

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
Tampa Division

CASE NO. _____

DEVIN G. NUNES)
)
 Plaintiff,)
)
 v.)
)
)
 CABLE NEWS NETWORK, INC.)
)
 -and-)
)
 JAKE TAPPER)
)
 Defendants.)
 _____)

**TRIAL BY JURY
IS DEMANDED**

COMPLAINT

Plaintiff, Devin G. Nunes (“Plaintiff”), by counsel, pursuant to Rule 3 of the Federal Rules of Civil Procedure (the “Rules”), files the following Complaint against Defendants, Cable News Network, Inc. (“CNN”) and Jake Tapper (“Tapper”), jointly and severally.

Plaintiff seeks (a) compensatory damages and punitive damages in a sum to be determined by the Jury, (b) prejudgment interest on the principal sum awarded by the Jury from October 31, 2022 to the date of Judgment at the rate of 4.25 percent per year pursuant to Fla. Stat. § 55.03, and (c) court costs – arising out of CNN and Tapper’s defamation.

I. STATEMENT OF MATERIAL FACTS

1. On October 31, 2022, during *CNN Tonight with Jake Tapper*, CNN and Tapper broadcast to viewers in Florida and elsewhere the following false and defamatory statements about Plaintiff:

No.	Statement
1	“He [referring to President Donald Trump], at least, did condemn the attack on Paul Pelosi, as did House Republican Leader Kevin McCarthy, ¹ as did Senate Minority Leader Mitch McConnell”
2	“But you know what, far too many other Republicans and Conservative leaders are out there instead spreading insane, offensive and false conspiracy theories, such as the complete and utter lie, the deranged smear that Paul Pelosi and the attacker, the man who hit him in the head with a hammer, were in a sexual relationship”
3	“It’s hard to fathom the kind of mind that hears of a tragedy, like what happened to 82 year-old Paul Pelosi, and decides to traffic in this filth. But, sadly, Donald Trump Jr. is hardly alone. Former Republican Congressman and Chairman of the House Intelligence Committee, Devin Nunes, who now runs Trump’s social media company, Truth Social, shared this Halloween image [link to truth] with the words, ‘at least this guy has his clothes on.’ Nunes also reposted this meme [link to retruth] , using a poster for the gay romantic comedy <i>Bros</i> , twisting it into a smear of Paul Pelosi. And, again, the man who tried to bash Paul Pelosi’s head in with a hammer. Words fail.”
4	“What is wrong with these people?”
5	“In addition to being an inhuman and inhumane response to a tragedy, it’s a lie ... Pelosi did not know the suspect.”

[\https://www.cnn.com/videos/politics/2022/11/01/jake-tapper-monologue-paul-pelosi-attack-right-wing-conspiracy-theories-tapperctn-vpx.cnn (each a “Statement” and together the “Statements”)].

¹ Leader McCarthy told Fox News’ Maria Bartiromo, “let me be perfectly clear: violence or threat of violence has no place in our society. What happened to Paul Pelosi is wrong.”

2. As was naturally and foreseeably intended by CNN and Tapper, the Statements were republished millions of times on October 31, 2022 and thereafter, including by CNN to its 60,400,000 Twitter followers and by Tapper to his 3,200,000 Twitter followers, *see, e.g.*:

<https://twitter.com/CNN/status/1587279635607330816>
(CNN’s Jake Tapper says “the smears are an attempt to justify the violence”);²

<https://twitter.com/jaketapper/status/1587410359526227969>;

<https://www.msn.com/en-us/news/politics/what-is-wrong-with-these-people-stunned-jake-tapper-destroys-republicans-joking-and-lying-about-pelosi-attack/ar-AA13CJpV>;

<https://www.mediaite.com/news/what-is-wrong-with-these-people-stunned-jake-tapper-destroys-republicans-joking-and-lying-about-pelosi-attack/>.

3. The clear defamatory gist of the Statements is that Plaintiff refused to condemn the violent attack on Paul Pelosi, and, instead, justified the violence and mocked or made fun of the attack, and lied and suggested that the encounter between Mr. Pelosi and Mr. DePape was sexual in nature. The Statements imply, infer and insinuate that Plaintiff has a depraved mind and that he acted immorally, fraudulently, unprofessionally, spread lies about Paul Pelosi, and disparaged and defamed Paul Pelosi.

4. The Statements were instantly understood by viewers and readers to convey the intended and endorsed defamatory meaning and implication, *see, e.g.*:

² As of November 2, 2022, CNN’s tweet had been retweeted 151 times, quote tweeted 21 times and liked 560 times, and Tapper’s tweet had been retweeted 139 times, quote tweeted 24 times, and liked 428 times. CNN reporter Chris Cillizza shared Tapper’s Statements with his 631,000 Twitter followers and advised them to “[w]atch this”. [<https://twitter.com/ChrisCillizza/status/1587484413239115776>]. CNN’s “senior” reporter Daniel Dale republished the Statements to his 1,200,000 Twitter followers, congratulating Tapper and CNN on a “[n]ice job by @jaketapper on this idiocy”. [<https://twitter.com/ddale8/status/1587484316564684800>]. The Statements were also retweeted without comment by CNN commentators, such as Alyssa Farah Griffin, and other “Joe Biden Democrats”, such as Kevin Walling.

<https://twitter.com/WynnWs/status/1587817106288033798>

(“‘Words fail’: CNN’s Jake Tapper breaks down conspiracy theories about Paul Pelosi attack”);

<https://twitter.com/LeeGoldberg/status/1587315262516129792>

(“Disgusting. @jaketapper nails it. There is no excuse for the hateful, knuckle-dragging, inhuman imbeciles spreading outrageously stupid conspiracy theories about the attack on Paul Pelosi”);

https://twitter.com/Anon_Lobo/status/1587309787791794176

(“Disgusting Republicans. They’re like dog shit at the shoe”).

5. The Statements are materially false and defamatory. They lower Plaintiff in the estimation of the community and expose him to hatred, ridicule, or contempt and injure his business and reputation. By juxtaposition and omission of material facts, the Statements make him appear odious and ridiculous. [*Jews for Jesus, Inc. v. Rapp*, 997 So.2d 1098, 1108-1109 (Fla. 2008); *Nunes v. W.P. Company*, 2021 WL 3550896, at * 4 (D. D.C. 2021) (“Taken as a whole, the article says (or at least a reasonable juror could understand the article to say) that Nunes had made baseless claims about spying on Trump Tower and then visited the White House to inspect documents that might support those baseless claims. And a reasonable juror could conclude that an elected official is ridiculous or unfit for office if he searched for evidence to support baseless claims. Indeed, the online article stated that Nunes had searched for this evidence ‘late at night,’ suggesting something untoward about the outing ... Even if it would not have been defamatory to say that Nunes went to the White House in search of evidence for his own claims (in part because he did end up uncovering some evidence for the claims he *was* making), ‘baseless’ is the type of word that transforms the ‘gist’ of the article by insinuating that Nunes is the type of official who would spend his time searching for evidence to support claims with no foundation in fact.”)].

6. CNN and Tapper published the Statements with actual malice. CNN and Tapper knew the Statements were false and acted with reckless disregard for the truth for several reasons. First, CNN and Tapper surreptitiously reviewed Plaintiff's Truth Social profile prior to publication of the Statements. Tapper knew from this review that Plaintiff expressly disclosed that his retruths do **not** equal endorsements of the content of any other user. [<https://truthsocial.com/@DevinNunes> ("RT≠endorsement"); see *Flynn v. Cable News Network, Inc.*, 2022 WL 3334716, at * 1, 5 (S.D.N.Y. 2022) ("What does it say about you when you retweet someone else's tweet? These are not just questions for Millennials or Zoomers. They are critical questions in this motion to dismiss. CNN argues that the Court should conclude as a matter of law that by retweeting another's tweet, the retweeter is adopting every word in the tweet as their own. A retweet, in CNN's view, cannot merely be used to comment on another's tweet or to forward the fact of its existence to another. CNN also argues that the Court should adopt the position that when you 'follow' a person's Twitter feed, you become that person's 'follower,' in the sense that you are now an adherent to the entire belief system of the tweeter. By following someone on Twitter, in CNN's view, you are not merely interested in seeing what the person you are following has to say. The Court remains unwilling to adopt as a matter of law CNN's sweeping assertions regarding the significance of a retweet, or what it means to 'follow' someone on Twitter ... There are many reasons that someone might retweet a statement; a retweet is not necessarily an endorsement of the original tweet, much less an endorsement of the unexpressed belief system of the original tweeter, as CNN would have it.")] CNN and Tapper intentionally ignored and evaded the truth, and misrepresented to their audiences that Plaintiff endorsed the views of another Truth

Social account. Second, on October 29, 2022, Plaintiff expressly notified Tapper via text message that “[i]f you were on Truth you would already know that I’ve condemned the attack. Any implication otherwise is knowingly false and defamatory.” Plaintiff expressly denied Tapper’s insinuations, and advised Tapper that the retruth of the meme was **not** a suggestion by Plaintiff that “Pelosi is gay”. Plaintiff categorically stated that Tapper’s insinuations were “wrong” and that “any implication [from a retruth] would be reckless.” Tapper and CNN recklessly disregarded Plaintiff’s express notice. Third, on October 29, 2022, Plaintiff’s employer, Truth Media & Technology Group Corp. (“TMTG”), sent CNN the following email:

From: Shannon Devine <shannon.devine@mzgroup.us>
Sent: Saturday, October 29, 2022 9:17:32 PM
To: greg.clary@cnn.com <greg.clary@cnn.com>
Subject: Re: CNN inquiry

Greg, good evening, on behalf of TMTG legal:

Mr. Nunes strongly condemned the attack on Mr. Pelosi yesterday during an interview on Newsmax — you can find his comments in full [here](#).

Any implication otherwise is knowingly false and defamatory.

Best,

Shannon Devine
MZ Group | Managing Director – MZ North America

Included in the TMTG email was an active hyperlink to an October 28, 2022 video of the Newsmax interview published on Rumble. Prior to publication of the Statements, CNN reviewed the linked video in which Plaintiff stated unequivocally that:

“obviously ... no one should condone this violence ... Now look, I am saying clearly, because you know how the fake news will take this out of context, what they did to Paul Pelosi is inexcusable ... There is still more that we need to find out right now ... I don’t know what the hell’s going on, but we always condemn violence no matter if it’s against elected officials or every day Americans period.”

[\[https://rumble.com/v1qdshf-nunes-reacts-to-elon-musk-completing-his-twitter-takeover.html\]](https://rumble.com/v1qdshf-nunes-reacts-to-elon-musk-completing-his-twitter-takeover.html).³ In spite of their actual knowledge of the truth, Tapper and CNN chose to publish lies and intentionally omit material facts, including that Plaintiff had expressly condemned the attack on Paul Pelosi. In spite of Plaintiff's express contentions that the Statements were false and defamatory, Tapper and CNN brazenly republished the Statements. [See, e.g., *Nunes v. Lizza*, 12 F. 4th 890, 901 (8th Cir. 2021) (“Republication of a statement after the defendant has been notified that the plaintiff contends that it is false and defamatory may be treated as evidence of reckless disregard.”)].

7. In this case, Plaintiff seeks actual damages and punitive damages as a result of CNN and Tapper's false and defamatory Statements.

II. PARTIES

8. Plaintiff is a citizen of California. He works in Sarasota County, Florida. He is CEO of TMTG. Between 2003 and 2021, Plaintiff was a United States Congressman. In 2021, he served as Ranking Member of the House Permanent Select Committee on Intelligence (the “House Intelligence Committee”), having been appointed to the Committee in the 112th Congress and having served as Committee Chairman during the 114th and 115th Congresses. As a member of the House Intelligence Committee, Plaintiff participated in oversight of the U.S. national security apparatus, including the intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government, most of which is located in Virginia. In

³ Prior to publication of the Statements, it was also widely reported in the press and well-known on social media that Devin Nunes condemned the attack on Paul Pelosi. <https://www.msn.com/en-us/news/politics/devin-nunes-says-he-condemns-pelosi-attack-but-where-were-democrats-and-pelosi-when-antifa-showed-up-at-his-farm/ar-AA13wsvF?ocid=msedgntp&cvid=b75f8321504b4f49b25fd28fbd3432c7;https://twitter.com/Mediaite/status/1586487917253476353>].

January 2021, the President awarded Plaintiff the Medal of Freedom. Plaintiff's career as a United States Congressman was distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity. These same qualities are crucial to Plaintiff's performance and success as CEO of TMTG. In this case, Plaintiff suffered the brunt of the harm to his reputation in the Middle District of Florida, where Plaintiff works and where Tapper and CNN broadcast the Statements to a vast audience of cable television subscribers and social media followers. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 776-777 (1984) (“[f]alse statements of fact harm both the subject of the falsehood *and* the readers of the statement ... The tort of libel is generally held to occur wherever the offending material is circulated.”).

9. CNN is a Delaware corporation, headquartered in Georgia. CNN is a wholly-owned subsidiary of Warner Bros. Discovery, Inc., a publicly traded corporation. Warner Bros. operates television networks and related properties that offer branded news and other content for consumers in Florida and around the world. CNN maintains a bureau and hundreds of reporters, editors, producers and other agents in Florida. Millions in Florida watch CNN. Millions more in Florida subscribe to and use its digital network, www.cnn.com, and its various social media properties, including @CNN.

10. Tapper is a CNN anchor and chief Washington correspondent. He is a citizen of the District of Columbia.

III. JURISDICTION AND VENUE

11. The United States District Court for the Middle District of Florida has subject matter jurisdiction over this action pursuant to Title 28 U.S.C. § 1332 (Diversity).

The parties are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

12. CNN and Tapper are at home in Florida, and are subject to the Court's general and specific personal jurisdiction.

13. Venue is proper pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2). The defamation which is the basis of this lawsuit was committed in the Middle District of Florida in addition to all over the world. Over 10 million people—more than 55 percent of the State's population—reside within the Middle District, thus making the alleged defamatory statements in this venue highly significant. Plaintiff works in Sarasota County. CNN conducts substantial business in the Middle District, is registered in Florida as a foreign corporation, maintains a registered agent in Plantation, Florida, operates a bureau in Miami, Florida, and has hundreds if not thousands of agents in Florida who engage in daily business for CNN.

COUNT I – DEFAMATION

14. Plaintiff restates paragraphs 1 through 13 of this Complaint, and incorporates them herein by reference.

15. CNN and Tapper made, published and republished numerous false factual Statements of and concerning Plaintiff. These false Statements are detailed verbatim above. CNN and Tapper published the false Statements without privilege of any kind. CNN and Tapper's false Statements are neither fair nor accurate.

16. The Statements constitute defamation *per se*.

17. The Statements tend to subject Plaintiff to hatred, distrust, ridicule, contempt, or disgrace. The Statements accuse and impute to Plaintiff an unfitness to

perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment, including immorality, lack of ethics, lack of integrity, lack of veracity, and professional misconduct. The Statements prejudice Plaintiff in his profession and employment as CEO of TMTG.

18. By broadcasting the Statements to CNN's cable television viewers, subscribers and advertisers and by tweeting the Statements to over 63,000,000 followers on Twitter, CNN and Tapper knew or should have known that the Statements would be republished over and over by third-parties to Plaintiff's detriment. Republication by CNN and Tapper's followers, mainstream media, and users of Twitter was the natural and probable consequence of CNN and Tapper's actions and was actually and/or presumptively authorized by CNN and Tapper. In addition to its original publications, CNN and Tapper are liable for the millions of third-party republications of the false and defamatory Statements under the republication rule.

19. CNN and Tapper's false and defamatory Statements harmed Plaintiff and his reputation, causing actual injury and damage.

20. On November 3, 2022, Plaintiff served on CNN and Tapper written notice specifying the Statements that are false and defamatory and demanding, *inter alia*, that those Statements be retracted and/or corrected and removed from the Internet. CNN and Tapper failed to retract and/or correct the false and defamatory Statements.

21. CNN and Tapper published the defamatory Statements with actual knowledge that they were false or with reckless disregard for whether they were false. In addition to the facts stated above in paragraph 6, CNN and Tapper harbor an institutional and historic hostility, hatred, extreme bias, spite and ill-will towards Plaintiff due to

Plaintiff's work in Congress debunking false allegations that President Trump had colluded with Russians. CNN has a long track record of publishing false and defamatory statements about Plaintiff. This bias and prejudice motivated CNN and Tapper to publish the intentionally false Statements about Plaintiff. As evidenced by the words Tapper chose and the timing and tenor of the Statements, CNN and Tapper intended to inflict harm through knowing or reckless falsehoods. *Don King Productions, Inc. v. Walt Disney Co.*, 40 So.3d 40, 45 (Fla. 4th DCA 2010) (“[a]n intention to portray a public figure in a negative light, even when motivated by ill will or evil intent, is not sufficient to show actual malice unless the publisher intended to inflict harm through knowing or reckless falsehood.”) (citing *Garrison v. Louisiana*, 379 U.S. 64, 73 (1964)); *Cochran v. Indianapolis Newspapers, Inc.*, 175 Ind.App. 548, 372 N.E.2d 1211, 1221 (1978) (evidence of ill will creates jury question on actual malice where “[t]here are no facts or statements of record which even remotely support” the defamatory implication at issue). Actual malice may be inferred from the baseless and egregious attacks on Plaintiff and the *ad hominem* and depraved words used. Further, CNN and Tapper intentionally abandoned all journalistic standards and integrity in broadcasting, publishing and republishing the Statements. They did not seek the truth or report it. They betrayed the truth for the sake of their institutional bias against Plaintiff and ratings. Rather than minimize harm, CNN and Tapper set out to inflict maximum pain and suffering on Plaintiff in order to increase ratings ahead of the midterm elections. CNN and Tapper broadcast and republished the Statements in the broadest manner possible, to television, Internet and social media audiences, for the sole purpose of injuring Plaintiff's reputation.

22. As a direct result of CNN and Tapper's defamation, Plaintiff suffered actual injury and damage, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, and injury to his reputation, costs and other out-of-pocket expenses, in a sum to be determined by the Jury.

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

Plaintiff reserves his right to amend this Complaint upon discovery of additional instances of CNN and Tapper's wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully request the Court to enter Judgment against CNN and Tapper, jointly and severally, as follows:

- A. Compensatory damages in a sum to be determined by the Jury;
- B. Punitive damages in a sum to be determined by the Jury, but not less than five percent (5%) of CNN and Tapper's net worth;
- C. Prejudgment interest on the principal sum awarded by the Jury at the maximum rate allowed by law from October 31, 2022 until Judgment is entered;
- D. Postjudgment interest;
- E. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: November 19, 2022

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