inserted her name in the
25 case caption despite her filing under the name "Jane Doe." This was all done without the
Court's permission in that case (Maricopa County Superior Court Case No. CV2020-

055202, removed to the Arizona District Court, Case No. CV20-02045-SPL, and then remanded).

109. Upon information and belief, several online reporting services picked up the case and a Google search of the client's name then included the case, along with the client's booking photo and arrest records memorialized for eternity.

110. Upon information and belief, once the Defendants have identified a party in the litigation against them, they will see to it that this person's name, booking photo, arrest records, criminal justice files, police video, etc., will all be inserted in the pleadings as well as in the case caption, which then allows the case to get reported by various online reporting services, as well as posting the information on the front page of the Websites. This information then appears in most instances on the first page of a Google search of that person's name, causing further embarrassment and reputational harm.

111. Defendant Gingras further aids and abets his clients in this manner, by obtaining these records and posting copies of the pleadings and emails from opposing counsel on the Gingras Twitter Site. Attached hereto as Exhibit N, and incorporated herein by reference, are examples of these tweets.

112. Plaintiff Andrew Ivchenko initiated two lawsuits against the Grant Defendants in Maricopa County Superior Court on behalf of his clients, including Case No. CV2021-090059, filed January 6, 2021, and Case No. CV2021-090710, a class action on behalf of all Arizona victims of the Grant Defendants, filed on February 12, 2021.

113. Upon information and belief, Defendant Gingras has repeatedly abused process and used the law as a weapon to create a chilling effect designed to dissuade others from asserting their legal rights against the Grant Defendants and other internet predators like them.

1 114. Upon information and belief, Defendant Gingras has filed questionable
2 lawsuits against attorneys and parties that have brought suit against his clients, mostly
3 internet operators like the Grant Defendants. The best known of these cases involved
4 Xcentric Ventures LLC (which operates the notorious Rip-off Report). *See Xcentric*
5 *Ventures, LLC v. Borodkin*, 798 F.3d 1201 (9th Cir. 2015). Upon information and belief,
6 this groundless lawsuit was dismissed by the Court, and yet still appealed by the
7 plaintiffs, to no avail.

8 115. Upon information and belief, Defendant Gingras' actions in the *Xcentric*
9 *Ventures* case was simply an intimidation tactic designed to dissuade others from
10 asserting their legitimate rights in court, and has since become Defendant Gingras'
11 modus operandi when defending predatory internet operators like the Grant Defendants.

12 116. Upon information and belief, Defendant Gingras has continued with these
13 tactics against Plaintiffs, this time on behalf of the Grant Defendants, notorious mugshot
14 website operators who in their previous pleadings in Arizona have admitted that there
15 are "twenty million" people with mugshots and arrest records on their Websites.

16 117. Defendants filed suit against Plaintiffs in the Arizona District Court in
17 January 21, 2021, alleging myriad causes of action including malicious prosecution.
18 This lawsuit was filed only three days after Plaintiff Andrew Ivchenko served the Grant
19 Defendants with Case No. CV2021-090059.

20 118. Upon information and belief, this lawsuit is groundless and will be
21 dismissed on the pleadings, and was filed simply to exert pressure against Plaintiff
22 Andrew Ivchenko in his ongoing State court actions against the Grant Defendants.

23 119. Upon information and belief, immediately after the Defendants filed this
24 lawsuit, they removed Plaintiff Renee Ivchenko's mugshot, arrest records and police
25 video of her arrest from the homepage of their mugshot website,
www.publicpolicerecord.com.

1 120. Plaintiff Andrew Ivchenko has coordinated the litigation against the Grant
2 Defendants with a national legal team that initiated suit against them in Florida on April
3 8, 2021 (Case No. 2021-CA-000960, Seminole County, Florida, Circuit Court,
4 Eighteenth Judicial Circuit) (the “Florida Action”). Attached hereto as Exhibit O, and
5 incorporated herein by reference, is a copy of the complaint in the Florida Action.

6 121. In order to support an anonymity motion by the John Doe plaintiff in the
7 Florida Action, Plaintiff Andrew Ivchenko provided an affidavit outlining in detail the
8 actions of the Defendants throughout the Arizona litigation. Attached hereto as Exhibit
9 P, and incorporated herein by reference, is a copy of the affidavit.

10 122. On or about July 9, 2021, one day after the anonymity motion in the
11 Florida Action was filed, the Defendants subjected Plaintiffs to a vicious online attack,
12 once again posting Plaintiff Renee Ivchenko’s mugshot, arrest records and police video
13 of her arrest on the homepage of their mugshot website, www.publicpolice record.com,
14 coupled with additional derogatory information and commentary.

15 123. The homepage also included derogatory information about Plaintiff
16 Andrew Ivchenko, with a caricature of his image obtained from the arrest video, which
17 was done so that an internet search of his name would include this image and a link over
18 to the www.publicpolice record.com home page, providing more online exposure to
19 Plaintiff Renee Ivchenko’s information and causing Plaintiffs further embarrassment and
20 reputational harm.

21 **The Grant Family Mugshot Enterprise**

22 124. The public nature of the Websites and public availability of Plaintiff Renee
23 Ivchenko’s Mugshot and Records has and continues to cause both emotional and
24 financial harm to Plaintiffs, including, but not limited to, unwanted publicity and
25 ramifications for Plaintiff Renee Ivchenko’s employment.

 125. The Grant Defendants generate substantial revenue from the misleading
use of the original content they create from the booking photos.

1 126. The Grant Defendants gather and collect arrest photos and create original
2 content out of that material in the form of advertisements (“arrest photo
3 advertisements”).

4 127. The arrest photo advertisements are strategically placed on the Websites
5 for maximum commercial exploitation. Specifically, the Grant Defendants place the
6 arrest photo advertisements directly above, and/or directly alongside banner ads that
7 advertise services for, inter alia, public records information, thus making it appear
8 (falsely) that by clicking on the banner ad the user would be directed to “Arrest Details”
9 located in the Websites’ database.

10 128. The misleading manner in which the Grant Defendants use the arrest photo
11 advertisements to entice the public into clicking on third party banner ads generates
12 substantial pay-per-click advertising for the Grant Defendants.

13 129. Because the third party banner ads are typically for services such as public
14 arrest records databases and because the third-party banner ad is located directly
15 beneath, alongside, and embedded within the arrest photo advertisements, the user
16 mistakenly clicks on the banner ad falsely believing that by doing so they will be
17 directed to the “arrest details” in the Websites’ database, but are instead directed to the
18 third party database.

19 130. Upon information and belief, the Grant Defendants purposefully and
20 intentionally create the arrest photo advertisements in this manner to increase user clicks
21 on third party ads, thus earning substantial pay-per-click advertising revenue.

22 131. Thus, the arrest photos advertisements serve at least two commercial
23 purposes: 1) to attract third party advertisers to the Websites; and 2) entice any user of
24 the Websites to mistakenly click the third party banner ad so as to generate pay-per-click
25 advertising revenue for the Grant Defendants.

 132. The arrest information and booking photos that the Grant Defendants use
to create the arrest photo advertisements was never intended by law enforcement to be

1 used in this manner or posted by the Grant Defendants. The booking photos the Grant
2 Defendants use to create the arrest photo advertisements are not tendered by law
3 enforcement agencies to the Grant Defendants.

4 133. It is the public policy of the State of Arizona, as made crystal clear by the
5 Arizona Mugshot Statute, that the arrest information and arrest photos briefly
6 disseminated by Arizona's law enforcement and other agencies not be used in the
7 manner that the Grant Defendants use them.

8 134. Plaintiff Renee Ivchenko had an arrest photo taken.

9 135. The Grant Defendants, without permission, consent or knowledge of
10 Plaintiff Renee Ivchenko, reproduced, publicly displayed, distributed, and created
11 original advertising content out of the arrest photo.

12 136. The Grant Defendants also, without permission, consent or knowledge of
13 Plaintiff Renee Ivchenko, reproduced, publicly displayed, and distributed her arrest
14 information.

15 137. The Grant Defendants' respective Websites, along with Plaintiffs' images,
16 were indexed by Yahoo.com and Google.com, and the images appear under Google
17 Images when an internet search for Plaintiffs' names are conducted.

18 138. The Grant Defendants' use of Plaintiff Renee Ivchenko's image and arrest
19 information is for a purely commercial purpose, and, in relation to both Plaintiffs, as
20 retaliation designed to punish them for pursuing their legal rights and to create a chilling
21 effect designed to dissuade others from pursuing their legal rights.

22 139. The Grant Defendants operate one or more Websites that are used to
23 display Plaintiff Renee Ivchenko's image as part of a commercial enterprise.

24 140. The display by the Grant Defendants of Plaintiff Renee Ivchenko's image
25 on their Websites, as well as that of Plaintiff Andrew Ivchenko, is intended, among other
things, to subject Plaintiffs to hatred, contempt, or ridicule, and to damage their personal
and business reputations, or to impair their credit.

1 141. Each of the Grant Defendants, acting on their own or in conjunction with
2 one or more of the other Defendants, derives revenue from the Websites through Google
3 Ads and other means.

4 142. Unless the Grant Defendants are enjoined from further commercial use and
5 publication of Plaintiff Renee Ivchenko's image and name and other arrest information,
6 and from cyber harassing Plaintiffs, they will suffer further irreparable injury.

7 **FIRST CAUSE OF ACTION—ABUSE OF PROCESS**

8 **(Against All Defendants)**

9 143. Plaintiffs incorporate by reference the allegations of each paragraph above
10 into this claim as though fully set forth herein.

11 144. Arizona recognizes the tort of Abuse of Process.

12 145. The elements of the tort are set forth in the REVISED ARIZONA JURY
13 INSTRUCTIONS (CIVIL), 6TH, INTENTIONAL TORTS 18.1—Abuse of Process.

14 146. Defendants, and each of them, willfully used Case No. 2 against Plaintiffs
15 in the manner set forth above.

16 147. Defendants, and each of them, used Case No. 2 in a wrongful manner that
17 was not proper in the normal course of the proceedings.

18 148. Specifically, Defendants, and each of them, committed abuse of process by
19 employing vexatious litigation and "scorched earth" tactics designed to drain Plaintiffs'
20 financial resources and also to intimidate them to drop the lawsuit, knowing that the
21 entire action had merit.

22 149. Furthermore, Defendants, and each of them, sought to use Case No. 2 as a
23 form of harassment and to exert economic pressure to induce Plaintiffs into a settlement
24 or to quit the litigation.

25 150. Defendants engaged in an abuse of process by seeking to delay and avoid a
disposition on the merits of Case No. 2 for as long as possible and for the improper
purpose of making the case as expensive as possible, thereby increasing the odds that

1 Plaintiffs would be unable to bear the cost of litigation. By doing so, Defendants hoped
2 to force Plaintiffs to settle in a manner which would allow Defendants to continue to
3 unlawfully operate their mugshot business in Arizona in violation of the Arizona
4 Mugshot Statute and Arizona common law.

5 151. Defendants engaged in abuse of process by, among other things:

- 6 a. Including factual allegations in the pleadings which they knew to be
7 false;
- 8 b. Falsely asserting that certain claims were untimely;
- 9 c. Asserting defenses they knew were legally groundless;
- 10 d. Refusing to dismiss defenses they knew to be groundless;
- 11 e. Filing motions for the sole purpose of needlessly expanding the
12 litigation and making it more costly to resolve;
- 13 f. Filing motions for the sole purpose of harassment of Plaintiff Renee
14 Ivchenko;
- 15 g. Improperly asserting defenses which did not arise out of the same
16 transaction, occurrence, or series of transactions or occurrences as the
17 defenses associated with the complaint for the sole purpose of needlessly
18 expanding the litigation and making it more expensive to resolve;
- 19 h. Withdrawing dispositive motions that were pending after Plaintiffs
20 expended financial resources in response;
- 21 i. Filing motions designed to delay the action while dispositive
22 motions were pending in order to prevent the court from considering the
23 merits of the case;
- 24 j. Attempting to engage in unnecessary discovery solely as a tool to
25 harass Plaintiffs.

152. In this manner, Defendants unlawfully engaged in an abuse of process by
using Case No. 2 primarily for an improper purpose or ulterior motive.

1 153. Defendants’ wrongful use of the court’s process in Case No. 2 caused
2 injury, damage, loss or harm to Plaintiffs in an amount to be proven at trial.

3 154. Defendants’ wrongful conduct was motivated by spite, ill will, and for the
4 improper purpose of making the case as expensive as possible.

5 155. Defendants, and each of them, through their actions in Case No. 2,
6 consciously pursued a course of conduct knowing that it created a substantial risk of
7 significant harm to others.

8 156. Plaintiffs are entitled to an award of punitive damages against each
9 Defendant in an amount sufficient to punish their unlawful conduct and to deter others
10 from acting in a similar manner.

11 **SECOND CAUSE OF ACTION—VIOLATION OF A.R.S. §§ 44-7901/7902**

12 **(Against the Grant Defendants Only)**

13 157. Plaintiffs incorporate by reference the allegations of each paragraph above
14 into this claim as though fully set forth herein.

15 158. The people of the State of Arizona, by and through their popularly elected
16 legislature, enacted a statute entitled “Mugshot website operators; prohibited acts;
17 exceptions,” codified at Arizona Revised Statute §§ 44-7901, 7902 (the “Arizona
Mugshot Statute”). That statute was in force and effective at all times herein relevant.

18 159. A.R.S. 44-7902 states as follows:

19 Mugshot website operators; prohibited acts; exceptions

20 A. A mugshot website operator that publishes a subject individual's
21 criminal justice record for a commercial purpose on a publicly accessible
22 website is deemed to be transacting business in this state.

23 B. A mugshot website operator may not use criminal justice records or the
24 names, addresses, telephone numbers and other information contained in
25 criminal justice records for the purpose of soliciting business for pecuniary
gain, including requiring the payment of a fee or other valuable

1 consideration in exchange for removing or revising criminal justice records
2 that have been published on a website or other publication.

3 C. A subject individual whose criminal justice record is published in
4 violation of subsection B of this section and who suffers a pecuniary loss
5 or who is otherwise adversely affected as a result of a violation of
6 subsection B of this section has a cause of action against the person
7 responsible for the violation and may recover damages in addition to the
8 damages prescribed in subsection D of this section in any court of
9 competent jurisdiction.

10 D. A person that violates subsection B of this section is liable for damages
11 for each separate violation in an amount of at least:

- 12 1. \$100 per day during the first thirty days of the violation.
- 13 2. \$200 per day during the subsequent thirty days of the violation.
- 14 3. \$500 per day for each day thereafter.

15 E. This article does not apply to any act performed for the purpose of
16 disseminating news to the public, including the gathering, publishing or
17 broadcasting information to the public for a news-related purpose, or to
18 any act performed by a publisher, owner, agent, employee or retailer of a
19 newspaper, radio station, radio network, television station, television
20 broadcast network, cable television network or other online news outlet
21 associated with any news organization in connection with the
22 dissemination of news to the public, including the gathering, publishing or
23 broadcasting information to the public for a news-related purpose.

24 F. This article does not apply to activities by a licensed attorney, private
25 investigator or registered process server that are associated with purposes
relating to a current or anticipated criminal or civil proceeding. This

1 section does not affect the conduct of trials or the discovery process in any
2 proceeding as otherwise provided by law or court rule.

3 160. A.R.S. 44-7901 states as follows:

4 44-7901. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Booking photograph" means a photograph of a subject individual that
7 is taken pursuant to an arrest or other involvement in the criminal justice
8 system.

9 2. "Commercial purpose" has the same meaning prescribed in section 39-
10 121.03.

11 3. "Criminal justice record" includes a booking photograph and the name,
12 address and description of and the charges filed against a subject
13 individual.

14 4. "Mugshot website operator" means a person that publishes a criminal
15 justice record on a publicly available internet website for a commercial
16 purpose.

17 5. "Person" means a natural person, partnership, association, joint venture,
18 corporation, limited liability company, nonprofit organization or trust or
19 any similar entity or organized group of persons.

20 6. "Subject individual" means an individual who has been arrested.

21 161. A.R.S. 39-121.03(D) states as follows:

22 For the purposes of this section, "commercial purpose" means the use of a
23 public record for the purpose of sale or resale or for the purpose of
24 producing a document containing all or part of the copy, printout or
25 photograph for sale or the obtaining of names and addresses from public
records for the purpose of solicitation or the sale of names and addresses to
another for the purpose of solicitation or for *any purpose in which the*

1 *purchaser can reasonably anticipate the receipt of monetary gain from the*
2 *direct or indirect use of the public record* (emphasis added). Commercial
3 purpose does not mean the use of a public record as evidence or as
4 research for evidence in an action in any judicial or quasi-judicial body.

5 162. The Grant Defendants posted Plaintiff Renee Ivchenko's' mugshot and
6 criminal record information to publicpolice record.com and/or usbondsmen.com as set
7 forth herein.

8 163. The Grant Defendants posted Plaintiff Renee Ivchenko's' mugshot and
9 criminal record information to publicpolice record.com and/or usbondsmen.com for a
10 commercial purpose, as defined in A.R.S. 39-121.03(D).

11 164. The Grant Defendants violated the Arizona Mugshot Statute by posting
12 Plaintiff Renee Ivchenko's' criminal record information and mugshots to
13 publicpolice record.com and/or usbondsmen.com for commercial purposes, namely, by
14 soliciting and generating advertising revenue through Google Ads, and by other acts
15 and/or omissions as specified in this Complaint.

16 165. Pursuant to the Arizona Mugshot Statute, "A person that violates
17 subsection B of this section is liable for damages for each separate violation in an
18 amount of *at least*: 1. \$100 per day during the first thirty days of the violation. 2. \$200
19 per day during the subsequent thirty days of the violation. 3. \$500 per day for each day
20 thereafter." A.R.S. 44-7902(D) (emphasis added).

21 166. The Grant Defendants' violation of the Arizona Mugshot Statute
22 proximately caused damage to Plaintiff Renee Ivchenko in an amount to be determined
23 at trial.

24 **THIRD CAUSE OF ACTION—INVASION OF PRIVACY BASED ON**

25 **APPROPRIATION**

 (Against the Grant Defendants Only)

1 167. Plaintiffs incorporate by reference the allegations of each paragraph above
2 into this claim as though fully set forth herein.

3 168. Plaintiff Renee Ivchenko has a privacy interest in the exclusive use of her
4 name and likeness.

5 169. Defendants' appropriation (and use as an advertisement) of Plaintiff Renee
6 Ivchenko's Mugshot and Records was done for Defendants' own commercial purposes
7 and benefit.

8 170. Defendants' appropriation of Plaintiff Renee Ivchenko's image constituted
9 an invasion of privacy as prescribed by Restatements (Second) of Torts § 652C.

10 171. The Grant Defendants misappropriated Plaintiff Renee Ivchenko's name
11 by establishing the website www.reneeivchenko.com, on which they posted her booking
12 photo in or around November 2020.

13 172. Plaintiffs sent the hosting company (Godaddy) a subpoena in connection
14 with their ongoing case involving the aforementioned Twitter defamation (Maricopa
15 County Superior Court Case No. CV2020-093379) to find out who had set up this
16 website.

17 173. Godaddy's response showed that it was Defendant TRAVIS PAUL
18 GRANT, who obtained the web page address on July 4, 2020.

19 174. Upon information and belief, the Grant Defendants also misappropriated
20 Plaintiff Andrew Ivchenko's name by obtaining a web page address in his name,
21 www.andrewivchenko.com, on August 17, 2020, and establishing a website. The
22 website is devoid of content, but the bottom of the site includes the notation "This will
23 be fun."

24 175. Plaintiff Renee Ivchenko is easily identified from the publication of the
25 Mugshot and Records on the Websites.

1 176. The Grant Defendants benefited from the publication because the
2 publication of mugshots and criminal records for pecuniary gain is the Websites' very
3 purpose.

4 177. The Grant Defendants also benefited from the publication because their
5 goal was to make an example of Plaintiffs in order to create a chilling effect designed to
6 dissuade others from pursuing their legitimate legal rights against them.

7 178. As a direct and proximate result of the Grant Defendants' malicious acts,
8 Plaintiffs have been harmed.

9 **FOURTH CAUSE OF ACTION—FALSE LIGHT INVASION OF PRIVACY**

10 **(Against the Grant Defendants Only)**

11 179. Plaintiffs incorporate by reference the allegations of each paragraph above
12 into this claim as though fully set forth herein.

13 180. The Grant Defendants gave publicity to a matter in an easily accessible
14 public forum concerning Plaintiffs that places them in a false light.

15 181. Specifically, by posting Plaintiff Renee Ivchenko's Mugshot and Records
16 on the Websites and on a website with her misappropriated name, and by prominently
17 publishing her on the publicpolicerecord.com home page with additional, derogatory
18 commentary, the Grant Defendants imply that Plaintiff Renee Ivchenko did something
19 wrong and is guilty of a crime.

20 182. The Grant Defendants' publication and use of Plaintiff Renee Ivchenko's
21 booking photo as an advertisement and publication of her arrest information placed
22 Plaintiff Renee Ivchenko before the public in a false light, falsely portrayed her as a
23 convicted criminal, and was done for the purpose of shaming the Plaintiff.

24 183. The false and/or misleading portrayal of Plaintiff Renee Ivchenko as a
25 criminal was highly offensive to her and would be highly offensive to a reasonable
person.

1 184. Furthermore, by posting information concerning Plaintiff Andrew
2 Ivchenko on the publicpolice record.com website and on a website with his
3 misappropriated name, and by prominently publishing him on the
4 publicpolice record.com home page with additional, derogatory commentary, the Grant
5 Defendants imply that Plaintiff Andrew Ivchenko did something wrong and is guilty of
6 wrongdoing.

7 185. Plaintiffs did not consent, authorize, or agree that the Grant Defendants
8 could post this information about them.

9 186. The false light in which Plaintiffs are placed would be highly offensive to
10 a reasonable person.

11 187. The Grant Defendants knowingly or recklessly disregarded the false light
12 in which Plaintiff Renee Ivchenko was placed due to the publication of the Mugshot and
13 Records on the Websites, including the misappropriated website.

14 188. The Grant Defendants knowingly or recklessly disregarded the false light
15 in which Plaintiff Andrew Ivchenko was placed due to the publication of the
16 misappropriated website, and by prominently publishing him on the
17 publicpolice record.com home page with additional, derogatory commentary.

18 189. Defendants publication (and use as an advertisement) of Plaintiff Renee
19 Ivchenko's booking photo and arrest information and portrayal of the her as a criminal
20 was done with reckless disregard for the fact that she had not been convicted of any
21 crime.

22 190. Defendants' publication (and use as an advertisement) of Plaintiff Renee
23 Ivchenko's booking photo and arrest information created a false impression regarding
24 her criminal history and character and damaged her reputation and caused severe
25 emotional distress.

1 191. As a direct and proximate result of the above-described publication and
2 malicious acts, Plaintiffs have suffered loss of their reputation, shame, mortification, and
3 injury to their feelings, in a total amount to be established by proof at trial.

4 **FIFTH CAUSE OF ACTION—**
5 **UNLAWFUL APPROPRIATION/RIGHT OF PUBLICITY**
6 **(Against the Grant Defendants Only)**

7 192. Plaintiffs incorporate by reference the allegations of each paragraph above
8 into this claim as though fully set forth herein.

9 193. Arizona courts “recognize[] the right of publicity, both as a tort claim and
10 an unfair competition claim.” *Lemon v. Harlem Globetrotters Int’l, Inc.*, 437 F. Supp. 2d
11 1089, 1100 (D. Ariz. 2006) (citing Restatement (Second) of Torts § 652C).

12 194. The Grant Defendants used the name and likeness of Plaintiffs without
13 Plaintiffs’ consent or permission to the Grant Defendants’ commercial advantage.

14 195. The Grant Defendants’ wrongful use included, inter alia, use of Plaintiffs’
15 image as an advertisement and to dissuade Plaintiffs and others from asserting their legal
16 rights against the Grant Defendants.

17 196. As a result of Defendants’ use of Plaintiffs’ name, the Plaintiffs have
18 suffered harm including harm to reputation, emotional distress, and additional harms.

19 **FIFTH CAUSE OF ACTION—CIVIL CONSPIRACY**
20 **(Against All Defendants)**

21 197. Plaintiffs incorporate by reference the allegations of each paragraph above
22 into this claim as though fully set forth herein.

23 198. Defendants, individually and each of them together have conspired with
24 each other to injure Plaintiffs.

25 199. Defendants are guilty of civil conspiracy designed and implemented to
injure Plaintiffs and to cause irreparable harm to Plaintiffs and their businesses and
trade.

1 200. As a direct and proximate cause of the civil conspiracy committed by
2 Defendants, Plaintiffs have been damaged.

3 **SIXTH CAUSE OF ACTION—**

4 **AIDING AND ABETTING TORTIOUS CONDUCT**

5 **(Against All Defendants)**

6 201. Plaintiffs incorporate by reference the allegations of each paragraph above
7 into this claim as though fully set forth herein.

8 202. Upon information and belief, the Defendants each aided and abetted each
9 other in Case No. 2 and in cyber harassing Plaintiffs as alleged above.

10 203. Upon information and belief, the Defendants each were each aware that
11 the other Defendants were engaged in the conduct alleged herein for which they are
12 liable to Plaintiffs.

13 204. Upon information and belief, the Defendants each provided substantial
14 assistance or encouragement to each other with the intent of promoting their wrongful
15 conduct.

16 205. The Defendants each acted in concert with one another during their
17 wrongful conduct in Case No. 2 and in cyber harassing Plaintiffs. Pursuant to A.R.S. §
18 12–2506(D), Defendants and each of them are jointly and severally liable to Plaintiffs
19 for any and all damages suffered.

20 206. The actions of the Defendants were willful, malicious, and the product of
21 an evil hand guided by an evil mind. The Defendants, and each of them, specifically
22 intended to harm Plaintiffs to an extent sufficient to entitle them to recover punitive
23 damages in an amount to be proven at trial.

24 **SEVENTH CAUSE OF ACTION—**

25 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

(Against All Defendants)

1 207. Plaintiffs incorporate by reference the allegations of each paragraph above
2 into this claim as though fully set forth herein.

3 208. The Defendants, by and through publishing and using Plaintiff Renee
4 Ivchenko's booking photo as an advertisement, and by cyber harassing Plaintiffs,
5 behaved intentionally and/or recklessly.

6 209. Defendants, by and through publishing and using Plaintiff Renee
7 Ivchenko's booking photo as an advertisement, and by cyber harassing Plaintiffs,
8 intended to cause emotional distress upon Plaintiffs.

9 210. Publishing and using Plaintiff Renee Ivchenko's booking photo as an
10 advertisement, and cyber harassing Plaintiffs, was so outrageous in character, and so
11 extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as
12 atrocious, and utterly intolerable in a civilized community.

13 211. Plaintiffs have suffered and continue to suffer severe emotional distress
14 and emotional injury due to the Defendants' actions.

15 212. The Defendants' actions were the direct and proximate cause of such
16 severe emotional distress and emotional injury to Plaintiffs.

17 213. Plaintiffs suffered and continue to suffer mental anguish as a result of the
18 Defendants publishing and using Plaintiff Renee Ivchenko's booking photo as an
19 advertisement, and by cyber harassing Plaintiffs, and said mental anguish is of a nature
20 that no reasonable person could be expected to endure.

21 214. As a result, the Defendants are liable to Plaintiffs for actual, presumed and
22 punitive damages in an amount to be determined at trial.

23 **EIGHT CAUSE OF ACTION—PUNITIVE DAMAGES**

24 **(Against All Defendants)**

25 215. Plaintiffs incorporate by reference the allegations of each paragraph above
into this claim as though fully set forth herein.

1 216. The Defendants' aforementioned conduct was conscious, deliberate,
2 intentional, and/or reckless in nature.

3 217. The Defendants' aforementioned conduct was undertaken in a state of
4 mind which evidences hatred, ill will, or a spirit of revenge. Defendants' evil hand was
5 guided by an evil mind.

6 218. The Defendants' aforementioned conduct evidences a conscious disregard
7 for the rights of Plaintiffs and has caused, and continues to cause, them substantial harm.

8 219. As a result, Plaintiffs are entitled to punitive damages and attorney's fees.

9 **NINTH CAUSE OF ACTION—INJUNCTIVE RELIEF**

10 **(Against All Defendants)**

11 220. Plaintiffs incorporate by reference the allegations of each paragraph above
12 into this claim as though fully set forth herein.

13 221. The Grant Defendants' unauthorized publication of Plaintiff Renee
14 Ivchenko's Mugshot and Records, and misappropriation of Plaintiffs' names and
15 likenesses through the establishment of websites in Plaintiffs' names, has wrongfully
16 caused Plaintiffs continued and unwanted publicity that places them in a false light.

17 222. Every day that Plaintiff Renee Ivchenko's Mugshot and Records remain
18 posted on the Websites, and the Defendants cyber harass Plaintiffs, continues to harm
19 Plaintiffs' reputations and good names.

20 223. Plaintiffs' remedies at law are inadequate.

21 224. Public policy favors an injunction in this matter requiring the Grant
22 Defendants to remove Plaintiff Renee Ivchenko's Mugshot and corresponding criminal
23 justice records from the Websites, and requiring the Defendants to remove the websites
24 established by them in Plaintiffs' misappropriated names and transfer ownership of them
25 to Plaintiffs.

 225. Injunctive relief is necessary to prevent further harm and will not disrupt
the status quo.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1. For damages in an amount that Plaintiffs will prove;
2. For punitive damages to be consistent with proof in this action;
3. Appropriate preliminary and/or permanent injunctive relief;
4. For Plaintiffs' reasonable costs and attorneys' fees incurred herein;
5. For such other and further relief as the Court deems just.

ANDREW IVCHENKO PLLC

42