

Firm E-Mail: courtdocs@dickinsonwright.com

David N. Ferrucci (#027423)
dferrucci@dickinsonwright.com

David G. Bray (#014346)
dbray@dickinsonwright.com

Paxton D. Endres (#034796)
pendres@dickinsonwright.com

DICKINSON WRIGHT PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Phone: (602) 285-5000
Facsimile: (844) 670-6009

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

JANE DOE I; JANE DOE II; JANE DOE
III; JANE DOE IV; JANE DOE V; JOHN
DOE I; JOHN DOE II; JOHN DOE III;
JOHN DOE IV; JOHN DOE V; JOHN
DOE VI; JOHN DOE VII; JOHN DOE
VIII; JOHN DOE IX; JOHN DOE X;
JOHN DOE XI; JANE DOE VI; JANE
DOE VII; JOHN DOE XII; JANE DOE
VIII; and RENEE IVCHENKO, a married
woman,

Plaintiffs,

vs.

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

Defendants.

Case No.: CV2019-015355

AMENDED COMPLAINT

(Jury Trial Demanded)

(Assigned to Honorable Teresa Sanders)

1
2 Plaintiffs Jane Doe I, Jane Doe II, Jane Doe III, Jane Doe IV, Jane Doe V, John
3 Doe I, John Doe II, John Doe III, John Doe IV, John Doe V, John Doe VI, John Doe
4 VII, John Doe VIII, John Doe IX, John Doe X, John Doe XI, Jane Doe VI, Jane Doe
5 VII, John Doe XII, Jane Doe VII, and Renee Ivchenko, a married woman (collectively
6 “Plaintiffs”), through their undersigned counsel, for their Amended Complaint against
7 Defendants, allege the following:
8

9 INTRODUCTION

10 1. Defendants are First Amendment opportunists that exploit arrest
11 information and misappropriate images in booking photos to create misleading
12 advertisements designed to generate substantial advertising revenue and to extort
13 payment from the victims whose images have been misappropriated.
14

15 2. Defendants do not inform the public; instead, Defendants exploit booking
16 photos and arrest information for purely commercial purposes. These “[b]ooking
17 photos—snapped in the vulnerable and embarrassing moments immediately after an
18 individual is accused, taken into custody, and deprived of most liberties—fit squarely
19 within this realm of embarrassing and humiliating information. More than just vivid
20 symbols of criminal accusation, booking photos convey guilt to the viewer.” *Detroit*
21 *Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d 478, 482 (6th Cir. 2016)
22 (citations and quotations omitted). Defendants’ business model is to exploit this
23 embarrassing and humiliating information that falsely conveys guilt for their own
24 commercial gain.
25

26 3. The online dissemination of arrest information and images in booking
27 photos creates substantial barriers for those attempting to reintegrate into society from
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1 finding employment, housing, and starting a new life. Abuse of these records by
2 profiteers such as the Defendants cuts against efforts for criminal justice reform and
3 rehabilitation of those who have made mistakes in their pasts. Moreover, in many cases
4 arrestee's are never charged, are adjudicated not guilty, or their charges are dismissed
5 for various reasons, including by completing diversion programs. Mugshot companies
6 have wide sweeping negative effects on not only those directly impacted but on the
7 community as a whole.

8
9 4. In response to the proliferation of mugshot website operators, such as
10 Defendants, several states have passed statutes relating to the exploitation of mugshots,
11 most recently Arizona. On August 27, 2019, HB2191 became effective law as Arizona
12 Revised Statute §§ 44-7901, 7902; Mugshot website operators; prohibited acts;
13 exceptions (the "Arizona Mugshot Statute"). The new law defines mugshot website
14 companies as "mugshot website operators" and prohibits their operation for commercial
15 purposes, which the law defines to include "any purpose in which the [mugshot website
16 operator] can reasonably anticipate the receipt of monetary gain from the direct or
17 indirect use of the public record." A.R.S. § 39-121.03(D); A.R.S. § 44-7901(2). The
18 Arizona Mugshot Statute also prescribes hefty *minimal* damages that mugshot website
19 companies will have to pay to those affected if they do not comply with the law.

20
21 5. This is an individual action for violation of the Arizona Mugshot Statute,
22 unlawful appropriation/right of publicity, invasion of privacy based on appropriation,
23 and intentional infliction of emotional distress under applicable decisional law in
24 Arizona.

25 6. This is a civil action seeking damages, declaratory, and injunctive relief
26 for the violation of the right of publicity under the common laws of the State of Arizona
27 and to recover damages pursuant to the Arizona Mugshot Statute. Plaintiffs seek redress
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1 for injuries caused by, and an injunction enjoining, the unlawful conduct of Defendants,
2 Kyle David Grant, his brother Travis Paul Grant, and Travis Paul Grant's wife, Mariel
3 Lizette Grant, all doing business in conjunction with their websites, including
4 rapsheetz.com and bailbondsearch.com (the "Websites").

5 7. Defendants' conduct that is the subject of this civil action involves
6 ongoing online activity directed against Plaintiffs. Defendants own the Websites,
7 including rapsheetz.com, on which they use the arrest information and booking photos
8 of arrestees for their own purely commercial purposes. Defendants use software to
9 "scrape" arrest information, including booking photos, from the Maricopa County
10 Sheriff's Office's website, and the websites of other law enforcement agencies who post
11 booking photos online, for all, or substantially all, arrestees, albeit for a limited duration
12 of time, typically three days. Defendants then use the arrest photos to create original
13 content in the form of advertisements that serve three purposes: 1) to attract third party
14 advertisers to the website; 2) generate pay-per-click advertising revenue; and 3) extort
15 payment of fees for removal of the arrest information from the victims who identities
16 and likenesses have been misappropriated.

17 8. "A disclosed booking photo casts a long, damaging shadow over the
18 depicted individual." *Detroit Free Press Inc. v. United States Dep't of Justice*, 829 F.3d
19 478, 482 (6th Cir. 2016). For this reason, law enforcement agencies and the State of
20 Arizona do not intend for booking photos and arrest information to be used in this way
21 or to be available online to the public indefinitely. The Maricopa County Sherriff's
22 Office, for example, only posts arrest photos for three days, after which they are taken
23 down. The Arizona Mugshot Act makes crystal clear that the public policy of Arizona is
24 that arrest information and photos published for a limited time by Arizona law
25 enforcement agencies is not to be "scraped" and then disseminated indefinitely for
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1 Defendants' purely commercial purposes. Yet, that is precisely how Defendants' illegal
2 scheme operates.

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

8 10. Contrary to Defendants' false representations, rapsheetz.com and
9 bailbondsearch.com are not a public safety service or media outlets. If they were,
10 Defendants would not select what information and which booking photos remain on the
11 Websites based on extorted payments, which occurred prior to the enactment of the
12 Florida mugshot statute on or about July 18, 2018 (FL Stat § 901.43, Dissemination of
13 Arrest Booking Photographs) (the "Florida mugshot statute"). Indeed, after being served
14 with the initial complaint in this lawsuit, in a tacit admission that they have never
15 operated as a *bona fide* news organization Defendants began posting so-called "news"
16 reports on the Rapsheetz.com website. Again, Defendants hide behind the false pretense
17 that they are a media organization, post these mugshots and create advertisements out of
18 them solely in order to profit by generating advertising revenue through Google Ads
19 and, at least up until July 18, 2018, extorted payments, and upon information and belief,
20 since that time. Companies pay for Google Ads so that people will notice their business
21 whenever they are searching Google. These companies only have to pay a website
22 owner whenever someone clicks on the ad. This is known as cost-per-click (CPC) or
23 pay-per-click (PPC) advertising. Defendants generate substantial revenue through the
24 misleading manner in which they use these booking photos as advertisements to induce
25 users of their Websites to click on the banner ads.
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1 11. Also contrary to Defendants' false representations, upon information and
2 belief, absent a substantial extorted payment, Defendants refuse to remove someone's
3 mugshot from the Websites even if the arrestee has been found innocent of any crime, or
4 have otherwise had their charges dropped, not filed, expunged, or dismissed as part of a
5 diversion program, as in Plaintiff Renee Ivchenko's case. Prospective employers (or
6 anyone else) conducting a web search find, in many cases, misinformation indicating
7 that people are still charged, incarcerated, or on parole years even after release or an
8 adjudication of not guilty. Defendants intentionally and maliciously set up the Websites
9 to give the false impression people are incarcerated or have been adjudged guilty of a
10 crime. The end result for many arrestees is continuous emotional distress, job loss,
11 broken families, and homelessness. The end result for Defendants is substantial profits.

12 12. Defendants are notorious operators of mugshot Websites, and are known
13 in the industry as being extremely vindictive. Several online sites have been established
14 by aggrieved parties to expose the nefarious and illegal activities of Defendants,
15 including <https://rapsheetsorgkyledavidgrant.wordpress.com> and
16 [http://classactionagainstmugshotwebsites.com/rapsheets-org-kyle-david-grant-travis-](http://classactionagainstmugshotwebsites.com/rapsheets-org-kyle-david-grant-travis-paul-grant)
17 [paul-grant.](http://classactionagainstmugshotwebsites.com/rapsheets-org-kyle-david-grant-travis-paul-grant)
18

19 13. This action seeks to put an end to Defendants' harassment of countless
20 individuals in Arizona and other states. Defendants will continue to cause Plaintiffs
21 harm until Defendants are enjoined from intentionally and maliciously violating
22 Plaintiffs' rights.
23

24 **JURISDICTION AND PARTIES**

25 14. Plaintiff Jane Doe I is a resident of Maricopa County, Arizona. During the
26 relevant time period, defendants have disseminated Plaintiff Jane Doe I's arrest
27 information and booking photo on the Websites for purely commercial purposes. As a
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1 result, Plaintiff Jane Doe I's image has been commercially misappropriated by
2 Defendants, causing damage, and Plaintiff Jane Doe I has incurred damages under the
3 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe I did not
4 provide the Defendants with prior consent for the posting of any information about her,
5 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
6 I has experienced both emotional and financial harm, including, but not limited to, injury
7 to her business and property as a result of the commercial dissemination of her arrest
8 information and arrest photo by the Defendants.
9

10 15. Plaintiff Jane Doe II is a resident of Maricopa County, Arizona. During
11 the relevant time period, defendants have disseminated Plaintiff Jane Doe II's arrest
12 information and booking photo on the Websites for purely commercial purposes. As a
13 result, Plaintiff Jane Doe II's image has been commercially misappropriated by
14 Defendants, causing damage, and Plaintiff Jane Doe II has incurred damages under the
15 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe II did not
16 provide the Defendants with prior consent for the posting of any information about her,
17 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
18 II has experienced both emotional and financial harm, including, but not limited to,
19 injury to her business and property as a result of the commercial dissemination of her
20 arrest information and arrest photo by the Defendants.
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22 16. Plaintiff Jane Doe III is a resident of Maricopa County, Arizona. During
23 the relevant time period, defendants have disseminated Plaintiff Jane Doe III's arrest
24 information and booking photo on the Websites for purely commercial purposes. As a
25 result, Plaintiff Jane Doe III's image has been commercially misappropriated by
26 Defendants, causing damage, and Plaintiff Jane Doe III has incurred damages under the
27 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe III did not
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1 provide the Defendants with prior consent for the posting of any information about her,
2 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
3 III has experienced both emotional and financial harm, including, but not limited to,
4 injury to her business and property as a result of the commercial dissemination of her
5 arrest information and arrest photo by the Defendants.

6 17. Plaintiff Jane Doe IV is a resident of Maricopa County, Arizona. During
7 the relevant time period, defendants have disseminated Plaintiff Jane Doe IV's arrest
8 information and booking photo on the Websites for purely commercial purposes. As a
9 result, Plaintiff Jane Doe IV's image has been commercially misappropriated by
10 Defendants, causing damage, and Plaintiff Jane Doe IV has incurred damages under the
11 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe IV did not
12 provide the Defendants with prior consent for the posting of any information about her,
13 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
14 IV has experienced both emotional and financial harm, including, but not limited to,
15 injury to her business and property as a result of the commercial dissemination of her
16 arrest information and arrest photo by the Defendants.

17 18. Plaintiff Jane Doe V is a resident of Maricopa County, Arizona. During
18 the relevant time period, defendants have disseminated Plaintiff Jane Doe V's arrest
19 information and booking photo on the Websites for purely commercial purposes. As a
20 result, Plaintiff Jane Doe V's image has been commercially misappropriated by
21 Defendants, causing damage, and Plaintiff Jane Doe V has incurred damages under the
22 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe V did not
23 provide the Defendants with prior consent for the posting of any information about her,
24 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
25 V has experienced both emotional and financial harm, including, but not limited to,
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1 injury to her business and property as a result of the commercial dissemination of her
2 arrest information and arrest photo by the Defendants.

3 19. Plaintiff John Doe I is a resident of Maricopa County, Arizona. During the
4 relevant time period, defendants have disseminated Plaintiff John Doe I's arrest
5 information and booking photo on the Websites for purely commercial purposes. As a
6 result, Plaintiff John Doe I's image has been commercially misappropriated by
7 Defendants, causing damage, and Plaintiff John Doe I has incurred damages under the
8 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe I did not
9 provide the Defendants with prior consent for the posting of any information about him,
10 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
11 I has experienced both emotional and financial harm, including, but not limited to, injury
12 to his business and property as a result of the commercial dissemination of his arrest
13 information and arrest photo by the Defendants.
14

15 20. Plaintiff John Doe II is a resident of Maricopa County, Arizona. During
16 the relevant time period, defendants have disseminated Plaintiff John Doe II's arrest
17 information and booking photo on the Websites for purely commercial purposes. As a
18 result, Plaintiff John Doe II's image has been commercially misappropriated by
19 Defendants, causing damage, and Plaintiff John Doe II has incurred damages under the
20 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe II did not
21 provide the Defendants with prior consent for the posting of any information about him,
22 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
23 II has experienced both emotional and financial harm, including, but not limited to,
24 injury to his business and property as a result of the commercial dissemination of his
25 arrest information and arrest photo by the Defendants.
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1 21. Plaintiff John Doe III is a resident of Pinal County, Arizona. During the
2 relevant time period, defendants have disseminated Plaintiff John Doe III's arrest
3 information and booking photo on the Websites for purely commercial purposes. As a
4 result, Plaintiff John Doe III's image has been commercially misappropriated by
5 Defendants, causing damage, and Plaintiff John Doe III has incurred damages under the
6 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe III did not
7 provide the Defendants with prior consent for the posting of any information about him,
8 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
9 III has experienced both emotional and financial harm, including, but not limited to,
10 injury to his business and property as a result of the commercial dissemination of his
11 arrest information and arrest photo by the Defendants.
12

13 22. Plaintiff John Doe IV is a resident of Denton County, Texas. During the
14 relevant time period, defendants have disseminated Plaintiff John Doe IV's arrest
15 information and booking photo on the Websites for purely commercial purposes. As a
16 result, Plaintiff John Doe IV's image has been commercially misappropriated by
17 Defendants, causing damage, and Plaintiff John Doe IV has incurred damages under the
18 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe IV did not
19 provide the Defendants with prior consent for the posting of any information about him,
20 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
21 IV has experienced both emotional and financial harm, including, but not limited to,
22 injury to his business and property as a result of the commercial dissemination of his
23 arrest information and arrest photo by the Defendants.
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25 23. Plaintiff John Doe V is a resident of Brazoria County, Texas. During the
26 relevant time period, defendants have disseminated Plaintiff John Doe V's arrest
27 information and booking photo on the Websites for purely commercial purposes. As a
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1 result, Plaintiff John Doe V's image has been commercially misappropriated by
2 Defendants, causing damage, and Plaintiff John Doe V has incurred damages under the
3 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe V did not
4 provide the Defendants with prior consent for the posting of any information about him,
5 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
6 V has experienced both emotional and financial harm, including, but not limited to,
7 injury to his business and property as a result of the commercial dissemination of his
8 arrest information and arrest photo by the Defendants.
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10 24. Plaintiff John Doe VI is a resident of Denton County, Texas. During the
11 relevant time period, defendants have disseminated Plaintiff John Doe VI's arrest
12 information and booking photo on the Websites for purely commercial purposes. As a
13 result, Plaintiff John Doe VI's image has been commercially misappropriated by
14 Defendants, causing damage, and Plaintiff John Doe VI has incurred damages under the
15 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe VI did not
16 provide the Defendants with prior consent for the posting of any information about him,
17 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
18 VI has experienced both emotional and financial harm, including, but not limited to,
19 injury to his business and property as a result of the commercial dissemination of his
20 arrest information and arrest photo by the Defendants.
21

22 25. Plaintiff John Doe VII is a resident of Kerr County, Texas. During the
23 relevant time period, defendants have disseminated Plaintiff John Doe VII's arrest
24 information and booking photo on the Websites for purely commercial purposes. As a
25 result, Plaintiff John Doe VII's image has been commercially misappropriated by
26 Defendants, causing damage, and Plaintiff John Doe VII has incurred damages under the
27 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe VII did not
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1 provide the Defendants with prior consent for the posting of any information about him,
2 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
3 VII has experienced both emotional and financial harm, including, but not limited to,
4 injury to his business and property as a result of the commercial dissemination of his
5 arrest information and arrest photo by the Defendants.

6 26. Plaintiff John Doe VIII is a resident of Harris County, Texas. During the
7 relevant time period, defendants have disseminated Plaintiff John Doe VIII's arrest
8 information and booking photo on the Websites for purely commercial purposes. As a
9 result, Plaintiff John Doe VIII's image has been commercially misappropriated by
10 Defendants, causing damage, and Plaintiff John Doe VIII has incurred damages under
11 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe VIII did
12 not provide the Defendants with prior consent for the posting of any information about
13 him, including, but not limited to, her arrest information and arrest photo. Plaintiff John
14 Doe VIII has experienced both emotional and financial harm, including, but not limited
15 to, injury to his business and property as a result of the commercial dissemination of his
16 arrest information and arrest photo by the Defendants.

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18 27. Plaintiff John Doe IX is a resident of Bexar County, Texas. During the
19 relevant time period, defendants have disseminated Plaintiff John Doe IX's arrest
20 information and booking photo on the Websites for purely commercial purposes. As a
21 result, Plaintiff John Doe IX's image has been commercially misappropriated by
22 Defendants, causing damage, and Plaintiff John Doe IX has incurred damages under the
23 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe IX did not
24 provide the Defendants with prior consent for the posting of any information about him,
25 including, but not limited to, her arrest information and arrest photo. Plaintiff John Doe
26 IX has experienced both emotional and financial harm, including, but not limited to,
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1 injury to his business and property as a result of the commercial dissemination of his
2 arrest information and arrest photo by the Defendants.

3 28. Plaintiff John Doe X is a resident of Hays County, Texas. During the
4 relevant time period, defendants have disseminated Plaintiff John Doe X's arrest
5 information and booking photo on the Websites for purely commercial purposes. As a
6 result, Plaintiff John Doe X's image has been commercially misappropriated by
7 Defendants, causing damage, and Plaintiff John Doe X has incurred damages under the
8 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe X did not
9 provide the Defendants with prior consent for the posting of any information about him,
10 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
11 X has experienced both emotional and financial harm, including, but not limited to,
12 injury to his business and property as a result of the commercial dissemination of his
13 arrest information and arrest photo by the Defendants.
14

15 29. Plaintiff John Doe XI is a resident of Travis County, Texas. During the
16 relevant time period, defendants have disseminated Plaintiff John Doe XI's arrest
17 information and booking photo on the Websites for purely commercial purposes. As a
18 result, Plaintiff John Doe XI's image has been commercially misappropriated by
19 Defendants, causing damage, and Plaintiff John Doe XI has incurred damages under the
20 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe XI did not
21 provide the Defendants with prior consent for the posting of any information about him,
22 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
23 XI has experienced both emotional and financial harm, including, but not limited to,
24 injury to his business and property as a result of the commercial dissemination of his
25 arrest information and arrest photo by the Defendants.
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1 30. Plaintiff Jane Doe VI is a resident of Collin County, Texas. During the
2 relevant time period, defendants have disseminated Plaintiff Jane Doe VI's arrest
3 information and booking photo on the Websites for purely commercial purposes. As a
4 result, Plaintiff Jane Doe VI 's image has been commercially misappropriated by
5 Defendants, causing damage, and Plaintiff Jane Doe VI has incurred damages under the
6 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe VI did not
7 provide the Defendants with prior consent for the posting of any information about her,
8 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
9 VI has experienced both emotional and financial harm, including, but not limited to,
10 injury to her business and property as a result of the commercial dissemination of her
11 arrest information and arrest photo by the Defendants.
12

13 31. Plaintiff Jane Doe VII is a resident of Harris County, Texas. During the
14 relevant time period, defendants have disseminated Plaintiff Jane Doe VII's arrest
15 information and booking photo on the Websites for purely commercial purposes. As a
16 result, Plaintiff Jane Doe VII's image has been commercially misappropriated by
17 Defendants, causing damage, and Plaintiff Jane Doe VII has incurred damages under the
18 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe VII did not
19 provide the Defendants with prior consent for the posting of any information about her,
20 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
21 VII has experienced both emotional and financial harm, including, but not limited to,
22 injury to her business and property as a result of the commercial dissemination of her
23 arrest information and arrest photo by the Defendants.
24

25 32. Plaintiff John Doe XII is a resident of Los Angeles County, California.
26 During the relevant time period, defendants have disseminated Plaintiff John Doe XII's
27 arrest information and booking photo on the Websites for purely commercial purposes.
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1 As a result, Plaintiff John Doe XII 's image has been commercially misappropriated by
2 Defendants, causing damage, and Plaintiff John Doe XII has incurred damages under the
3 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe XII did not
4 provide the Defendants with prior consent for the posting of any information about him,
5 including, but not limited to, his arrest information and arrest photo. Plaintiff John Doe
6 XII has experienced both emotional and financial harm, including, but not limited to,
7 injury to his business and property as a result of the commercial dissemination of his
8 arrest information and arrest photo by the Defendants.
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10 33. Plaintiff Jane Doe VIII is a resident of Suffolk County, New York. During
11 the relevant time period, defendants have disseminated Plaintiff Jane Doe VIII's arrest
12 information and booking photo on the Websites for purely commercial purposes. As a
13 result, Plaintiff Jane Doe VIII's image has been commercially misappropriated by
14 Defendants, causing damage, and Plaintiff Jane Doe VIII has incurred damages under
15 the Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe VIII did
16 not provide the Defendants with prior consent for the posting of any information about
17 her, including, but not limited to, her arrest information and arrest photo. Plaintiff Jane
18 Doe VIII has experienced both emotional and financial harm, including, but not limited
19 to, injury to her business and property as a result of the commercial dissemination of her
20 arrest information and arrest photo by the Defendants.
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22 34. Plaintiff Renee Ivchenko is a resident of Maricopa County. Plaintiff
23 Renee Ivchenko was arrested in Maricopa County on April 21, 2018, and her charges
24 were subsequently dismissed by prosecution motion on September 21, 2018. Based on
25 information and belief, Plaintiff Renee Ivchenko's arrest information and booking photo
26 was posted on the Websites within days of her arrest, although not discovered by her
27 until late October 2018. Defendants repeatedly refused to remove this information until
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1 such time as she filed her first lawsuit in Maricopa County against Defendants on May
2 9, 2019 (subsequently voluntarily dismissed by Plaintiff). Plaintiff Renee Ivchenko has
3 experienced both emotional and financial harm, including, but not limited to, injury to
4 her business and property as a result of the publication of her name and photograph by
5 the Defendants.

6 35. Defendants Kyle David Grant, Travis Paul Grant, and Mariel Lizette
7 Grant, are residents of the state of Florida. Defendants are the owners and operators of
8 at least the following Websites:

- 9 • Rapsheets.org;
- 10 • Rapsheetz.com;
- 11 • Bailbondcity.com; and
- 12 • bailbondsearch.com.

13 36. Defendants are being sued in their individual capacities. This Court has
14 jurisdiction over Defendants under Arizona's long-arm rule and applicable decisional
15 law, which allows for assertion of personal jurisdiction over a non-resident consistent
16 with federal constitutional due process. Ariz. R. Civ. P. 4.2(a).

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

21 38. Plaintiffs are informed and believe, and based on that information and
22 belief allege, that at all times mentioned in this complaint, Defendants were the agents
23 and employees of their codefendants and in doing the things alleged in this complaint
24 were acting within the course and scope of such agency and employment.

1 39. At all material times, Defendants (i) committed a tortious act within this
2 state, and (ii) are engaged in substantial and not isolated activity within this state.
3 Sufficient minimum contacts exist between Defendants and the state of Arizona to
4 satisfy the due process requirements of the United States Constitution. These include
5 directly targeting their Websites to the state, knowingly interacting with residents of the
6 forum state via their Websites, or through sufficient other related contacts.

7 40. Defendants solicit customers in the state of Arizona. Upon information
8 and belief, Defendants have many paying customers who reside in the state of Arizona
9 who each use Defendants' respective services in the state of Arizona. Upon information
10 and belief, Defendants conduct continuous and systematic business in the state of
11 Arizona.

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

21 42. Maricopa County is a proper venue, pursuant to A.R.S. §12-401(1). The
22 acts and conduct of Defendants occurred in Maricopa County. Defendants' Websites are
23 available to people in Maricopa County.
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GENERAL ALLEGATIONS

43. Plaintiffs are individuals and are now, and at all times mentioned in this complaint were, residents of Maricopa County, Arizona; Pinal County, Arizona; Denton County, Texas; Brazoria County, Texas; Kerr County, Texas; Harris County, Texas; Bexar County, Texas; Hays County, Texas; Travis County, Texas; Collin County, Texas; Los Angeles County, California; and Suffolk County, New York.

44. Defendants generate substantial revenue from the misleading use of the original content Defendants create from the booking photos.

45. Defendants gather and collect arrest photos and create original content out of that material in the form of advertisements (“arrest photo advertisements”).

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

47. The following screenshot capture of a page on rapsheetz.com exemplifies the misleading manner in which Defendants use the arrest photo advertisements to entice the public into clicking on third party banner ads, thus generating substantial pay-per-click advertising for Defendants:

Phoenix Arrest Records for Inmate Scotty Hugh Cooper

Access Court Records

ReviewPublicRecords

I will not use this information to harass anyone whose criminal records are exposed

OPEN

Scotty Hugh Cooper Arrest Details



48. Because, as in the above example, the third party banner ads are typically for services such as public arrest records databases and because the third-party banner ad is located directly beneath, alongside, and embedded within the arrest photo advertisements, the user mistakenly clicks on the banner ad falsely believing that by doing so they will be directed to the “arrest details” in the rapsheetz.com database, but are instead directed to the third party database. Defendants purposefully and intentionally create the arrest photo advertisements in this manner to increase user clicks on third party ads, thus earning substantial pay-per-click advertising revenue.

49. Thus, the arrest photos advertisements serve at least two commercial purposes: 1) to solicit and attract third party advertisers to the Website; and 2) entice

1 any user of the website to mistakenly click the third party banner ad so as to generate
2 pay-per-click advertising revenue for Defendants.

3 50. Defendants have also used the arrest photo advertisements and the stigma
4 of criminal guilt they falsely imply, to extort payment of fees from the victims who
5 images have been misappropriated. Prior to the Florida Legislature's passage of the
6 Florida Mugshots Act, Defendants openly and publically solicited and accepted fees for
7 removal of the arrest photos and information. The Florida Mugshots Act became
8 effective on or about July 18, 2018. Although rapsheetz.com states that Defendants no
9 longer solicit or collect fees for removal, and therefore their conduct is not regulated by
10 the Act, discussion by the online community about Defendants' business practices
11 suggest that Defendants continue to solicit and accept fees for removal, but now do so
12 surreptitiously by waiting to be contacted for removal (through its "free" removal
13 process) and then solicit and accept payment for removal in violation of Florida law.
14

15 51. The arrest information and booking photos that Defendants use to create
16 the arrest photo advertisements was never intended by law enforcement to be used in
17 this manner or posted by Defendants. The booking photos Defendants use to create the
18 arrest photo advertisements are not tendered by law enforcement agencies to Defendants.
19 It is the public policy of the State of Arizona, as made crystal clear by the Arizona
20 Mugshot Act, that the arrest information and arrest photos briefly disseminated by
21 Arizona's law enforcement and other agencies not be used in the manner that
22 Defendants use them.
23

24 52. Plaintiffs had an arrest photo taken.

25 53. Defendants, without permission, consent or knowledge of Plaintiffs,
26 reproduced, publicly displayed, and distributed, and created original advertising content
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1 out of their arrest photos. Defendants also, without permission, consent or knowledge of
2 Plaintiffs, reproduced, publicly displayed, and distributed Plaintiffs' arrest information.

3 54. Defendants' respective Websites, along with Plaintiffs' images, were
4 indexed by Yahoo.com and Google.com, and the images appear under Google Images
5 when an internet search for Plaintiffs name is conducted.

6 55. Defendants' use of Plaintiffs' images and arrest information is for a purely
7 commercial purpose.

8 56. Defendants operate one or more Websites that are used to display
9 Plaintiffs' images as part of a commercial enterprise.

10 57. The display by Defendants of Plaintiffs' images on their Websites, are
11 intended, among other things, to subject Plaintiffs to hatred, contempt, or ridicule, and to
12 damage their personal and business reputations, or to impair their credit.

13 58. Each Defendant, acting on their own or in conjunction with one or more of
14 the other Defendants, derives revenue from the Websites through Google Ads and other
15 means.

16 59. Unless Defendants are enjoined from further commercial use and
17 publication of Plaintiffs' images and names and other arrest information, Plaintiffs will
18 suffer further irreparable injury.

20 CAUSES OF ACTION

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

23 61. Plaintiffs are entitled to recover damages from Defendants jointly and
24 from each of them based on the theories of liability hereinafter enumerated in Counts I
25 through V, and under such other theories of liability as may be appropriate based upon
26 the facts as alleged herein or as revealed during discovery.

COUNT I
VIOLATION OF THE ARIZONA MUGSHOT ACT (A.R.S. 44-7901/7902)
On behalf of Plaintiffs Jane Doe I-VIII and John Does I-XII
Against All Defendants

62. Plaintiffs Jane Does I-VIII and John Does I-XII incorporate by reference the allegations of each paragraph above into this claim as though fully set forth herein.

63. The people of the State of Arizona, by and through their popularly elected legislature, enacted a statute entitled “Mugshot website operators; prohibited acts; 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.

64. A.R.S. 44-7902 states as follows:

Mugshot website operators; prohibited acts; exceptions

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

B. A mugshot website operator may not use criminal justice records or the names, addresses, telephone numbers and other information contained in criminal justice records for the purpose of soliciting business for pecuniary gain, including requiring the payment of a fee or other valuable consideration in exchange for removing or revising criminal justice records that have been published on a website or other publication.

C. A subject individual whose criminal justice record is published in violation of subsection B of this section and who suffers a pecuniary loss or who is otherwise adversely affected as a result of a violation of subsection B of this section has a cause of action against the person responsible for the violation and may recover damages in addition to the

1 damages prescribed in subsection D of this section in any court of
2 competent jurisdiction.

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

- 5 1. \$100 per day during the first thirty days of the violation.
- 6 2. \$200 per day during the subsequent thirty days of the violation.
- 7 3. \$500 per day for each day thereafter.

8 E. This article does not apply to any act performed for the purpose of
9 disseminating news to the public, including the gathering, publishing or
10 broadcasting information to the public for a news-related purpose, or to
11 any act performed by a publisher, owner, agent, employee or retailer of a
12 newspaper, radio station, radio network, television station, television
13 broadcast network, cable television network or other online news outlet
14 associated with any news organization in connection with the
15 dissemination of news to the public, including the gathering, publishing or
16 broadcasting information to the public for a news-related purpose.

17 F. This article does not apply to activities by a licensed attorney, private
18 investigator or registered process server that are associated with purposes
19 relating to a current or anticipated criminal or civil proceeding. This
20 section does not affect the conduct of trials or the discovery process in any
21 proceeding as otherwise provided by law or court rule.

22
23
24 65. A.R.S. 44-7901 states as follows:

25 44-7901. Definitions

26 In this article, unless the context otherwise requires:
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1 1. "Booking photograph" means a photograph of a subject individual that
2 is taken pursuant to an arrest or other involvement in the criminal justice
3 system.

4 2. "Commercial purpose" has the same meaning prescribed in section 39-
5 121.03.

6 3. "Criminal justice record" includes a booking photograph and the name,
7 address and description of and the charges filed against a subject
8 individual.

9 4. "Mugshot website operator" means a person that publishes a criminal
10 justice record on a publicly available internet website for a commercial
11 purpose.

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

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

16 66. A.R.S. 39-121.03(D) states as follows:

17 For the purposes of this section, "commercial purpose" means the use of a
18 public record for the purpose of sale or resale or for the purpose of
19 producing a document containing all or part of the copy, printout or
20 photograph for sale or the obtaining of names and addresses from public
21 records for the purpose of solicitation or the sale of names and addresses to
22 another for the purpose of solicitation or for *any purpose in which the*
23 *purchaser can reasonably anticipate the receipt of monetary gain from the*
24 *direct or indirect use of the public record* (emphasis added). Commercial
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1 purpose does not mean the use of a public record as evidence or as
2 research for evidence in an action in any judicial or quasi-judicial body.

3 67. Defendants posted Plaintiffs Jane Does I-VIII and John Does I-XII arrest
4 photo and criminal record information to rapsheetz.com and/or bailbondsearch.com as
5 set forth herein.

6 68. Plaintiffs Jane Does I-VIII and John Does I-XII arrest photo and criminal
7 record information to rapsheetz.com and/or bailbondsearch.com for a commercial
8 purpose, as defined in A.R.S. 39-121.03(D).

9 69. Defendants violated the Arizona Mugshot Statute by posting Plaintiffs
10 Jane Does I-VIII and John Does I-XII criminal record information and mugshot to
11 rapsheetz.com and/or bailbondsearch.com for commercial purposes, namely, by
12 soliciting and generating advertising revenue through Google Ads, and by other acts
13 and/or omissions as specified in this Amended Complaint.

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

19 71. Defendants’ violation of the Arizona Mugshot Statute proximately caused
20 damage to Plaintiffs Jane Does I-VIII and John Does I-XII in an amount to be
21 determined at trial.

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1 **COUNT II**
2 **INVASION OF PRIVACY BASED ON APPROPRIATION**
3 *On behalf of All Plaintiffs*
4 *Against All Defendants*

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

7 73. Plaintiffs have a privacy interest in the exclusive use of their names and
8 likenesses.

9 74. Defendants' appropriation (and use as an advertisement) of the Plaintiffs'
10 booking photos was done for Defendants own commercial purposes and benefit.

11 75. Defendants' appropriation of Plaintiff's images constituted an invasion of
12 privacy as prescribed by *Restatements (Second) of Torts* § 652C.

13 76. Defendant's misappropriation of Plaintiffs' images proximately caused
14 damage to Plaintiffs in an amount to be determined at trial.

15 **COUNT III**
16 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
17 *On behalf of All Plaintiffs*
18 *Against All Defendants*

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

21 78. Defendants, by and through publishing and using Plaintiffs' booking
22 photos as advertisements, behaved intentionally and/or recklessly.

23 79. Defendants, by and through publishing and using Plaintiffs' booking
24 photos as advertisements, intended to cause emotional distress upon Plaintiffs.

25 80. Publishing and using Plaintiffs' booking photos as advertisements and to
26 extort payment for removal, was so outrageous in character, and so extreme in degree, as
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1 to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly
2 intolerable in a civilized community.

3 81. Plaintiffs have suffered and continue to suffer severe emotional distress
4 and emotional injury due to Defendants' actions.

5 82. Defendants' actions were the direct and proximate cause of such severe
6 emotional distress and emotional injury to Plaintiffs.

7 83. Plaintiffs suffered and continue to suffer mental anguish as a result of
8 Defendants publishing and using Plaintiffs' booking photos as advertisements and to
9 extort payment for removal, and said mental anguish is of a nature that no reasonable
10 person could be expected to endure.

11 84. As a result, Defendants are liable to Plaintiffs for actual, presumed and
12 punitive damages in an amount to be determined at trial.

13
14 **COUNT IV**
15 **UNLAWFUL APPROPRIATION/RIGHT OF PUBLICITY**
16 *On behalf of All Plaintiffs*
Against All Defendants

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

19 86. Arizona courts "recognize[] the right of publicity, both as a tort claim and
20 an unfair competition claim." *Lemon v. Harlem Globetrotters Int'l, Inc.*, 437 F. Supp. 2d
21 1089, 1100 (D. Ariz. 2006) (citing *Restatement (Second) of Torts* § 652C).

22 87. Defendants used the name and likeness of Plaintiffs without their consent
23 or permission to Defendants' commercial advantage.

24 88. Defendants' wrongful use included, *inter alia*, use of Plaintiffs' images as
25 advertisements.
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89. As a result of Defendants' use of Plaintiffs' names, Plaintiffs have suffered harm including harm to reputation, emotional distress, and additional harms.

COUNT V
PUNITIVE DAMAGES
On behalf of All Plaintiffs
Against all Defendants

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

91. Defendants' aforementioned conduct was conscious, deliberate, intentional, and/or reckless in nature.

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

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

94. As a result, Plaintiffs are entitled to punitive damages and attorneys' fees.

WHEREFORE, Plaintiffs request that the Court enter judgment in their favor and against Defendants and each of them as follows:

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.

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1 **DATED** this 27th day of February, 2020.

2
3 Respectfully submitted,

4 The logo for Dickinson Wright PLLC, featuring the firm name in a serif font with a stylized orange and yellow swoosh graphic.

5 By: /s/ David N. Ferrucci
6 David N. Ferrucci
7 David G. Bray
8 Paxton D. Endres
9 ***Attorneys for Plaintiffs***

10 **ORIGINAL** of the foregoing efiled with
11 the Superior Court and a **COPY** thereof
12 mailed this 27th day of February, 2020 to:

13 David S. Gingras, Esq.
14 **GINGRAS LAW OFFICE, PLLC**
15 4802 E. Ray Road, #23-271
16 Phoenix, Arizona 85044
17 ***Attorneys for Defendants***

18 By: /s/ Christine Klepacki
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