

1 David S. Gingras, #021097
2 **Gingras Law Office, PLLC**
3 4802 E. Ray Road, #23-271
4 Phoenix, AZ 85044
5 Tel.: (480) 264-1400
6 Fax: (480) 248-3196
7 David@GingrasLaw.com
8 Attorney for Plaintiffs Kyle Grant,
9 Mariel Grant and Travis Grant
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12
13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**
15

16 Travis Grant and Mariel Grant,
17 Husband and Wife; and Kyle Grant,

Case No. _____

18 Plaintiffs,

VERIFIED COMPLAINT

19 v.

20 Andrew Ivchenko and Renee Ivchenko,
21 Husband and Wife,

22 Defendants.
23

24 For their Verified Complaint, Plaintiffs Travis Grant, Mariel Grant, and Kyle Grant, allege the following:

25 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.

26 2. This case arises from, and seeks compensation for, an *extreme* example of such abuse.

27 **PARTIES**

28 3. Plaintiffs Travis Grant (“Travis”) and Mariel Grant (“Mariel”) are a married couple. At all times relevant to this matter, Travis and Mariel resided in, and were citizens of, the State of Florida.

1 13. In general, the arrest records and mugshots aggregated by Travis’s websites
2 were initially created and published on the Internet by various law enforcement agencies
3 across the United States including the Maricopa County Sheriff’s Office (“MCSO”).

4 14. Currently, the database of records displayed on Travis’s websites contains
5 tens of millions of entries from 45 different U.S. states; the only states not represented in
6 the index are Alaska, Delaware, Hawaii, Massachusetts and Vermont.

7 15. Travis’s websites do not publish, and have never republished, mugshots or
8 arrest records created by federal law enforcement agencies such as the FBI or United
9 States Marshall’s Service.

10 16. After arrest records and mugshots are first published on the Internet by the
11 arresting agency, Travis’s websites use automated software to gather or “aggregate” the
12 records which are then republished *verbatim* on one or more of Travis’s websites.

13 17. Kyle works for Travis.

14 18. Kyle does not have, and has never had, any ownership interest in Travis’s
15 websites.

16 19. Among other things, Kyle’s job duties include administrative tasks such as
17 reviewing and researching removal requests submitted by individuals appearing on one or
18 more of Travis’s sites.

19 20. As a matter of policy and subject to his own final editorial discretion,
20 Travis does not ordinarily remove records upon request.

21 21. Although he is not legally obligated to do so, as a matter of policy, Travis
22 regularly considers requests to remove or update content for various reasons.

23 22. As a matter of policy, Travis has always been willing to consider requests
24 to update pages appearing on his websites if the requesting party submits information
25 showing the records in question have been sealed, expunged, or dismissed. Travis may
26 also consider updating and/or removing records for any other reason he deems proper.

27 23. As a matter of policy, Travis has also routinely agreed to remove records
28 from his website, even when he was under no legal or other obligation to do so.

1 24. Travis’s websites earn money from Google’s AdSense program
2 (“AdSense”). As participants in the AdSense program, Travis’s websites display
3 advertisements from the program (“AdSense ads”).

4 25. The contents of each AdSense ad appearing on Travis’s websites are
5 created solely by Google’s AdSense customers, not by Plaintiffs.

6 26. Every AdSense ad appearing on Travis’s websites contains a blue triangle
7 and/or a blue “x” in the upper right-hand corner, similar to the example shown below:

8
9 **Example AdSense Ad With Blue “X”**



17 27. The blue “X” and/or blue triangle (or both) shown in the example above
18 appear in all Google AdSense ads.

19 28. Beyond simply allowing *any* AdSense ads to appear, Plaintiffs cannot and
20 do not control which specific AdSense ads appear on any of Travis’s websites.

21 29. The decision regarding which (if any) AdSense ads to display on Travis’s
22 websites is made solely by Google, not by Plaintiffs.

23 30. Plaintiffs have never displayed the name, address, telephone number,
24 mugshot, or any other information contained in a criminal justice record in any
25 advertisement for a product or service appearing on any of Travis’s websites.

26 31. Since August 27, 2019, Plaintiffs have not used a name, address, telephone
27 number, mugshot, or any other information contained in a criminal justice record to
28 solicit business for pecuniary gain within the meaning of A.R.S. § 44–7902(B).

RENEE IVCHENKO'S ARREST

1
2 32. According to her husband, Defendant Renee Ivchenko is a severe alcoholic.

3 33. Due to problems related to her alcoholism, Mrs. Ivchenko has had
4 numerous contacts with law enforcement including the City of Scottsdale Police.

5 34. On April 21, 2018, Mrs. Ivchenko called Scottsdale Police and told them
6 she had just been assaulted by her husband, Andrew.

7 35. Mrs. Ivchenko's allegation of assault was completely false.

8 36. Mrs. Ivchenko falsely accused Mr. Ivchenko of assault because she was
9 angry that Mr. Ivchenko had taken away alcohol from her and poured it down the drain.

10 37. On or about April 21, 2018, Mr. Ivchenko told Scottsdale Police that Mrs.
11 Ivchenko fabricated the story about being assaulted because she was angry that he had
12 poured a bottle of her vodka down the sink, or words to that effect.

13 38. Based on Mrs. Ivchenko's allegation of domestic violence, Scottsdale
14 Police went to the Ivchenko residence to investigate.

15 39. After the police arrived at his residence, Mr. Ivchenko told the police that
16 he did not assault Mrs. Ivchenko.

17 40. Upon further investigation, which included speaking to both Mr. and Mrs.
18 Ivchenko and inspecting Mrs. Ivchenko for any injuries, the police were unable to find
19 any evidence showing that Mr. Ivchenko assaulted Mrs. Ivchenko.

20 41. Under A.R.S. § 13-2907.01, it is a crime for any person to knowingly make
21 to a law enforcement agency of either this state or a political subdivision of this state a
22 false, fraudulent or unfounded report or statement or to knowingly misrepresent a fact for
23 the purpose of interfering with the orderly operation of a law enforcement agency or
24 misleading a peace officer.

25 42. When Mrs. Ivchenko falsely told Scottsdale Police that Mr. Ivchenko
26 assaulted her on April 21, 2018, she committed a crime.

27 43. Based on his personal involvement in the events, Mr. Ivchenko knew that
28 Mrs. Ivchenko committed a crime on April 21, 2018.

1 44. While talking with police officers, Mrs. Ivchenko became combative,
2 argumentative, and refused to follow instructions from the officers.

3 45. Attached hereto as Exhibit A is a true and correct redacted copy of
4 Scottsdale Police Report #18-08959 relating to the arrest of Renee Ivchenko on April 21,
5 2018. In this report, one of the police officers provided the following narrative
6 description of the events which he witnessed at the Ivchenko residence:
7

We informed Andrew that Renee and he needed to stay separated for the night until she could sober up. While Andrew was packing, I stoodby with Renee in the kitchen. I gave several verbal commands for Renee to remain seated in a separate room. Renee initially ignored my verbal commands to take a seat and insisted on speaking with Andrew, which I did not allow. Renee eventually went to the living room to lay on the couch for a few seconds before getting back up and trying to walk past me to speak with Andrew. I informed Renee several times that she was not going to speak Andrew in person anymore that night due to her intoxication and behavior. Renee insisted on continuing to disobey my commands and became very agitated with FTO Ryan, Ofc. Dearing, and myself. Renee began yelling aggressively, swinging her arms, and pointing at the other officer and me while I told her to calm down. Renee then pushed me in the chest with open palms, causing herself to fall backwards against the living room couch. I then grabbed Renee's right arm, FTO Ryan grabbed Renee's left arm, and we placed both of her arms behind her back into handcuff position.

13
14 46. The events described in Scottsdale Police Report #18-08959 were captured
15 on video by bodycams worn by officers present at the scene.

16 47. The events described in the police report are substantially consistent with
17 what is shown in the bodycam footage.

18 48. Scottsdale Police arrested Renee Ivchenko on April 21, 2018.

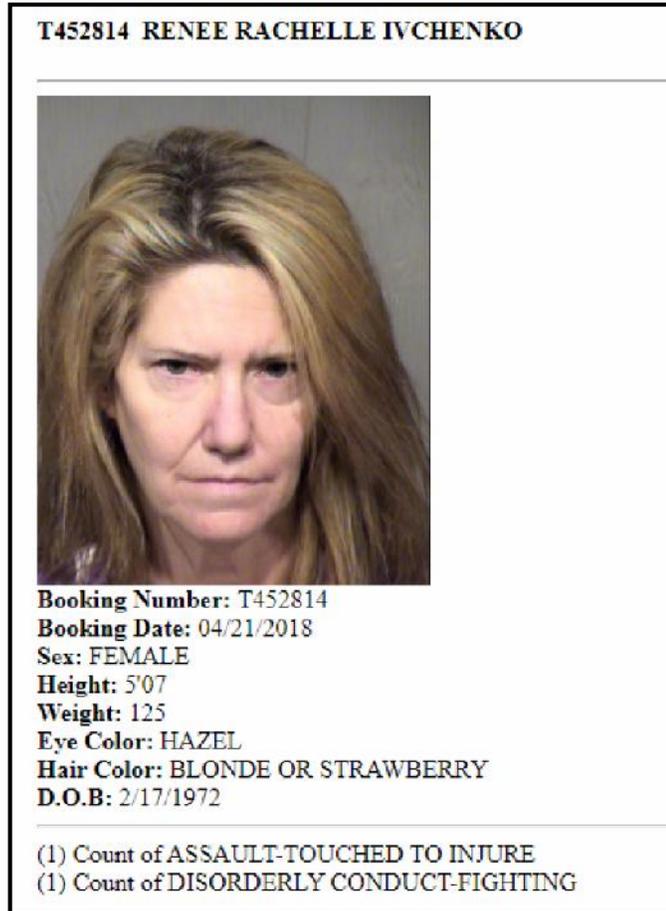
19 49. At the time of her arrest on April 21, 2018, Scottsdale Police alleged
20 probable cause existed to charge Mrs. Ivchenko with three criminal offenses: 1.)
21 aggravated assault on a police officer, a felony, 2.) disorderly conduct-touched to injure,
22 a misdemeanor, and 3.) disorderly conduct-fighting, a misdemeanor.

23 50. After her arrest in Scottsdale on April 21, 2018, Mrs. Ivchenko was
24 transferred to the custody of the Maricopa County Sheriff's Office (MCSO) who, in turn,
25 took Mrs. Ivchenko's booking photo or "mugshot".

26 51. Shortly thereafter (within a day or two), MCSO published Mrs. Ivchenko's
27 mugshot and other details regarding her arrest on its website located at
28 <https://www.mcso.org/Mugshot/>.

1 52. At the time MCSO published Mrs. Ivchenko’s mugshot on the Internet, it
2 did not place any technical or legal restrictions on the republication of that information.

3 53. On or around April 21–23, 2018, MCSO published all of the following
4 information about Mrs. Ivchenko on its publicly accessible website:



20 54. Within three days of the time MCSO first published this information on its
21 website, the same information was aggregated and republished verbatim on one or more
22 of Travis’s websites.

23 55. The mugshot and arrest information relating to Mrs. Ivchenko was
24 republished on Travis’s websites without any substantive changes to the information.

25 56. From the time of Mrs. Ivchenko’s arrest continuously to the present day,
26 Mrs. Ivchenko’s mugshot, arrest details, and other information relating to her arrest
27 (including the Scottsdale Police report, bodycam footage, and direct Complaint) are all
28 matters of public record and are accessible to any member of the public upon request.

1 57. Under Arizona law, including but not limited to A.R.S. § 39–121, public
2 records in the custody of any public agency or officer are open to public inspection.

3 58. On April 24, 2018, Mrs. Ivchenko was charged by direct complaint with
4 one felony count of aggravated assault in Maricopa County Superior Court Case No.
5 CR2018-119949.

6 59. On May 11, 2018, Mrs. Ivchenko agreed to participate in a deferred
7 prosecution program to resolve the criminal charge against her.

8 60. As part of her participation in the deferred prosecution program, Mrs.
9 Ivchenko made a written representation to the Court avowing that she was, in fact, guilty
10 of the crime she was charged with – felony aggravated assault. A true and correct copy of
11 the Complaint and Mrs. Ivchenko’s admission of guilt are attached hereto as Exhibit B.

12

13 **As part of my consent to participate in the Felony Pretrial Intervention**
Program, I acknowledge that I am guilty of the offenses charged in the
complaint. I acknowledge that this admission and the statements in this
document may be used against me if I fail to successfully complete the
program and my case proceeds to trial. I understand that I have the right
to remain silent and I make the following statements voluntarily after
consultation with my attorney.

14

15 On April 21, 2018 in Scottsdale, Arizona - Maricopa County
16 Date of Offense Location and Jurisdiction

17

18 **On April 21, 2018, I, Renee Ivchenko, knowingly touched Brandon Treglown**
19 **in the chest area with the intent to provoke him. Brandon Treglown is a**
20 **a Scottsdale Police Officer and at the time of this incident he was in full**
21 **uniform and I knew he was a police officer acting in his official capacity.**

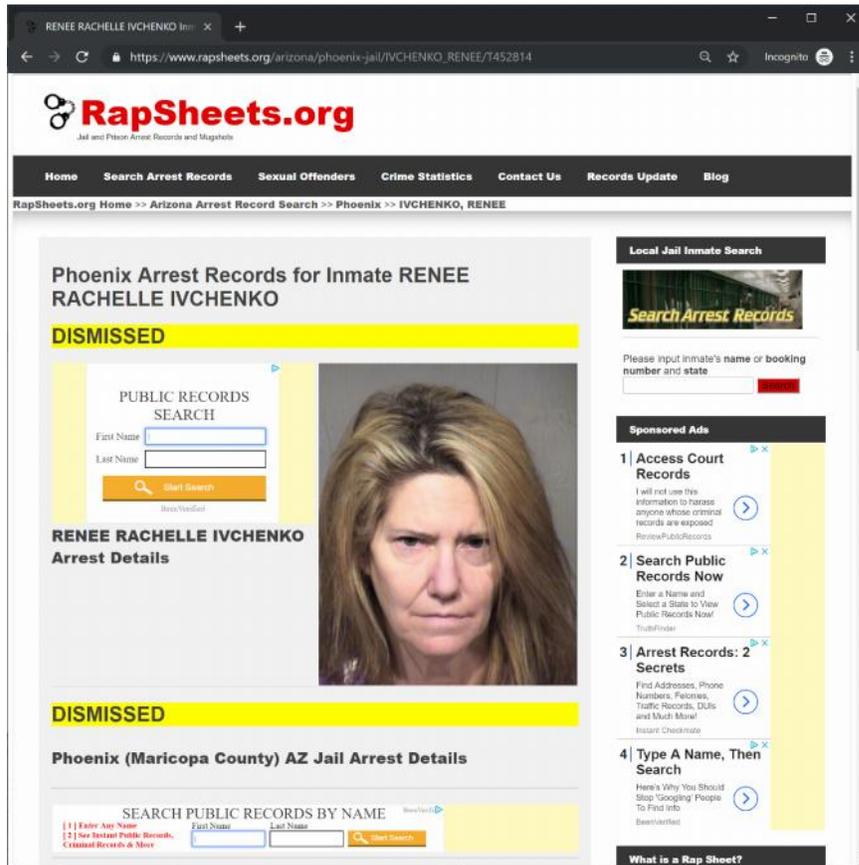
22

23 61. By no later than May 15, 2018, Mr. Ivchenko knew Renee had been
24 charged with a crime in CR2018-119949, and he knew she agreed to participate in a
25 deferred prosecution program to resolve the criminal charge against her.

26 62. By no later than May 15, 2018, Mr. Ivchenko knew Renee had signed a
27 document containing a statement: “I acknowledge that I am guilty of the offenses charged
28 in the complaint”, meaning the direct Complaint filed in CR2018-119949.

63. Upon discovering that Mrs. Ivchenko’s mugshot had been republished on one or more of Travis’s websites, in October 2018 Mr. and/or Mrs. Ivchenko used an online form to submit a request that Mrs. Ivchenko’s mugshot be removed on the grounds that the criminal case against her had been “dismissed”.

64. Upon receiving this request, the page featuring Mrs. Ivchenko’s mugshot was updated to prominently include the word “DISMISSED” in all capital letters in a yellow box as shown below.



65. Other than adding the word “DISMISSED” to the page in October 2018 in response to a request submitted by either Mr. and/or Mrs. Ivchenko, Defendants made no other changes of any kind to the page after that date.

THE COPYRIGHT APPLICATION

66. On or about March 23, 2019, Mr. Ivchenko submitted an application to the United States Copyright Office for an “Untitled” visual work.

1 67. The “work” that was the subject of this application was either solely, or it
2 included in part or in whole, the mugshot of Mrs. Ivchenko created by MCSO at the time
3 of Mrs. Ivchenko’s arrest on April 21, 2018.

4 68. In this application, Mr. Ivchenko stated the “work” in question was
5 authored by Renee Rachelle Ivchenko.

6 69. Based on Mr. Ivchenko’s representation in the application, the Copyright
7 Office registered the “work” and assigned it Registration Number VA0002154452.

8 70. Details of the issued copyright registration obtained by Mr. Ivchenko are
9 available at copyright.gov and are shown below:

<p style="text-align: center;">Type of Work: Visual Material Registration Number / Date: VA0002154452 / 2019-03-23 Application Title: Untitled. Title: Untitled. Description: Electronic file (eService) Copyright Claimant: Renee Rachelle Ivchenko. Address: 4960 S Gilbert Rd Ste 1-226, CHANDLER, AZ, 85249, United States. Date of Creation: 2018 Date of Publication: 2018-03-10 Nation of First Publication: United States Authorship on Application: Renee Rachelle Ivchenko; Domicile: United States; Citizenship: United States. Authorship: photograph. Names: Ivchenko, Renee Rachelle</p>

17 71. 17 U.S.C. § 201(a) provides: “Copyright in a work protected under this title
18 vests initially in the author or authors of the work.”

19 72. As a matter of law, the “author” of a copyrighted work is either the person
20 who originally created the work (e.g., the photographer who took the photo), or the
21 employer or other hiring party who commissioned the creation of the work as a work for
22 hire within the meaning of 17 U.S.C. § 201(b).

23 73. As a matter of law, Renee Ivchenko was not the “author” of the work
24 registered as VA0002154452.

25 74. At the time Mr. Ivchenko submitted the copyright application relating to
26 Mrs. Ivchenko’s mugshot to the United States Copyright Office in March 2019, he knew
27 or reasonably should have known that Mrs. Ivchenko was not the “author” of the work
28 for which registration was sought.

1 75. Since receiving the Certificate of Registration for VA0002154452, Mr.
2 Ivchenko and/or Mrs. Ivchenko have sent at least five (5) takedown demands to Twitter
3 and Google purportedly under the provisions of the Digital Millennium Copyright Act;
4 the “DMCA”, 17 U.S.C. § 512.

5 76. Copies of the DMCA takedown demands sent by Mr. Ivchenko are
6 archived by Lumendatabase.org, and a summary of these demands is shown below:

7
8 [DMCA Takedown Notice \(Tweet\)](#)

Date Received: June 13, 2020 *Andrew Ivchenko PLLC* → *Twitter*

Reported to Lumen: June 15, 2020

Andrew **Ivchenko** PLLC

9
10 COPYRIGHT

11
12 [DMCA Takedown Notice \(Tweet\)](#)

Date Received: April 03, 2020 *Andrew Ivchenko PLLC* → *Twitter*

Reported to Lumen: April 28, 2020

Andrew **Ivchenko** PLLC

13
14 COPYRIGHT

15
16 [Court Order Complaint to Google](#)

Date Received: December 24, 2018 *ANDREW IVCHENKO* → *Google LLC*

Reported to Lumen: December 26, 2018

ANDREW **IVCHENKO**

https://www.jailbase.com/[REDACTED]

17
18
19 COURT ORDERS

20
21 [DMCA \(Copyright\) Complaint to Google](#)

Date Received: October 12, 2019 *RENEE IVCHENKO* → *Google LLC*

Reported to Lumen: October 12, 2019

RENEE **IVCHENKO**

22
23 DMCA NOTICES, COPYRIGHT

24
25 [DMCA \(Copyright\) Complaint to Google](#)

Date Received: July 20, 2019 *RENEE IVCHENKO* → *Google LLC*

Reported to Lumen: July 20, 2019

RENEE **IVCHENKO**

26
27 https://www.linkedin.com/[REDACTED]

28 DMCA NOTICES, COPYRIGHT

1 77. Each of the DMCA takedown demands shown above relate to Mrs.
2 Ivchenko's mugshot taken at the time of her arrest on April 21, 2018.

3 78. Each of the DMCA takedown demands shown above contained an
4 affirmative representation that Mrs. Ivchenko owned the copyright to her mugshot.

5 79. Each of the DMCA takedown demands shown above was signed by Mr.
6 and/or Mrs. Ivchenko under penalty of perjury.

7 80. Mrs. Ivchenko does not now, nor has she ever, lawfully owned the
8 copyright or any other exclusive rights to her mugshot.

9 81. Mrs. Ivchenko's mugshot was created by an employee of the Maricopa
10 County Sheriff's Office acting within the scope of his/her employment.

11 82. Pursuant to 17 U.S.C. § 201(b), the copyright in Mrs. Ivchenko's mugshot
12 is owned by Maricopa County, Arizona.

13 83. At no time did Maricopa County execute a signed written agreement
14 transferring copyright ownership of Mrs. Ivchenko's mugshot to her, or to anyone else.

15 84. At no time did Mrs. Ivchenko have a written work for hire agreement with
16 the MCSO employee who took her mugshot.

17 85. Mr. and Mrs. Ivchenko have, on multiple occasions, made knowingly false
18 statements to third parties for the purpose of attempting to remove Mrs. Ivchenko's
19 mugshot from the Internet.

20 86. A person who performed a reasonable investigation into the facts and
21 circumstances surrounding the Certificate of Registration for VA0002154452 obtained by
22 Mr. Ivchenko would know the Certificate of Registration was obtained by fraud;
23 specifically Mr. Ivchenko falsely represented to the U.S. Copyright Office that Mrs.
24 Ivchenko was the "author" of her mugshot when, in fact, he knew she was not.

25 87. Knowingly making a false statement of material fact to the U.S. Copyright
26 Office is a federal crime in violation of 17 U.S.C. § 506(e).

27 88. Knowingly making a false sworn statement on a DMCA notice is a federal
28 crime in violation of 18 U.S.C. § 1621.

LITIGATION BEGINS—CASE 1

1
2 89. On May 9, 2019, Mr. Ivchenko filed a Complaint against Plaintiffs in
3 Maricopa County Superior Court Case No. CV2019-090493 (“Case 1”). A true and
4 correct copy of the Complaint from that matter is attached hereto as Exhibit C.

5 90. Among other things, the Complaint in Case 1 alleged that Kyle David
6 Grant, Travis Paul Grant, and Mariel Lizette Grant violated Mrs. Ivchenko’s rights by
7 republishing her name, mugshot, and arrest information on the Internet.

8 91. Among other things, the Complaint in Case 1 alleged that Defendants
9 (Plaintiffs here) defamed Mrs. Ivchenko by “publish[ing] Plaintiff’s image on various
10 Websites” and by implying *falsely* that Mrs. Ivchenko was guilty of a crime.

11 92. At the time Mr. Ivchenko filed Case 1, he knew that Mrs. Ivchenko did, in
12 fact, commit one or more criminal acts on April 21, 2018 and/or on other dates.

13 93. At the time Mr. Ivchenko filed Case 1, he knew that Mrs. Ivchenko had
14 previously signed a written statement admitting that she was guilty of felony aggravated
15 assault on a police officer.

16 94. At the time Mr. Ivchenko filed Case 1, he knew that a statement implying
17 that Mrs. Ivchenko was guilty of criminal conduct was not false.

18 95. The Complaint in Case 1 alleged that Mrs. Ivchenko suffered damages in
19 excess of \$1 million from the events alleged in the Complaint.

20 96. At the time Mr. Ivchenko filed Case 1, he knew that Mrs. Ivchenko had not
21 suffered any damages whatsoever as a result of the events alleged in the Complaint.

22 97. Shortly after Travis was served with the Complaint in Case 1 in May 2019,
23 he retained counsel to defend the matter.

24 98. On May 28, 2019, Travis’s counsel sent an email to Mr. Ivchenko, a copy
25 of which is attached hereto as Exhibit D.

26 99. Among other things, the May 28, 2019 email to Mr. Ivchenko explained
27 that Case 1 was groundless because to the extent Travis published any statement alleging
28 or implying that Mrs. Ivchenko was guilty of a crime, that implication was entirely true.

1 107. Among other things, the Complaint in Case 2 alleged that Plaintiffs
2 defamed Mrs. Ivchenko by publishing statements on Travis’s websites accusing Mrs.
3 Ivchenko of committing a crime or implying that she had committed a crime. This
4 allegation was made by Defendants without probable cause and with malice. The
5 allegation lacked probable cause because Defendants knew that any statement implying
6 Mrs. Ivchenko committed a crime was true.

7 108. Among other things, the Complaint in Case 2 alleged that Plaintiffs
8 defamed Mr. Ivchenko by publishing statements on Twitter falsely accusing him of
9 engaging in a “fraud” on the U.S. Copyright Office. This allegation was made by
10 Defendants without probable cause and with malice. The allegation lacked probable
11 cause because Defendants knew the statement accusing Mr. Ivchenko of engaging in
12 “fraud” was true. The allegation further lacked probable cause because Mr. and Mrs.
13 Ivchenko knew that Plaintiffs did not publish any such statement and knew that no
14 reasonable basis existed to believe that Plaintiffs had published any such statement.

15 109. At the time the Complaint in Case 2 was filed, Mr. and Mrs. Ivchenko
16 knew, or should reasonably have known, that any statement published by Plaintiffs
17 accusing Mrs. Ivchenko of committing a crime or implying that she had committed a
18 crime was true.

19 110. At the time the Complaint in Case 2 was filed, Mr. and Mrs. Ivchenko
20 knew, or should reasonably have known, that any statement published by Plaintiffs
21 implying that Mr. Ivchenko had committed “fraud” on the U.S. Copyright Office was
22 true.

23 111. At the time the Complaint in Case 2 was filed, Mr. and Mrs. Ivchenko
24 knew, or should reasonably have known, that Plaintiffs had not published any false
25 statements about Mr. or Mrs. Ivchenko on Twitter.

26 112. At the time the Complaint in Case 2 was filed, Mr. and Mrs. Ivchenko
27 knew that Plaintiffs had not asked for money or anything else of value for the removal of
28 Mrs. Ivchenko’s mugshot and/or arrest information from any of Travis’s websites.

1 113. At the time the Complaint in Case 2 was filed, Mr. and Mrs. Ivchenko
2 knew, or should reasonably have known, that Mrs. Ivchenko’s mugshot had previously
3 been removed from all of Travis’s websites without any request for, or payment of,
4 money or anything else of value.

5 114. Each and every claim asserted in the Complaint in Case 2 lacked probable
6 cause, either factually, legally, or both.

7 115. Each and every claim asserted in the Complaint in Case 2 was asserted
8 solely for malicious purposes and not for the purpose of resolving any legitimate dispute.

9 116. One or more claims in Case 2 (including, but not limited to, the cause of
10 action for defamation) were untimely as a matter of law pursuant to A.R.S. § 12–541
11 because they were based on statements published more than one year prior to the filing of
12 Case 2.

13 117. Prior to the filing of Case 2, Mr. Ivchenko knew the statute of limitations
14 for defamation claims in Arizona was one year pursuant to A.R.S. § 12–541.

15 118. Mr. and Mrs. Ivchenko intentionally decided to include false factual
16 allegations in the Complaint in Case 2 to ensure that Plaintiffs could not quickly resolve
17 the matter by moving to dismiss the Complaint pursuant to Rule 12(b)(6).

18 119. Specifically, Mr. and Mrs. Ivchenko knew that any claims based on the
19 publication of Mrs. Ivchenko’s mugshot would be untimely as a matter of law because
20 that information was published on Travis’s websites beginning in April 2018; more than
21 one year before the Complaint in Case 2 was filed on December 17, 2019.

22 120. In an effort to make it appear (falsely) that the Complaint in Case 2 stated
23 timely claims for relief, Mr. and Mrs. Ivchenko falsely accused Plaintiffs of posting
24 defamatory statements about Mr. and Mrs. Ivchenko on Twitter within one year prior to
25 the filing of the Complaint in Case 2.

26 121. The decision to include claims based on the statements published on
27 Twitter was done solely to make it appear the Complaint’s defamation claims were not
28 time-barred even though such claims were, in fact, untimely as a matter of law.

1 122. At the time Case 2 was filed, Mr. and Mrs. Ivchenko knew there was no
2 probable cause to support the allegation that Plaintiffs had posted defamatory statements
3 about Mr. and Mrs. Ivchenko on Twitter within the one year period prior to the filing of
4 the Complaint in Case 2. This allegation was made by Defendants without probable
5 cause, with knowledge that it was false, and with malice.

6 123. In a series of emails beginning on January 10, 2020, Defendants were
7 informed that one or more of the claims in Case 2 were groundless for numerous reasons.

8 124. Attached hereto as Exhibit F is a true and correct copy of an email sent to
9 Mr. Ferrucci on January 10, 2020. This email explained that, among other things, one or
10 more claims in Case 2 were groundless because they were untimely and because they
11 were based on statements which were literally and substantially true (i.e., the alleged
12 statement implying that Mrs. Ivchenko had engaged in criminal conduct).

13 125. Mr. Ferrucci read the January 10th email shortly after it was sent and shared
14 it with Mr. and/or Mrs. Ivchenko shortly thereafter.

15 126. A reasonable lawyer knows that after the applicable statute of limitations
16 for a claim has expired, that claim cannot be pursued in court.

17 127. The statute of limitations in Arizona for injuries done to the character or
18 reputation of another by libel or slander is one year pursuant to A.R.S. § 12–541.

19 128. The one year limitation period of A.R.S. § 12–541 begins to run on the date
20 the defamatory information is first published, not when it is discovered. *See Larue v.*
21 *Brown*, 235 Ariz. 440, 443 (App. 2014) (“Arizona provides that the statute of limitations
22 for a defamation action begins to run upon publication of the defamatory statement.”)

23 129. Among other things, the Complaint in Case 2 asserted claims for
24 defamation and false light invasion of privacy based on statements published more than
25 one year prior to the commencement of the action.

26 130. At the time Case 2 was filed, Mr. and Mrs. Ivchenko knew such claims
27 were asserted without probable cause and with malice.

28 131. Despite numerous demands from Plaintiffs to dismiss all claims in Case 2

1 which were not supported by probable cause, Mr. and Mrs. Ivchenko initially refused to
2 dismiss any claims from the case and indicated that all claims were tenable and well-
3 grounded in fact.

4 132. Based on that refusal, on February 7, 2020, Plaintiffs filed an Answer in
5 Case 2 and on February 21, 2020, they filed a Motion for Summary Judgment.

6 **LITIGATION CONTINUES—CASE 2(b)**

7 133. Six days later on February 27, 2020, while the Motion for Summary
8 Judgment remained pending, Mr. and Mrs. Ivchenko filed an Amended Complaint in
9 Case 2, a true and correct copy of which is attached hereto as Exhibit G (“Case 2(b)”).

10 134. The Amended Complaint in Case 2(b) substantially changed the nature of
11 the proceeding. Among other things, the Amended Complaint in Case 2(b) added a total
12 of 20 new anonymous “John Doe” and “Jane Doe” Plaintiffs each asserting new claims
13 not present in the original Complaint.

14 135. The Federal Rules of Civil Procedure require all litigants to use their real
15 names. Specifically, Fed. R. Civ. P. 17(a)(1) requires, among other things: “An action
16 must be prosecuted in the name of the real party in interest.” Other court rules include the
17 same mandate. *See, e.g.*, Fed. R. Civ. P. 10(a) (“The title of the complaint must name all
18 the parties”)

19 136. Prior to amending the Complaint in Case 2(b) to add anonymous parties to
20 the proceeding, Defendants did not request nor receive leave of Court to proceed via
21 pseudonym.

22 137. Defendants’ inclusion of anonymous parties in the Complaint in Case 2(b)
23 without leave of court violated the Federal Rules of Civil Procedure. This violation was
24 intentional and malicious in that Defendants believed the use of anonymous parties would
25 make it easier for them to needlessly prolong the litigation and to needlessly increase the
26 cost of the litigation by forcing Plaintiffs to challenge this improper conduct in various
27 motions before Defendants simply abandoned the case.

28 138. Defendants’ actions in willfully disregarding and violating court rules for

1 the purpose of increasing the financial harm suffered by Plaintiffs was malicious and not
2 proper in the regular course of the proceedings.

3 139. On May 19, 2020, Mr. and Mrs. Ivchenko (acting through counsel) filed a
4 Motion to Dismiss Case 2(b) pursuant to Fed. R. Civ. P. 41(a)(2). This motion asked the
5 Court to dismiss the claims of all parties, including both Mrs. Ivchenko and the 20
6 anonymous plaintiffs, without prejudice.

7 140. In response, Plaintiffs indicated that they did not object to the 20
8 anonymous plaintiffs' request for dismissal without prejudice, but they objected to the
9 request as it related to Mrs. Ivchenko. As to Mrs. Ivchenko, Plaintiffs noted that she had
10 filed and dismissed one prior action asserting the same claims based on the same facts,
11 and that any dismissal of Case 2(b) should be with prejudice as to Mrs. Ivchenko.

12 141. On June 26, 2020, the District Court issued an order in which it dismissed
13 all of Mrs. Ivchenko's claims in Case 2(b) with prejudice. This order of dismissal
14 represents a final, on the merits, adjudication of Mrs. Ivchenko's claims.

15 142. Case 2(b) was resolved in favor of Plaintiffs as it relates to Mr. and Mrs.
16 Ivchenko's claims.

17 **LITIGATION CONTINUES—CASE 3**

18 143. On May 1, 2020, Mr. Ivchenko filed a new action against Plaintiffs in
19 Maricopa County Superior Court Case No. CV2020-093006 ("Case 3"). A true and
20 correct copy of the Complaint in Case 3 is attached hereto as Exhibit H.

21 144. Similarly to Case 2(b), the Complaint in Case 3 included claims on behalf
22 of 20 anonymous Plaintiffs identified as "John Doe" and "Jane Does".

23 145. Prior to filing Case 3, Mr. Ivchenko neither requested nor received leave of
24 Court to permit the plaintiffs to proceed via pseudonym.

25 146. Mr. Ivchenko's inclusion of anonymous parties in the Complaint in Case 3
26 violated the Arizona Rules of Civil Procedure. This violation was intentional and
27 malicious in that Mr. Ivchenko believed the use of anonymous parties would make it
28 easier for him to needlessly prolong the litigation and to needlessly increase the cost of

1 the litigation by forcing Plaintiffs to challenge this improper conduct in various motions.

2 147. Mr. Ivchenko's actions in willfully disregarding and violating court rules
3 for the purpose of increasing the financial harm suffered by Plaintiffs was not proper in
4 the regular course of the proceedings.

5 148. The Complaint in Case 3 included three parties, identified as John Does 8,
6 9 & 10, who were allegedly residents of the State of Florida.

7 149. The Complaint in Case 3 asserted claims on behalf of John Does 8, 9 & 10
8 for violations of A.R.S. § 44-7902(B), unlawful appropriation under Arizona common
9 law, and invasion of privacy/false light under Arizona common law.

10 150. The Complaint in Case 3 specifically omitted any reference to the location
11 where John Does 8, 9 & 10 were arrested. The decision to omit such reference was made
12 by Mr. Ivchenko.

13 151. John Does 8, 9 & 10 were arrested in Florida, not Arizona.

14 152. Before Case 3 was filed, Mr. Ivchenko knew, or reasonably should have
15 known, John Does 8, 9 & 10 were arrested in Florida, not Arizona.

16 153. Following their arrests in Florida, the names and mugshots of John Does 8,
17 9 & 10 were published on the Internet by the arresting law enforcement agencies in
18 Florida. After this information was published on the Internet, it was aggregated and
19 republished on one or more of Travis's websites without any substantive changes or
20 additions.

21 154. No part of the claims of John Does 8, 9 & 10 arose in Arizona, nor were
22 their claims based on conduct which occurred in Arizona. Mr. Ivchenko knew, or
23 reasonably should have known, this before Case 3 was filed.

24 155. Under the facts of Case 3, no reasonable lawyer would have believed that
25 Arizona substantive law applied to John Does 8, 9 & 10.

26 156. As a matter of law, Arizona law does not apply to a person who is arrested
27 in another state, and whose mugshot or other arrest information is published on the
28 Internet by a person located in another state.

1 157. Because the Complaint in Case 3 did not appear to contain any facts
2 showing that Arizona law applied to John Does 8, 9 & 10, on May 12, 2020, Plaintiffs
3 filed a Motion to Dismiss which alternatively requested an order requiring John Does 8, 9
4 & 10 to provide a more definite statement explaining why Arizona law applied to them.

5 158. Even though he knew there was no reasonable basis for arguing that
6 Arizona law applied to them, Mr. Ivchenko made a tactical decision to include John Does
7 8, 9 & 10 as parties in Case 3 for the sole purpose of attempting to avoid federal diversity
8 jurisdiction over the case. Mr. Ivchenko made this decision because he believed that
9 Plaintiffs were more likely to prevail in federal court as than in state court.

10 159. Mr. Ivchenko intentionally and wrongfully joined John Does 8, 9 & 10 as
11 parties in an attempt to defraud the federal Court into believing that it did not have
12 diversity jurisdiction over Case 3.

13 160. Notwithstanding Mr. Ivchenko's fraudulent conduct, Case 3 was removed
14 to the United States District Court on June 9, 2020.

15 161. At the time the case was removed, the federal court properly had diversity
16 jurisdiction over the matter.

17 162. Despite knowing there was no reasonable factual or legal basis to challenge
18 federal jurisdiction, on July 9, 2020, Mr. Ivchenko filed a Motion to Remand Case 3. The
19 motion was filed in bad faith and with knowledge that it was groundless.

20 163. While Mr. Ivchenko's Motion to Remand was pending, Plaintiffs filed a
21 motion seeking jurisdictional discovery. Specifically, Plaintiffs asked the Court to allow
22 discovery into the location(s) where John Does 8, 9 & 10 were arrested.

23 164. On November 12, 2020, the U.S. District Court issued an order in Case 3
24 granting Plaintiffs' request for jurisdictional discovery.

25 165. Immediately following the Court's order, on November 12, 2020,
26 Plaintiffs' counsel sent an email to Mr. Ivchenko asking him for his position regarding
27 the best way to proceed with jurisdictional discovery.

28 166. Mr. Ivchenko responded via email later that same day. A true and correct

1 copy of Mr. Ivchenko's email response is attached hereto as Exhibit I.

2 167. In his November 12th email, rather than permitting the case to proceed in
3 federal court, Mr. Ivchenko threatened to dismiss Case 3 and to file more individual
4 lawsuits against Plaintiffs in state court.

5 168. In his November 12th email, Mr. Ivchenko further threatened to bring legal
6 action against Plaintiffs (and against Plaintiff's counsel) simply because Plaintiffs
7 published truthful, factual public records regarding Mrs. Ivchenko on Travis's websites
8 (including bodycam footage taken at the time of Mrs. Ivchenko's arrest).

9 169. The next day, on November 13, 2020, Mr. Ivchenko followed through on
10 his threat by filing a Notice of Voluntary Dismissal of Case 3.

11 170. Mr. Ivchenko dismissed Case 3 because he believed that based on the
12 Court's order allowing jurisdictional discovery, it was likely remand would be denied and
13 that as a result, the District Court would consider the merits of the case.

14 171. Mr. Ivchenko believed that if the federal Court considered the merits of the
15 case, the case would be dismissed and/or otherwise resolved in favor of Plaintiffs.

16 172. Mr. Ivchenko voluntarily dismissed Case 3 solely for the purpose of
17 preventing the Court from considering the merits of the case and for the purpose of
18 avoiding a loss on the merits.

19 173. Voluntarily dismissing a meritless action solely to *prevent* the court from
20 considering and ruling on the merits of the dispute is not proper in the regular course of
21 the proceedings.

22 174. At least one or more of the plaintiffs in Case 3 were also plaintiffs in Case
23 2(b). As such, pursuant to Fed. R. Civ. P. 41(a)(1)(B), the dismissal of Case 3 operated as
24 an adjudication on the merits in favor of Plaintiffs.

25 175. Since dismissing Case 3, Mr. Ivchenko has continued to file additional
26 lawsuits against Plaintiffs based on their aggregation and republication of arrest records.

27 176. Mr. Ivchenko has engaged in a pattern of filing, dismissing, and refileing
28 successive identical lawsuits for the purpose of harassment.

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FIRST CAUSE OF ACTION
(Malicious Prosecution — Case 2)
(Against All Defendants)

177. Arizona recognizes the tort of “malicious prosecution” which is also sometimes referred to as a “wrongful use of civil proceedings”.

178. The elements of the tort are set forth in the REVISED ARIZONA JURY INSTRUCTIONS (CIVIL), 6TH, INTENTIONAL TORTS 19—Malicious Prosecution.

179. By commencing Case 2, Mr. and Mrs. Ivchenko, initiated or took active part in the prosecution of a civil proceeding against Plaintiffs.

180. As it relates to the claims initially brought by Mrs. Ivchenko, Case 2 was terminated in favor of Plaintiffs on June 26, 2020 when the case was dismissed with prejudice.

181. As it relates to the claims initially brought by Mr. Ivchenko in Case 2, the action was terminated in favor of Plaintiffs on June 26, 2020 when the case was dismissed with prejudice.

182. In both commencing and continuing to pursue Case 2, Mr. and Mrs. Ivchenko acted without probable cause.

183. Specifically, at the time Case 2 was commenced, Mr. and Mrs. Ivchenko knew one or more claims lacked probable cause for the following reasons:

- a. The applicable statute of limitations expired before the action was filed;
- b. The claims were based on the publication of information that was factually true;
- c. The claims were based on the publication of information involving matters of public interest/concern (specifically, the arrest and criminal charges filed against Renee Ivchenko, and the resolution of same);
- d. The claims were based on speech previously determined by the United States Supreme Court to be entitled to First Amendment protection;
- e. The claims were based on the aggregation and republication of existing

1 online content which is protected under federal law, specifically by the
2 Communications Decency Act, 47 U.S.C. § 230(c)(1);

3 f. The claims were based on the publication of privileged information
4 including matters of public record and information that was a fair and
5 accurate summary of information contained in public records;

6 g. The claims were based on factual allegations which Mr. and Mrs.
7 Ivchenko knew to be completely false at the time the allegations were
8 made—to wit: the allegation that Plaintiffs extorted, or attempted to
9 extort, the payment of money or anything else of value from Mrs.
10 Ivchenko for the purpose of removing her mugshot and/or arrest
11 information from Travis’s websites;

12 h. The claims were based on factual allegations which Mr. and Mrs.
13 Ivchenko knew to be completely false at the time they were made—to
14 wit: that Plaintiffs published defamatory statements on Twitter about
15 Mr. and/or Mrs. Ivchenko.

16 184. Defendants commenced and continued to prosecute Case 2 with malice.

17 185. Among other things, Defendants’ malice may be properly inferred from the
18 complete lack of probable cause both at the time Case 2 was filed, and during its
19 continuation. *See Daniels v. Robbins*, 182 Cal. App. 4th 204, 226, 105 Cal. Rptr. 3d 683,
20 700 (Cal.App. 4th Dist. 2010) (holding in a malicious prosecution action, “malice can be
21 inferred when a party continues to prosecute an action after becoming aware that the
22 action lacks probable cause.”)

23 186. Defendants did not commence or continue to prosecute Case 2 for any
24 legitimate reason or to resolve any legitimate claims.

25 187. Instead, Defendants intended to use the lawsuit as a form of harassment and
26 to hopefully cause so much financial harm to Plaintiffs that Plaintiffs would either be
27 unable to continue defending the action or they would be forced to resolve the case in a
28 manner that would allow Defendants to effectively seize control of Travis’s websites.

1 188. Defendants further used Case 2 as form of economic extortion wherein they
2 hoped to force Plaintiffs to settle the groundless claims by agreeing to give Defendants
3 “removal credits” which would have allowed them to obtain the removal of pages from
4 Travis’s website upon demand.

5 189. In turn, Defendants planned to profit by selling these “removal credits” by
6 charging money to third parties appearing on Travis’s websites who wanted to remove
7 their mugshots from those sites.

8 190. Prior to commencing Case 2, Mr. Ivchenko’s counsel, David Ferrucci,
9 previously represented an individual named SAHAR SARID (“Mr. Sarid”) and an entity
10 called Mugshots.com, LLC, among others, in a lawsuit filed in the United States District
11 Court for the Northern District of Illinois entitled *Peter Gabiola v. Sahar Sarid, et al.*,
12 Case No. 16-cv-02076 (the “Gabiola litigation”).

13 191. Mr. Sarid was the founder and operator of a website called Mugshots.com.

14 192. Similarly to Travis’s websites, Mugshots.com aggregated mugshots and
15 arrest records from various sources.

16 193. Among other things, the plaintiff in the Gabiola litigation alleged that Mr.
17 Sarid used Mugshots.com to extort money by demanding payments to remove mugshots.

18 194. This allegation was true – for at least some period of time, Mr. Sarid (either
19 directly or indirectly) charged and/or accepted fees to remove mugshots from
20 Mugshots.com.

21 195. Based on his prior experience representing Mr. Sarid and Mugshots.com,
22 LLC, Mr. Ferrucci knew that charging money to remove mugshots from such a website
23 could be extremely profitable.

24 196. Based on his prior experience representing Mr. Sarid and Mugshots.com,
25 LLC, Mr. Ferrucci knew that aggregating and publishing mugshots *without* demanding or
26 accepting money to remove them was not unlawful.

27 197. Based on his prior experience representing Mr. Sarid and Mugshots.com,
28 LLC, Mr. Ferrucci knew that aggregating and publishing mugshots *without* demanding or

1 accepting money to remove them was protected speech under the First Amendment.

2 198. In 2018, Sahar Sarid was arrested and indicted in the State of California.
3 Among other things, Mr. Sarid charged with multiple counts of criminal extortion
4 relating to his operation of Mugshots.com and his demand for money to remove
5 mugshots from that site.

6 199. Following his arrest in California, Mr. Sarid no longer charged money to
7 remove mugshots from Mugshots.com.

8 200. Following his arrest in California, Mr. Sarid ended his relationship with Mr.
9 Ferrucci.

10 201. Mr. Ivchenko knew about the relationship between Mr. Ferrucci and Mr.
11 Sarid prior to the commencement of Case 2.

12 202. Prior to commencing Case 2, Mr. Ivchenko knew that Mr. Sarid had earned
13 a substantial amount of money from charging fees to remove mugshots from his website.

14 203. Based on that knowledge, Mr. Ivchenko decided to file Case 2 against
15 Plaintiffs for the purpose of attempting to force Plaintiffs to grant Defendants “removal
16 credits” which could be sold to third parties for money, similar to the practices used by
17 Mr. Sarid prior to his arrest.

18 204. Defendants, and each of them, believed that if Plaintiffs would agree to
19 give them the ability to remove content upon demand, the sale of “removal credits”
20 relating to Travis’s websites could be potentially worth millions of dollars.

21 205. Prior to the commencement of this action, Mr. Ivchenko demanded that
22 Plaintiffs provide him with 2,400 “removal credits” which he could use to obtain the
23 removal of 2,400 mugshots from Travis’s websites. Assuming each credit could be sold
24 for \$1,000 each, the value of this demand was at least \$2,400,000.00.

25 206. The filing of groundless litigation for the purposes of economic extortion is
26 not a proper or legitimate use of the court system.

27 207. The intentional continuation of groundless litigation for the purposes of
28 economic extortion is not a proper or legitimate use of the court system.

1 Case 2 knowing that the entire action was groundless.

2 219. Furthermore, Defendants, and each of them, sought to use Case 2 as a form
3 of harassment and to exert economic pressure to induce Plaintiffs into a settlement in
4 which Defendants would receive “removal credits” which Defendants had no legal right
5 to obtain.

6 220. Defendants engaged in an abuse of process by seeking to delay and avoid a
7 disposition on the merits of Case 2 for as long as possible and for the improper purpose
8 of making the case as expensive as possible, thereby increasing the odds that Plaintiffs
9 would be unable to bear the cost of defense. By doing so, Defendants hoped to force
10 Plaintiffs to settle in a manner which allowed Defendants to unlawfully profit from their
11 actions by selling “removal credits” relating to Travis’s websites.

12 221. Defendants engaged in abuse of process by, among other things:

- 13 a. Including factual allegations in the Complaint which they knew to be
14 false;
- 15 b. Asserting claims they knew were untimely;
- 16 c. Asserting claims they knew were legally groundless;
- 17 d. Refusing to dismiss claims they knew to be groundless;
- 18 e. Amending the Complaint to add new claims from new anonymous
19 parties in violation of the Rules of Civil Procedure and for the sole
20 purpose of needlessly expanding the litigation and making it more
21 costly to resolve;
- 22 f. Amending the Complaint to improperly add new claims from new
23 anonymous parties which did not arise out of the same transaction,
24 occurrence, or series of transactions or occurrences as the claims of the
25 other parties for the sole purpose of needless expanding the litigation
26 and making it more expensive to resolve;
- 27 g. Amending the Complaint while dispositive motions were pending
28 despite previously refusing to withdraw or modify any claims in the

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case;

h. Dismissing the action while dispositive motions were pending in order to prevent the court from considering the merits of the case;

i. Dismissing the action while dispositive motions were pending in order to avoid a loss on the merits.

222. In this manner, Defendants unlawfully engaged in an abuse of process by using Case 2 primarily for an improper purpose or ulterior motive.

223. Defendants' wrongful use of the court's process in Case 2 caused injury, damage, loss or harm to Plaintiffs in an amount to be proven at trial.

224. Defendants' wrongful conduct was motivated by spite, ill will, and a desire to unlawfully profit from their actions.

225. Defendants, and each of them, through the commencement and continuation of Case 2, consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to others.

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

**THIRD CAUSE OF ACTION
(Malicious Prosecution—Case 3)
(Against Andrew Ivchenko)**

227. Plaintiffs repeat and reallege the allegations of ¶¶ 164–212.

228. Mr. Ivchenko filed Case 3 on May 1, 2020.

229. Case 3 was resolved in favor of Plaintiffs on November 13, 2020 when Mr. Ivchenko voluntarily dismissed the case pursuant to Fed. R. Civ. P. 41(a). This dismissal was on the merits as to at least one or more of the plaintiffs in Case 3 who were also plaintiffs in Case 2(b).

230. Furthermore, the voluntarily dismissal of Case 3 reflects a favorable

1 termination because Mr. Ivchenko’s decision to dismiss that action was based solely on
2 his desire to avoid a loss on the merits.

3 231. Mr. Ivchenko initiated and continued Case 3 without probable cause and
4 with malice as alleged in ¶¶ 164–212.

5 232. Mr. Ivchenko’s conduct in commencing and continuing Case 3 without
6 probable cause and with malice was a cause of injury, damage, loss or harm to Plaintiffs.
7 Such harm includes all attorney’s fees and costs incurred in the defense of Case 3,
8 emotional distress, and damage to Plaintiffs’ reputation.

9 233. Mr. Ivchenko, through the commencement and continuation of Case 3,
10 intended to cause injury to Plaintiffs and did, in fact, cause substantial injury to Plaintiffs
11 in an amount to be proven at trial.

12 234. Mr. Ivchenko’s wrongful conduct was motivated by spite, ill will, and a
13 desire to unlawfully profit from their actions.

14 235. Mr. Ivchenko, through the commencement and continuation of Case 3,
15 consciously pursued a course of conduct knowing that it created a substantial risk of
16 significant harm to others.

17 236. Plaintiffs are entitled to an award of punitive damages against Mr. Ivchenko
18 in an amount sufficient to punish their unlawful conduct and to deter others from acting
19 in a similar manner.

20
21 **FOURTH CAUSE OF ACTION**
22 **(Abuse of Process—Case 3)**
23 **(Against Andrew Ivchenko)**

24 237. Plaintiffs repeat and reallege the allegations of ¶¶ 164–212.

25 238. Mr. Ivchenko used Case 3 in a wrongful manner that was not proper in the
26 course of the proceedings.

27 239. In addition to the wrongful conduct alleged above, Mr. Ivchenko
28 specifically engaged in an abuse of process as to Case 3 by filing that action knowing it
was groundless for the purpose of continuing his unlawful attempt to use the litigation to

1 exert financial pressure on Plaintiffs in the hopes of obtaining “removal credits” which
2 Mr. Ivchenko planned to sell to third parties at a profit.

3 240. In short, by engaging in the serial *filing-dismissal-refiling-dismissal-refiling*
4 of substantially identical groundless cases, including Case 3, Mr. Ivchenko engaged in an
5 abuse of process by using groundless litigation primarily to harass Plaintiffs, and to inflict
6 financial pressure and damage in the hopes that Plaintiffs would agree to settle the action
7 by giving Mr. Ivchenko “removal credits” potentially worth millions of dollars.

8 241. Mr. Ivchenko engaged in an abuse of process by including anonymous
9 parties in the Complaint in Case 3 in direct violation of the Rules of Civil Procedure. This
10 violation was intentional and malicious in that Mr. Ivchenko believed the use of
11 anonymous parties would make it easier for him to needlessly prolong the litigation, to
12 avoid a disposition on the merits, and to needlessly increase the cost of the litigation by
13 forcing Plaintiffs to challenge this improper conduct in various motions.

14 242. Mr. Ivchenko’s actions in willfully disregarding and violating court rules
15 for the purpose of increasing the financial harm suffered by Plaintiffs was not proper in
16 the regular course of the proceedings.

17 243. Mr. Ivchenko’s abuse of process committed in Case 3 was a cause of
18 injury, damage, loss or harm to Plaintiffs. Such harm includes all attorney’s fees and
19 costs incurred in the defense of Case 3, emotional distress, and damage to Plaintiffs’
20 reputation.

21 244. Mr. Ivchenko, through the commencement and continuation of Case 3,
22 intended to cause injury to Plaintiffs and did, in fact, cause substantial injury to Plaintiffs
23 in an amount to be proven at trial.

24 245. Mr. Ivchenko’s wrongful conduct was motivated by spite, ill will, and a
25 desire to unlawfully profit from their actions.

26 246. Mr. Ivchenko, through the commencement and continuation of Case 3,
27 consciously pursued a course of conduct knowing that it created a substantial risk of
28 significant harm to others.

1 254. Despite being asked to do so, Mr. Ivchenko has refused to provide any legal
2 authority supporting his positions.

3 255. Mr. Ivchenko has threatened to continue filing more lawsuits against
4 Plaintiffs unless they agree to, among other things, give him “removal credits” allowing
5 him to obtain the removal of pages from Travis’s websites.

6 256. Pursuant to 28 U.S.C. § 2201(a), A.R.S. § 12–1831, and Fed. R. Civ. P. 57,
7 Plaintiffs are entitled to declaratory relief as follows:

- 8 a. Plaintiffs are entitled to declaratory judgment finding that the manner of
9 operation of Travis’s websites, including the aggregation and display of
10 content copied from existing online websites, is fully protected under
11 the Communications Decency Act, 47 U.S.C. § 230(c).
- 12 b. Plaintiffs are entitled to declaratory judgment finding that the Arizona
13 Mugshot Operator’s Act, A.R.S. § 44–7902(B) does not apply to the
14 operation of Travis’s websites or to Plaintiffs to the extent the site
15 simply aggregates and republishes mugshots and arrest records which
16 have been previously published on the Internet by third parties;
- 17 c. Plaintiffs are entitled to declaratory judgment finding that the manner of
18 operation of Travis’s websites, including the aggregation and display of
19 content copied from existing online websites, is protected by the First
20 Amendment to the U.S. Constitution and Arizona law;
- 21 d. Plaintiffs are entitled to declaratory judgment finding the display of
22 mugshots and criminal records in the manner employed by Travis’s
23 websites is not unlawful under any legal theory recognized in the State
24 of Arizona.

25 257. Plaintiffs are entitled to a declaration finding that their publication of public
26 records relating to Renee Ivchenko, including but not limited to, bodycam footage, police
27 reports, and other public records, is protected speech under the First Amendment and is
28 not unlawful under any legal theory recognized in the State of Arizona.

1
2 **SIXTH CAUSE OF ACTION**
3 **(Vexatious Litigant Designation)**
4 **(Against Andrew and Renee Ivchenko)**

5 258. To the extent they have acted as *pro se* litigants, Defendants Andrew and
6 Renee Ivchenko are vexatious litigants within the meaning of A.R.S. § 12–3201.

7 259. Even while represented by counsel, Defendants Andrew and Renee
8 Ivchenko have engaged in seriously vexatious conduct which has resulted in a substantial
9 waste of the Court’s time and resources and which has caused substantial harm to
10 Plaintiffs.

11 260. Specifically, as noted above, Andrew and Renee Ivchenko have engaged in
12 the following vexatious conduct:

- 13 a. Repeated filing, dismissal, and refiling of groundless court actions
14 solely or primarily for the purpose of harassment;
- 15 b. Unreasonably expanding or delaying court proceedings; and
- 16 c. Bringing court actions without substantial justification.

17 261. Pursuant to A.R.S. § 12–3201 and the inherent authority of the Court,
18 Plaintiffs are entitled to an order declaring that Defendants Andrew and Renee Ivchenko
19 are vexatious litigants and ordering that they may not file any new lawsuits against
20 Plaintiffs in the State of Arizona or the United States District Court for the District of
21 Arizona without prior written leave of Court.

22 **JURY DEMAND**

23 Plaintiffs demand trial by jury as to all issues so triable.

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1 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

2 A. For compensatory damages of no less than \$75,000 and in an amount
3 according to proof at trial;

4 B. For punitive damages in an amount according to proof at trial;

5 C. For a judgment declaring the rights and legal relations of the parties as set
6 forth above;

7 D. For an order finding Andrew and Renee Ivchenko are vexatious litigants,
8 and ordering that they may not file any new actions against Plaintiffs without prior leave
9 of Court;

10 E. For an award of all costs of suit incurred herein;

11 F. For such other and further relief as the Court deems just and proper.

12
13 DATED: January 21, 2021

GINGRAS LAW OFFICE, PLLC



14
15
16 David S. Gingras, Esq.
Attorney for Plaintiffs

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United State of America that the foregoing is true and correct.

Executed on January 21, 2021.

/s/ Travis Grant
Travis Grant

GINGRAS LAW OFFICE, PLLC
4802 E. RAY ROAD, #23-271
PHOENIX, AZ 85044

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Exhibit A

OFFICIAL USE ONLY, for the original purpose requested. Contact the originating agency for any questions regarding this material.

DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD **Incident / Investigation Report** Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

Reported 04/21/2018 18:10 Found 04/21/2018 18:10 Occurred 04/21/2018 18:10
 Location 102 E Mountain View Rd Scottsdale, AZ Original Officer (1505) TREGLOWN, B

Original Information Original Page: 1
 Date Added: 04/21/2018 Added By: (1505) TREGLOWN, B

Charges

1	Charge Type State	Description AGG ASSAULT-OFFICER -- MINOR OR NO INJURY	Statute 13-1204A8A	UCR 13B	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type RESIDENCE/HOME	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. Personal Weapons (hands, Etc.)
Entry		Exit	Criminal Activity NONE / OTHER		2.
Bias Motivation		Bias Target	Bias Circumstances		3.
Bias Motivation		Bias Target	Bias Circumstances		Bias Group
2	Charge Type State	Description ASSAULT-TOUCHED TO INJURE	Statute 13-1203A3	UCR 999	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type RESIDENCE/HOME	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. Personal Weapons (hands, Etc.)
Entry		Exit	Criminal Activity NONE / OTHER		2.
Bias Motivation		Bias Target	Bias Circumstances		3.
Bias Motivation		Bias Target	Bias Circumstances		Bias Group
3	Charge Type State	Description DISORDERLY CONDUCT-DISRUPTIVE BEHAVIOR	Statute 13-2904A1	UCR 90C	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type RESIDENCE/HOME	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1.
Entry		Exit	Criminal Activity NONE / OTHER		2.
Bias Motivation		Bias Target	Bias Circumstances		3.
Bias Motivation		Bias Target	Bias Circumstances		Bias Group

Status: Victim Rights? Yes No CSS Requested? Yes No

OFFICIAL USE ONLY, for the original purpose requested. Contact the originating agency for any questions regarding this material.

DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD **Incident / Investigation Report** Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

Reported 04/21/2018 18:10 Found 04/21/2018 18:10 Occurred 04/21/2018 18:10
 Location 102 E Mountain View Rd, Scottsdale, AZ Original Officer (1505) TREGLOWN, B

Original Information Original Page: 2
 Date Added: 04/21/2018 Added By: (1505) TREGLOWN, B

Victim

1	Type I	Code VI	Name(Last, First, M) IVCHENKO, ANDREW								AKA			
SSN [REDACTED]		DOB [REDACTED]	Age 58	Race W	Ethnicity N	Sex M	Height 604	Weight 195	Hair BRO	Eyes HAZ	Victim of Crimes 2,3			
License: <input type="checkbox"/> DL <input type="checkbox"/> ID <input type="checkbox"/> Per			Number: [REDACTED]			State: [REDACTED]		Marital: M		Resident: R		Citizen: US		
Address [REDACTED]											Hm ph:			
Occupation				Employer Name/Address /								Cell ph:		
Wk ph:														
Scars, Marks, Tatoos or Other Distinguishing Features:														
Physical Characteristics:														

Victim

2	Type P	Code VI	Name(Last, First, M) TREGLOWN, 1505								AKA			
SSN [REDACTED]		DOB [REDACTED]	Age 37	Race W	Ethnicity U	Sex M	Height	Weight 0	Hair	Eyes	Victim of Crimes 1			
License: <input type="checkbox"/> DL <input type="checkbox"/> ID <input type="checkbox"/> Per			Number:			State:		Marital:		Resident: R		Citizen: US		
Address [REDACTED]											Hm ph: [REDACTED]			
Occupation				Employer Name/Address [REDACTED]								Cell ph:		
Wk ph: [REDACTED]														
Scars, Marks, Tatoos or Other Distinguishing Features:														
Physical Characteristics:														

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DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD

Incident / Investigation Report

Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

Reported 04/21/2018 18:10

Found 04/21/2018 18:10

Occurred 04/21/2018 18:10

Location 102 E Mountain View Rd Scottsdale, AZ

Original Officer (1505) TREGLOWN, B

Original Information

Original Page: 3

Date Added: 04/21/2018

Added By: (1505) TREGLOWN, B

Offender

1	Type I	Code OF	Name(Last, First, M) IVCHENKO, RENEE							AKA Renee Rachelle Sandlin		
SSN [REDACTED]	DOB [REDACTED]	Age 46	Race W	Ethnicity N	Sex F	Height 507	Weight 125	Hair BLN	Eyes HAZ			
License: <input type="checkbox"/> DL <input type="checkbox"/> ID <input type="checkbox"/> Per			Number: [REDACTED]			State: AZ		Marital: M	Resident: R	Citizen: US		
Address [REDACTED]									Hm ph: [REDACTED]			
Occupation			Employer Name/Address /						Cell ph:			
									Wk ph:			
Scars, Marks, Tatoos or Other Distinguishing Features:												
Physical Characteristics:												

Related Name Relationships

IVCHENKO, ANDREW	is	SPOUSE	to	IVCHENKO, RENEE
TREGLOWN, 1505	is	STRANGER	to	IVCHENKO, RENEE

Assisting Officers

- (1361) MICHAEL, P
- (1380) RYAN, S
- (1488) DEARING, T
- (1505) TREGLOWN, B

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DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD

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Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

Reported 04/21/2018 18:10

Found 04/21/2018 18:10

Occurred 04/21/2018 18:10

Location 102 E Mountain View Rd [REDACTED] Scottsdale, AZ

Original Officer (1505) TREGLOWN, B

Original Information

Original Page: 4

Date Added: 04/21/2018

Added By: (1505) TREGLOWN, B

Notes / Narratives

On 04/21/18, around 1814 hours, I was operating as Patrol Officer (with OBC) when I was dispatched to [REDACTED] in reference to a domestic violence call. Upon arriving on scene, I met with both involved parties, Andrew and Renee Ivchenko. Renee had called in the domestic violence to police. Comments on the call stated that Renee was assaulted by Andrew and that he grabbed her and threw her around.

Andrew informed me that his wife Renee has a serious alcohol abuse problem. Andrew said that tonight Renee was heavily intoxicated. Andrew said he tried to stop her from drinking so he poured her alcoholic beverage down the sink. Andrew said this upset Renee, so she went behind Andrew in the kitchen, and she grabbed him by his upper arms and pushed him to make him stop. Andrew said he did not retaliate or push Renee away. Andrew said he locked himself in the bedroom until the police arrived. Andrew had visible scratches on the insides of both of his biceps. Andrew did not show any signs of intoxication. Andrew did not want Renee arrested for anything, but did want her excessive drinking to stop. Nothing further from Andrew.

Renee spoke with Ofc. T. Dearing (1488) for the majority of the incident, see Ofc. Dearing's supplement for further. While I briefly spoke with Renee, she showed strong signs of intoxication (heavily slurred speech, imbalance/stumbling, mood swings). Renee continuously reiterated that she called the police for help because she was assaulted. Renee had no apparent signs of injury. When I asked if she had any injuries, Renee removed her shirt for no reason. I instructed Renee to put her shirt back on but she ignored me and went to the bathroom. Renee came out of the bathroom a short time later and stood in the hallway with me and FTO S. Ryan (1380).

We informed Andrew that Renee and he needed to stay separated for the night until she could sober up. While Andrew was packing, I stoodby with Renee in the kitchen. I gave several verbal commands for Renee to remain seated in a separate room. Renee initially ignored my verbal commands to take a seat and insisted on speaking with Andrew, which I did not allow. Renee eventually went to the living room to lay on the couch for a few seconds before getting back up and trying to walk past me to speak with Andrew. I informed Renee several times that she was not going to speak Andrew in person anymore that night due to her intoxication and behavior. Renee insisted on continuing to disobey my commands and became very agitated with FTO Ryan, Ofc. Dearing, and myself. Renee began yelling aggressively, swinging her arms, and pointing at the other officer and me while I told her to calm down. Renee then pushed me in the chest with open palms, causing herself to fall backwards against the living room couch. I then grabbed Renee's right arm, FTO Ryan grabbed Renee's left arm, and we placed both of her arms behind her back into handcuff position.

While I was handcuffing Renee, she was pulling away from me and tightening up her muscles. I was able to finally place Renee under arrest, checked for proper tightness, and double locked both cuffs before securing Renee in the backseat of my patrol car. While in the backseat, Renee began kicking the driver's side backseat window with her feet. Renee was instructed to stop by Sgt. P. Michael (1361) and she did. On the way to Scottsdale City Jail, Renee removed her handcuffs. I pulled my patrol vehicle over at 9708 E Via Linda to reapply handcuffs to Renee. Renee was noncompliant again and attempted to pull away from me, tightened up her muscles, and curled her arms to her chest. FTO Ryan and I were able to place Renee's arms behind her back again into handcuff position while she was still in the backseat of my patrol vehicle. FTO Ryan placed handcuffs on Renee, checked for proper tightness, and double locked both cuffs before resecuring Renee in the backseat once again before continuing to Scottsdale City Jail.

Renee was turned over to detention officers at Scottsdale City Jail and held in custody. Renee was placed under arrest for

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DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

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AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

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Location 102 E Mountain View Rd, Scottsdale, AZ

Original Officer (1505) TREGLOWN, B

Original Information

Original Page: 5

Date Added: 04/21/2018

Added By: (1505) TREGLOWN, B

Notes / Narratives

13-1204.A8 Aggravated Assault on a Police Officer--No injury, 13-1203.A3 Assault--Touched to Injure, and 13-2904.A1 Disorderly Conduct--Fighting.

While at the Scottsdale City Jail, I read Renee her Miranda Rights from my Scottsdale Miranda Rights card around 1945 hours. Renee did not wish to speak to me and requested her husband Andrew as her attorney. This concluded my investigation with Renee.

No further information.

Notes / Continuation

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DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD

Incident / Investigation Report

Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

Reported 04/21/2018 18:10

Found 04/21/2018 18:10

Occurred 04/21/2018 18:10

Location 102 E Mountain View Rd, Scottsdale, AZ

Original Officer (1505) TREGLOWN, B

Supplement Information

Supplement Page: 1

Date Added: 04/21/2018 19:00:54

Added By: (1488) DEARING, T

Supplement Notes

On 04-21-2018 at approximately 1843 hours, Renee Ivchenko was arrested for Aggravated Assault and Disorderly Conduct at [REDACTED]

Call comments stated the following:

The 911 caller identified as Renee Ivchenko stated that her husband (Andrew Ivchenko) assaulted her. Renee stated that she was cooking dinner and Andrew did not like the fact she was microwaving part of the dinner. Renee locked herself in her room.

I arrived on scene in a fully marked Scottsdale Police patrol vehicle wearing a full regulation SPD uniform. I was also equipped with my department issued AXON On-body camera throughout the investigation.

Upon my arrival at the above listed location, a blonde female opened the door later identified as Renee Ivchenko. Renee and her husband Andrew were standing at the front door. I immediately had Andrew step outside onto the porch and told Renee to stand next to her sofa located in the living room.

As I was speaking with Andrew on the porch of the second story condo, I could visually see Renee inside the residence approximately 15 feet away. Andrew stated the following:

Andrew stated that his wife is an alcoholic. Andrew stated that he found a bottle of liquor that Renee was hiding and he poured it out. Andrew stated that when he got the kitchen to dump out the alcohol, Renee attempted to pull him away from the sink and prevent him from pouring the liquor out. Andrew stated that he had scrapes on the inside of both his left and right biceps. Andrew then showed me the scrapes. I observed one scrape on the inside of Andrews left bicep approximately one inch in length. Andrew stated that all she was doing was trying to prevent him from dumping out her liquor.

Andrew stated Renee threatened to call the police to which he immediately went and locked himself in the bathroom.

I asked Andrew if anything else occurred in regards to the verbal altercation or physical altercation to which Andrew stated no. Andrew stated that it was as simple as him finding the liquor and attempting to pour it down the drain as Renee attempted to stop him. Andrew stated that at no time did he touch Renee nor did he get involved in a serious verbal altercation.

I then asked Andrew to step inside his residence and stand where Renee was standing (The backside of the sofa in the living room). I asked Renee to step out onto the front porch. I again had a clear line of sight of both Renee and Andrew. It should be noted that soon after the arrival of Officer Treglown #1505, Renee and I stepped into the residence and continued the conversation in the guest room located directly right after entering the residence. Renee stated the following:

Renee stated that she was cooking dinner. Renee stated that at some point she attempted to microwave part of their dinner and Andrew did not like that. Renee stated that Andrew wanted everything to be cooked on the stove. It was at this time that Renee stated Andrew grabbed her by both shoulders and pushed her. Renee stated that she fell backwards as Andrew continued to approach her and push her. Renee stated that she was pushed through the hallway and into the bathroom door. It should be noted that while speaking with Renee, she was extremely intoxicated. Renee showed me her arms and I did not see any red marks or bruises.

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DV Child Abuse Arson Homicide Hate Crime Elderly Gang Related Liquor Est. On-Body Camera

Agency: SPD

Incident / Investigation Report

Case Number: 18-08959



AGG ASSAULT-OFFICER -- MINOR OR NO INJURY

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Original Officer (1505) TREGLOWN, B

Supplement Information

Supplement Page: 2

Date Added: 04/21/2018 19:00:54

Added By: (1488) DEARING, T

I then told Renee that I wanted to speak with other officers to which she stopped talking to me and began just staring at me. Renee then began demanding to speak with Andrew to which she was denied.

While Andrew was outside speaking with Officers, Renee made her way into the kitchen area. See all additional supplements for further information.

At some point, Renee began to scream about her husband being in the military and began approaching the door from the living room. Renee was asked multiple times to not approach the door by Officer Treglown. Renee was then screaming at Officer Treglown, Officer Ryan and I. At some point, Officer Treglown put Renee's hands behind her back and placed Renee under arrest for Aggravated Assault against a Police Officer. See all additional supplements for further information.

It should be noted that from where I was standing I could not view any altercation between Renee and Officer Treglown as I was also paying attention to the front door and Renee at once. See all additional supplements for further information.

I did however assist Officer Treglown by holding Renee's right arm while he placed handcuffs on Renee.

Upon Officer Ryan and Officer Treglown taking Renee out of the residence, I asked Andrew if he was willing to have our Crime Scene Specialists take photographs of his injuries. Andrew stated that he was not willing to allow photographs taken of him. Andrew was notified that he would be receiving Victim Rights in the mail.

This concluded my involvement in this matter. See all additional supplements in this matter. NFI.

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JMS internal Booking # 2018003139	Alert/VP VP9, VP3, SUIC		CITY OF SCOTTSDALE ARREST REPORT	DNA previous <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DNA taken <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Fingerprinted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Photo <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
AZAFIS PCN number							

IDENTIFICATION

1 ORI # AZ0072500	2 AGENCY NAME Scottsdale Police Department	3a. ARREST # 2018004864	3b DR # 18-08959
5a. LAST, FIRST, MIDDLE NAME IVCHENKO, RENEE	5b. Citizenship US	5c. Interpreter <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	5d. Language
7 SEX <input type="checkbox"/> M <input checked="" type="checkbox"/> F	8 RACE <input checked="" type="checkbox"/> W <input type="checkbox"/> B	9 HGT. 5'07	10 WGT. 125
11 EYE HAZEL	12 HAIR BLN	13 SKIN	
15 PLACE OF BIRTH (CITY, COUNTY, STATE) CA	16 SSN - - -	17 DATE OF BIRTH	18 AGE 46
19 AFIS ARN			
20 SID #	21a. Relative/Emergency Contact Andrew Ivchenko	21b. Relationship Husband	21c. Address/Phone Ph: - - -
22 DL #	23 ST	25 IDENTIFICATION COMMENTS	
24 FBI #	26 <input checked="" type="checkbox"/> RESIDENT <input type="checkbox"/> NON-RESIDENT		27 HOME ADDRESS (STREET, CITY, STATE, ZIP)
28 RESIDENCE PHONE		29 OCCUPATION (BE SPECIFIC)	
30 EMPLOYER (NAME OF COMPANY/SCHOOL)		31 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)	
32 BUSINESS PHONE			

ARREST

33 LOCATION OF ARREST (STREET, CITY, STATE, ZIP) 10250 E MOUNTAIN VIEW RD SCOTTSDALE, AZ	34 DIST/BEAT D3/13	39 ARMED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	40 DESCRIPTION OF WEAPON
41 DATE OF ARREST 04/21/2018	42 TIME OF ARREST 18:43	43 DAY OF ARREST <input checked="" type="checkbox"/> MIL	44 TYPE ARREST BOOKED

CHARGE #	F/M	Cnt	Charge	State/Local	Citation/Warrant #		
1	M	1	ASSAULT-TOUCHED TO INJURE	13-1203A3			
DR #	Bond	Release Date	Violation Date	Court ORI	DV	Prep Offense	Disposition
1808959	0.00	04/21/2018	04/21/2018	7510	Y		HELD IN CUSTODY
2	F	1	AGG ASSAULT-OFFICER -- MINOR OR NO INJURY	13-1204A8A			
DR #	Bond	Release Date	Violation Date	Court ORI	DV	Prep Offense	Disposition
1808959	0.00	04/21/2018	04/21/2018	7510	N		HELD IN CUSTODY
3	M	1	DISORDERLY CONDUCT-DISRUPTIVE BEHAVIOR	13-2904A1			
DR #	Bond	Release Date	Violation Date	Court ORI	DV	Prep Offense	Disposition
1808959	0.00	04/21/2018	04/21/2018	7510	Y		HELD IN CUSTODY

66 ARREST DISPOSITION	68 ACCOMPLICE ARRESTED WITH	DOB:	BOOKING#:
ALIAS AKA			
ID: 21803382	NAME: SANDLIN, RENEE RACHELLE	DOB: - - -	SSN: - - -
Scars, Marks and Tattoos			

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Date of Booking:	Booking Time:	Day of Booking:	Cell:	Booking Detention Officer:
04/21/2018	19:7	Saturday		(B1600) SCHULZ, C
Property Locker: District 2 Jail Area Locker 45				Property Received From: Ivchenko, Renee
Property Taken: [REDACTED]				
Date Taken:	Taken By:	Date Returned:	Returned By:	
04/21/2018	(B1561) GROVER, K	04/21/2018	(B892) GARLAND, K	
RELEASE INFORMATION				
Date of Release:	Release Time:	Release Notes:		
04/21/2018	20:40			
Release To:	Release Reason:	Release Detention Officer:		
TOT	TURNED OVER TO	(B892) GARLAND, K		
Related Cases				
ARRESTING OFFICER (Badge#)		TRANSPORTING OFFICER (Badge#)		SUPERVISOR (Badge#)
(1505) TREGLOWN, B				(1170) JOHNSON, T
Booking Notes: MCSO				

Exhibit B

5/15/18 FILED 8:54am
CHRIS DEROSE, Clerk
By Le. Aranda
Deputy

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

THE STATE OF ARIZONA,

Plaintiff,

vs.

RENEE RACHELLE IVCHENKO,

Defendant.

CR2018-119949-001

DEFENDANT'S CONSENT TO
PARTICIPATE IN DEFERRED
PROSECUTION PROGRAM AND
ACKNOWLEDGEMENT

I, RENEE RACHELLE IVCHENKO, the Defendant in this case, agree to participate in the Felony Pretrial Intervention Program, a deferred prosecution program, and I give my consent to the Maricopa County Attorney's Office to apply to the Court for suspension of prosecution of this matter. I understand that my participation in the program is contingent upon my acceptance. If accepted, I will adhere to the regulations of the program and the directives of my case manager. Successful completion of the program will be determined by Sage Counseling, Inc. and the Maricopa County Attorney's Office. If I successfully complete this program, I acknowledge that the criminal case currently pending against me in the above referenced cause number will be dismissed with prejudice.

By agreeing to participate in this deferred prosecution program, I acknowledge that:

- RI 1. I have been given a description of the program that I am agreeing to enter and I understand that it will consist of counseling and treatment as directed by the program provider, Sage Counseling. I understand that successful completion of this program will require me to follow all of the steps that will be outlined in my treatment plan that will be developed specifically for me following my initial intake session. In addition to restitution, I understand that I will be responsible for paying for the counseling and treatment program. These fees and costs will be fully explained to me when the treatment program is developed as well as any

the charged offenses as further explained in the attached factual basis. I acknowledge that this admission of guilt and factual basis may be used against me if I do not successfully complete the deferred prosecution program and I decide to have a trial in this matter.

6. I understand that participation in this program requires me to pay full restitution to any and all victims in this matter in a total amount of \$0.00 and that I am required to pay 50% of the total restitution within one month of my intake appointment to remain in the program. I also understand that if I do not successfully complete the program that any restitution paid belongs to the victim(s) and will not be returned to me, but any amounts paid will be credited against any future restitution orders in this case.

7. I have reviewed the following statements with my attorney and the each of the following statements are true. I understand that if any of these statements are not true, I am not eligible for this deferred prosecution program and the prosecution against me will be resumed:

- a. I have no prior conviction for a serious offense as defined in A.R.S. § 13-706.
- b. I have no prior conviction for any offenses under A.R.S. Title 13, Chapter 14.
- c. I have no prior conviction for any dangerous offense as defined in A.R.S. §13-105.
- d. I have no prior conviction for any dangerous crime against children as defined in A.R.S. § 13-705.
- e. I have no felony convictions within the last five years, and I have no historical prior felony convictions as defined in A.R.S. § 13-105
- f. I do not have any other felony charges pending against me in any jurisdiction.
- g. I have not been convicted three or more times of possession of a controlled substance as defined in A.R.S. § 36-2501.
- h. I have not been convicted three or more times of possession of drug paraphernalia as defined in A.R.S. § 13-3415.
- i. I was not on felony probation or any type of release for any felony matter at the time of the offense(s) charged in this case.

- j. I am not a member of any criminal street gang.
- k. I have not completed any deferred prosecution or diversion program for any felony offense within the last five years.

RT 8. I understand that while the prosecution is suspended in this matter I will be released on my own recognizance under the conditions set by the court. I further understand that should I commit a new felony offense while released on my own recognizance that I may be held without bond on the new offense.

RT 9. I will / will not need the services of an interpreter. I understand that there may be additional fees associated with interpreter services and any such fees will be fully explained during my intake session with Sage. Language: NA

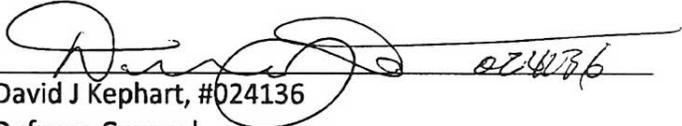
RT 10. By signing below, I authorize SAGE Counseling Inc. to share confidential information with the Maricopa County Attorney's Office including but not limited to: information related to my assessment, treatment recommendations, participation and compliance in the SAGE Treatment Program. I further authorize and acknowledge that this confidential information may contain information related to alcohol and/or drug abuse (Federal Law references 42 U.S.C. 290 dd-3 –Federal Regulation reference CFR, Part 2).

My attorney has reviewed this entire agreement with me and has fully explained each and every paragraph of this agreement including each statement in paragraph 7. I understand that I am under no obligation to agree to this program. I freely and voluntarily agree to participate in this deferred prosecution program.

5/11/18
Date

Renee Rachelle Ivchenko
RENEE RACHELLE IVCHENKO

I have explained this Consent to Participate in Deferred Prosecution Program & Acknowledgement to the Defendant.

5/11/18 
Date David J Kephart, #024136
 Defense Counsel

**ATTACHMENT A
FACTUAL BASIS**

As part of my consent to participate in the Felony Pretrial Intervention Program, I acknowledge that I am guilty of the offenses charged in the complaint. I acknowledge that this admission and the statements in this document may be used against me if I fail to successfully complete the program and my case proceeds to trial. I understand that I have the right to remain silent and I make the following statements voluntarily after consultation with my attorney.

On April 21, 2018 in Scottsdale, Arizona - Maricopa County
Date of Offense Location and Jurisdiction

On April 21, 2018, I, Renee Ivchenko, knowingly touched Brandon Treglown in the chest area with the intent to provoke him. Brandon Treglown is a Scottsdale Police Officer and at the time of this incident he was in full uniform and I knew he was a police officer acting in his official capacity.

3/15/18 Renee Rachelle Ivchenko
DATE RENE RACHELLE IVCHENKO

WILLIAM G MONTGOMERY
MARICOPA COUNTY ATTORNEY

Loren D Hubbell
Deputy County Attorney
Bar ID #: 033284
CBPE-East Phoenix/Scottsdale
301 West Jefferson, 8th Floor
Phoenix, AZ 85003
Telephone: (602) 506-1145
mcaocbpeasteastphxsc@mcao.maricopa.gov
MCAO Firm #: 00032000
Attorney for Plaintiff

5/7

APR 24 2018 FILED 4:57PM
MICHAEL K. JEANES, Clerk
By *[Signature]*
Deputy

DR 1808959 - Scottsdale Police Department
McDowell Mtn. Justice Court

0131711723

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
COUNTY OF MARICOPA, RCC-DOWNTOWN

THE STATE OF ARIZONA,

Plaintiff,

vs.

RENEE RACHELLE IVCHENKO,

Defendant.

CR2018-119949-001

DIRECT COMPLAINT

COUNT 1: AGGRAVATED
ASSAULT, A CLASS 5 FELONY
(Renee Rachelle Ivchenko)

IN CUSTODY

DCO

The complainant herein personally appears and, being duly sworn, complains on information and belief against RENEE RACHELLE IVCHENKO, charging that in Maricopa County, Arizona:

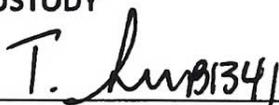
COUNT 1:

RENEE RACHELLE IVCHENKO, on or about April 21, 2018, knowing, or having reason to know, that Brandon Treglown was a peace officer, knowingly did touch Brandon Treglown, a peace officer, with the intent to injure, insult or provoke him, in violation of A.R.S. §§ 13-1203, 13-1204, 13-701, 13-702, and 13-801.



/s/ Loren D Hubbell
Deputy County Attorney

IN CUSTODY



Complainant

Agency: Scottsdale Police
Department

Subscribed and sworn upon information and belief this 24 day of April, 2018.

If

IN THE MCDOWELL MOUNTAIN JP (SCOTTSDL) COURT
STATE OF ARIZONA, COUNTY OF MARICOPA

PAGE 1 OF 3

****DRAFT****

RELEASE QUESTIONNAIRE

Notice: Unless a specific Form IV is sealed or ordered redacted by the Court, all Form IVs are public records of the Court or Clerk at the time they are provided to the Court and will be released in their entirety upon request.

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO DOB 1972-02-17 BOOKING NO.

ALIAS(ES) CASE NO. DR1808959

A. GENERAL INFORMATION

Charges

- 1 Cts. 13-1204A8A AGG ASLT-OFFICER F
1 Cts. 13-1203A3 ASSAULT-TOUCHED TO INJURE M
1 Cts. 13-2904A1 DISORDERLY CONDUCT-FIGHTING M

Pursuant to A.R.S. §41-1750 ten-print fingerprints were taken of the arrested person? [X] Yes [] No
If yes, PCN =

Pursuant to A.R.S. §13-610 one or more of the above charges requires the arresting agency to secure a DNA sample from the arrested person? [X] Yes [] No

If yes, does the defendant have a valid DNA sample on file with AZDPS? [] Yes [X] No

If no, Arresting Agency has taken required sample? [] Yes [X] No

Offense Location: 10250 E MOUNTAIN VIEW APT 216
Offense Date: 2018-04-21
Arrest Location: 10250 E MOUNTAIN VIEW RD, 216
Date: 2018-04-21 Time: 18:43

B. PROBABLE CAUSE STATEMENT

1. Please summarize and include the facts which establish probable cause for the arrest:

THE DEFENDANT WAS CONTACTED AT 10250 E MOUNTAIN VIEW UNIT 216 ON A DV COMPLAINT THAT SHE MADE. THE DEFENDANT ASSAULTED HER HUSBAND BECAUSE HE HAD Poured OUT HER ALCOHOLIC BEVERAGE. THE DEFENDANT GRABBED HER HUSBAND BY HIS UPPER ARMS, LEAVING SCRATCHES ON THE INSIDE OF HIS BICEPS. THE DEFENDANT WAS HEAVILY INTOXICATED AND HAS AN EXTENSIVE HISTORY OF ALCOHOL ABUSE.

WHILE I, OFFICER B. TREGLOWN (1505), WAS SPEAKING WITH THE DEFENDANT, I GAVE SEVERAL VERBAL COMMANDS FOR THE DEFENDANT TO REMAIN SEATED IN A SEPARATE ROOM FROM HER HUSBAND WHILE HE PACKED TO LEAVE THE RESIDENCE. THE DEFENDANT INSISTED ON DISOBEYING MY COMMANDS AND BECAME VERY AGITATED WITH OTHER OFFICERS AND MYSELF. THE DEFENDANT BEGAN YELLING AGGRESSIVELY, SWINGING HER ARMS AND POINTING AT OTHER OFFICERS AND MYSELF WHILE I TOLD HER TO CALM DOWN. THE DEFENDANT THEN PUSHED ME IN THE CHEST WITH BOTH OF HER ARMS. WHILE I WAS PLACING THE DEFENDANT UNDER ARREST SHE WAS PULLING AWAY FROM ME, TIGHTENING UP HER MUSLCES, AND CURLING HER ARMS TO HER CHEST.

THE DEFENDANT WAS PLACED UNDER ARREST WITHOUT INCIDENT.

C. OTHER INFORMATION (Check if applicable)

1. [] Defendant is presently on probation, parole or any other form of release involving other charges or convictions: Explain:

2. List any prior Arrests?

Convictions?

F.T.A.'s?

3. Is there any indication the defendant is:

- [X] An Alcoholic? [] An Addict?
[] Mentally disturbed? [] Physically Ill?

4. [] Defendant is currently employed With whom

How long:

5. Where does the defendant currently reside? 10250 EAST MOUNTAIN VIEW ROAD 216 SCOTTSDALE, AZ 85258 With whom HUSBAND / VICTIM

How long: 3 years months days

6. What facts indicate the defendant will flee if released? Explain:

7. What facts does the state have to oppose an unsecured release? Explain:

D. CIRCUMSTANCES OF THE OFFENSE(Check if applicable)

1. [] Firearm or other weapon was used Type:

[X] Someone was injured by the defendant

[] Medical attention was necessary

Nature of injuries: N/A

2. [] Someone was threatened by the defendant Nature and extent of threats:

3. Did the offense involve a child victim? [] Yes [X] No If yes, was DCS notified? [] Yes [X] No

4. If property offense, value of property taken or damaged:

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO

DOB 1972-02-17 BOOKING NO. _____

****DRAFT****

CASE NO. DR1808959

Page 2 of 3

Property was recovered

5. Name(s) of co-defendant(s):

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO

DOB 1972-02-17 BOOKING NO. _____

****DRAFT****

CASE NO. DR1808959

Page 3 of 3

E. CRIMES OF VIOLENCE

1. Relationship of defendant to victim: HUSBAND

Victim(s) and defendant reside together

2. How was the situation brought to the attention of the police?

Victim Third Party Officer observed

3. There are previous incidents involving these same parties
Explain:

4. Is defendant currently the subject of:

An order of protection Any other court order

Injunction against harassment

Explain:

F. DOMESTIC VIOLENCE ISSUES (Check if applicable)

Defendant's actions

Threats of homicide/suicide/bodily harm

Control/ownership/jealousy issues Crime occurs in public

Prior history of DV Kidnapping

Frequency/intensity of DV increasing Depression

Access to or use of weapons Stalking behavior

Violence against children/animals

Multiple violations of court orders

G. CIRCUMSTANCES OF THE ARREST (Check if applicable)

1. Did the defendant attempt to:

Avoid arrest Resist arrest Self Surrender

Explain:

DEFENDANT HAD MUSCLE LOCK UP AND CURLED ARMS IN FRONT OF HER

2. Defendant was armed when arrested

Type:

3. Evidence of the offense was found in the defendant's possession

Explain:

4. Was the defendant under the influence of alcohol or drugs at the time of the offense?

Yes No Unk

H. DRUG OFFENSES

1. If the defendant is considered to be a drug dealer, please state the supporting facts:

2. What quantities and types of illegal drugs are directly involved in the offense?

Drug field test completed

Defendant admission of drug type

Approximate monetary value: \$

3. Was any money seized?

Yes No

Amount: \$

I. ADDITIONAL INFORMATION

1. Military Service:

Has the defendant served in the military services of the United States? Yes No Unknown

If yes, currently on active duty? Yes No

Branches Served In: _____

(AF - Air Force AR - Army CG - Coast Guard MC - Marine Corp MM - Merchant Marines NG - National Guard NV - Navy RS - Reserves)

2. Is the defendant homeless?

Yes No Unknown

3. Do you need the court to provide an interpreter to help communicate and to understand what is being said?

Yes No

If so, what language?

If a fugitive arrest, a Form IVA must also be completed

I certify that the information presented is true to the best of my knowledge.

B. TREGLOWN/1505
ARRESTING OFFICER/SERIAL NUMBER

AZ0072500/480-312-5000
ARREST AGENCY/DUTY PHONE NUMBER

2018-04-21
DATE

1808959/AZ0072500
DEPARTMENTAL REPORT NO.

DEPARTMENTAL REPORT NO.

DEPARTMENTAL REPORT NO.

Administered pursuant to the law and required procedures.
AO 2003-046, the oath has been

IN THE MCDOWELL MOUNTAIN JP (SCOTTSDL) COURT
 STATE OF ARIZONA, COUNTY OF MARICOPA

PAGE 1 OF 3

****DRAFT****

RELEASE QUESTIONNAIRE

Notice: Unless a specific Form IV is sealed or ordered redacted by the Court, all Form IVs are public records of the Court or Clerk at the time they are provided to the Court and will be released in their entirety upon request.

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO DOB 1972-02-17 BOOKING NO. _____
 ALIAS(ES) _____ CASE NO. DR1808959

A. GENERAL INFORMATION

Charges

- 1 Cts. 13-1204A8A AGG ASLT-OFFICER F
- 1 Cts. 13-1203A3 ASSAULT-TOUCHED TO INJURE M
- 1 Cts. 13-2904A1 DISORDERLY CONDUCT-FIGHTING M

Pursuant to A.R.S. §41-1750 ten-print fingerprints were taken of the arrested person? Yes No
 If yes, PCN = _____

Pursuant to A.R.S. §13-610 one or more of the above charges requires the arresting agency to secure a DNA sample from the arrested person? Yes No

If yes, does the defendant have a valid DNA sample on file with AZDPS? Yes No

If no, Arresting Agency has taken required sample? Yes No

Offense Location: 10250 E MOUNTAIN VIEW APT 216
 Offense Date: 2018-04-21
 Arrest Location: 10250 E MOUNTAIN VIEW RD, 216
 Date: 2018-04-21 Time: 18:43

B. PROBABLE CAUSE STATEMENT

1. Please summarize and include the facts which establish probable cause for the arrest:
 THE DEFENDANT WAS CONTACTED AT 10250 E MOUNTAIN VIEW UNIT 216 ON A DV COMPLAINT THAT SHE MADE. THE DEFENDANT ASSAULTED HER HUSBAND BECAUSE HE HAD Poured OUT HER ALCOHOLIC BEVERAGE. THE DEFENDANT GRABBED HER HUSBAND BY HIS UPPER ARMS, LEAVING SCRATCHES ON THE INSIDE OF HIS BICEPS. THE DEFENDANT WAS HEAVILY INTOXICATED AND HAS AN EXTENSIVE HISTORY OF ALCOHOL ABUSE.

WHILE I, OFFICER B. TREGLOWN (1505), WAS SPEAKING WITH THE DEFENDANT, I GAVE SEVERAL VERBAL COMMANDS FOR THE DEFENDANT TO REMAIN SEATED IN A SEPARATE ROOM FROM HER HUSBAND WHILE HE PACKED TO LEAVE THE RESIDENCE. THE DEFENDANT INSISTED ON DISOBEYING MY COMMANDS AND BECAME VERY AGITATED WITH OTHER OFFICERS AND MYSELF. THE DEFENDANT BEGAN YELLING AGGRESSIVELY, SWINGING HER ARMS AND POINTING AT OTHER OFFICERS AND MYSELF WHILE I TOLD HER TO CALM DOWN. THE DEFENDANT THEN PUSHED ME IN THE CHEST WITH BOTH OF HER ARMS. WHILE I WAS PLACING THE DEFENDANT UNDER ARREST SHE WAS PULLING AWAY FROM ME, TIGHTENING UP HER MUSCLES, AND CURLING HER ARMS TO HER CHEST.

THE DEFENDANT WAS PLACED UNDER ARREST WITHOUT INCIDENT.

C. OTHER INFORMATION (Check if applicable)

1. Defendant is presently on probation, parole or any other form of release involving other charges or convictions:
 Explain:

2. List any prior Arrests?

Convictions?

F.T.A.'s?

3. Is there any indication the defendant is:

- An Alcoholic? An Addict?
- Mentally disturbed? Physically III?

4. Defendant is currently employed
 With whom

How long:

5. Where does the defendant currently reside? 10250 EAST MOUNTAIN VIEW ROAD 216 SCOTTSDALE, AZ 85258
 With whom HUSBAND / VICTIM

How long: 3 years _____ months _____ days

6. What facts indicate the defendant will flee if released?
 Explain:

7. What facts does the state have to oppose an unsecured release? Explain:

D. CIRCUMSTANCES OF THE OFFENSE(Check if applicable)

1. Firearm or other weapon was used
 Type:

Someone was injured by the defendant
 Medical attention was necessary
 Nature of injuries: N/A

2. Someone was threatened by the defendant
 Nature and extent of threats:

3. Did the offense involve a child victim? Yes No
 If yes, was DCS notified? Yes No

4. If property offense, value of property taken or damaged:

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO

DOB 1972-02-17 BOOKING NO. _____

****DRAFT****

CASE NO. DR1808959

Page 2 of 3

Property was recovered

5. Name(s) of co-defendant(s):

DEFENDANT'S NAME RENEE RACHELLE IVCHENKO

DOB 1972-02-17 BOOKING NO. _____

****DRAFT****

CASE NO. DR1808959

Page 3 of 3

E. CRIMES OF VIOLENCE

1. Relationship of defendant to victim: HUSBAND

Victim(s) and defendant reside together

2. How was the situation brought to the attention of the police?

Victim Third Party Officer observed

3. There are previous incidents involving these same parties

Explain:

4. Is defendant currently the subject of:

An order of protection Any other court order

Injunction against harassment

Explain:

F. DOMESTIC VIOLENCE ISSUES (Check if applicable)

Defendant's actions

Threats of homicide/suicide/bodily harm

Control/ownership/jealousy issues Crime occurs in public

Prior history of DV Kidnapping

Frequency/intensity of DV increasing Depression

Access to or use of weapons Stalking behavior

Violence against children/animals

Multiple violations of court orders

G. CIRCUMSTANCES OF THE ARREST (Check if applicable)

1. Did the defendant attempt to:

Avoid arrest Resist arrest Self Surrender

Explain:

DEFENDANT HAD MUSCLE LOCK UP AND CURLED ARMS IN FRONT OF HER

2. Defendant was armed when arrested

Type:

3. Evidence of the offense was found in the defendant's possession

Explain:

4. Was the defendant under the influence of alcohol or drugs at the time of the offense?

Yes No Unk

H. DRUG OFFENSES

1. If the defendant is considered to be a drug dealer, please state the supporting facts:

2. What quantities and types of illegal drugs are directly involved in the offense?

Drug field test completed

Defendant admission of drug type

Approximate monetary value: \$

3. Was any money seized?

Yes No

Amount: \$

I. ADDITIONAL INFORMATION

1. Military Service:

Has the defendant served in the military services of the United States? Yes No Unknown

If yes, currently on active duty? Yes No

Branches Served In: _____

(AF - Air Force AR - Army CG - Coast Guard MC - Marine Corp MM - Merchant Marines NG - National Guard NV - Navy RS - Reserves)

2. Is the defendant homeless?

Yes No Unknown

3. Do you need the court to provide an interpreter to help communicate and to understand what is being said?

Yes No

If so, what language:

**If a fugitive arrest, a Form IVA must also be completed.

PLEASE DO NOT SIGN, DATE, OR FILE THIS REPORT UNTIL YOU HAVE COMPLETED ALL REQUIRED PROCEDURES.

I certify that the information presented is true to the best of my knowledge.

<u>B. TREGLOWN/1505</u>	<u>AZ0072500/480-312-5000</u>	<u>2018-04-21</u>
ARRESTING OFFICER/SERIAL NUMBER	ARREST AGENCY/DUTY PHONE NUMBER	DATE
<u>1808959/AZ0072500</u>	<u>/</u>	<u>/</u>
DEPARTMENTAL REPORT NO.	DEPARTMENTAL REPORT NO.	DEPARTMENTAL REPORT NO.

Exhibit C

JEFF FINE
Clerk of the Superior Court
By Michelle Messmer, Deputy
Date 05/09/2019 Time 15:20:40
Description Amount
----- CASE# CV2019-090493
CIVIL NEW COMPLAINT 335.00

TOTAL AMOUNT 335.00
Receipt# 27206056

1 LAW OFFICES OF ANDREW IVCHENKO
2 Andrew Ivchenko, Esq., SBN 021145
3 4960 S. Gilbert Rd., Suite 1-226
4 Chandler, AZ 85249
5 Phone: (480) 250-4514
6 Email: aivchenkopllc@gmail.com
7 Attorney for Plaintiff

8 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 RENEE IVCHENKO, a married woman,
11
12 Plaintiff

Case No.: CV2019-090493

13 vs.

COMPLAINT for DAMAGES
(Right of Publicity, Invasion of
Privacy, Defamation, Intentional Infliction of
Emotional Distress, and Prayer for Legal and
Equitable Relief)

14 KYLE DAVID GRANT; TRAVIS PAUL
15 GRANT; and MARIEL LIZETTE GRANT,
16 d/b/a Rapsheets.org and Bailbondcity.com;
17 JOHN DOES and JANE DOES I-X; BLACK
18 CORPORATIONS I-X; and WHITE
19 COMPANIES I-X,

(Jury Trial Demanded)

20 Defendants.

21 Plaintiff Renee Ivchenko (hereinafter Plaintiff or "Mrs. Ivchenko"), through her
22 undersigned counsel, for her Complaint against the Defendants, alleges the following:

23 **PRELIMINARY STATEMENT**

24 This is an action for violation of Plaintiff's right of publicity, invasion of privacy, libel,
25 and intentional infliction of emotional distress, under applicable decisional law in Arizona.
26 Plaintiff seeks redress for injuries caused by the unlawful conduct of the Defendants, Kyle David
27 Grant, his brother Travis Paul Grant, and Travis Paul Grant's wife, Mariel Lizette Grant, all d/b/a
28 Rapsheets.org and Bailbondcity.com. These Defendants have acted individually and collectively

1 and such actions have injured Plaintiff. The Defendants' conduct that is the subject of this civil
2 action entails their wrongful appropriation, without consent, of the name, photograph, image, and
3 likeness of Plaintiff for a commercial purpose that benefits only the Defendants.
4

5 The Defendants, acting individually and in concert, publish on various websites (the
6 "Websites") the names and photographs (commonly called "mugshots") of individuals who have
7 had some involvement with the state's criminal judicial process, along with information
8 purporting to be a statement of the allegations or charges brought against the individual. The
9 Defendants own the websites "rapsheets.org" and "bailbondcity.com," on which they post arrest
10 records, complete with pictures of arrestees, to www.rapsheets.org and www.bailbondcity.com.
11 The Defendants uses software to "scrape" that information from the Maricopa County Sheriff's
12 Office's website for all or substantially all inmates and arrestees. Although the mugshots are
13 only kept online by the Maricopa County Sheriff's Office for three days, that is sufficient time
14 for the Defendants to capture the images and data using spiders and bot programs. The
15 Defendants then use analytics and search optimization to ensure that each record is among the
16 first search results found when the arrestee's name is entered into a search engine such as
17 Google, Bing or Yahoo.
18
19

20 However, rapsheets.org and bailbondcity.com are not a public safety service or media
21 outlet. Instead, the Defendants post these mugshots online solely in order to profit by generating
22 advertising review through Google Ads, Google's paid advertising product and its main source
23 of revenue. Companies pay for Google Ads so that people will notice their business whenever
24 they are searching Google. These companies only have to pay a website owner whenever
25 someone clicks on the ad. This is known as cost-per-click advertising (CPC). The Defendants
26 generate substantial revenue through the use of Google Ads on their websites.
27
28

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

12 The Defendants' scheme proceeds serially through websites operated by or in
13 conjunction with one another. Individuals who attempt to apply legal pressure on the Defendants
14 in an effort to have their mugshot removed from the Websites are retaliated against and further
15 harmed by the Defendants by having their mugshots placed on two other websites owned and
16 operated by them, including "www.thiswebsiterocks.com," which is devoid of advertisements.
17 Plaintiff's mugshot (one of only two involving an Arizona resident) was placed on this website
18 immediately after Plaintiff's attorney demanded the removal of her mugshot from the Websites.
19 In a further effort to intimidate Plaintiff and damage her reputation, the Defendants also set up a
20 Twitter account featuring Plaintiff's mugshot and that of the second Arizona resident, at
21 [Twitter.com/zim_rogers_fans?lang=en](https://twitter.com/zim_rogers_fans?lang=en). Plaintiff and the second Arizona resident are the only
22 people displayed in the Twitter account, which is set up under a fake name. These websites were
23 established to retaliate against Plaintiff, and act as a deterrent against anyone contemplating legal
24 action against the Defendants. These actions by the Defendants constitute libel and false light,
25 and also have caused Plaintiff significant emotional distress.
26
27
28

1 The Defendants purport to operate “The World’s Largest Arrest Record Database” on
2 their rapsheets.org website. This includes mugshots of approximately 300,000 Arizona residents.
3 This action seeks to put an end to the Defendants’ profiteering at the expense of vulnerable
4 people such as Plaintiff. The Defendants will continue to cause Plaintiff harm until they are
5 enjoined from their intentional and malicious violation of her rights, both directly and indirectly
6 through Google, Google Ads, GoDaddy, and others Internet providers that host the Websites.
7

8 **JURISDICTION AND PARTIES**

9
10 1. Plaintiff Renee Ivchenko is a resident of Maricopa County, Arizona.
11
12 2. The Defendants Kyle David Grant, Travis Paul Grant, and Mariel Lizette Grant,
13 are residents of the state of Florida. They are the owners and operators of the following websites
14 (a) Rapsheets.org, and (b) Bailbondcity.com, and based on information and belief, (c)
15 thiswebsiterocks.com, and (d) Twitter.com/zim_rogers_fans?lang=en. The Defendants are being
16 sued in their individual capacities. This Court has jurisdiction over the Defendants under
17 Arizona’s long-arm rule and applicable decisional law, which allows for assertion of personal
18 jurisdiction over a non-resident consistent with federal constitutional due process. Ariz. R. Civ.
19 P. 4.2(a).

20
21 3. At all material times, the Defendants (i) committed a tortious act within this state,
22 and (ii) are engaged in substantial and not isolated activity within this state. Sufficient minimum
23 contacts exist between the Defendants and the state of Arizona to satisfy the due process
24 requirements of the United States Constitution. These include directly targeting their Websites to
25 the state, knowingly interacting with residents of the forum state via their Websites, or through
26 sufficient other related contacts.
27
28

1 9. With respect to Plaintiff, the Defendants, without permission, consent or
2 knowledge of Plaintiff, reproduced, publicly displayed and distributed Plaintiff's booking
3 photo on the Defendants' respective websites.
4

5 10. Plaintiff's image has commercial value, as is shown by the Defendants profiting
6 from the unlawful appropriation of the image for commercial purposes.
7

8 11. The Defendants' respective websites, along with Plaintiff's image, were indexed
9 by Yahoo.com and Google.com, and the image appears under Google Images when a web search
10 for Plaintiff's name is conducted.

11 12. The Defendants' use of Plaintiff's image is for a commercial purpose, among
12 other purposes.
13

14 13. The Defendants operate one or more websites that are used to display Plaintiff's
15 image as part of a commercial enterprise.

16 14. The display by the Defendants of Plaintiff's image is intended, among other
17 things, to subject her to hatred, contempt, or ridicule, or to damage her personal or business
18 reputation, or to impair her credit.
19

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

22 16. Each Defendant, acting on their own or in conjunction with one or more of the
23 other Defendants, utilizes the Websites to intimidate and defame Plaintiff.
24

25 17. Plaintiff's attorney emailed the Defendants a demand letter dated January 15,
26 2019, requesting that her mugshot be removed from the Websites based on her charges not being
27 filed and/or dismissed. The Defendants refused this request. A more aggressive demand letter
28

1 was emailed to the Defendants on February 13, 2019. The Defendants again refused Plaintiff's
2 request by email response dated February 19, 2019.

3
4 18. Based on information and belief, the Defendants retaliated against Plaintiff by
5 publishing, or arranging to have published, Plaintiff's mugshot, as well as additional false,
6 malicious, and defamatory statements, on two other websites, www.thiswebsiterocks.com and
7 [Twitter.com/zim_rogers_fans?lang=en](https://twitter.com/zim_rogers_fans?lang=en). Plaintiff's mugshot appeared on these websites on
8 February 19, 2019, the same day the Defendants replied to her second demand letter.

9
10 19. Unless the Defendants are enjoined from further use and publication of Plaintiff's
11 image and name, Plaintiff will suffer further irreparable injury.

12 **CAUSES OF ACTION**

13 20. Mrs. Ivchenko is entitled to recover damages from the Defendants jointly and
14 from each of them based on the theories of liability hereinafter enumerated in Counts I through
15 V, and under such other theories of liability as may be appropriate based upon the facts as
16 alleged herein or as revealed during discovery.

17
18 **COUNT I**
19 **VIOLATION OF ARIZONA'S RIGHT OF PUBLICITY**

20 21. Plaintiff incorporates by reference the allegations of each paragraph above into
21 this claim as though fully set forth herein.

22 22. In doing the acts alleged herein, the Defendants have used for commercial
23 purposes Plaintiff's name, likeness, identity and persona without her consent.

24
25 23. The commercial use and misappropriation of Plaintiff's name, likeness, identity
26 and persona is a violation of the Arizona common law right of privacy, which includes the right
27 of publicity.
28

Exhibit D

David Gingras

From: David Gingras
Sent: Tuesday, May 28, 2019 6:06 PM
To: Andrew Ivchenko
Cc: Jane Gingras
Subject: RE: Renee Ivchenko v. Kyle Grant, et al., MCSC Case No. CV2019-090493
Attachments: Ivchenko - Consent to Diversion.PDF; Doe v. Oesterblad, 2015 WL 12940181 (D.Ariz. 2015).doc

Andrew,

Thanks for getting back to me. 11 am tomorrow is fine, so if you want to give me a call then, I'll be available.

However, I wanted to share some additional comments. After my previous email to you last week, I received some new information which really changes my perspective on this case. It also changes the "options for resolution" I mentioned before.

Here's the bottom line – I went down to the Superior Court today and I pulled some records relating to your wife's criminal case. I have to assume under the circumstances you were already familiar with the disposition of that case. However, just to eliminate any possible misunderstanding, attached is a document in which your wife admitted that she was guilty of the charges against her. Obviously, your wife was not *convicted* of any crimes because she participated in a pre-trial diversion program which resulted in the charges being dismissed. However, this document clearly and plainly says that your wife admits her guilt as to the charges.

Based on this information, I am really struggling to understand how your Complaint (filed in the civil case) doesn't violate numerous ethical rules including [ER 3.1](#) and [3.3\(a\)\(1\)](#). Among other things, Paragraph 39 of the Complaint specifically alleges that my clients are guilty of defaming your wife because they published statements which falsely "insinuate that Plaintiff is guilty of having committed a crime." But your wife signed a statement avowing that she was, in fact, guilty of committing the crimes with which she was charged. Furthermore, according to the police report attached to the criminal Complaint, you were present at the time of your wife's arrest, so you must have known that she was guilty of a criminal act, as she later admitted.

Entirely separate and apart from that problem, your Complaint also seeks to impose liability based on the *republication* of information (meaning your wife's mugshot and information relating to crimes she was charged with) that was already published online by third parties. In this case, I believe the original publication was done by the Maricopa County Sheriff's Office.

Attached is a case, *Doe v. Oesterblad*, 2015 WL 12940181 (D.Ariz. 2015), which explains such republication is completely protected by federal law, specifically the Communications Decency Act, 47 U.S.C. § 230(c)(1). This is so even assuming the underlying information was false or misleading in some way (although that isn't the case here).

Based on these points, my clients have asked me to request that you immediately and voluntarily dismiss the civil action you filed against them. If you refuse to do so, my clients are prepared to defend this matter aggressively. I hope that won't be necessary.



Ivchenko - Consent to Diver:

File Edit View Window Home

Home

Tools



E

P

A handwritten signature in black ink, appearing to be 'M. V. Ivchenko'.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196



From: Andrew Ivchenko <aivchenkopllc@gmail.com>
Sent: Tuesday, May 28, 2019 9:13 AM
To: David Gingras <david@gingraslaw.com>
Cc: Jane Gingras <jane@gingraslaw.com>
Subject: Re: Renee Ivchenko v. Kyle Grant, et al., MCSC Case No. CV2019-090493

David,

I've been out of town and have a full day today, but I have some availability tomorrow. How does 11am work for you?

Andrew Ivchenko, Esq.
4960 S. Gilbert Rd., Suite 1-226
Chandler, AZ 85249
Phone: (480) 250-4514
Email: aivchenkopllc@gmail.com

CONFIDENTIALITY NOTICE: This transmittal is a confidential communication or may otherwise be privileged. If you are not the intended recipient, you are hereby notified that you have received this transmittal in error and that any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you have received this communication in error, please notify this office, and immediately delete this message and all its attachments, if any.

----- **Original Message** -----

From: David Gingras <david@gingraslaw.com>
To: <aivchenkopllc@gmail.com>
Cc: Jane Gingras <jane@gingraslaw.com>
Sent: 5/23/2019 2:04:46 PM
Subject: Renee Ivchenko v. Kyle Grant, et al., MCSC Case No. CV2019-090493

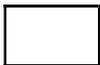
Andrew,

I just called and left you a message but since you weren't available, I'm following up with an email. As I said in my message, I have just been retained to represent the defendants in the lawsuit you filed against Rapsheets.org.

Before pursuing other avenues, I wanted to talk to you about this case and discuss some options for resolution. If you're interested in having that discussion, please give me a call at (480) 264-1400 (office) or you're welcome to try my cell: (480) 570-6157.

Thanks.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196



Virus-free. www.avast.com

Exhibit E

CLERK OF THE
SUPERIOR COURT
RECEIVED FOR #1
DOCUMENT DEPOSITORY

2019 DEC 17 PM 5:03

FILED
BY B. BARRETT, DEP

PAID

#333P

R#27563447

1 Firm E-Mail: courtdocs@dickinsonwright.com

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

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

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

8 **DICKINSON WRIGHT PLLC**
9 1850 North Central Avenue, Suite 1400
10 Phoenix, Arizona 85004
11 Phone: (602) 285-5000
12 Facsimile: (844) 670-6009

13 *Attorneys for Plaintiffs*

14 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF MARICOPA**

16 RENEE IVCHENKO and ANDREW
17 IVCHENKO, wife and husband,

18 Plaintiffs

19 vs.

20 KYLE DAVID GRANT and JANE DOE
21 GRANT, husband and wife; TRAVIS
22 PAUL GRANT and MARIEL LIZETTE
23 GRANT, husband and wife; BLACK
24 CORPORATIONS I-X; and WHITE
25 COMPANIES I-X,

26 Defendants.

Case No.: CV2019-015355

COMPLAINT

(Invasion of Privacy / Appropriation /
Defamation)

Jury Trial Demanded

27 Plaintiffs Renee Ivchenko and Andrew Ivchenko (hereinafter Plaintiffs or "Mrs.
28 Ivchenko" or "Mr. Ivchenko"), through their undersigned counsel, for their Complaint
against Defendants, allege the following:

1 4. Defendants own several websites, including rapsheets.org, on which they
2 use booking photos of arrestees for their own commercial purposes (the “Websites”).
3 Defendants use software to “scrape” arrest information, including booking photos, from
4 the Maricopa County Sheriff’s Office’s website, and the websites of other law
5 enforcement agencies, for all, or substantially all, arrestees. Defendants then use the
6 arrest photos to create original content in the form of advertisements that serve three
7 purposes: 1) to attract third party advertisers to the website; 2) generate pay-per-click
8 advertising revenue; and 3) extort payment of fees for removal of the arrest information
9 from the victims who identities and likenesses have been misappropriated.
10

11 5. “A disclosed booking photo casts a long, damaging shadow over the
12 depicted individual.” *Detroit Free Press Inc. v. United States Dep’t of Justice*, 829 F.3d
13 478, 482 (6th Cir. 2016). Perhaps for this reason, law enforcement agencies do not
14 intend for booking photos and arrest information to be used in this way or to be available
15 online to the public indefinitely. The Maricopa County Sherriff’s Office, for example,
16 only posts arrest photos for three days, after which they are taken down. However, this
17 is enough time for Defendants to capture the images and data using spiders and bot
18 programs. To further this scheme and maximize its commercial effect, Defendants then
19 use analytics and search optimization to ensure that each booking photo is among the
20 first search results found when an arrestee’s name is entered into a search engine such as
21 *Google, Bing or Yahoo*.
22

23 6. Contrary to Defendants’ false representations, rapsheets.org and
24 bailbondcity.com and Defendants other websites are not public safety service or media
25 outlets. If they were, Defendants would not select what information and which booking
26 photos remain on the Websites based on extorted payments. Instead, Defendants hide
27 behind that false pretense, post these mugshots and create advertisements out of them
28

1 solely in order to profit by generating advertising revenue through Google Ads and
2 extorted payments. Companies pay for Google Ads so that people will notice their
3 business whenever they are searching Google. These companies only have to pay a
4 website owner whenever someone clicks on the ad. This is known as cost-per-click
5 (CPC) or pay-per-click (PPC) advertising. Defendants generate substantial revenue
6 through the misleading manner in which they use these booking photos as
7 advertisements to induce users of their Websites to click on the banner ads.

8
9 7. Also contrary to Defendants' false representations, upon information and
10 belief, absent a substantial extorted payment, Defendants refuse to remove someone's
11 mugshot from the Websites even if the arrestee has been found innocent of any crime, or
12 have otherwise had their charges dropped, not filed, expunged, or dismissed, as in
13 Plaintiff Renee Ivchenko's case. Prospective employers (or anyone else) conducting a
14 web search find, in many cases, intentional misinformation indicating that people are
15 still charged, incarcerated, or on parole years even after release or an adjudication of not
16 guilty. Defendants intentionally and maliciously set up the Websites to give the false
17 impression people are incarcerated or have been adjudged guilty of a crime. The end
18 result for many arrestees is job loss, broken families, and homelessness. The end result
19 for Defendants is substantial profits.

20
21 8. Defendants' scheme proceeds serially through Websites operated by or in
22 conjunction with one another. Individuals who attempt to apply legal pressure on
23 Defendants in an effort to have their mugshot removed from the Websites are retaliated
24 against and further harmed by Defendants by having their mugshots and other
25 derogatory and defamatory comments placed on Twitter that, based on information and
26 belief, is owned and operated by them. The Twitter site is located at
27
28

1 Twitter.com/zim_rogers_fans (the “Twitter Site”), and ostensibly is owned by someone
2 named “Jennifer Becker,” which is an apparently fictitious name.

3 9. The Twitter site was used to intimidate Plaintiffs and damage their
4 reputations. Plaintiffs and a second Arizona resident are the only people displayed on
5 the Twitter site. The Twitter site was also used to retaliate against Plaintiffs, and act as a
6 deterrent against anyone contemplating legal action against Defendants. These actions
7 by Defendants constitute libel and false light, and also have caused Plaintiffs significant
8 emotional distress and other harm.

9
10 10. Plaintiff Renee Ivchenko’s mugshot was placed on the Twitter Site
11 immediately after her attorney demanded the removal of her mugshot from Defendants’
12 main Websites located at Rapsheets.org and Bailbondcity.com. Plaintiff Andrew
13 Ivchenko is a licensed attorney in Arizona, and represented his wife, Plaintiff Renee
14 Ivchenko. The timeline of his communications with Defendants, using their e-mail
15 address as noted on the Websites, is as follows:

- 16 • 01-08-19: Plaintiff Renee Ivchenko discovered her mugshot posted
17 on Defendants’ Websites.
- 18 • 01-9-19: Plaintiff Andrew Ivchenko sent Defendants an e-mail
19 through an address provided in the Websites requesting
20 confirmation of their street mailing address and the name of the
21 entity that operates the Websites, in order to send Defendants
22 registered mail to remove Plaintiff Renee Ivchenko’s mugshot
23 under the provisions of Florida Statutes, Title XLVII, Chapter
24 901.43 (the “Florida mugshot statute”).
25
26
27
28

- 1 • 01-10-19: Defendants responded by agreeing to communicate via e-
2 mail through their website's opt out page at
3 <https://www.rapsheets.org/opt-out>, stating, "use email like everyone
4 else this century."
5
- 6 • 01-15-19: Plaintiff Andrew Ivchenko emailed Defendants his first
7 demand letter, requesting removal of Plaintiff Renee Ivchenko's
8 mugshot from the Websites.
9
- 10 • 01-15-19: Defendants responded and refused to remove the
11 mugshot, again referring Plaintiffs to the opt out page, and stating,
12 "Use our records update page like everyone else its [sic] pretty
13 simple."
14
- 15 • 02-13-19: Plaintiff Andrew Ivchenko wrote Defendants a second
16 demand letter, requesting removal of Plaintiff Renee Ivchenko's
17 mugshot from the Websites.
18
- 19 • 02-18-19: Defendants again responded by referencing the opt out
20 page, and refused to remove Plaintiff Renee Ivchenko's mugshot.
21
- 22 • 02-19-19: One day after responding to Plaintiff Andrew Ivchenko,
23 Defendants caused Plaintiff Renee Ivchenko's mugshot to appear
24 on the Twitter site, along with derogatory commentary directed
25 against Plaintiffs.
26
27
28

- 1 • 03-18-19: Plaintiff Andrew Ivchenko sent Defendants a third
2 demand letter referencing the Twitter site, and requesting removal
3 of Plaintiff Renee Ivchenko's mugshot from the Websites and the
4 Twitter site.
- 5 • 03-20-19: Defendants responded by again merely referencing the
6 opt out page.
- 7 • 05-09-19: Plaintiff Renee Ivchenko filed a lawsuit against
8 Defendants in the Maricopa County Superior Court (Case No.
9 CV2019-090493). Defendants immediately removed Plaintiff
10 Renee Ivchenko's mugshot from the Websites once they were
11 served with the complaint, but they refused to remove the mugshot
12 and defamatory statements from the Twitter site.
13
14
15

16 11. Plaintiff Renee Ivchenko obtained a copyright of her image through the
17 US Copyright Office on March 23, 2019, and subsequently filed a DMCA Takedown
18 Notice with Twitter on September 13, 2019 in connection with her image on the Twitter
19 site. Twitter removed Plaintiff Renee Ivchenko's image from the Twitter site on that
20 day. On or about September 15, 2019, the purported owner of the site, "Jennifer
21 Becker," filed a DMCA counter-notice objecting to the removal of Plaintiff Renee
22 Ivchenko's image from the Twitter site. On that same day, additional defamatory
23 comments directed against Plaintiffs were placed on the Twitter site.
24

25 12. Starting on or about February 19, 2019, five tweets mentioning Plaintiffs,
26 including two mugshot images of Plaintiff Renee Ivchenko, were added to the Twitter
27 site. These tweets were designed to increase the online exposure of Plaintiff Renee
28

1 Ivchenko's mugshot. The Twitter site appears as the first two search results when
2 conducting a Google search of Renee Ivchenko's name. The tweets purposely include
3 variations of Plaintiff Andrew Ivchenko's name, so that the online exposure of the
4 Twitter site is increased when searching his name.

5 13. On or about September 15, 2019, four tweets mentioning Plaintiffs were
6 added to the Twitter site. These occurred one day after the owner of the site filed a
7 DMCA counter-notice objecting to the removal of Plaintiff Renee Ivchenko's image
8 from the Twitter site. On or about September 18, 2019, two additional tweets
9 mentioning Plaintiffs were added to the Twitter site. The tweets are unequivocally false
10 and defamatory, and accuse Plaintiffs of criminal activity, as follows:
11

- 12 • I AM ABSOLUTELY REPORTING RENEE IVCHENKO TO
13 THE US COPYRIGHT OFFICE!!! SHE HAS COMMITTED
14 FRAUD!!!
- 15 • if andy ivchenko has illegally claimed ownership over your work,
16 you can report him to the us government here
17 [18 https://www.copyright.gov/help/index.html](https://www.copyright.gov/help/index.html).
- 19 • asserting a copyright claim over work that does not belong to you is
20 a federal offence in the united states!! is andy ivchenko trying to get
21 his wife renee ivchenko tossed back in jail? trying to get himself
22 disbarred? what is wrong with this guy?
23
24

25 14. The manipulation of information by Defendants also present Plaintiffs in a
26 false light, in that it creates the false and damaging implication that Plaintiff Renee
27 Ivchenko is a convicted criminal, when in fact the charges referenced in the tweets have
28

1 been dismissed. The use of Plaintiff Renee Ivchenko's booking photo, coupled with the
2 derogatory information in the tweets, conveys to the public a perception of guilt. In
3 addition, the implication that Plaintiff Andrew Ivchenko, a licensed attorney, engaged in
4 fraud is inflammatory, false, and constitutes defamation *per se*.

5 15. The Twitter site was launched in March 2018 and on a single day - March
6 31, 2018 - it made several posts directed at Zim Rogers, posting his arrest information
7 and booking photos. Zim Rogers was the lead plaintiff in a class action lawsuit against
8 JustMugshots that was filed in California in 2014. See Rogers v. Justmugshots.Com,
9 Corp., No. B258863. Plaintiffs believe that Zim Rogers also attempted to get his
10 information removed from Defendants' Websites, and that the Twitter account was the
11 response. Thus, the Twitter site was established specifically to further circulate the
12 mugshots of only two individuals, both of whom pursued their rights in court. There are
13 no other tweets on the Twitter site. The only logical conclusion under the circumstances
14 is that Defendants own, operate or control the Twitter site either directly or indirectly
15 through a related third party yet to be named in this lawsuit.

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

24 17. This action seeks to put an end to Defendants' harassment of Plaintiffs.
25 Defendants will continue to cause Plaintiffs harm until they are enjoined from their
26 intentional and malicious violation of their rights.

JURISDICTION AND PARTIES

1
2 18. Plaintiff Renee Ivchenko and Plaintiff Andrew Ivchenko are residents of
3 Maricopa County, Arizona.

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

- 7 • Rapsheets.org;
- 8 • Rapsheetz.com;
- 9 • Bailbondcity.com;
- 10 • bailbondsearch.com; and, upon information and belief,
- 11 • Twitter.com/zim_rogers_fans.
- 12
- 13

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

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

22 22. 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
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27
28

1 directly targeting their Websites to the state, knowingly interacting with residents of the
2 forum state via their Websites, or through sufficient other related contacts.

3 23. Jurisdiction is proper in this Court because Plaintiffs reside in and have
4 suffered injury in Arizona as a result of Defendants' tortious act of publishing
5 defamatory statements about Plaintiffs on the Internet. In addition, jurisdiction is proper
6 because the defamatory statements were published to millions of people in the United
7 States including persons in the state of Arizona.

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

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

22 26. Maricopa County is a proper venue, pursuant to A.R.S. §12-401(1). The
23 acts and conduct of Defendants occurred in Maricopa County. Defendants' Websites
24 and the Twitter site are available to people in Maricopa County.
25
26
27
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GENERAL ALLEGATIONS

1
2 27. Plaintiffs are individuals and are now, and at all times mentioned in this
3 complaint were, residents of Maricopa County, Arizona.

4 28. Plaintiff Andrew Ivchenko has been a licensed attorney for thirty years,
5 and has been licensed in Arizona since 2002. Plaintiff has during all this time enjoyed a
6 good reputation, both generally and in his occupation.

7
8 29. Defendants generate substantial revenue from the misleading use of the
9 original content Defendants create from the booking photos.

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

12 31. The arrest photo advertisements are strategically placed on the Website for
13 maximum commercial exploitation. Specifically, Defendants place the arrest photo
14 advertisements directly above, and/or directly alongside banner ads that advertise
15 services for public records information, thus making it appear (falsely) that by clicking
16 on the banner ad the user would be directed to “Arrest Details” located in the
17 rapsheets.com database.

18 32. The following screenshot capture of a page on rapsheets.com exemplifies
19 the misleading manner in which Defendants use the arrest photo advertisements to entice
20 the public into clicking on third party banner ads, thus generating substantial pay-per-
21 click advertising for Defendants:
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1 **Phoenix Arrest Records for Inmate Scotty Hugh**
2 **Cooper**

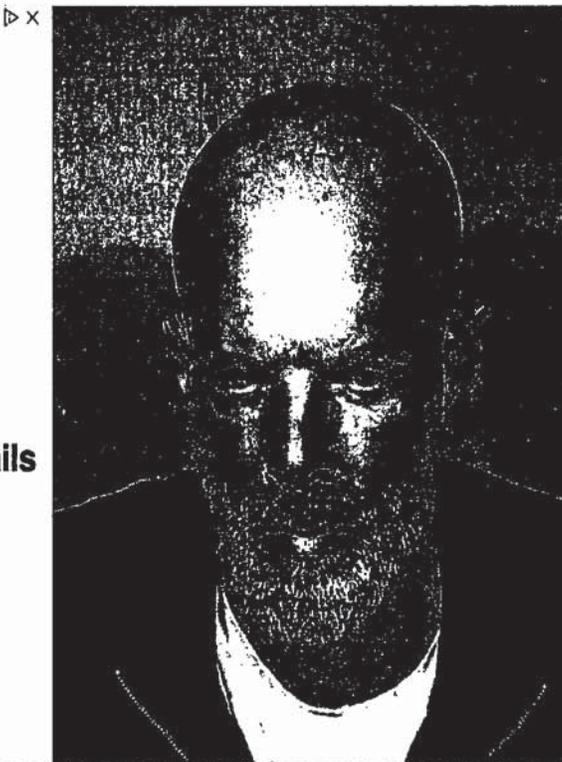
3
4 **Access Court Records**

5 ReviewPublicRecords

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

8
9 **OPEN**

10 **Scotty Hugh Cooper Arrest Details**



16
17 33. Because, as in the above example, the third party banner ads are typically
18 for services such as public arrest records databases and because the third-party banner ad
19 is located directly beneath, alongside, and embedded within the arrest photo
20 advertisements, the user mistakenly clicks on the banner ad falsely believing that by
21 doing so they will be directed to the “arrest details” in the rapsheets.com database, but
22 are instead directed to the third party database. Defendants purposefully and
23 intentionally create the arrest photo advertisements in this manner to increase user clicks
24 on third party ads, thus earning substantial pay-per-click advertising revenue.

25 34. Thus, the arrest photos advertisements serve at least two commercial
26 purposes: 1) to attract third party advertisers to the Website; and 2) entice any user of
27
28

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

3 35. Contrary to Defendants' false representations on rapsheets.com,
4 Defendants also use the arrest photo advertisements and the stigma of criminal guilt they
5 falsely imply, to extort payment of fees from the victims whose images have been
6 misappropriated. Prior to the Florida Legislature's passage of the Florida Mugshots Act,
7 Defendants openly and publically solicited and accepted fees for removal of the arrest
8 photos and information. The Florida Mugshots Act became effective on or about July
9 18, 2018. Although Rapsheets.com states that Defendants no longer solicit or collect
10 fees for removal, and therefore their conduct is not regulated by the Act, upon
11 information and belief Defendants continue to solicit and accept fees for removal, but
12 now do so surreptitiously by waiting to be contacted for removal (through its "free"
13 removal process) and then solicit and accept payment for removal in violation of Florida
14 law. Also contrary to their representations, Defendants do not comply with the Florida
15 Mugshots Act, which requires removal upon request, regardless of the conviction or
16 non-conviction status of the arrestee or whether any charge has been expunged or
17 dismissed; under the Act, if an arrestee requests that the information be taken down,
18 Defendants have ten days to do so. Period. Plaintiff Renee Ivchenko attempted on two
19 separate occasions to have her information removed pursuant to the Act, and Defendants
20 repeatedly refused to do so.
21

22 36. The arrest information and booking photos that Defendants use to create
23 the arrest photo advertisements was never intended by law enforcement to be used in
24 this manner or posted by Defendants. The booking photos Defendants use to create the
25 arrest photo advertisements are not tendered by law enforcement agencies to Defendants.
26
27
28

1 37. Plaintiff Renee Ivchenko had a booking photo taken in the state of
2 Arizona.

3 38. With respect to Plaintiff Renee Ivchenko, Defendants, without permission,
4 consent or knowledge of Plaintiff Renee Ivchenko, reproduced, publicly displayed,
5 distributed, and created original advertising content out of her booking photo.

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

10 40. Defendants' use of Plaintiff Renee Ivchenko's image is for a purely
11 commercial purpose.

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

14 42. The display by Defendants of Plaintiff Renee Ivchenko's image on their
15 Websites, including defamatory information directed against Plaintiffs in the Twitter
16 site, are intended, among other things, to subject Plaintiffs to hatred, contempt, or
17 ridicule, and to damage their personal and business reputations, or to impair their credit.

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

21 44. Each Defendant, acting on their own or in conjunction with one or more of
22 the other Defendants, utilize the Twitter site to intimidate and defame Plaintiffs.

23 45. Unless Defendants are enjoined from further commercial use and
24 publication of Plaintiffs' image and name, Plaintiffs will suffer further irreparable injury.

25
26
27 ///

CAUSES OF ACTION

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

4 47. Plaintiffs are entitled to recover damages from Defendants jointly and
5 from each of them based on the theories of liability hereinafter enumerated in Counts I
6 through VII, and under such other theories of liability as may be appropriate based upon
7 the facts as alleged herein or as revealed during discovery.

8
9 **COUNT I**
DEFAMATION

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

12 49. Defendants made the defamatory statements set forth in the online postings
13 described above that were false and brought Plaintiffs into disrepute, contempt, and
14 ridicule. Defendants' defamatory statements attacked Plaintiffs' integrity, virtue, and
15 reputation and accused Plaintiffs of criminal activity, including fraud.

16 50. Defendants made false and defamatory statements about Plaintiffs,
17 knowing the statements were false and defamatory, in reckless disregard of the truth of
18 the statements, or negligently failing to ascertain the truth of the matters stated.

19 51. As a direct and proximate result of the statements set forth in the online
20 postings described above, Plaintiffs have been damaged and will continue to suffer
21 damage. Plaintiffs have suffered irreparable harm to their businesses and their
22 reputations.

23 ///

24 ///

25 ///

COUNT II
FALSE LIGHT INVASION OF PRIVACY

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

5 53. “[I]ndividuals have a privacy interest in preventing disclosure of their
6 booking photos[.]” *Detroit Free Press Inc. v. United States Dep't of Justice*, 829 F.3d
7 478, 485 (6th Cir. 2016).

8 54. Defendants’ publication and use of Plaintiff Renee Ivchenko’s booking
9 photo as an advertisement and publication of Plaintiff’s arrest information placed
10 Plaintiff Renee Ivchenko before the public in a false light, falsely portrayed her as a
11 convicted criminal, and was done for the purpose of extortion by shaming the Plaintiff
12 into offering to pay a fee to remove the information.

13
14 55. The false and/or misleading portrayal of Plaintiff Renee Ivchenko as a
15 criminal was highly offensive to the Plaintiff and would be highly offensive to a
16 reasonable person.

17 56. Defendants publication (and use as an advertisement) of the Plaintiff’s
18 booking photo and arrest information and portrayal of the Plaintiff as a criminal was
19 done with reckless disregard for the fact that the Plaintiff had not been convicted of any
20 crimes.

21 57. Defendants’ publication (and use as an advertisement) of the Plaintiff’s
22 booking photo and arrest information created a false impression regarding the
23 Plaintiff’s criminal history and character and damaged her reputation and caused severe
24 emotional distress.

25
26 58. As a direct and proximate result of Defendants’ malicious acts, Plaintiff
27 Renee Ivchenko has been harmed.
28

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

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

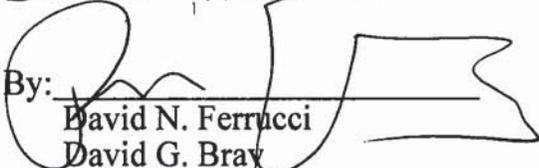
4 **WHEREFORE**, Plaintiffs request that the Court enter judgment in their favor
5 and against Defendants and each of them as follows:

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

11
12 **DATED** this 17th day of December, 2019.

13
14 Respectfully submitted,

15 **DICKINSON WRIGHT** PLLC

16
17 By: 

18 David N. Ferrucci

19 David G. Bray

20 Paxton D. Endres

21 ***Attorneys for Plaintiffs***

Exhibit F

David Gingras

From: David Gingras
Sent: Friday, January 10, 2020 5:41 PM
To: 'David N. Ferrucci'
Cc: David G. Bray; Paxton D. Endres
Subject: RE: EXTERNAL: Ivchenko v. Grant; MCSC Case No. CV2019-015355
Attachments: O'Kroley v. Fastcase, Inc., 831 F.3d 352 (6th Cir. 2016).doc; Ivchenko - Consent to Diversion.PDF

David,

Thanks for the quick response. I am also pretty wide-open on Monday, so I'm happy to talk any time that works for. Just tentatively, I'll try to call you about 11 am, but if that's not the best time, we can do it later in the afternoon or whatever. Also, as noted below, I understand this email is fairly long and is being sent late on a Friday afternoon, so if you need more time to digest my comments prior to talking, that's fine; just let me know.

Having said that, I think these types of calls are most productive when you have some advance notice of the subjects I want to discuss, so I wanted to give you a head's up in that regard. However, before I explain my points, I also wanted to let you know – I am currently co-counsel on a matter with another attorney in your firm (Chuck Price). That case is *Xcentric Ventures, LLC v. Zarokian*, Case No. 18-CV-3661 (D.Ariz.). Obviously this is a completely different case involving different clients and different issues, so I am not mentioning it as any sort of conflict (it is clearly not). I am just mentioning to let you know that I have a good working relationship with your firm, so please do not take my comments below too harshly.

Here's the deal – after speaking to my client and reviewing the facts, we have some concerns that the Complaint you filed is not compliant with Rule 11. At this point, I am NOT threaten to seek sanctions; I am just writing to let you know about my concerns. I am also assuming your client probably did not inform you of all the facts, so I want to take a minute to bring some points to your attention.

First, as you probably know, Mrs. Ivchenko was arrested in April 2018, and her mugshot was posted online by the Maricopa County Sheriff's Office within a day or two, as per their normal practice. My client's website (rapsheets.org) automatically "scrapes" these mugshots within a day or two, and they are republished on my client's site virtually instantly. Based on this, we know that Mrs. Ivchenko's mugshot first appeared on rapsheets.org in April 2018. I think the exact date is April 21, 2018, but the exact date isn't relevant.

As I'm sure you know, the statute of limitations for defamation is one year per A.R.S. § 12-541, and that date begins to run on the first date of publication, not when the plaintiff discovers the publication. *See Larue v. Brown*, 235 Ariz. 440, 443 (App. 2014) ("Arizona provides that the statute of limitations for a defamation action begins to run upon publication of the defamatory statement.") (emphasis added).

As the court also noted in *Larue*, Arizona has adopted the Uniform Single Publication Act, A.R.S. § 12-651(A) which further provides: "No person shall have more than one cause of action for damages for libel, slander, invasion of privacy or any other tort founded upon a single publication, exhibition or utterance ..." and this rule fully applies to statements published on the Internet.

Based on this, the following points seem beyond dispute:

- If Mrs. Ivchenko had any claim against anyone arising from the publication of her mugshot, that claim initially arose in April 2018 and (at least as to rapsheets.org) it expired in April 2019 – many months before this lawsuit was filed.
- Based on the Single Publication Rule, Mrs. Ivchenko cannot assert multiple different claims based on the same Internet post; she is only allowed a single claim, and that claim is now time-barred.

Again, based on the facts as I understand them, it seems beyond question that Mrs. Ivchenko's new suit is untimely, at least as it relates to the publication of her mugshot on my client's website (I understand the information posted on Twitter is a different issue which I will address separately). Absent some other explanation, this aspect of the case appears to be inconsistent with Rule 11 because it is entirely without merit. Indeed, aside from Rule 11, it is unethical for a lawyer to pursue claims which they know are untimely. See *In re Aubuchon*, 233 Ariz. 62, 68-69, 309 P.3d 866 (2013) (affirming disbarment of deputy county attorney who, *inter alia*, pursued charges knowing they were barred by the statute of limitations).

I presume that Mr. Ivchenko did not inform you of these facts prior to retaining your firm. However, now that you are aware of the facts, I do not believe Rule 11 permits you to continue prosecuting that aspect of the case. Of course, if you are aware of any factual or legal grounds that would show Mrs. Ivchenko's claims are timely, I would like to hear what they are. Otherwise, I would expect you to withdraw that aspect of their case. If that does not happen, I don't see any option other than for me to prepare and serve a draft Rule 11 motion for the reasons stated above. I hope that won't be necessary, but I will pursue that course of action if given no other choice.

Second, entirely separate and aside from this issue, there is a separate problem with your client's claims based on the publication of her mugshot. In short, all of the information that gives rise to her claim (i.e., the mugshot itself, and a description of the charges filed) was originally published on the Internet by a third party source; i.e., the MCSO. Because this information was initially published by a third party, not by my clients, even assuming the publication of that information was unlawful (which it is not), your client's only recourse would be against the MCSO. Any claims against my clients would be barred by the Communications Decency Act, 47 U.S.C. § 230(c)(1).

The most analogous case that supports this conclusion is *O'Kroley v. Fastcase, Inc.*, 831 F.3d 352 (6th Cir. 2016) (attached). Although this case did not involve a mugshot, it did involve criminal court records scraped from one source and reposted in another location. The court explained this type of republication of criminal records is fully protected by the Communications Decency Act, and thus the republisher (in that case, Google) was not liable as to any of plaintiff's claims including: "'libel' ... 'invasion of privacy' ... 'failure to provide due process' ... 'cruel and unusual punishment,' ... 'cyber-bullying' ... [and] 'psychological torture.'" Again, this result is true *even assuming* the original publication was unlawful.

For what it's worth, although it involved different facts, I personally litigated one of the leading cases in Arizona involving the Communications Decency Act. See *Global Royalties, Ltd. v. Xcentric Ventures, LLC*, 544 F.Supp.2d 929 (D.Ariz. 2008).

Again, if you are aware of any facts that would show your clients' claims are *not* barred by the CDA (to the extent they are based on my client "republishing" information from the MCSO's website), I would like to hear your position including any legal authority that supports your position. However, based on my review of the facts, I do not see any basis to argue that the CDA doesn't apply here. To be clear -- the fact that my client's website includes commercial ads does not affect the analysis because: A.) Google does the same thing; and B.) the CDA does not contain a "for-profit exception". *M.A. ex rel. P.K. v. Vill. Voice Media Holdings, LLC*, 809 F. Supp. 2d 1041, 1050 (E.D. Mo. 2011); see also *Global Royalties*, 544 F.Supp.2d at 933 (explaining, when CDA applies, "Unless Congress amends the statute, it is legally (although perhaps not ethically) beside the point whether defendants refuse to remove the material, *or how they might use it to their advantage.*") (emphasis added).

Third, entirely separate and apart from the statute of limitations and the CDA, your Complaint appears to suggest – falsely – that Mrs. Ivchenko was somehow exonerated or innocent of all wrongdoing, and thus my clients defamed her

by implying her guilt. Again, I do not think a court or jury would even reach that question for many different reasons, but if they did, I do not think Rule 11 would permit you to make this argument.

The reason is very simple – although Mrs. Ivchenko did not *plead* guilty, as part of her plea, she signed a statement (attached) in which she admitted that she was, in fact, guilty of the crimes with which she was charged. Having made that admission (which is really not surprising given the circumstances), Mrs. Ivchenko cannot argue that her reputation was somehow harmed by a *false* implication that she committed a crime. Put simply, Mrs. Ivchenko DID commit a crime, and she admitted in writing that she was guilty of that criminal conduct. The fact that she avoided a criminal *conviction* is wholly beside the point because the *gist* of the statement remains entirely true.

I understand that it is technically possible that Mrs. Ivchenko could try to argue that, in fact, she was not guilty of any crime, thus showing that she lied to the criminal court in her plea agreement. However, under the doctrine of judicial estoppel, I am confident that such an argument would not be permitted in our case. Mrs. Ivchenko made a representation to the court that she was, in fact, guilty of a crime. Having made that admission and having obtained a benefit from it, she would be estopped from taking a different position in our case. As such, Mrs. Ivchenko cannot deny that she did, in fact, commit a criminal act.

Fourth, and finally, I understand your client is not happy with various statements posted on this Twitter account: https://twitter.com/zim_rogers_fans. Putting aside the fact that it appears everything posted about your clients on that page is either true, or simply the author's opinion, the simple fact is that my clients have nothing to do with this page. They did not create the page, have never posted anything there, and have no idea who is behind it.

While I appreciate that your clients might not be willing to accept this bare denial, the fact remains that my clients are not under any burden to *disprove* a specious allegation. On the contrary, Rule 11 requires a lawyer to conduct a reasonable investigation *first*, before making accusations in a pleading, and the lawyer must obtain evidence that reasonably supports his/her contentions. To my knowledge, that did not occur here. At this point, other than sheer speculation on the part of your clients, I am not aware of any evidence to show that my clients have any involvement in running this page. I am also not aware of any evidence showing that your clients made any attempt to identify the person responsible for this page (which could easily have been done by, for instance, filing a pre-suit petition under Rule 27(a)).

Rather than conducting *any* pre-suit investigation (much less a reasonable one), your clients have now filed *two* lawsuits against my clients accusing them of running the Zim Rogers Twitter page without any factual basis for that allegation. Again, I do not believe these actions are consistent with Rule 11.

Based on the above, I would like to know if there are additional facts/legal points that I have somehow missed. I fully understand that when you filed this action, you may have been relying on false/incomplete information from your clients. However, based on the points set forth above, I do not believe that Rule 11 would permit the pursuit of any aspect of this case. If you disagree, I would like to hear the factual and legal grounds for that position.

Having said all this, I understand that I have given you a lot of information and you may need additional time to speak to your clients and conduct further research prior to talking on the phone. If you would prefer to have additional time prior to talking on Monday, just let me know.

Email Address: _____

Phone Number(s): 480-625-7709

RL
5.

I do not contest my guilt in this matter. I admit that I committed

2

the charged offenses as further explained in the attached factual basis. I acknowledge that this admission of guilt and factual basis may be used against me if I do not successfully complete the deferred prosecution program and I decide to have a trial in this matter.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196
*Licensed in Arizona and California



From: David N. Ferrucci <DFerrucci@dickinson-wright.com>
Sent: Friday, January 10, 2020 6:30 AM
To: David Gingras <david@gingraslaw.com>
Cc: David G. Bray <DBray@dickinson-wright.com>; Paxton D. Endres <PEndres@dickinson-wright.com>
Subject: RE: EXTERNAL: Ivchenko v. Grant; MCSC Case No. CV2019-015355

Mr. Gingras,

Let's schedule a call for Monday (if you are available). My schedule is fairly wide-open, so let me know what time works best for you.

Thank you,

David Ferrucci

David N. Ferrucci Member

1850 N. Central Avenue Phone 602-889-5337
Suite 1400 Fax 844-670-6009
Phoenix AZ 85004 Email DFerrucci@dickinsonwright.com



DICKINSON WRIGHT PLLC

ARIZONA CALIFORNIA FLORIDA KENTUCKY MICHIGAN NEVADA OHIO
TENNESSEE TEXAS WASHINGTON D.C. TORONTO

From: David Gingras <david@gingraslaw.com>
Sent: Thursday, January 9, 2020 11:17 AM
To: David N. Ferrucci <DFerrucci@dickinson-wright.com>; David G. Bray <DBray@dickinson-wright.com>; Paxton D. Endres <PEndres@dickinson-wright.com>
Subject: EXTERNAL: Ivchenko v. Grant; MCSC Case No. CV2019-015355

Counsel,

I have been retained to represent Kyle and Travis Grant (and their spouses) in the matter you recently filed on behalf of Mr. and Mrs. Ivchenko. My understanding is that Travis Grant was served yesterday, but Kyle Grant has not been served. In any event, I am authorized to accept/waive service on behalf of Kyle, so further attempts to serve him are not necessary.

Prior to moving forward, I wanted to discuss this case with whomever is lead counsel. Can you please let me know who is the best person to speak with, and what day/time would work for you. I'm available later this afternoon and most of tomorrow.

Thanks.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196
*Licensed in Arizona and California



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Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

Exhibit G

1 Firm E-Mail: courtdocs@dickinsonwright.com

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

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

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

8 **DICKINSON WRIGHT PLLC**
9 1850 North Central Avenue, Suite 1400
10 Phoenix, Arizona 85004
11 Phone: (602) 285-5000
12 Facsimile: (844) 670-6009

13 *Attorneys for Plaintiffs*

14 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF MARICOPA**

16 JANE DOE I; JANE DOE II; JANE DOE
17 III; JANE DOE IV; JANE DOE V; JOHN
18 DOE I; JOHN DOE II; JOHN DOE III;
19 JOHN DOE IV; JOHN DOE V; JOHN
20 DOE VI; JOHN DOE VII; JOHN DOE
21 VIII; JOHN DOE IX; JOHN DOE X;
22 JOHN DOE XI; JANE DOE VI; JANE
23 DOE VII; JOHN DOE XII; JANE DOE
24 VIII; and RENEE IVCHENKO, a married
25 woman,

26 Plaintiffs,

27 vs.

28 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
28

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
28

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 whose identities
16 and likenesses have been misappropriated.

17
18 8. "A disclosed booking photo casts a long, damaging shadow over the
19 depicted individual." *Detroit Free Press Inc. v. United States Dep't of Justice*, 829 F.3d
20 478, 482 (6th Cir. 2016). For this reason, law enforcement agencies and the State of
21 Arizona do not intend for booking photos and arrest information to be used in this way
22 or to be available online to the public indefinitely. The Maricopa County Sheriff's
23 Office, for example, only posts arrest photos for three days, after which they are taken
24 down. The Arizona Mugshot Act makes crystal clear that the public policy of Arizona is
25 that arrest information and photos published for a limited time by Arizona law
26 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

9 10. Contrary to Defendants' false representations, rapsheetz.com and
10 bailbondsearch.com are not a public safety service or media outlets. If they were,
11 Defendants would not select what information and which booking photos remain on the
12 Websites based on extorted payments, which occurred prior to the enactment of the
13 Florida mugshot statute on or about July 18, 2018 (FL Stat § 901.43, Dissemination of
14 Arrest Booking Photographs) (the "Florida mugshot statute"). Indeed, after being served
15 with the initial complaint in this lawsuit, in a tacit admission that they have never
16 operated as a *bona fide* news organization Defendants began posting so-called "news"
17 reports on the Rapsheetz.com website. Again, Defendants hide behind the false pretense
18 that they are a media organization, post these mugshots and create advertisements out of
19 them solely in order to profit by generating advertising revenue through Google Ads
20 and, at least up until July 18, 2018, extorted payments, and upon information and belief,
21 since that time. Companies pay for Google Ads so that people will notice their business
22 whenever they are searching Google. These companies only have to pay a website
23 owner whenever someone clicks on the ad. This is known as cost-per-click (CPC) or
24 pay-per-click (PPC) advertising. Defendants generate substantial revenue through the
25 misleading manner in which they use these booking photos as advertisements to induce
26 users of their Websites to click on the banner ads.
27
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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.
21

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
28

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,
26 injury to her business and property as a result of the commercial dissemination of her
27 arrest information and arrest photo by the Defendants.

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.
26
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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.
24

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
28

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.
9

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
28

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.

17
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,
27
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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.
28

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.
9

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.
21

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
28

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.
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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

1
2 43. Plaintiffs are individuals and are now, and at all times mentioned in this
3 complaint were, residents of Maricopa County, Arizona; Pinal County, Arizona; Denton
4 County, Texas; Brazoria County, Texas; Kerr County, Texas; Harris County, Texas;
5 Bexar County, Texas; Hays County, Texas; Travis County, Texas; Collin County,
6 Texas; Los Angeles County, California; and Suffolk County, New York.

7
8 44. Defendants generate substantial revenue from the misleading use of the
9 original content Defendants create from the booking photos.

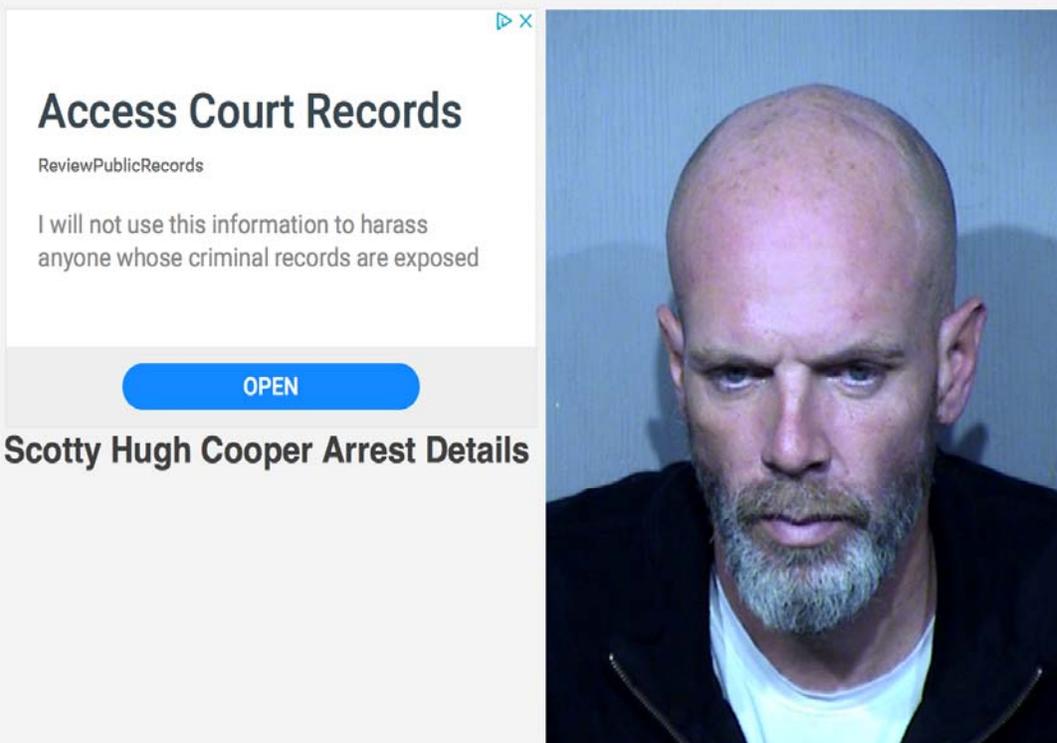
10 45. Defendants gather and collect arrest photos and create original content out
11 of that material in the form of advertisements (“arrest photo advertisements”).

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

18 47. The following screenshot capture of a page on rapsheetz.com exemplifies
19 the misleading manner in which Defendants use the arrest photo advertisements to entice
20 the public into clicking on third party banner ads, thus generating substantial pay-per-
21 click advertising for Defendants:
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1 **Phoenix Arrest Records for Inmate Scotty Hugh**
2 **Cooper**

3

4 The image shows a screenshot of a website. On the left, there is a white banner advertisement. The banner has the heading "Access Court Records" in bold black text. Below the heading, it says "ReviewPublicRecords" in a smaller font. Underneath that, there is a line of text: "I will not use this information to harass anyone whose criminal records are exposed". At the bottom of the banner is a blue button with the word "OPEN" in white capital letters. To the right of the banner is a mugshot of a man with a shaved head and a grey beard, wearing a dark jacket over a white t-shirt. The mugshot is set against a plain, light-colored background. The banner is overlaid on the top-left corner of the mugshot.

5 **Access Court Records**

6 ReviewPublicRecords

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

9 **OPEN**

10 **Scotty Hugh Cooper Arrest Details**

11

12

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17 48. Because, as in the above example, the third party banner ads are typically

18 for services such as public arrest records databases and because the third-party banner ad

19 is located directly beneath, alongside, and embedded within the arrest photo

20 advertisements, the user mistakenly clicks on the banner ad falsely believing that by

21 doing so they will be directed to the “arrest details” in the rapsheetz.com database, but

22 are instead directed to the third party database. Defendants purposefully and

23 intentionally create the arrest photo advertisements in this manner to increase user clicks

24 on third party ads, thus earning substantial pay-per-click advertising revenue.

25 49. Thus, the arrest photos advertisements serve at least two commercial

26 purposes: 1) to solicit and attract third party advertisers to the Website; and 2) entice

27

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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
27
28

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

17 59. Unless Defendants are enjoined from further commercial use and
18 publication of Plaintiffs' images and names and other arrest information, Plaintiffs will
19 suffer further irreparable injury.
20

21 **CAUSES OF ACTION**

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

24 61. Plaintiffs are entitled to recover damages from Defendants jointly and
25 from each of them based on the theories of liability hereinafter enumerated in Counts I
26 through V, and under such other theories of liability as may be appropriate based upon
27 the facts as alleged herein or as revealed during discovery.
28

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

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

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

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

12 Mugshot website operators; prohibited acts; exceptions

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

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

22 C. A subject individual whose criminal justice record is published in
23 violation of subsection B of this section and who suffers a pecuniary loss
24 or who is otherwise adversely affected as a result of a violation of
25 subsection B of this section has a cause of action against the person
26 responsible for the violation and may recover damages in addition to the
27
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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:
27
28

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

18 For the purposes of this section, "commercial purpose" means the use of a
19 public record for the purpose of sale or resale or for the purpose of
20 producing a document containing all or part of the copy, printout or
21 photograph for sale or the obtaining of names and addresses from public
22 records for the purpose of solicitation or the sale of names and addresses to
23 another for the purpose of solicitation or for *any purpose in which the*
24 *purchaser can reasonably anticipate the receipt of monetary gain from the*
25 *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.

22 ///

23 ///

24 ///

25 ///

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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DATED this 27th day of February, 2020.

Respectfully submitted,



By: /s/ David N. Ferrucci
David N. Ferrucci
David G. Bray
Paxton D. Endres
Attorneys for Plaintiffs

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

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

By: /s/ Christine Klepacki

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Exhibit H

COPY



MAY - 1 2020
CLERK OF THE SUPERIOR COURT
J. FOLTS
DEPUTY CLERK

1 Andrew Ivchenko (#021145)
2 **ANDREWIVCHENKOPLLC**
3 4960 South Gilbert Road, #1-226
4 Chandler, AZ 85249
5 Phone: (480) 250-4514
6 Aivchenkopllc@gmail.com

7 *Attorney for Plaintiffs*

8 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 JOHN DOE I; JOHN DOE II; JOHN DOE
11 III; JOHN DOE IV; JOHN DOE V; JOHN
12 DOE VI; JOHN DOE VII; JANE DOE I;
13 JANE DOE II; JOHN DOE VIII; JOHN
14 DOE IX; JOHN DOE X; JOHN DOE XI;
15 JOHN DOE XII; JOHN DOE XIII; JANE
16 DOE III; JOHN DOE XIV; JANE DOE
17 IV; JOHN DOE XV; and JOHN DOE XVI,

18 **Plaintiffs,**

19 vs.

20 TRAVIS PAUL GRANT and MARIEL
21 LIZETTE GRANT, husband and wife;
22 KYLE DAVID GRANT and JANE DOE
23 GRANT, husband and wife; JOHN and
24 JANE DOES I-X; BLACK
25 CORPORATIONS I-X; and WHITE
26 COMPANIES I-X,

27 **Defendants.**

Case No. CV 2020-093006

COMPLAINT

(Violation of A.R.S. 44-7902 / unlawful
appropriation / invasion of privacy)

Jury Trial Demanded

1 Plaintiffs John Doe I; John Doe II; John Doe III; John Doe IV; John Doe V; John
2 Doe VI; John Doe VII; Jane Doe I; Jane Doe II; John Doe VIII; John Doe IX; John Doe
3 X; John Doe XI; John Doe XII; John Doe XIII; Jane Doe III; John Doe XIV; Jane Doe
4 IV; John Doe XV; and John Doe XVI (hereinafter “Plaintiffs” or “Jane Doe” or “John
5 Doe”), through their undersigned counsel, for their Complaint against Defendants, allege
6 the following:

7
8 **INTRODUCTION**

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

13 2. Defendants do not inform the public; instead, Defendants exploit booking
14 photos and arrest information for purely commercial purposes. These “[b]ooking
15 photos—snapped in the vulnerable and embarrassing moments immediately after an
16 individual is accused, taken into custody, and deprived of most liberties—fit squarely
17 within this realm of embarrassing and humiliating information. More than just vivid
18 symbols of criminal accusation, booking photos convey guilt to the viewer.” *Detroit*
19 *Free Press Inc. v. United States Dept of Justice*, 829 F.3d 478, 482 (6th Cir. 2016)
20 (citations and quotations omitted). Defendants’ business model is to exploit this
21 embarrassing and humiliating information that falsely conveys guilt for their own
22 commercial gain. Once these images are online, they live on in perpetuity. They serve
23 as the digital scarlet letter of our times, permanently affecting the reputation of those
24 who have paid their debt to society.
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1 3. 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
5 impacted. See Gary Fields & John R. Emshwiller, *America Busted: As Arrest Records*
6 *Mount, Consequences Last a Lifetime*, WALL ST. J., Aug. 19, 2014, at A1. Abuse of
7 these records by profiteers such as Defendants cuts against efforts for criminal justice
8 reform and rehabilitation of those who have made mistakes in their pasts. Moreover, in
9 many cases arrestee's are never charged, are adjudicated not guilty, or their charges are
10 dismissed for various reasons, including by completing diversion programs. Mugshot
11 companies have wide sweeping negative effects on not only those directly impacted but
12 on the community as a whole.

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

26 5. This is an individual action for violation of the Arizona Mugshot Statute,
27 unlawful appropriation/right of publicity, invasion of privacy based on appropriation,
28

1 and intentional infliction of emotional distress under applicable decisional law in
2 Arizona. Each Plaintiff has had their booking photos and arrest information on the
3 Websites since the effective date of the Arizona Mugshot Statute.

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

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

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

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

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

1 Defendants generate substantial revenue through the misleading manner in which they
2 use these booking photos as advertisements to induce users of their Websites to click on
3 the banner ads.

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

15 12. Defendants are notorious operators of mugshot Websites, on which
16 millions of arrestees appear. Several online sites have been established by aggrieved
17 parties to expose the nefarious and illegal activities of Defendants, including
18 <https://rapsheetsorgkyledavidgrant.wordpress.com> and
19 [http://classactionagainstmugshotwebsites.com/rapsheets-org-kyle-david-grant-travis-
21 paul-grant](http://classactionagainstmugshotwebsites.com/rapsheets-org-kyle-david-grant-travis-
20 paul-grant).

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

JURISDICTION AND PARTIES

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

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

26 16. Plaintiff John Doe #3 is a resident of Maricopa County, Arizona. During
27 the relevant time period, defendants have disseminated Plaintiff John Doe #3's arrest
28

1 information and booking photo on the Websites for purely commercial purposes. As a
2 result, Plaintiff John Doe #3's image has been commercially misappropriated by
3 Defendants, causing damage, and Plaintiff John Doe #3 has incurred damages under the
4 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #3 did not
5 provide the Defendants with prior consent for the posting of any information about her,
6 including, but not limited to, her arrest information and arrest photo. Plaintiff John Doe
7 #3 has experienced both emotional and financial harm, including, but not limited to,
8 injury to her business and property as a result of the commercial dissemination of her
9 arrest information and arrest photo by the Defendants.

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

22
23 18. Plaintiff John Doe #5 is a resident of Maricopa County, Arizona. During
24 the relevant time period, defendants have disseminated Plaintiff John Doe #5's arrest
25 information and booking photo on the Websites for purely commercial purposes. As a
26 result, Plaintiff John Doe #5's image has been commercially misappropriated by
27 Defendants, causing damage, and Plaintiff John Doe #5 has incurred damages under the
28

1 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #5 did not
2 provide the Defendants with prior consent for the posting of any information about her,
3 including, but not limited to, her arrest information and arrest photo. Plaintiff John Doe
4 #5 has experienced both emotional and financial harm, including, but not limited to,
5 injury to her business and property as a result of the commercial dissemination of her
6 arrest information and arrest photo by the Defendants.

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

19
20 20. Plaintiff John Doe #7 is a resident of Maricopa County, Arizona. During
21 the relevant time period, defendants have disseminated Plaintiff John Doe #7's arrest
22 information and booking photo on the Websites for purely commercial purposes. As a
23 result, Plaintiff John Doe #7's image has been commercially misappropriated by
24 Defendants, causing damage, and Plaintiff John Doe #7 has incurred damages under the
25 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #7 did not
26 provide the Defendants with prior consent for the posting of any information about her,
27 including, but not limited to, her arrest information and arrest photo. Plaintiff John Doe
28

1 #7 has experienced both emotional and financial harm, including, but not limited to,
2 injury to her business and property as a result of the commercial dissemination of her
3 arrest information and arrest photo by the Defendants.

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

16 22. Plaintiff Jane Doe #2 is a resident of Maricopa County, Arizona. During
17 the relevant time period, defendants have disseminated Plaintiff Jane Doe #2's arrest
18 information and booking photo on the Websites for purely commercial purposes. As a
19 result, Plaintiff Jane Doe #2's image has been commercially misappropriated by
20 Defendants, causing damage, and Plaintiff Jane Doe #2 has incurred damages under the
21 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe #2 did not
22 provide the Defendants with prior consent for the posting of any information about her,
23 including, but not limited to, her arrest information and arrest photo. Plaintiff Jane Doe
24 #2 has experienced both emotional and financial harm, including, but not limited to,
25 injury to her business and property as a result of the commercial dissemination of her
26 arrest information and arrest photo by the Defendants.
27
28

1 23. Plaintiff John Doe #8 is a resident of Pinellas County, Florida. During the
2 relevant time period, defendants have disseminated Plaintiff John Doe #8's arrest
3 information and booking photo on the Websites for purely commercial purposes. As a
4 result, Plaintiff John Doe #8's image has been commercially misappropriated by
5 Defendants, causing damage, and Plaintiff John Doe #8 has incurred damages under the
6 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #8 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 John Doe
9 #8 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 24. Plaintiff John Doe #9 is a resident of Pinellas County, Florida. During the
14 relevant time period, defendants have disseminated Plaintiff John Doe #9's arrest
15 information and booking photo on the Websites for purely commercial purposes. As a
16 result, Plaintiff John Doe #9's image has been commercially misappropriated by
17 Defendants, causing damage, and Plaintiff John Doe #9 has incurred damages under the
18 Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #9 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 John Doe
21 #9 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 25. Plaintiff John Doe #10 is a resident of Miami-Dade County, Florida.
26 During the relevant time period, defendants have disseminated Plaintiff John Doe #10's
27 arrest information and booking photo on the Websites for purely commercial purposes.
28

1 As a result, Plaintiff John Doe #10's image has been commercially misappropriated by
2 Defendants, causing damage, and Plaintiff John Doe #10 has incurred damages under
3 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #10 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 John Doe
6 #10 has experienced both emotional and financial harm, including, but not limited to,
7 injury to her business and property as a result of the commercial dissemination of her
8 arrest information and arrest photo by the Defendants.

9
10 26. Plaintiff John Doe #11 is a resident of Williamson County, Texas. During
11 the relevant time period, defendants have disseminated Plaintiff John Doe #11's arrest
12 information and booking photo on the Websites for purely commercial purposes. As a
13 result, Plaintiff John Doe #11's image has been commercially misappropriated by
14 Defendants, causing damage, and Plaintiff John Doe #11 has incurred damages under
15 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #11 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 John Doe
18 #11 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.

21
22 27. Plaintiff John Doe #12 is a resident of Randall County, Texas. During the
23 relevant time period, defendants have disseminated Plaintiff John Doe #12's arrest
24 information and booking photo on the Websites for purely commercial purposes. As a
25 result, Plaintiff John Doe #12's image has been commercially misappropriated by
26 Defendants, causing damage, and Plaintiff John Doe #12 has incurred damages under
27 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #12 did not
28

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 John Doe
3 #12 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 28. Plaintiff John Doe #13 is a resident of Brazoria County, Texas. During the
7 relevant time period, defendants have disseminated Plaintiff John Doe #13's arrest
8 information and booking photo on the Websites for purely commercial purposes. As a
9 result, Plaintiff John Doe #13's image has been commercially misappropriated by
10 Defendants, causing damage, and Plaintiff John Doe #13 has incurred damages under
11 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #13 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 John Doe
14 #13 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 29. Plaintiff Jane Doe #3 is a resident of Brazoria County, Texas. During the
18 relevant time period, defendants have disseminated Plaintiff Jane Doe #3's arrest
19 information and booking photo on the Websites for purely commercial purposes. As a
20 result, Plaintiff Jane Doe #3's image has been commercially misappropriated by
21 Defendants, causing damage, and Plaintiff Jane Doe #3 has incurred damages under the
22 Arizona Mugshot Statute, as further described herein. Plaintiff Jane Doe #3 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 #3 has experienced both emotional and financial harm, including, but not limited to,
26
27
28

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

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

1 32. Plaintiff John Doe #15 is a resident of Horry County, South Carolina.
2 During the relevant time period, defendants have disseminated Plaintiff John Doe #15's
3 arrest information and booking photo on the Websites for purely commercial purposes.
4 As a result, Plaintiff John Doe #15's image has been commercially misappropriated by
5 Defendants, causing damage, and Plaintiff John Doe #15 has incurred damages under
6 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #15 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 John Doe
9 #15 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 33. Plaintiff John Doe #16 is a resident of St. Louis County, Missouri. During
14 the relevant time period, defendants have disseminated Plaintiff John Doe #16's arrest
15 information and booking photo on the Websites for purely commercial purposes. As a
16 result, Plaintiff John Doe #16's image has been commercially misappropriated by
17 Defendants, causing damage, and Plaintiff John Doe #16 has incurred damages under
18 the Arizona Mugshot Statute, as further described herein. Plaintiff John Doe #16 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 John Doe
21 #16 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 34. Defendants Kyle David Grant, Travis Paul Grant, and Mariel Lizette
26 Grant, are residents of the state of Florida. Defendants are the owners and operators of
27 at least the following Websites:
28

- 1 • Rapsheets.org;
- 2 • Rapsheetz.com;
- 3 • Bailbondcity.com; and
- 4 • Bailbondsearch.com.

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

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

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

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

25
26 39. Defendants solicit customers in the state of Arizona. Upon information
27 and belief, Defendants have many paying customers who reside in the state of Arizona
28

1 who each use Defendants' respective services in the state of Arizona. Upon information
2 and belief, Defendants conduct continuous and systematic business in the state of
3 Arizona.

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

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

17 **GENERAL ALLEGATIONS**

18 42. Plaintiffs are individuals and are now, and at all times mentioned in this
19 complaint were, residents of Maricopa County, Arizona; Pinellas County, Florida;
20 Miami-Dade County, Florida; Williamson County, Texas; Randall County, Texas;
21 Brazoria County, Texas; Cook County, Illinois; Horry County, South Carolina; and St.
22 Louis County, Missouri.

24 43. Defendants generate substantial revenue from the misleading use of the
25 original content Defendants create from the booking photos.

26 44. Defendants gather and collect arrest photos and create original content out
27 of that material in the form of advertisements ("arrest photo advertisements").
28

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

7 46. The following screenshot capture of a page on rapsheetz.com exemplifies
8 the misleading manner in which Defendants use the arrest photo advertisements to entice
9 the public into clicking on third party banner ads, thus generating substantial pay-per-
10 click advertising for Defendants:
11

12 **Phoenix Arrest Records for Inmate Scotty Hugh** 13 **Cooper**

14



15

16 **Access Court Records**

17 ReviewPublicRecords

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

20 **OPEN**

21 **Scotty Hugh Cooper Arrest Details**

22

23

24

25

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

9
10 48. Thus, the arrest photos advertisements serve at least two commercial
11 purposes: 1) to attract third party advertisers to the Website; and 2) entice any user of
12 the website to mistakenly click the third party banner ad so as to generate pay-per-click
13 advertising revenue for Defendants.

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

22 50. Plaintiffs had an arrest photo taken.

23 51. Defendants, without permission, consent or knowledge of Plaintiffs,
24 reproduced, publicly displayed, distributed, and created original advertising content out
25 of their arrest photos. Defendants also, without permission, consent or knowledge of
26 Plaintiffs, reproduced, publicly displayed, and distributed Plaintiffs’ arrest information.
27
28

COUNT I
VIOLATION OF THE ARIZONA MUGSHOT ACT (A.R.S. 44-7901/7902)

1
2
3 60. Plaintiffs Jane Doe and John Doe 1-20 incorporate by reference the
4 allegations of each paragraph above into this claim as though fully set forth herein.

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

9 62. A.R.S. 44-7902 states as follows:

10 Mugshot website operators; prohibited acts; exceptions

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

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

20 C. A subject individual whose criminal justice record is published in
21 violation of subsection B of this section and who suffers a pecuniary loss
22 or who is otherwise adversely affected as a result of a violation of
23 subsection B of this section has a cause of action against the person
24 responsible for the violation and may recover damages in addition to the
25
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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
9 E. This article does not apply to any act performed for the purpose of
10 disseminating news to the public, including the gathering, publishing or
11 broadcasting information to the public for a news-related purpose, or to
12 any act performed by a publisher, owner, agent, employee or retailer of a
13 newspaper, radio station, radio network, television station, television
14 broadcast network, cable television network or other online news outlet
15 associated with any news organization in connection with the
16 dissemination of news to the public, including the gathering, publishing or
17 broadcasting information to the public for a news-related purpose.

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

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

25 44-7901. Definitions

26 In this article, unless the context otherwise requires:
27
28

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
17 64. A.R.S. 39-121.03(D) states as follows:

18 For the purposes of this section, "commercial purpose" means the use of a
19 public record for the purpose of sale or resale or for the purpose of
20 producing a document containing all or part of the copy, printout or
21 photograph for sale or the obtaining of names and addresses from public
22 records for the purpose of solicitation or the sale of names and addresses to
23 another for the purpose of solicitation or for *any purpose in which the*
24 *purchaser can reasonably anticipate the receipt of monetary gain from the*
25 *direct or indirect use of the public record* (emphasis added). Commercial
26
27
28

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 65. Defendants posted Plaintiffs Jane Doe's and John Doe's 1-20 mugshot and
4 criminal record information to rapsheetz.com and/or bailbondsearch.com as set forth
5 herein.

6 66. Defendants posted Plaintiff Jane Doe's and John Doe's 1-20 mugshot and
7 criminal record information to rapsheetz.com and/or bailbondsearch.com for a
8 commercial purpose, as defined in A.R.S. 39-121.03(D).

9 67. Defendants violated the Arizona Mugshot Statute by posting Plaintiff Jane
10 Doe's and John Doe's 1-20 criminal record information and mugshots to rapsheetz.com
11 and/or bailbondsearch.com for commercial purposes, namely, by soliciting and
12 generating advertising revenue through Google Ads, and by other acts and/or omissions
13 as specified in this Amended Complaint.

14 68. 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 69. Defendants' violation of the Arizona Mugshot Statute proximately caused
20 damage to Plaintiffs Jane Doe and John Doe 1-20 in an amount to be determined at trial.

21
22 **COUNT II**
INVASION OF PRIVACY BASED ON APPROPRIATION

23 70. Plaintiffs incorporate by reference the allegations of each paragraph
24 above into this claim as though fully set forth herein.
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27
28

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

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

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

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

9 **WHEREFORE**, Plaintiffs request that the Court enter judgment in their favor
10 and against Defendants and each of them as follows:
11

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

17 **DATED:** May _____, 2020.

18 Respectfully submitted,

19 **ANDREWIVCHENKO PLLC**

20
21 

22 Andrew Ivchenko, Esq.
23 Attorney for Plaintiffs
24
25
26
27
28

Exhibit I

David Gingras

From: Andrew Ivchenko <aivchenkopllc@gmail.com>
Sent: Thursday, November 12, 2020 3:21 PM
To: David Gingras
Subject: Re: Activity in Case 2:20-cv-01142-SMB Doe I et al v. Grant et al Order on Motion for Discovery

David,

I am in meetings all day but you asked for a quick response so I will do that. Obviously there is no need to do depositions so we can stipulate to something along the lines of item #1. Not sure where the court is going with the remand motion. Also, you are dealing with a Federal and state case through the Rosenstein firm (are you still counting these? Perhaps you can use Roman numerals like in the Super Bowl, it's more dignified). My actions in this case will be coordinated with them, once I do that I will have a follow-up response.

No matter what happens with the remand motion, it's not staying in Federal court even if it gets dismissed by us - this is the first action filed by these 20 plaintiffs. The 20 plaintiffs from the previous case are on the sidelines, but will likely be filing individual actions such as done in state action no. CV2020-055722.

Your last sentence in #2 makes no sense - you and your clients harassed Mrs. Emery, opposing counsel, and my wife (and you aided and abetted your client by obtaining the police video). Needless to say, this is all legally actionable and will be addressed through the courts. I urge you to counsel your clients to remove all of that from their home page, although it is so inflammatory that it actually helps us when we ask for the injunction in a few weeks.

Andrew Ivchenko, Esq.
4960 S. Gilbert Rd., Suite 1-226
Chandler, AZ 85249
Phone: (480) 250-4514
Email: aivchenkopllc@gmail.com

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----- Original Message -----

From: David Gingras <david@gingraslaw.com>
To: Andrew Ivchenko <aivchenkopllc@gmail.com>
Sent: 11/12/2020 1:25:15 PM
Subject: FW: Activity in Case 2:20-cv-01142-SMB Doe I et al v. Grant et al Order on Motion for Discovery

Andrew,

I'm sure by now you've received the court's order. I'd like to discuss your thoughts on how we can proceed.

I see a couple of options:

- 1.) We can simply stipulate and agree that all three of the Florida plaintiffs reside in Florida, were arrested in Florida, and their mugshots and arrest info was published online by the arresting law enforcement agency/agencies in Florida (obviously we would only do this if those facts are true). If you would agree to this, that would resolve my need for any further discovery into this issue, and to be clear about what I'm saying – if you would agree to that stipulation, I will not require you to disclose the names of the three FL plaintiffs at this time (obviously I still maintain our objection to them proceeding anonymously, but we can leave that issue for another day).
- 2.) If you aren't willing to stipulate to the points mentioned above, then I will need you to disclose the names of the three FL plaintiffs so I can verify the facts relating to them. I'm happy to serve you with an interrogatory asking for that info, but I'd prefer to simply proceed informally since it's faster. In this instance, if you agree to disclose their names, Defendants will agree NOT to publish them anywhere (beyond whatever publication has already occurred) nor will I put them into any public pleadings at this time. I know you have a negative opinion about both me and my clients, but the simple fact is that I really just want to make sure the court has the info and facts it needs to address the jurisdictional arguments. I am not looking to harass anyone.

If neither of these points work for you, then I will probably proceed by noticing the depositions of the three FL plaintiffs, but that honestly feels excessive.

In any event, please let me know your position ASAP.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196
*Licensed in Arizona and California



From: azddb_responses@azd.uscourts.gov <azddb_responses@azd.uscourts.gov>
Sent: Thursday, November 12, 2020 1:15 PM
To: azddb_nefs@azd.uscourts.gov
Subject: Activity in Case 2:20-cv-01142-SMB Doe I et al v. Grant et al Order on Motion for Discovery

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U.S. District Court

DISTRICT OF ARIZONA

Notice of Electronic Filing

The following transaction was entered on 11/12/2020 at 1:14 PM MST and filed on 11/12/2020

Case Name: Doe I et al v. Grant et al

Case Number: [2:20-cv-01142-SMB](#)

Filer:

Document Number: [28](#)

Docket Text:

ORDER granting [17] Motion for Jurisdictional Discovery. IT IS FURTHER ORDERED Defendants are hereby allowed to take discovery, subject to the Federal Rules of Civil Procedure, for the sole purpose of determining whether the Florida-resident Plaintiffs identified as John Does 8, 9 and 10 were arrested in Florida or Arizona, and/or whether any other facts exist which would provide grounds for those Plaintiffs to assert claims in Arizona under Arizona substantive law. Signed by Judge Susan M. Brnovich on 11/12/2020. (ESG)

2:20-cv-01142-SMB Notice has been electronically mailed to:

David Scott Gingras david@gingraslaw.com

Andrew Ivchenko aivchenkopllc@gmail.com

2:20-cv-01142-SMB Notice will be sent by other means to those listed below if they are affected by this filing:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

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[STAMP dcecfStamp_ID=1096393563 [Date=11/12/2020] [FileNumber=21331852-0] [a182ca5aa6a7b0af9c61601eb531a3dde3d7b4a3d40bf9993d02017205d35e107402b4abca04a06d1aa51e85af35b5cf534992e1269f2cf65826830cb95fd795]]



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