

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

*Attorneys for Plaintiff John Doe, individually and
on behalf of all others similarly situated*

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

JOHN DOE, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

TRAVIS PAUL GRANT; KYLE DAVID
GRANT; JOHN and JANE DOES I-X;
BLACK CORPORATIONS I-X; and
WHITE COMPANIES I-X,

Defendants.

Case No. CV2021-090710

**AMENDED COMPLAINT,
INCLUDING CLASS ACTION
CLAIMS UNDER CIV. R. 23,**

Jury Trial Demanded

(Assigned to Hon. Stephen Hopkins)

CLASS ACTION COMPLAINT

NOW COMES the Plaintiff, JOHN DOE (hereinafter Plaintiff or “John Doe”), on
behalf of himself and all others similarly situated, by and through undersigned counsel,
hereby respectfully complains and alleges against Defendants, TRAVIS PAUL GRANT,

1 an individual; KYLE DAVID GRANT, an individual; JOHN and JANE DOES I-X;
2 BLACK CORPORATIONS I-X; and WHITE COMPANIES I-X, as follows:

3 INTRODUCTION

4
5 1. Defendants are First Amendment opportunists that exploit arrest
6 information and misappropriate images in booking photos to create misleading
7 advertisements designed to generate substantial advertising revenue from the victims
8 whose images have been misappropriated.

9
10 2. Defendants do not inform the public; instead, Defendants exploit booking
11 photos and arrest information for purely commercial purposes. As the Sixth Circuit
12 observed, these “[b]ooking photos—snapped in the vulnerable and embarrassing
13 moments immediately after an individual is accused, taken into custody, and deprived of
14 most liberties—fit squarely within this realm of embarrassing and humiliating
15 information. More than just vivid symbols of criminal accusation, booking photos
16 convey guilt to the viewer.” *Detroit Free Press Inc. v. United States Dep’t of Justice*,
17 829 F.3d 478, 482 (6th Cir. 2016). Defendants’ business model is to exploit this
18 embarrassing and humiliating information that falsely conveys guilt for their own
19 commercial gain. Once these images are online, they live on in perpetuity. They serve as
20 the digital scarlet letter of our times, permanently affecting the reputation of those who
21 have paid their debt to society.

22
23 3. Defendants have intentionally, knowingly, and without regard to the
24 obvious effects, caused mass suffering of untold millions of individuals from all walks
25 of life. Defendants continue to disregard and systematically violate the law and the
26
27
28

1 rights of others through their website activities. These irresponsible and illegal actions
2 cause significant reputational harm to their victims, which directly inhibits the
3 “rehabilitation and reintegration initiatives” of states which have aimed at reforming
4 offenders and deterring future criminal behavior. Defendants destroy entire families, and
5 directly contribute to the homelessness and poverty of veterans and others. The victims
6 of this endless assault find they cannot obtain employment after their misappropriated
7 arrest information and mugshots are placed in a false light for everyone to see. As a
8 result of this wanton disregard for people’s lives and their privacy rights, Defendants are
9 even contributing to the heart-wrenching number of daily United States Military Veteran
10 suicides. See Thomas Howard Suitt, II, *High Suicide Rates among United States Service*
11 *Members and Veterans of the Post 9/11 Wars*, Watson Institute, June 21, 2021.
12 Unchallenged, Defendants will continue in their systematic pattern of illegal profiteering
13 with impunity. Challenged, they will proffer baseless defenses to their practices.

17 4. The online dissemination of arrest information and images in booking
18 photos creates substantial barriers for those attempting to reintegrate into society from
19 finding employment, housing, and starting a new life. “[N]early one out of every three
20 American adults”—77.7 million people—has been arrested and, thus, could be
21 impacted. See Gary Fields & John R. Emshwiller, *America Busted: As Arrest Records*
22 *Mount, Consequences Last a Lifetime*, WALL ST. J., Aug. 19, 2014, at A1. Abuse of
23 these records by profiteers such as Defendants cuts against efforts for criminal justice
24 reform and rehabilitation of those who have made mistakes in their pasts. Moreover, in
25 many cases arrestees are never charged, are adjudicated not guilty, or their charges are
26
27
28

1 dismissed for various reasons, including through diversion programs. Mugshot
2 companies have wide-sweeping negative effects on not only those directly impacted but
3 on the community as a whole.
4

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

18 6. Defendants’ conduct that is the subject of this civil action involves
19 ongoing online activity directed against Plaintiff. Defendants own and operate mugshot
20 websites including www.publicpolicerecord.com and www.bailbondshq.com (the
21 “Websites”), on which they use the arrest information and booking photos of millions of
22 arrestees throughout the United States for their own purely commercial purposes.
23 Defendants use software to “scrape” arrest information, including booking photos, from
24 the Maricopa County Sheriff’s Office’s website, and the websites of other law
25 enforcement agencies in Arizona who post booking photos online, for all, or
26
27
28

1 substantially all, arrestees, albeit for a limited duration of time, typically for only a few
2 days. Defendants then use the arrest information from the victims whose identities and
3 likenesses have been misappropriated to create original content in the form of
4 advertisements that serve two purposes: 1) to attract third party advertisers to the
5 Websites; and 2) generate pay-per-click advertising revenue.

7 7. This is a class action under 16 A.R.S. Rules of Civil Procedure, Rule 23,
8 seeking damages, declaratory, and injunctive relief for violations of the Arizona
9 Mugshot Act, as well as unlawful appropriation, right of publicity, false light, and unjust
10 enrichment, under applicable decisional law in Arizona. Plaintiff seeks redress for
11 injuries caused by, and an injunction enjoining, the unlawful conduct of Defendants, all
12 doing business in conjunction with the Websites.

14 8. Plaintiff is bringing this action on behalf of himself and other members of
15 a class (“Class”) consisting of several hundred thousand persons previously arrested in
16 Arizona (individually, “Class Member” or collectively, “Class Members”). Joinder of all
17 members of the Class is impracticable. There are questions of law or fact common to the
18 Class. The claims of the representative party are typical of the claims of the Class and
19 Plaintiff will fairly and adequately protect the interests of the entire Class.

21 9. “A disclosed booking photo casts a long, damaging shadow over the
22 depicted individual.” *Detroit Free Press Inc. v. United States Dep't of Justice*, 829 F.3d
23 478, 482 (6th Cir. 2016). For this reason, law enforcement agencies and the State of
24 Arizona do not intend for booking photos and arrest information to be used in this way
25 or to be available online to the public indefinitely. The Maricopa County Sherriff’s
26
27
28

1 Office, for example, only posts arrest photos for three days, after which they are taken
2 down. However, this is enough time for Defendants to “scrape” or capture the images
3 and data using “spiders” and “bot” programs.
4

5 10. To further their illegal scheme and maximize its commercial effect,
6 Defendants use analytics and search optimization tools to ensure that each booking
7 photo is among the first search results found when an arrestee’s name is entered into a
8 search engine such as Google, Bing or Yahoo. Such conduct contributes substantially to
9 the illegality of Defendants’ use of the arrest information and booking photos.
10

11 11. Contrary to Defendants’ false representations, the Websites are not a
12 public safety service or media outlets. If they were, Defendants would not select what
13 information and which booking photos remain on the Websites based on extorted
14 payments, which occurred prior to the enactment of the Florida mugshot statute on or
15 about July 18, 2018 (FL Stat § 901.43, Dissemination of Arrest Booking Photographs)
16 (the “Florida mugshot statute”). Defendants hide behind the false pretense that they are a
17 media organization, post these mugshots and create advertisements out of them solely in
18 order to profit by generating advertising revenue through Google Ads and, at least up
19 until the Florida mugshot statute was passed, extorted payments. Companies pay for
20 Google Ads so that people will notice their business whenever they are searching
21 Google. These companies only have to pay a website owner whenever someone clicks
22 on the ad. This is known as cost-per-click (CPC) or pay-per-click (PPC) advertising.
23 Defendants generate substantial revenue through the misleading manner in which they
24
25
26
27
28

1 use these booking photos as advertisements to induce users of their Websites to click on
2 the banner ads.

3 12. Also contrary to Defendants' false representations, Defendants refuse to
4 remove someone's mugshot from the Websites even if the arrestee has been found
5 innocent of any crime, or has otherwise had their charges dropped, not filed, expunged,
6 or dismissed as part of a diversion program. Prospective employers (or anyone else)
7 conducting a web search find, in many cases, misinformation indicating that people are
8 still charged, incarcerated, or on parole years after release or an adjudication of not
9 guilty. Defendants intentionally and maliciously set up the Websites to give the false
10 impression people are incarcerated or have been adjudged guilty of a crime. The end
11 result for many arrestees is continuous emotional distress, job loss, broken families, and
12 homelessness. The end result for Defendants is substantial profits.

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

17 14. This action seeks to put an end to Defendants' harassment of Plaintiff.
18 Defendants will continue to cause Plaintiff harm until Defendants are enjoined from
19 intentionally and maliciously violating Plaintiff's rights.

20 **JURISDICTION AND PARTIES**

21 15. This is an action for damages in excess of \$50,000.00, exclusive of
22 interest, attorney's fees and costs.
23
24
25
26
27
28

1 16. Plaintiff is an individual residing in Maricopa County, Arizona.

2 17. Defendants, TRAVIS PAUL GRANT and KYLE DAVID GRANT, are
3 individuals residing in Seminole County, Florida. The individual Defendants own and
4 operate the following mugshot websites: www.publicpolicerecord.com and
5 www.bailbondshq.com.
6

7 18. Defendants are being sued in their individual capacities. This Court has
8 jurisdiction over Defendants under Arizona's long-arm rule and applicable decisional
9 law, which allows for assertion of personal jurisdiction over a non-resident consistent
10 with federal constitutional due process. Ariz. R. Civ. P. 4.2(a).
11

12 19. Under the provisions of the A.R.S. 44-7902(A), Defendants, as mugshot
13 website operators that publish a subject individual's criminal justice record for a
14 commercial purpose on a publicly accessible website, are deemed to be transacting
15 business in this state.
16

17 20. Plaintiff is informed and believes, and based on that information and belief
18 allege, that at all times mentioned in this complaint, Defendants were the agents and
19 employees of their codefendants and in doing the things alleged in this complaint were
20 acting within the course and scope of such agency and employment.
21

22 21. At all material times, Defendants (i) committed a tortious act within this
23 state, and (ii) are engaged in substantial and not isolated activity within this state.
24 Sufficient minimum contacts exist between Defendants and the state of Arizona to
25 satisfy the due process requirements of the United States Constitution. These include
26 directly targeting their Websites to the state, knowingly interacting with and causing
27
28

1 harm to the residents of the forum state via their Websites, or through sufficient other
2 related contacts.

3 22. Defendants solicit customers in the state of Arizona. Upon information and
4 belief, Defendants have many paying customers who reside in the state of Arizona who
5 each use Defendants' respective services in the state of Arizona. Upon information and
6 belief, Defendants conduct continuous and systematic business in the state of Arizona.
7

8 23. The Class consists of all persons arrested in the State of Arizona and
9 whose arrest records, mugshots, likeness, or other personal identifying information was
10 compiled and displayed on the Websites by Defendants between July 1, 2020 and the
11 date of trial in this action. This claim is brought on behalf of the Plaintiff.
12

13 24. Excluded from the Class are all Defendants, their heirs, successors, and
14 assigns, and all employees and agents of all Defendants. Excluded also are the Court and
15 the Court's immediate family.
16

17 25. The membership of the Class potentially numbers in the hundreds of
18 thousands.
19

20 26. On information and belief, Defendants have posted records and
21 photographs for not less than and 20 million people nationwide. There were over
22 200,000 total arrests reported in Arizona in 2019 alone, and many of these people's
23 booking photos and arrest records have been scraped by Defendants and posted on the
24 Websites since their inception.
25

26 27. Defendants have acted in the same or substantially similar manner as to
27 most or all Class Members.
28

1 28. Defendants have engaged in the same conduct described in this action as to
2 all, or substantially all, persons and arrestees whose mugshots and arrest records appear
3 on the Websites.
4

5 29. There are questions and issues common to the class, which predominate
6 over any individual issues. Those include, without limitation, the following:

- 7 (a) Whether Defendants post the likeness and/or personal identifying
8 information of arrestees to the Websites for commercial gain;
- 9 (b) Defendants' practices and policies for removal and/or correction of
10 incorrect or inaccurate information from the Websites;
- 11 (c) Whether Defendants charge for the removal of mugshots and/or arrest
12 records from the Websites;
- 13 (d) Whether Defendants' conduct as described herein constitutes a violation of
14 the Arizona Mugshot Act;
- 15 (e) Whether Defendants' conduct as described herein constitutes an invasion
16 of privacy as prescribed by Restatements (Second) of Torts § 652C;
- 17 (f) Whether Defendants' conduct as described herein constitutes an unlawful
18 misappropriation and false light;
- 19 (g) Whether Defendants' conduct as described herein constitutes a violation of
20 Plaintiff's right of publicity;
- 21 (h) Whether Defendants committed misappropriation and profited from their
22 misappropriation at Plaintiff's expense.
23
24
25
26
27
28

1 30. These questions of law and fact predominate over all questions and issues
2 affecting only individual Class Members.

3 31. A class action is superior to all other methods for resolving this
4 controversy.
5

6 32. The Plaintiff will fairly and adequately protect the interests of the class.

7 33. The Plaintiff's counsel are experienced litigators, and have been engaged
8 in litigation matters involving these issues, and a class action is the most appropriate
9 means for the fair and efficient adjudication of the claims herein.
10

11 34. Defendants used the same forms and policies as to all Class Members.

12 35. Plaintiff has no unique defenses or interests adverse to those of the class.

13 36. The identities of all members of the class can be easily determined from
14 the records and subject matter websites of each Defendant herein.
15

16 37. Plaintiff reserves the right to amend the class definitions and allegations
17 based on facts learned in discovery.

18 38. Defendants JOHN and JANE DOES I-X; BLACK CORPORATIONS I-
19 X; and WHITE COMPANIES I-X, are persons, partnerships, corporations or
20 unincorporated associates subject to suit in a common name whose names are unknown
21 to Plaintiff and who are wholly or partially responsible for the acts complained of,
22 including those who have participated in managing, organizing, marketing, facilitating,
23 and profiting from the operations of the Websites, and therefore, designated by fictitious
24 names pursuant to Rule 10(d), Arizona Rule of Civil Procedure. Plaintiff will ask leave
25
26
27
28

1 of the Court to substitute the true names of the said parties prior to the entry of judgment
2 herein.

3 39. Maricopa County is a proper venue, pursuant to A.R.S. §12-401(1). The
4 acts and conduct of Defendants occurred in Maricopa County. Defendants' Websites are
5 available to people in Maricopa County.
6

7 **CLASS ACTION ALLEGATIONS**

8 40. Plaintiff brings this action individually and on behalf of the Class
9 Members.
10

11 41. Plaintiff was arrested in Maricopa County and subsequently incarcerated in
12 the Arizona Department of Corrections, Rehabilitation & Reentry (the "DOC") in 2013.
13

14 42. Following his incarceration, the DOC photographed Plaintiff. The DOC
15 made the photograph (the "Mugshot") publicly available on a government website.

16 43. Defendant's Websites are privately-owned, publicly-available websites
17 that post mugshots and other criminal justice information about various people without
18 their consent, who have been arrested or incarcerated. The Websites generate income
19 and Defendants utilize the Websites for commercial purposes and pecuniary gain.
20

21 44. Since in or around July 2020, Defendants, without Plaintiff's permission,
22 consent or authorization, published Plaintiff's criminal justice records (the "Records")
23 and Mugshot on the Websites for purely commercial purposes. As a result, Plaintiff's
24 image has been commercially misappropriated by Defendants, causing damage, and
25 Plaintiff has incurred damages under the Arizona Mugshot Act, as further described
26 herein. Plaintiff did not provide the Defendants with prior consent for the posting of any
27
28

1 information about him, including, but not limited to, his arrest information and arrest
2 photo.

3 45. Despite Plaintiff's demand that Defendants remove this information,
4 Defendants refuse to do so.

6 46. The public nature of the Websites and public availability of Plaintiff's
7 Mugshot and Records has and continues to cause both emotional and financial harm to
8 Plaintiff, including, but not limited to, unwanted publicity and ramifications for
9 Plaintiff's employment.

11 47. Defendants generate substantial revenue from the misleading use of the
12 original content Defendants create from the booking photos.

13 48. Defendants gather and collect arrest photos and create original content out
14 of that material in the form of advertisements ("arrest photo advertisements").

16 49. The arrest photo advertisements are strategically placed on the Websites
17 for maximum commercial exploitation. Specifically, Defendants place the arrest photo
18 advertisements directly above, and/or directly alongside banner ads that advertise
19 services for, inter alia, public records information, thus making it appear (falsely) that by
20 clicking on the banner ad the user would be directed to "Arrest Details" located in the
21 Websites' database.

23 50. The misleading manner in which Defendants use the arrest photo
24 advertisements to entice the public into clicking on third party banner ads generates
25 substantial pay-per-click advertising for Defendants.
26
27
28

1 51. Because the third party banner ads are typically for services such as public
2 arrest records databases and because the third-party banner ad is located directly
3 beneath, alongside, and embedded within the arrest photo advertisements, the user
4 mistakenly clicks on the banner ad falsely believing that by doing so they will be
5 directed to the “arrest details” in the Websites’ database, but are instead directed to the
6 third party database. Defendants purposefully and intentionally create the arrest photo
7 advertisements in this manner to increase user clicks on third party ads, thus earning
8 substantial pay-per-click advertising revenue.
9
10

11 52. Thus, the arrest photos advertisements serve at least two commercial
12 purposes: 1) to attract third party advertisers to the Website; and 2) entice any user of the
13 Website to mistakenly click the third party banner ad so as to generate pay-per-click
14 advertising revenue for Defendants.
15

16 53. The arrest information and booking photos that Defendants use to create
17 the arrest photo advertisements was never intended by law enforcement to be used in
18 this manner or posted by Defendants. The booking photos Defendants use to create the
19 arrest photo advertisements are not provided or tendered by law enforcement agencies to
20 Defendants. It is the public policy of the State of Arizona, as made crystal clear by the
21 Arizona Mugshot Act, that the arrest information and arrest photos briefly disseminated
22 by Arizona’s law enforcement and other agencies not be used in the manner that
23 Defendants use them.
24
25

26 54. Plaintiff had an arrest photo taken.
27
28

1 55. Defendants, without permission, consent or knowledge of Plaintiff,
2 reproduced, publicly displayed, distributed, and created original advertising content out
3 of the arrest photo. Defendants also, without permission, consent or knowledge of
4 Plaintiff, reproduced, publicly displayed, and distributed Plaintiff's arrest information.
5

6 56. Defendants' respective Websites, along with Plaintiff's image, were
7 indexed by Yahoo.com and Google.com, and the images appear under Google Images
8 when an internet search for Plaintiff's name is conducted.
9

10 57. Defendants' use of Plaintiff's image and arrest information is for a purely
11 commercial purpose.

12 58. Defendants operate one or more Websites that are used to display
13 Plaintiff's image as part of a commercial enterprise.
14

15 59. The display by Defendants of Plaintiff's image on their Websites, are
16 intended, among other things, to subject Plaintiff to hatred, contempt, or ridicule, and to
17 damage his personal and business reputation, or to impair his credit.
18

19 60. Each Defendant, acting on their own or in conjunction with one or more of
20 the other Defendants, derives revenue from the Websites through Google Ads and other
21 means.

22 61. Unless Defendants are enjoined from further commercial use and
23 publication of Plaintiff's image and names and other arrest information, Plaintiff will
24 suffer further irreparable injury.
25
26
27
28

COUNT ONE
VIOLATION OF THE ARIZONA MUGSHOT ACT
(ARIZ. REV. STAT. § 44-7901/7902)
(On Behalf of Plaintiff and the Class)

62. Plaintiff realleges Paragraphs 1 through 61, above.

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 Act”). 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

1 subsection B of this section has a cause of action against the person
2 responsible for the violation and may recover damages in addition to the
3 damages prescribed in subsection D of this section in any court of
4 competent jurisdiction.
5

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

- 8 1. \$100 per day during the first thirty days of the violation.
- 9 2. \$200 per day during the subsequent thirty days of the violation.
- 10 3. \$500 per day for each day thereafter.

11
12 E. This article does not apply to any act performed for the purpose of
13 disseminating news to the public, including the gathering, publishing or
14 broadcasting information to the public for a news-related purpose, or to
15 any act performed by a publisher, owner, agent, employee or retailer of a
16 newspaper, radio station, radio network, television station, television
17 broadcast network, cable television network or other online news outlet
18 associated with any news organization in connection with the
19 dissemination of news to the public, including the gathering, publishing or
20 broadcasting information to the public for a news-related purpose.
21
22

23 F. This article does not apply to activities by a licensed attorney, private
24 investigator or registered process server that are associated with purposes
25 relating to a current or anticipated criminal or civil proceeding. This
26
27
28

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 65. A.R.S. 44-7901 states as follows:
4

5 44-7901. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Booking photograph" means a photograph of a subject individual that
8 is taken pursuant to an arrest or other involvement in the criminal justice
9 system.
10

11 2. "Commercial purpose" has the same meaning prescribed in section 39-
12 121.03.

13 3. "Criminal justice record" includes a booking photograph and the name,
14 address and description of and the charges filed against a subject
15 individual.
16

17 4. "Mugshot website operator" means a person that publishes a criminal
18 justice record on a publicly available internet website for a commercial
19 purpose.
20

21 5. "Person" means a natural person, partnership, association, joint venture,
22 corporation, limited liability company, nonprofit organization or trust or
23 any similar entity or organized group of persons.
24

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

26 66. A.R.S. 39-121.03(D) states as follows:
27
28

1 For the purposes of this section, "commercial purpose" means the use of a
2 public record for the purpose of sale or resale or for the purpose of
3 producing a document containing all or part of the copy, printout or
4 photograph for sale or the obtaining of names and addresses from public
5 records for the purpose of solicitation or the sale of names and addresses to
6 another for the purpose of solicitation or for *any purpose in which the*
7 *purchaser can reasonably anticipate the receipt of monetary gain from the*
8 *direct or indirect use of the public record* (emphasis added). Commercial
9 purpose does not mean the use of a public record as evidence or as
10 research for evidence in an action in any judicial or quasi-judicial body.
11
12

13 67. Defendants posted Plaintiff's mugshot and criminal record information to
14 publicpolice record.com and/or bailbondshq.com as set forth herein.
15

16 68. Defendants posted Plaintiff's mugshot and criminal record information to
17 publicpolice record.com and/or bailbondshq.com for a commercial purpose, as defined in
18 A.R.S. 39-121.03(D).
19

20 69. Defendants violated the Arizona Mugshot Act by posting Plaintiff's
21 criminal record information and mugshot to publicpolice record.com and/or
22 bailbondshq.com for commercial purposes, namely, by soliciting and generating
23 advertising revenue through Google Ads, and by other acts and/or omissions as specified
24 in this Complaint.
25

26 70. Pursuant to the Arizona Mugshot Act, "A person that violates subsection B
27 of this section is liable for damages for each separate violation in an amount of *at least*:
28

1 1. \$100 per day during the first thirty days of the violation. 2. \$200 per day during the
2 subsequent thirty days of the violation. 3. \$500 per day for each day thereafter.” A.R.S.
3 44-7902(D) (emphasis added).
4

5 71. As a consequence and proximate result of Defendants violations of the
6 Arizona Mugshot Act, Plaintiff and the Class Members were injured and sustained
7 damages in an amount to be proven at trial.
8

9 **COUNT TWO**
10 **INVASION OF PRIVACY BASED ON APPROPRIATION**
(On Behalf of Plaintiff and the Class)

11 72. Plaintiff realleges Paragraphs 1 through 71, above.

12 73. Plaintiff has a privacy interest in the exclusive use of his name and
13 likeness.
14

15 74. Defendants’ appropriation (and use as an advertisement) of Plaintiff’s
16 booking photo was done for Defendants’ own commercial purposes and benefit.

17 75. Defendants’ appropriation of Plaintiff’s image constituted an invasion of
18 privacy as prescribed by *Restatements (Second) of Torts* § 652C.
19

20 76. Defendants’ misappropriation of Plaintiff’s image proximately caused
21 damage to Plaintiff.

22 77. As a consequence and proximate result of Defendants misappropriation,
23 Plaintiff and the Class Members were injured and sustained damages in an amount to be
24 proven at trial.
25
26
27
28

COUNT THREE
UNLAWFUL APPROPRIATION/RIGHT OF PUBLICITY
(On Behalf of Plaintiff and the Class)

78. Plaintiff realleges Paragraphs 1 through 77, above.

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

80. Defendants used the name and likeness of Plaintiff without his consent or permission to Defendants’ commercial advantage.

81. Defendants’ wrongful use included, *inter alia*, use of Plaintiff’s image as an advertisement.

82. As a result of Defendants’ use of Plaintiff’s name, Plaintiff has suffered harm including harm to reputation, emotional distress, and additional harms.

83. As a consequence and proximate result of Defendants unlawful appropriation, Plaintiff and the Class Members were injured and sustained damages in an amount to be proven at trial.

COUNT FOUR
FALSE LIGHT
(On Behalf of Plaintiff and the Class)

84. Plaintiff realleges Paragraphs 1 through 83, above.

85. Defendants gave publicity to a matter in an easily accessible public forum concerning Plaintiff that places him in a false light. Specifically, by posting Plaintiff’s Mugshot and Records, the Defendants’ Websites imply that Plaintiff did something wrong and is guilty of a crime.

86. Plaintiff did not consent, authorize, or agree that Defendants could post this information about him.

87. The false light in which Plaintiff was placed would be highly offensive to a reasonable person.

88. Defendants knowingly or recklessly disregarded the false light in which Plaintiff is placed due to the publication of his Mugshot and Records on the Websites.

89. As a result, Plaintiff has suffered irreparable harm and seeks to have the Court issue an Order to remove his Mugshot and Records from Defendants' Websites.

90. As a consequence and proximate result of Defendants' actions involving false light, Plaintiff and the Class Members were injured and sustained damages in an amount to be proven at trial.

COUNT FIVE
UNJUST ENRICHMENT
(On Behalf of Plaintiff and the Class)

91. Plaintiff realleges Paragraphs 1 through 90, above.

92. By publishing Plaintiff's name and likeness without consent with a commercial or advertising purpose, Defendants committed misappropriation.

93. Defendants have profited from their misappropriation at Plaintiff's expense.

94. Defendants have knowledge of the benefits that Plaintiff has conferred on them, which they have accepted.

95. Under these circumstances, *i.e.*, (1) an enrichment, (2) an impoverishment, (3) a connection between the enrichment and impoverishment, (4) the absence of

1 justification for the enrichment and impoverishment, and (5) the absence of a remedy
2 provided by law, it would be inequitable for Defendants to enjoy the benefits of their
3 misappropriation without compensating Plaintiff, whose rights they have violated.
4

5 96. As a consequence and proximate result of Defendants' unjust enrichment,
6 Plaintiff and the Class Members were injured and sustained damages in an amount to be
7 proven at trial.
8

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, on his own behalf and on behalf of the Class,
11 respectfully requests that this Court:

- 12 (A) Certify this action as a class under Rule 23 Ariz. R. Civ. P.;
- 13 (B) Appoint Plaintiff as Class Representative;
- 14 (C) Appoint the undersigned as Class Counsel;
- 15 (D) Award Plaintiff and the Class damages pursuant to the Arizona Mugshot
16 Act;
17
- 18 (E) Award Plaintiff and the Class punitive damages;
- 19 (F) Award Plaintiff and the Class pre-judgment and post-judgment interest;
- 20 (G) Award Plaintiff and the Class their reasonable attorneys' fees; and
- 21 (H) Award Plaintiff and the Class such further relief as is appropriate in the
22 interests of justice.
23

24 **JURY DEMAND**

25 Plaintiff respectfully demands a trial by jury of all matters so triable.
26
27
28

- 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
- 26
- 27
- 28

DATED: June 30, 2021.

John Doe, individually and on behalf of all others similarly situated, (collectively “Their”).

Steven C. Ames, Esq. (to be admitted
pro hac vice)
P.O. Box 193
Moline, IL 61266
Phone: (309) 714-1770
sca@mchsi.com
One of Their attorneys