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Daniel Rigmaiden
Pro Se, Plaintiff

**IN THE CIRCUIT COURT OF THE 11th JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

Daniel Rigmaiden,
Plaintiff,

v.

(1) NBCUniversal Media, LLC, DBA
CNBC
(2) Kurtis Productions, LTD,
(3) Dennis Wagner, and
(4) Phoenix Newspapers, Inc, DBA The
Arizona Republic.
Defendants.

Case No.: 2018-015032-CA-01

Jury Trial Demanded

Class Representation

FIRST AMENDED COMPLAINT FOR INJUNCTIVE, DECLARATORY AND

OTHER RELIEF

JURY TRIAL DEMANDED

I. Preliminary Statement

1. Defendants participated in, produced, and continue to disseminate to the public an audiovisual production that gives rise to, among other claims, defamation *per se*, defamation, defamation by implication *per se*, defamation by implication, violations of Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08, and violations of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA). The production is an episode of CNBC's *American Greed* titled, "Hack Me if You Can / Goodfella Gone Bad," which first aired on August 25, 2016. In the "Hack Me if You Can" segment of the episode (hereafter "the Segment"), Defendants attempt to document and reenact a tax refund fraud scheme that led to a federal criminal case involving Plaintiff and co-conspirators. In the Segment, Defendants refer to Plaintiff as "the hacker."

2. The Segment contains numerous false and defamatory claims including the claims that Plaintiff served six (6) months of confinement for identity theft, engaged in illegal hacking to facilitate the tax refund fraud scheme, committed murder, planned terrorists attacks, and threatened the lives of innocent people during a bout of "simmering anger." All of these claims and others are false and defamatory. Defendants false and defamatory claims have resulted in severe damage to Plaintiff personally and in his trade and profession.

3. On approximately January 25, 2018, Plaintiff used USPS certified mail, return receipt, to send all Defendants a *CEASE AND DESIST NOTICE AND DEMAND FOR RETRACTION* (hereafter the "First Notice") regarding defamatory statements and depictions contained in the Segment, and regarding the violation of Plaintiff's right of publicity. Plaintiff demanded that Defendants issue a retraction, cease dissemination of the Segment, and preserve all evidence in anticipation of a civil claim.

4. While Plaintiff received USPS notice that his First Notice had been accepted by Defendants, he received no response from Defendants NBCUniversal Media, LLC, Kurtis Production, LTD, or Dennis Wagner. Defendant Phoenix Newspapers, Inc, responded to Plaintiff's First Notice stating its position that it is not responsible for any of the claimed defamation.

5. On August 9, 2018, Plaintiff used USPS certified mail, return receipt, to send Defendants NBCUniversal Media, LLC, and Kurtis Productions, LTD, a *SECOND CEASE AND DESIST NOTICE AND DEMAND FOR RETRACTION* (hereafter the "Second Notice") regarding (1) additional defamatory statements and depictions contained in the Segment, (2) an explanation of his FDUTPA claim, and (3) a further explanation of his right of publicity claim. Plaintiff demanded that the noted two Defendants issue a retraction, cease dissemination of the Segment, cease the FDUTPA violations, cease violating Plaintiff's right of publicity, and preserve all evidence in anticipation of a civil claim. On August 9, 2018, Plaintiff also emailed a copy of the Second Notice to Defendant NBCUniversal Media, LLC's general counsel, Defendant Kurtis Production, LTD's general "info" email address, and to Defendant NBCUniversal Media, LLC, and Kurtis Productions, LTD's counsel in this lawsuit.

6. While Plaintiff received USPS notice on August 10, 2018, and August 13, 2018, that the hard-copy of his Second Notice had been received by Defendants NBCUniversal Media, LLC, and Kurtis Productions, LTD, he received no response.

II. Jurisdiction and Venue

7. This Court has jurisdiction considering Plaintiff seeks relief in an amount greater than \$15,000, exclusive of interest, costs and attorney fees.

8. This Court has personal jurisdiction over Defendants considering they committed, and continue to commit, tortious acts within the State of Florida thereby

satisfying Florida's long-arm statute, Fla. Stat. § 48.193. Furthermore, Defendants have committed, and continue to commit, intentional torts expressly aimed at Plaintiff, the effects of which were suffered in this circuit. Defendants' intentional conduct was/is calculated to cause injury to Plaintiff in Florida. Based on their intentional torts, Defendants should have reasonably anticipated being hailed into this Court and due process is satisfied.

9. Venue is proper in this Court pursuant to Fla. Stat. § 47.011 considering, among other things, Defendants are committing continuing tortious acts against Plaintiff while he resides in Florida, including the dissemination of the Segment of which Defendant NBCUniversal Media, LLC's broadcasts in Florida on the cable television channel CNBC, on its website, YouTube, Amazon Video Direct, and other platforms accessible from Florida.

III. Parties

10. Plaintiff, Daniel David Rigmaiden, *pro se*, is a United States citizen currently residing in Miami-Dade County, FL. Plaintiff's filings, however inartfully pleaded, must be liberally construed and held to less stringent standards than formal pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

11. Defendant NBCUniversal Media, LLC, DBA CNBC (hereafter "NBCUniversal"), is a television broadcasting company and the parent company of various entertainment and news channels, including the NBC television network, MSNBC, and CNBC. Defendant NBCUniversal worked with Defendant Kurtis Productions, LTD, to produce the CNBC *American Greed* episode titled, "Hack Me if You Can / Goodfella Gone Bad," which includes the Segment relevant to this lawsuit. At all relevant times, Defendant NBCUniversal was and is a limited liability company organized and operating under the laws of the State of New York, with its principal place

of business in New York. Defendant NBCUniversal was not acting as a member of the news media while committing tortious acts against Plaintiff. Rather, it was acting as an entertainment media production company. The Segment at issue covers events occurring eight (8) years prior to its first publication, and was produced in a scripted format involving reenactments, i.e., a “true-crime entertainment media” production.

12. Defendant Kurtis Productions, LTD (hereafter “Kurtis Productions”), is a television production company. Defendant Kurtis Productions was hired by and worked with Defendant NBCUniversal to produce the CNBC *American Greed* episode titled, “Hack Me if You Can / Goodfella Gone Bad,” which includes the Segment relevant to this lawsuit. At all relevant times, defendant Kurtis Productions was and is a limited liability company organized and operating under the laws of the State of Illinois, with its principal place of business in Illinois. Defendant Kurtis Productions was not acting as a member of the news media while committing tortious acts against Plaintiff. Rather, it was acting as an entertainment media production company. The Segment at issue covers events occurring eight (8) years prior to its first publication, and was produced in a scripted format involving reenactments, i.e., a “true-crime entertainment media” production.

13. Defendant Dennis Wagner (hereafter “Wagner”) is a news reporter for Defendant Phoenix Newspapers, Inc, DBA The Arizona Republic. Defendant Wagner participated in the production of the Segment by giving on-screen interviews and readings of documents for Defendants NBCUniversal and Kurtis Productions. Defendant Wagner gave the on-screen interviews and readings from his place of employment, The Arizona Republic, in Phoenix, AZ. At all relevant times, Defendant Wagner was acting in his personal capacity and in his official capacity as an employee of Phoenix Newspapers, Inc, DBA The Arizona Republic. In the Segment, Defendant Wagner is presented as “Arizona Republic Reporter, Dennis Wagner” via both voice-over narration and “chyron”^[1] text

1. A chyron is “[a]n electronically generated caption superimposed on a television or cinema screen.” Oxford University Press, Chyron definition, *available at* <https://en.oxforddictionaries.com/definition/chyron> (last accessed: Aug 6, 2018).

overlay. At all relevant times, Defendant Wagner resided and worked in the state of Arizona. Defendant Wagner was not acting as a member of the news media while committing tortious acts against Plaintiff. Rather, he was participating in an entertainment media production being produced by Defendants NBCUniversal and Kurtis Productions. The Segment at issue covers events occurring eight (8) years prior to its first publication, and was produced in a scripted format involving reenactments, i.e., a “true-crime entertainment media” production.

14. Defendant Phoenix Newspapers, Inc, DBA The Arizona Republic (hereafter “Phoenix Newspapers”) participated in the production of the Segment by agreeing to have its employee, Defendant Wagner, give on-screen interviews and readings of documents for Defendants NBCUniversal and Kurtis Productions. At all relevant times, Defendant Phoenix Newspapers is collectively responsible, and vicariously liable under an agency theory of liability, for all tortious acts committed by its employee, Defendant Wagner, because (1) Defendant Phoenix Newspapers allowed Defendant Wagner to give the on-screen interviews and readings from The Arizona Republic headquarters in Phoenix, AZ, (2) Defendant Wagner acted in his official capacity as an employee of Defendant Phoenix Newspapers while appearing in the Segment, and (3) Defendant Wagner is presented in the Segment as “Arizona Republic Reporter, Dennis Wagner” via both voice-over narration and chyron text overlay. At all relevant times, Defendant Phoenix Newspapers was and is a limited liability company organized and operating under the laws of the State of Arizona, with its principal place of business in Arizona. Defendant Phoenix Newspapers was not acting as a member of the news media while committing tortious acts against Plaintiff. Rather, it was participating in an entertainment media production being produced by Defendants NBCUniversal and Kurtis Productions. The Segment at issue covers events occurring eight (8) years prior to its first publication, and was produced in a scripted format involving reenactments, i.e., a “true-crime entertainment media” production.

IV. Facts Giving Rise to Claims

1. General Background

15. On approximately April 7, 2014, Plaintiff was convicted of a tax refund fraud scheme in the United States District Court for the District of Arizona (herebefore and hereafter the “tax refund fraud scheme”). Plaintiff pled guilty to Title 18, U.S.C. §371, Conspiracy, Title 18, U.S.C. §1343, Wire Fraud, and Title 18, U.S.C. §1341, Mail Fraud. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1137 (D.Ariz., Apr 7, 2014) (Factual Statement and Plea Agreement).

16. Prior to his conviction, Plaintiff and the United States government wrote a true set of facts detailing Plaintiff’s involvement and criminal activity in relation to the tax refund fraud scheme (hereafter the “Factual Statement”). *See id.*

17. Upon Plaintiff’s conviction, Plaintiff and the United States government signed the Factual Statement and presented it to the judge presiding over the case. The judge accepted the Factual Statement and allowed Plaintiff to plead guilty, thus concluding the case on April 7, 2014. The Factual Statement and plea agreement were then placed on the public record where it remains. *See id.*

18. At the conclusion of the case, Plaintiff was sentenced to sixty eight (68) months time-served and three (3) years probation (known as “supervised release” in the federal court system). *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1136 (D.Ariz., Apr 9, 2014) (Final Judgment). Plaintiff was released from custody at the courthouse the day of his conviction. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1134 (D.Ariz., Apr 8, 2014) (Order of Release noting time-served sentence).

19. Plaintiff did not serve any time in prison for his conviction. The entire sixty eight (68) months time-served was spent in pretrial confinement awaiting trial. *See id.* Plaintiff has never served prison time.

20. Plaintiff has paid full restitution of all losses suffered by the **single victim** of his tax refund fraud scheme. Plaintiff's paid restitution actually exceeded the total dollar loss claimed by the United States government. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1137 (D.Ariz., Apr 7, 2014) (Factual Statement and Plea Agreement).

21. After Plaintiff's release from pretrial custody on April 7, 2014, he began advising and assisting lawyers, journalists, and policy makers at the intersection of law and cellular surveillance technology. Plaintiff has interned at the American Civil Liberties Union of Northern California and has provided consulting to the American Civil Liberties Union of Washington State. Plaintiff assisted in drafting proposed cell phone surveillance oversight legislation in Washington State, which was signed into law after passing with full bipartisan support. Plaintiff has also been paid by the United States District Court under the Criminal Justice Act for criminal defense expert work.

22. In addition to his work as a cellular surveillance consultant, Plaintiff is a freelance web developer and computer programmer.

23. On January 8, 2016, Plaintiff filed a "Defendant's Motion for Early Termination of Supervised Release," in his federal criminal case. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1150 (D.Ariz., Jan 8, 2016). In his motion, Plaintiff requested that his three (3) year probation be terminated fifteen (15) months early. *See id.* Plaintiff's probation officer had no objection to the request and the United States Department of Justice (hereafter the "USDOJ") took no position. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1151 (D.Ariz., Jan 14, 2016) (Order Granting Early Termination). The judge presiding over Plaintiff's federal criminal case granted the motion and terminated Plaintiff's federal probation approximately 15 months

early. *See id.* Considering Plaintiff had not previously been convicted of any other felony, his full civil rights were automatically restored per Ariz. Rev. Stat. § 13-912.

24. Despite Defendants' claims, Plaintiff has never lived as a recluse. While Plaintiff made a conscious decision to not participate in the red-tape and bureaucratic formalities of society from approximately the age of 18 to to 28 years old, he was not an isolated, social recluse during that time period.^[2] Rather, Plaintiff subverted and traversed the social construct in an attempt to live in absolute freedom. Withdrawing from humanity—or becoming a recluse—would have been antithesis to Plaintiff's theory of living in absolute freedom. Plaintiff has always participated in humanity and has always led a social life.

25. From the time of Plaintiff's arrest on August 3, 2008 (more than a decade ago), Plaintiff has been an outstanding citizen. He has not even had so much as a parking ticket since the time of his release more than four (4) years ago. Plaintiff is remarkably rehabilitated. So much so that he has been trusted to assist in drafting legislation that law enforcement must follow while investigating suspected criminals and when searching for missing persons. Likewise, he has been appointed as a defense expert under the Criminal Justice Act (CJA) and paid by the United States District Court for his expert services.

26. On an unknown date prior to August 25, 2016, Defendant NBCUniversal hired Defendant Kurtis Productions to assist in the production of an episode of CNBC's *American Greed* titled, "Hack Me if You Can / Goodfella Gone Bad." In the "Hack Me if You Can" segment of the episode (herebefore "the Segment"), Defendants attempt to document and reenact the tax refund fraud scheme giving rise to the above mentioned federal criminal case, United States v. Rigmaiden, 2:08-cr-00814-DGC (D.Ariz.), of

2. For context, Plaintiff was 33 years old when released from pretrial detention, and is nearly 38 years old today. Furthermore, from the day of his release and continuing to this day, Plaintiff has participated in the red-tape, bureaucratic formalities of society, including filing this lawsuit.

which Plaintiff was a criminal defendant. In the Segment, Defendants refer to Plaintiff as “the hacker.”

27. Defendant NBCUniversal first aired the Segment on CNBC and elsewhere on August 25, 2016. The Segment contains numerous false claims about Plaintiff, giving rise to causes of action for defamation *per se*,^[3] defamation, defamation by implication *per se*, and defamation by implication.

28. Independent of the causes of action for defamation *per se*, defamation, defamation by implication *per se*, and defamation by implication, the false advertising of the Segment gives rise to a cause of action for a violation of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA).

29. Independent of the causes of action for defamation *per se*, defamation, defamation by implication *per se*, defamation by implication, and the violation of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA), Defendants NBCUniversal and Kurtis Productions' continual use of clips of the Segment (for nearly two (2) years after the Segment's first air date and counting) to advertise full episodes and complete seasons of *American Greed* as recent as and from season twelve (12) gives rise to a cause of action for violating Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08.

2. Facts giving rise to defamation, defamation *pe se*, defamation by implication, and defamation *per se* by implication.

30. In the Segment at approximate time marker^[4] 03:33 – 03:43 (Note: characterizing Plaintiff's background in the 1990s, prior to the tax refund fraud scheme), Defendants NBCUniversal and Kurtis Productions use voice-over narration to claim that

3. At all times in this complaint, the use of the word “defamation” and/or its extensions (i.e., defamation *per se*, defamation by implication, etc.) include libel, slander, and libel and slander.

4. All time markers are in MM:SS format and calculated without commercial time.

Plaintiff hijacked computers in the year nineteen ninety eight (1998) and used them to send spam:

Narrator: in nineteen ninety eight, internet posters accuse him of selling grossly overpriced beanie baby stuffed animals, and of hijacking their computers to spam others

31. Plaintiff did not hijack computers (an act commonly known as a felony) in the year 1998, whether for sending spam or otherwise. The internet posts characterized by Defendants NBCUniversal and Kurtis Productions either do not exist or contain false accusations that Defendants relied upon without verifying authenticity.

32. In the Segment at approximate time marker 04:00 – 04:08 (Note: characterizing Plaintiff's background in the 1990s, prior to the tax refund fraud scheme), Defendants NBCUniversal and Kurtis Productions use voice-over narration to claim that Plaintiff had been jailed for six (6) months for the crime of identity theft:

Narrator: ... he admits instead that he begins creating fake IDs and eventually he's jailed six months for identity theft

33. Plaintiff was never jailed for six (6) months for identity theft (an act commonly known as a felony). Plaintiff has never been charged with a crime having an element of manufacturing fake IDs, whether identity theft^[5] or otherwise. To the effect that Defendants NBCUniversal and Kurtis Productions meant to convey that Plaintiff admitted to being jailed for six months for identity theft, this is also false. Plaintiff has made no such admission.

5. Nearly a decade later, and unrelated to manufacturing fake IDs, Plaintiff was charged with identity theft in relation to the tax refund fraud scheme, but those charges were dropped by the USDOJ and Plaintiff served no time for identity theft.

34. In the Segment at approximate time marker 08:10 – 08:29, Defendants NBCUniversal and Kurtis Productions use voice-over narration to claim that Plaintiff and other people worked together to carry out the tax refund fraud scheme:

Narrator: so Rigmaiden reaches out anonymously on websites and in chat rooms looking for anyone in cyberspace willing to commit a felony crime with him

Narrator: no names are shared, no identities revealed, but Rigmaiden quickly builds a network of like minded accomplices to help him with his scheme

35. In the Segment at approximate time marker 05:35 – 05:51, Defendants NBCUniversal and Kurtis Productions use voice-over narration to claim that Plaintiff was spreading viruses and taking remote control of random computers to facilitate the tax refund fraud scheme:

Narrator: he conceals his actions using malware programs called bots

Narrator: these bots spread viruses that allow him to secretly and untraceably take remote control of random computers around the country

36. To facilitate the tax refund fraud scheme, Plaintiff was not using malware programs called bots, he was not spreading viruses, and he was not taking remote control of random computers (acts commonly known as felonies). Neither Plaintiff's indictment nor the Factual Statement contain any of these claims. The above falsehoods were never credibly attributed to Plaintiff in any way by the USDOJ or anyone else prior to the airing of the Segment.

37. In the Segment at approximate time marker 00:20 – 00:29, Defendants NBCUniversal and Kurtis Productions use on-screen comments made by IRS-CI Agent Denise Medrano (hereafter “Medrano”), and/or “jump cut”^[6] editing or other video editing on those comments, to claim that Plaintiff had been taking out innocent people and shooting at law enforcement:

Narrator: ... federal agents realize he wants money at any cost

Medrano: threats of shooting

Medrano: innocent people being taken out

Medrano: law enforcement being shot at

38. Plaintiff did not make threats of shooting (an act commonly known as a felony) during the course of the tax refund fraud scheme. Plaintiff was not charged with any violent offenses, whether threats, conspiracies, or actions, and the above falsehoods were never credibly attributed to Plaintiff in any way by the USDOJ, Medrano, or anyone else prior to the airing of the Segment.

39. Plaintiff did not take out innocent people or shoot at law enforcement (acts commonly known as felonies) during the course of the tax refund fraud scheme. Plaintiff was not charged with any violent offenses and the above falsehoods were never credibly attributed to Plaintiff in any way by the USDOJ, Medrano, or anyone else prior to the airing of the Segment.

40. In the Segment at approximate time marker 07:00 – 07:09, Defendants NBCUniversal and Kurtis Productions use voice-over narration and on-screen comments

6. “A jump cut is a cut in film editing in which two sequential shots of the same subject are taken from camera positions that vary only slightly if at all.” *See* https://en.wikipedia.org/wiki/Jump_cut (last accessed: Jan 16, 2018). Jump cut editing can be used to deceptively edit and rearrange an interview subject’s comments, so as to change the context and/or content of what the interview subject actually intended or stated.

made by Defendants Wagner and Phoenix Newspapers, and/or jump cut editing or other video editing on those comments, to claim that Plaintiff said he would do anything to get his cash, and that people might die at the hands of Plaintiff:

Narrator: the hacker says he'll do anything to get his cash

Wagner: if something went wrong, people might die

41. During the course of the tax refund fraud scheme, Plaintiff did not say that he would do anything to get his cash, whether killing people or otherwise, nor were people going to die at the hands of Plaintiff (an act commonly known as a felony). Plaintiff was not charged with any violent offenses, whether threats, conspiracies, or actions, and the above falsehoods were not credibly attributed to Plaintiff by the USDOJ or anyone else prior to the airing of the Segment.

42. In the Segment at approximate time marker 12:57 – 13:14, Defendants NBCUniversal and Kurtis Productions use voice-over narration and comments made by Defendants Wagner and Phoenix Newspapers, and/or jump cut editing or other video editing on those comments,^[7] to claim that Plaintiff was desperate and that if there was any surveillance or law enforcement, people were going to die at the FedEx office at the hands of Plaintiff:

Narrator: but he's also very clear, he's desperate and if anything goes wrong there will be hell to pay

Narrator: next on American Greed

Wagner: if there was any surveillance or law enforcement, people were going to die at the FedEx office

7. In this jump cut, Defendants use a distorted zoom effect, which acts to mask the editing.

43. Plaintiff did not place people's lives in danger during the course of the tax refund fraud scheme, whether at the FedEx office or otherwise, nor did he have a plan to make people die at the FedEx office (acts commonly known as felonies), whether due to the presence of surveillance, law enforcement, or otherwise. Plaintiff was not charged with any violent offenses, whether threats, conspiracies, or actions, and the above falsehoods were never credibly attributed to Plaintiff by the USDOJ or anyone else prior to the airing of the Segment.

44. In the Segment at approximate time marker 14:10 – 14:26, Defendants NBCUniversal and Kurtis Productions use footage of USPIS Agent James Wilson (hereafter "Wilson"), and/or video editing on that footage, wherein he states that an unidentified "he" conspired and/or planned to have a counter-surveillance team set up on him with assault weapons in preparation of a violent confrontation. Preceding this footage, Defendants have a narrator frame Wilson's statement as a summary of "email rants" written and sent by Plaintiff and that Plaintiff is willing to kill:

Narrator: the hacker's email rants have made it clear he's willing to kill if anything goes wrong

Wilson: he was going to have a counter-surveillance team set up on him with assault weapons, and he was specific that if anything was to happen there would be some kind of violent confrontation

45. Plaintiff did not write or send the emails referenced by Defendants NBCUniversal and Kurtis Productions. If sent at all, the noted "email rants" were written and sent by someone other than Plaintiff. Plaintiff was not willing to kill (an act commonly known as a felony) if anything went wrong. Plaintiff did not conspire and/or plot to have a counter-surveillance team set up on him with assault weapons (an act commonly known as a felony). Plaintiff was not charged with any violent offenses,

whether threats, conspiracies, or actions, and the above falsehoods were never credibly attributed to Plaintiff by the USDOJ or anyone else prior to the airing of the Segment. Furthermore, there never was a counter-surveillance team set up on Plaintiff with assault weapons, there never was a violent confrontation, and neither Plaintiff nor anyone else committed overt acts in support of a conspiracy or plan to set up a counter-surveillance team with assault weapons.

46. In the Segment at approximate time marker 14:55 – 15:33, Defendants NBCUniversal and Kurtis Productions use footage of Defendants Wagner and Phoenix Newspapers stating that an unidentified “he” had an idea to use drones for assassinations and missiles for delivering biological or chemical warfare. Preceding this footage, Defendants NBCUniversal and Kurtis Productions have a narrator frame Defendants Wagner and Phoenix Newspapers’ statement as a description of Plaintiff’s idea and paranoid threats of violence fueled by simmering anger:

Narrator: his simmering anger and paranoid threats of violence take a sudden and disturbing turn, says Arizona Republic reporter Dennis Wagner
Wagner: he had an idea for using drones to assassinate politicians, and then he also had an idea for using missiles to deliver biological or chemical warfare

47. Defendants NBCUniversal and Kurtis Productions also have Defendants Wagner and Phoenix Newspapers reading a quote of a purported email wherein the author states he/she can “can do things that will make all terrorist organizations look like sewing circles.” Preceding this footage, Defendants NBCUniversal and Kurtis Productions have a narrator frame the statement as coming from an email written and sent by Plaintiff:

Narrator: the hacker's emails suggest a man on the verge of cracking once and for all

Wagner: [reading a quote of a purported email] I'm probably the single biggest threat to the US government and they don't even know it. I can do things that will make all terrorist organizations look like sewing circles.

48. Plaintiff has never threatened to use nor had an idea, plan, or conspiracy to use, drones for assassinations, whether it be to target politicians or otherwise, or missiles for delivery of biological or chemical warfare (all acts commonly known as a felonies). Furthermore, Plaintiff did not have "simmering anger" during the course of the tax refund fraud scheme. The purported email read by Defendants Wagner and Phoenix Newspapers was neither written nor sent by Plaintiff. If sent at all, the noted email was written and sent by someone other than Plaintiff. Plaintiff was not charged with any violent offenses, whether threats, conspiracies, or actions, and the above falsehoods were never credibly attributed to Plaintiff by the USDOJ or anyone else prior to the airing of the Segment.

49. In United States v. Rigmaiden, 2:08-cr-00814-DGC (D.Ariz.), i.e., the case related to the tax refund fraud scheme and depicted in the Segment, Plaintiff was charged with fraud related offenses, but he was not charged with (1) making threats of violence, (2) writing and/or sending threatening emails, (3) acting on threats of violence, (4) planning or conspiring to commit acts of violence, or (5) terrorism related offenses.

50. Neither Plaintiff's indictment^[8] nor the Factual Statement agreed to by the government and Plaintiff at the conclusion of United States v. Rigmaiden, 2:08-cr-00814-

8. See United States v. Rigmaiden, 2:08-cr-00814-DGC, Document 200 (D.Ariz., Jan 27, 2010) (superseding indictment).

DGC (D.Ariz.) and incorporated into the plea agreement,^[9] contain the false and defamatory claims detailed in ¶¶ Nos. 30-48, *supra*.

51. Defendants were aware of Plaintiff's plea agreement. In the Segment at time marker 19:49, Defendants NBCUniversal and Kurtis Productions have a narrator state, "in 2014 Rigmaiden accepts a plea deal for his crimes and is sentenced to 6 years time served."^[10]

52. The indictment and Factual Statement both pre-existed publication of the Segment. Defendants failed to review and/or decided to ignore the information disclosed in the relevant pre-existing case documents prior to publication and continual dissemination of the Segment.

A. Facts subset relating to "the hacker" juxtaposition (still on giving rise to defamation *per se*, defamation, defamation by implication *per se*, and defamation by implication).

53. The term "hacker" has two distinct meanings: (1) "someone who is able to subvert computer security," and (2) "an adherent of the technology and programming subculture." *See* Definition of "Hacker," <https://en.wikipedia.org/wiki/Hacker> (last accessed: Aug 4, 2018).

54. An individual fitting the first definition of "hacker" can be either an illicit (aka "black hat") hacker or a non-illicit (aka "white hat") hacker. Black hat hackers "often steal, exploit, and sell data, and are usually motivated by personal gain." *Id.* (section on hacker types). White hat hackers "work to keep data safe from other hackers by finding system vulnerabilities that can be mitigated." *Id.*

9. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1137 (D.Ariz., Apr 7, 2014) (plea agreement).

10. Note that Plaintiff was not sentenced to six (6) years time-served. Rather, he was sentenced to approximately sixty eight (68) months time-served, or approximately five (5) years, eight (8) months.

55. “Today, mainstream usage of ‘hacker’ mostly refers to computer criminals, due to the mass media usage of the word since the 1980s.” *Id.* (introduction).

56. Felony and misdemeanor conduct meeting the definition of black hat computer hacking is codified under the Computer Fraud and Abuse Act (CFAA), 18 U.S.C. § 1030. Plaintiff was initially charged under the CFAA in relation to the tax refund fraud scheme, for conduct described as “knowingly and with intent to defraud access[ing] a protected computer used in interstate commerce and communication, without authorization from the computer's owner[.]”^[11]

57. The government’s charge under the CFAA was dropped, and Plaintiff was therefore not convicted of that charge.^[12]

58. Plaintiff did not use black hat computer hacking to steal money from the IRS. Plaintiff used computer software to automate the process of filing fraudulent tax returns and collecting the refunds. The IRS was not hacked by Plaintiff, and Plaintiff otherwise did not use black hat computer hacking to facilitate the tax refund fraud scheme.

59. Throughout the Segment, Defendants NBCUniversal and Kurtis Productions refer to Plaintiff as “the hacker” and juxtapose “hacker” with the overall narrative of Plaintiff filing fraudulent tax returns and otherwise defrauding the IRS. To this effect, Defendants imply a defamatory connection, i.e., that Plaintiff used felony, black hat computer hacking to defraud the IRS during the tax refund fraud scheme.

60. For example, at the very start of the Segment, at approximate time marker 00:04 – 00:11, Defendants NBCUniversal and Kurtis Productions use voice-over narration to setup the narrative as a “computer hacker” stealing money from the IRS

11. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 200 (D.Ariz., Jan 27, 2010) (superseding indictment).

12. *See United States v. Rigmaiden*, 2:08-cr-00814-DGC, Document 1136 (D.Ariz., Apr 9, 2014) (Final Judgment).

(notwithstanding the fact that Defendants fall short of an express claim that Plaintiff used hacking to commit the theft):

Narrator: for nearly four years a mysterious computer hacker quietly steals millions from the IRS

61. Thereafter, Defendants NBCUniversal and Kurtis Productions continue to refer to Plaintiff as “the hacker” during the Segment.

62. While referring to Plaintiff as “the hacker,” Defendants NBCUniversal and Kurtis Productions ignored, and otherwise failed to mention, that Plaintiff’s charge under the Computer Fraud and Abuse Act (CFAA) was dropped by the USDOJ and that Plaintiff was never convicted of hacking. To this effect, Defendants’ factual omission, in combination with continually referring to Plaintiff as “the hacker,” creates a defamatory implication, i.e., that Plaintiff used felony, black hat computer hacking to defraud the IRS during the tax refund fraud scheme.

63. The Factual Statement agreed to by the government and Plaintiff at the conclusion of United States v. Rigmaiden, 2:08-cr-00814-DGC (D.Ariz.) and incorporated into the plea agreement^[13] does not contain the false and defamatory claims detailed in ¶¶ Nos. 56-62, *supra*.

64. Defendants were aware of Plaintiff’s plea agreement. In the Segment at time marker 19:49, Defendants NBCUniversal and Kurtis Productions have a narrator state, “in 2014 Rigmaiden accepts a plea deal for his crimes and is sentenced to 6 years time served.”^[14]

13. See United States v. Rigmaiden, 2:08-cr-00814-DGC, Document 1137 (D.Ariz., Apr 7, 2014) (plea agreement).

14. Note that Plaintiff was not sentenced to six (6) years time-served. Rather, he was sentenced to approximately sixty eight (68) months time-served, or approximately five (5) years, eight (8) months.

65. The Factual Statement pre-existed publication of the Segment. Defendants failed to review and/or decided to ignore the information disclosed in the relevant pre-existing case document prior to publication and continual dissemination of the Segment.

3. Facts giving rise to violation of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA).

66. As recent as August 4, 2018, Defendants NBCUniversal and Kurtis Productions continue to falsely advertise the *American Greed* episode containing the Segment as depicting a true story based on in-depth reporting. For example, on the CNBC website Defendant NBCUniversal advertises the *American Greed* television series as depicting **true stories** based on **in-depth reporting**:

American Greed takes you deep inside shocking **true stories** of brazen con artists who thrive on stealing fortunes, ruining and even taking lives. **In-depth reporting** exposes the devastating effects greed...

CNBC, American Greed "About" Page, <https://www.cnbc.com/american-greed-about/> (last accessed: Aug 4, 2018) (emphasis added) (print-out at EXHIBIT 01).

67. The CNBC website and *American Greed* "About" page are accessible over the internet in Florida.

68. It is at least probable that consumers in Florida who purchase and have purchased *American Greed* episodes expect(ed) true stories based on in-depth reporting, as advertised by Defendant NBCUniversal.

69. Aside from the CNBC website, the entire premise of the *American Greed* series has always been to tell and reenact true-crime stories. It is at least probable that consumers in Florida who have seen the show and will purchase episodes of the show, including the episode containing the Segment, are convinced enough by Defendants NBCUniversal and Kurtis Productions' continual marketing and presentation of each

episode to believe that all past and future episodes in the series were/will tell and reenact true-crime stories.

70. Florida consumers who purchase and have purchased the episode of *American Greed* containing the Segment via on-demand services (i.e., Amazon Video Direct, YouTube, etc.) or other means receive(d) a falsely advertised product, i.e., an episode of *American Greed* containing false facts about Plaintiff and the tax refund fraud scheme.

71. On August 4, 2018, Plaintiff, a consumer under Florida's Deceptive and Unfair Trade Practices Act (FDUTPA), purchased the falsely advertised *American Greed* episode containing the Segment through Amazon Video Direct. Plaintiff paid \$2.99 for the episode. *See* Invoice, Aug 4, 2018 (EXHIBIT 02). Plaintiff believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions are or were compensated for the purchase.

4. Facts giving rise to violation of Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08.

72. Defendant NBCUniversal used and continues to use clips of the Segment in internet advertisements for the on-demand purchase of full episodes and complete seasons of *American Greed*. Some advertisements do not offer for purchase the season ten (10) episode of *American Greed* containing the Segment, and instead seek to sell entire seasons and single episodes of *American Greed* as recent as and from season twelve (12).

73. The most recent episode from season twelve (12) aired August 13, 2018. *See* CNBC, *American Greed*, "Operation Crook, Line and Stinker," Season 12 Episode 161 (first aired Aug 13, 2018), *available at* <http://www.cnbc.com/live-tv/american-greed/full-episode/operation-crook-line-and-stinker/1298627139942> (last accessed: Aug 19, 2018). In other words, nearly two (2) years after the original air date of the Segment

(August 25, 2016), Defendant NBCUniversal continues to use Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story to advertise new episodes of *American Greed* that don't depict Plaintiff

74. For example, Defendant NBCUniversal's YouTube based advertisement, published on its "CNBC Prime" YouTube channel, uses Plaintiff's name, image, photograph, identity, character, persona, likeness, and back story to advertise season twelve (12) of *American Greed* for \$12.99. See CNBC Prime YouTube channel, *American Greed* Season 12 advertisement, <https://www.youtube.com/watch?v=kAh5xwFosi4> (last accessed: Aug 9, 2018) (print-out at EXHIBIT 03).

75. Defendant NBCUniversal's YouTube based advertisement draws potential customers in with a seven (7) minute, thirty eight (38) second edited down version of the Segment. See *id.* While the video portion of the advertisement plays, the text portion of the advertisement reads, "Get full season 12 on YouTube," with a blue buy button that reads, "From \$12.99." See *id.* Clicking the buy button allows the potential customer to purchase season twelve (12) of *American Greed*.

76. Season twelve (12) of *American Greed* includes episodes about a man who murdered his family ("A thieving shopaholic son murders his family to cash in on the family's wealth"),^[15] a man stealing military valor ("Purple Heart veteran Darryl Wright claims he suffers debilitating PTSD from his service in Iraq, but his story is an elaborate scam"),^[16] a former prostitute who plots to murder her husband ("When a sexy former escort in Florida plots to take her husband's money and his life, her lover tips off the police"),^[17] and doctors who illegally prescribe opioid pain medication ("Two Doctors run their Alabama pain clinics like heartless pill mills—illegally prescribing opioids

15. CNBC, *American Greed*, "Blood Relatives/End of Life Scam," Season 12, Episode 157 (first aired Apr 9, 2018), available at <http://www.cnbc.com/live-tv/american-greed/full-episode/blood-relativesend-of-life-scam/1206702147868> (last accessed: Aug 19, 2018).

16. CNBC, *American Greed*, "Stolen Valor Scam," Season 12, Episode 155 (first aired Mar 26, 2018), available at <http://www.cnbc.com/live-tv/american-greed/full-episode/stolen-valor-scam/1195563075766> (last accessed: Aug 19, 2018).

while destroying lives and pocketing millions”),^[18] among other heinous crimes that have no relation to Plaintiff.

77. Plaintiff believes and thereupon alleges that discovery will show that additional advertisements exist and/or existed that use the Segment (containing Plaintiff’s name, image, photograph, identity, character, persona, likeness, and/or back story) to sell Defendant NBCUniversal’s products and services.

78. Plaintiff did not give consent to Defendant NBCUniversal to use his name, image, photograph, identity, character, persona, likeness, and/or back story for any advertising purposes—whether it be to advertise shows about murderers, former prostitutes, stolen valor, drug peddling doctors, or otherwise.

79. Plaintiff has not been compensated with royalties for the continuing, near two (2) year publicity, and he has not been compensated for the damages he has suffered from having his name, image, photograph, identity, character, persona, likeness, and/or back story associated with murderers, stolen valor, a former prostitute plotting murder, opioid drug peddling doctors, and the other heinous crimes depicted and told in the episodes of *American Greed* advertised by Defendant NBCUniversal using clips of the Segment.

17. CNBC, *American Greed*, “Murderous Plot Meets Reality TV,” Season 12, Episode 153 (first aired Mar 12, 2018), *available at* <http://www.cnbc.com/live-tv/american-greed/full-episode/murderous-plot-meets-reality-tv/1184108099848> (last accessed: Aug 19, 2018).

18. CNBC, *American Greed*, “Deadly Opioids, Dirty Doctors,” Season 12, Episode 152 (first aired Mar 5, 2018), *available at* <http://www.cnbc.com/live-tv/american-greed/full-episode/deadly-opioids-dirty-doctors/1177924675695> (last accessed: Aug 19, 2018).

V. Causes of Action

1. **First Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).**

80. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

81. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration to falsely claim that Plaintiff hijacked computers in the year nineteen ninety eight (1998), and used them to send spam. *See* ¶¶ Nos. 30-31, *supra* (quoting precise defamatory statements/claims).

82. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed an infamous crime commonly known as a felony, that being, the act of hijacking computers.

83. Hijacking computers, hijacking computers to spam others, and spamming others, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

84. Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff hijacked computers, hijacked computers to spam others, and spammed others, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

85. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff hijacked computers, hijacked computers to spam others, and spammed others, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

86. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff hijacked computers, hijacked computers to spam others, and spammed others, Plaintiff has been damaged and will be damaged in an amount subject to proof.

87. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Relying on nearly eighteen (18) year old internet posts (if they even exist) to falsely claim that Plaintiff hijacked computers to spam others, without verifying those claims with evidence or contacting the alleged accusers, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

88. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

2. Second Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

89. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

90. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration to falsely claim that Plaintiff had been jailed for six (6) months for the crime of identity theft. See ¶¶ Nos. 32-33, *supra* (quoting precise defamatory statements/claims).

91. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed an infamous crime commonly known as a felony, that being, the act of identity theft.

92. The crime of identity theft, and being jailed for six (6) months for the crime of identity theft, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

93. Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff committed the crime of identity theft, and had been jailed for six (6) months for the crime of identity theft, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

94. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff committed the crime of identity theft, and had been jailed for six (6) months for the crime of identity theft, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

95. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claims that Plaintiff committed the crime of identity theft, and had been jailed for six (6) months for the crime of identity theft, Plaintiff has been damaged and will be damaged in an amount subject to proof.

96. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Plaintiff's criminal history, which is publicly available, shows no convictions for identity theft and no jail or prison time served for identity theft (whether six (6) months or otherwise). Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in Plaintiff's publicly available criminal history, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants

NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

97. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

3. Third Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

98. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

99. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration to falsely claim that Plaintiff *admitted* to being jailed for six (6) months for the crime of identity theft. *See* ¶¶ Nos. 32-33, *supra* (quoting precise defamatory statements/claims).

100. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff admitted to committing an infamous crime commonly known as a felony, that being, the act of identity theft.

101. Admitting to the crime of identity theft, and admitting to being jailed for six (6) months for the crime of identity theft, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

102. Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff admitted to the crime of identity theft, and admitted to being jailed for six (6) months for

the crime of identity theft, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

103. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff admitted to the crime of identity theft, and admitted to being jailed for six (6) months for the crime of identity theft, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

104. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff admitted to the crime of identity theft, and admitted to being jailed for six (6) months for the crime of identity theft, Plaintiff has been damaged and will be damaged in an amount subject to proof.

105. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Plaintiff has never admitted to committing identity theft or serving six (6) months for identity theft, and his publicly available criminal history shows no convictions for identity theft and no jail or prison time served for identity theft (whether six (6) months or otherwise). Defendants NBCUniversal and Kurtis Productions having no record of Plaintiff making the claimed admissions, and their failure to review and/or decision to ignore the information disclosed in Plaintiff's publicly available criminal history, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

106. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich

Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

4. Fourth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

107. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

108. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration to falsely claim that Plaintiff was spreading viruses and taking remote control of random computers to facilitate the tax refund fraud scheme. See ¶¶ Nos. 35-36, *supra* (quoting precise defamatory statements/claims).

109. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed infamous crimes commonly known as a felonies, that being, the acts of spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, all chargeable under the Computer Fraud and Abuse Act (CFAA) and other criminal statutes.

110. Spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

111. Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

112. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

113. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, Plaintiff has been damaged and will be damaged in an amount subject to proof.

114. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

115. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

116. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment. With respect to the Computer Fraud and Abuse Act (CFAA) charge in Plaintiff's indictment, it was dropped by the USDOJ more than two (2) years

before the Segment first aired, and in any event, it did not even allege Defendants' defamatory claims.

117. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

5. Fifth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

118. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

119. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using use on-screen comments made by Medrano to claim that Plaintiff had been taking out innocent people and shooting at law enforcement. *See* ¶¶ Nos. 37-39, *supra* (quoting precise defamatory statements/claims).

120. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed infamous crimes commonly known as a felonies, that being, the acts of murder (taking out innocent people) and attempted murder (shooting at law enforcement).

121. Murder (or otherwise taking out innocent people) and attempted murder (or otherwise shooting at law enforcement), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

122. Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff committed murder (or otherwise took out innocent people) and committed attempted

murder (or otherwise shot at law enforcement), each separately and together, injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

123. As a direct and proximate result Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff committed murder (or otherwise took out innocent people) and committed attempted murder (or otherwise shot at law enforcement), Plaintiff has suffered actual damages, including injury to his reputation in both his personal and professional life, personal humiliation, embarrassment, mental anguish and suffering, and emotional distress.

124. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff committed murder (or otherwise took out innocent people) and committed attempted murder (or otherwise shot at law enforcement), Plaintiff has been damaged and will be damaged in an amount subject to proof.

125. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

126. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Medrano's comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

127. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially

capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

6. Sixth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

128. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

129. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using use on-screen comments made by Medrano to claim that Plaintiff had made threats of shooting. See ¶¶ Nos. 37-39, *supra* (quoting precise defamatory statements/claims).

130. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed an infamous crimes commonly known as a felonies, that being, making threats of shooting.

131. Making threats of shooting amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

132. Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff made threats of shooting injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

133. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff made threats of shooting, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

134. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff made threats of shooting, Plaintiff has been damaged and will be damaged in an amount subject to proof.

135. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

136. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Medrano's comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

137. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

7. Seventh Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

138. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

139. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff said that he would do anything to get his cash, including killing people, and that Plaintiff is *capable* of killing people, that being, “people might die” at the hands of Plaintiff. See ¶¶ Nos. 40-41, *supra* (quoting precise defamatory statements/claims).

140. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers falsely claimed that Plaintiff committed an infamous crime commonly known as a felony, that being, making a threat to kill people. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers supported their false claim by further falsely claiming that Plaintiff is *capable* of killing people, that being, “people might die” at the hands of Plaintiff.

141. Making a threat to kill people, and being capable of acting on that threat, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff’s business, trade, and profession.

142. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff made a threat to kill people, and is capable of acting on that threat, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

143. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff made a threat to kill people, and is capable of acting on that threat, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

144. As a direct and proximate result of the Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claim that Plaintiff made a threat to kill people, and is capable of acting on that threat, Plaintiff has been damaged and will be damaged in an amount subject to proof.

145. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

146. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Defendants Wagner and Phoenix Newspapers' comments using the pre-existing case documents otherwise, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

147. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff's rights.

8. Eighth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

148. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

149. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff was desperate, had placed people's lives in danger at a FedEx office, and that if there was any surveillance or law enforcement, people were going to die at the desperate hands of Plaintiff. *See* ¶¶ Nos. 42-43, *supra* (quoting precise defamatory statements/claims).

150. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers falsely claimed that Plaintiff committed an infamous crime commonly known as a felony, that being, conspiracy to commit murder. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers falsely claimed, in the absolute, that "there would be hell to pay" and that if there was any surveillance or law enforcement present at a FedEx office, "people were going to die" at the desperate hands of Plaintiff.

151. Conspiring to commit murder, making people pay hell, and making people die, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

152. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claim that Plaintiff conspired to commit murder, and the claims that "there would be hell to pay" and that "people were going to die" at the desperate hands of

Plaintiff, each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

153. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claims that Plaintiff conspired to commit murder, that "there would be hell to pay[,]” and that "people were going to die[,]” Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

154. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claims that Plaintiff conspired to commit murder, that "there would be hell to pay[,]” and that "people were going to die[,]” Plaintiff has been damaged and will be damaged in an amount subject to proof.

155. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

156. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Defendants Wagner and Phoenix Newspapers' comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

157. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted

with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff's rights.

9. Ninth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal and Kurtis Productions).

158. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

159. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using use voice-over narration and on-screen comments made by Wilson to claim that Plaintiff was “willing to kill” and planned and/or conspired to have a counter-surveillance team set up on him with assault weapons in preparation of a violent confrontation. *See* ¶¶ Nos. 44-45, *supra* (quoting precise defamatory statements/claims).

160. Defendants NBCUniversal and Kurtis Productions falsely claimed that Plaintiff committed infamous crimes commonly known as a felonies, that being, conspiracy to commit assault with a dangerous weapon and conspiracy to commit murder.

161. Conspiring to commit assault with a dangerous weapon, and/or planning to commit assault with a dangerous weapon (or otherwise being “willing to kill” and assembling a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspiring to commit murder, and/or planning to commit murder (or otherwise being “willing to kill” and assembling a counter-surveillance team with assault weapons in preparation of a violent confrontation), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

162. Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

163. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

164. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' false claim that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), Plaintiff has been damaged and will be damaged in an amount subject to proof.

165. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

166. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Wilson's comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

167. Defendants NBCUniversal and Kurtis Productions' decision to ignore or otherwise failure to include in the Segment that there never was a counter-surveillance team set up on Plaintiff with assault weapons, and that neither Plaintiff nor anyone else committed overt acts in support of a conspiracy to set up a counter-surveillance team with assault weapons, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

168. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

10. Tenth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

169. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

170. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff had threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare during a bout of “simmering anger.” See ¶¶ Nos. 46-48, *supra* (quoting precise defamatory statements/claims).

171. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers falsely claimed that Plaintiff committed infamous crimes commonly known as a felonies, that being, threatening to commit acts of terrorism, threatening to commit murder, and threatening to assassinate politicians.

172. Threatening to commit acts of terrorism, threatening to commit murder, and threatening to assassinate politicians, (or otherwise threatening to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff’s business, trade, and profession.

173. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians, (or otherwise threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical

warfare), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

174. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claim that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians, (or otherwise threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

175. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' false claim that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians, (or otherwise threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), Plaintiff has been damaged and will be damaged in an amount subject to proof.

176. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

177. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Defendants Wagner and Phoenix Newspapers' comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal, Kurtis Productions,

Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

178. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff's rights.

11. Eleventh Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

179. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

180. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* (via libel and slander) and, in the alternative, defamation (via libel and slander) against Plaintiff by using voice-over narration made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff conspired to use and/or had an idea to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare, with a threat to carry out the plan as an overt act in support of the conspiracy. *See* ¶¶ Nos. 46-48, *supra* (quoting precise defamatory statements/claims).

181. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers falsely claimed that Plaintiff committed infamous crimes commonly known as a felonies, that being, conspiracy to commit acts of terrorism, conspiracy to commit murder, and conspiracy to assassinate politicians.

182. Conspiring to commit acts of terrorism, conspiring to commit murder, and conspiring to assassinate politicians (or otherwise having an “idea” to use, and making “paranoid threats” to use, drones for assassinations of politicians and missiles for delivering biological or chemical warfare), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff’s business, trade, and profession.

183. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff conspired to commit acts of terrorism, conspired to commit murder, and conspired to assassinate politicians (or otherwise had an “idea” to use, and made “paranoid threats” to use, drones for assassinations of politicians and missiles for delivering biological or chemical warfare), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

184. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff conspired to commit acts of terrorism, conspired to commit murder, and conspired to assassinate politicians (or otherwise had an “idea” to use, and made “paranoid threats” to use, drones for assassinations of politicians and missiles for delivering biological or chemical warfare), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

185. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff conspired to commit acts of terrorism, conspired to commit murder, and conspired to assassinate politicians (or otherwise had an “idea” to use, and made “paranoid threats” to use, drones for assassinations of politicians and missiles for delivering biological or chemical warfare), Plaintiff has been damaged and will be damaged in an amount subject to proof.

186. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

187. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Defendants Wagner and Phoenix Newspapers' comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

188. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff's rights.

12. Twelfth Cause of Action (Defamation *per se* and Defamation Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

189. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

190. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* (via libel and slander) and, in the alternative,

defamation (via libel and slander) against Plaintiff by using voice-over narration made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff stated that he is “probably the single biggest threat to the US government and they don’t even know it[,]” and stated that he “can do things that will make all terrorist organizations look like sewing circles.” *See* ¶¶ Nos. 46-48, *supra* (quoting precise defamatory statements/claims).

191. Being probably the single biggest threat to the US government, and being capable of doing things that will make all terrorist organizations look like sewing circles, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff’s business, trade, and profession.

192. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff stated he is “probably the single biggest threat to the US government and they don’t even know it[,]” and that he “can do things that will make all terrorist organizations look like sewing circles[,]” each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

193. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff stated he is “probably the single biggest threat to the US government and they don’t even know it[,]” and that he “can do things that will make all terrorist organizations look like sewing circles[,]” Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

194. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ false claim that Plaintiff stated he is “probably the single biggest threat to the US government and they don’t even know it[,]”

and that he “can do things that will make all terrorist organizations look like sewing circles[,]” Plaintiff has been damaged and will be damaged in an amount subject to proof.

195. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff’s indictment nor the Factual Statement (attached to Plaintiff’s plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment.

196. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, and their failure to conduct basic fact checking on Defendants Wagner and Phoenix Newspapers’ comments using the pre-existing case documents or otherwise, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers’ actual knowledge of falsity and/or reckless disregard for the truth.

197. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff’s rights.

13. Thirteenth Cause of Action (Defamation *per se* by Implication and Defamation by Implication Against Defendants NBCUniversal and Kurtis Productions).

198. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

199. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* by implication (via libel and slander) and, in the alternative, defamation by implication (via libel and slander) against Plaintiff by using voice-over narration to falsely claim that Plaintiff was spreading viruses and taking remote control of random computers to facilitate the tax refund fraud scheme. See ¶¶ Nos. 35-36, *supra* (quoting precise defamatory statements/claims).

200. Defendants NBCUniversal and Kurtis Productions ignored, and otherwise failed to mention, that Plaintiff's charge under the Computer Fraud and Abuse Act (CFAA) was dropped by the USDOJ and that Plaintiff was never convicted of that charge. Furthermore, Defendants NBCUniversal and Kurtis Productions ignored, and otherwise failed to mention, that the aforementioned charge had merely alleged that Plaintiff *accessed a protected computer without authorization* from the computer's owner. To this effect, Defendants' factual omissions creates a defamatory implication, that being, Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers.

201. Defendants NBCUniversal and Kurtis Productions created the defamatory implication that Plaintiff committed infamous crimes commonly known as a felonies, that being, the acts of spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, all chargeable under the Computer Fraud and Abuse Act (CFAA) and other criminal statutes.

202. Spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

203. Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, each separately and together

injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

204. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

205. Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff was spreading viruses, spreading viruses to take remote control of random computers, and taking remote control of random computers, Plaintiff has been damaged and will be damaged in an amount subject to proof.

206. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment. With respect to the Computer Fraud and Abuse Act (CFAA) charge in Plaintiff's indictment, it was dropped by the USDOJ more than two (2) years before the Segment first aired, and in any event, it did not even allege Defendants' defamatory claims.

207. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

208. Defendants NBCUniversal and Kurtis Productions' decision to ignore or otherwise failure to include in the Segment that Plaintiff's charge in his indictment under

the Computer Fraud and Abuse Act (CFAA) was dropped by the USDOJ constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

209. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

14. Fourteenth Cause of Action (Defamation *per se* by Implication and Defamation by Implication Against Defendants NBCUniversal and Kurtis Productions).

210. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

211. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* by implication (via libel and slander) and, in the alternative, defamation by implication (via libel and slander) against Plaintiff by using on-screen comments made by Medrano to claim that Plaintiff had been taking out innocent people and shooting at law enforcement. *See* ¶¶ Nos. 37-39, *supra* (quoting precise defamatory statements/claims).

212. Defendants NBCUniversal and Kurtis Productions ignored or otherwise failed to include Medrano's full on-screen comments, which Plaintiff believes and thereupon alleges do not communicate that Plaintiff had been taking out innocent people and shooting at law enforcement. To create the false and defamatory narrative, Defendants NBCUniversal and Kurtis Productions used video editing to change the context, overall content, and presentation of Medrano's comments. To this effect, Defendants' factual omission creates a defamatory implication, that being, Plaintiff

committed murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement).

213. Defendants NBCUniversal and Kurtis Productions created the defamatory implication that Plaintiff committed infamous crimes commonly known as a felonies, that being, the acts of murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement).

214. Murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

215. Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff committed murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

216. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff committed murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

217. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff committed murder (and other crimes resulting from taking out innocent people) and attempted murder (and other crimes resulting from shooting at law enforcement), Plaintiff has been damaged and will be damaged in an amount subject to proof.

218. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment. Furthermore, Plaintiff believes and thereupon alleges that the unedited version of Medrano's comments do not communicate Defendants' defamatory implication, and that Defendants were responsible for the deceptive video editing.

219. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

220. Defendants NBCUniversal and Kurtis Productions' deceptive video editing of Medrano's comments constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

221. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

15. Fifteenth Cause of Action (Defamation *per se* by Implication and Defamation by Implication Against Defendants NBCUniversal and Kurtis Productions).

222. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

223. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* by implication (via libel and slander) and, in the alternative, defamation by implication (via libel and slander) against Plaintiff by using a juxtaposed voice-over narration lead-in and on-screen comments made by Wilson to claim that Plaintiff was willing to kill and conspired and/or planned to have a counter-surveillance team set up on him with assault weapons in preparation of a violent confrontation. *See* ¶¶ Nos. 44-45, *supra* (quoting precise defamatory statements/claims).

224. Defendants NBCUniversal and Kurtis Productions ignored or otherwise failed to include Wilson's full on-screen comments, which Plaintiff believes and thereupon alleges do not communicate that Plaintiff was willing to kill and conspired and/or planned to have a counter-surveillance team set up on him with assault weapons in preparation of a violent confrontation. To create the false and defamatory narrative, Defendants NBCUniversal and Kurtis Productions used video editing and a juxtaposed voice-over narration lead-in (stating Plaintiff was "willing to kill") to change the context, overall content, and presentation of Wilson's comments. To this effect, Defendants' factual omission and juxtaposition creates a defamatory implication, that being, Plaintiff and others involved in the tax refund fraud scheme conspired and/or planned to commit assault with a dangerous weapon and conspired and/or planned to commit murder.

225. Defendants NBCUniversal and Kurtis Productions ignored or otherwise failed to include in the Segment that there never was a counter-surveillance team set up on Plaintiff with assault weapons, and that neither Plaintiff nor anyone else committed overt acts in support of a conspiracy to set up a counter-surveillance team with assault weapons. To this effect, Defendants' factual omission creates a defamatory implication, that being, Plaintiff and others involved in the tax refund fraud scheme conspired and/or planned to commit assault with a dangerous weapon and conspired and/or planned to commit murder.

226. Defendants NBCUniversal and Kurtis Productions created the defamatory implication that Plaintiff committed infamous crimes commonly known as felonies, that being, conspiracy to commit assault with a dangerous weapon and conspiracy to commit murder.

227. Conspiring to commit assault with a dangerous weapon, and/or planning to commit assault with a dangerous weapon (or otherwise being “willing to kill” and assembling a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspiring to commit murder, and/or planning to commit murder (or otherwise being “willing to kill” and assembling a counter-surveillance team with assault weapons in preparation of a violent confrontation), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff’s business, trade, and profession.

228. Defendants NBCUniversal and Kurtis Productions’ defamatory implication that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was “willing to kill” and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was “willing to kill” and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

229. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions’ defamatory implication that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was “willing to kill” and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was “willing to kill” and assembled a

counter-surveillance team with assault weapons in preparation of a violent confrontation), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

230. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff conspired to commit assault with a dangerous weapon, and/or planned to commit assault with a dangerous weapon (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), and conspired to commit murder, and/or planned to commit murder (or otherwise was "willing to kill" and assembled a counter-surveillance team with assault weapons in preparation of a violent confrontation), Plaintiff has been damaged and will be damaged in an amount subject to proof.

231. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment. Furthermore, Plaintiff believes and thereupon alleges that the unedited version of Wilson's comments do not communicate or support Defendants' defamatory implication, and that Defendants were responsible for the deceptive video editing.

232. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

233. Defendants NBCUniversal and Kurtis Productions' decision to ignore or otherwise failure to include in the Segment that there never was a counter-surveillance

team set up on Plaintiff with assault weapons, and that Plaintiff otherwise committed no overt acts and took no steps towards setting up a counter-surveillance team with assault weapons, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

234. Defendants NBCUniversal and Kurtis Productions' deceptive video editing of Wilson's comments constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

235. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

16. Sixteenth Cause of Action (Defamation *per se* by Implication and Defamation by Implication Against Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers).

236. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

237. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers engaged in defamation *per se* by implication (via libel and slander) and, in the alternative, defamation by implication (via libel and slander) against Plaintiff by using a juxtaposed voice-over narration lead-in made by Defendants NBCUniversal and Kurtis Productions and on-screen comments made by Wagner and Phoenix Newspapers to claim that Plaintiff had *threatened* to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare during a bout of "simmering anger." See ¶¶ Nos. 46-48, *supra* (quoting precise defamatory statements/claims).

238. Defendants NBCUniversal and Kurtis Productions ignored or otherwise failed to include Defendants Wagner and Phoenix newspapers' full on-screen comments, which Plaintiff believes and thereupon alleges do not communicate that Plaintiff had *threatened* to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare. To create the false and defamatory narrative that Plaintiff made a *threat* to carry out the noted plan, Defendants NBCUniversal and Kurtis Productions used video editing on Defendants Wagner and Phoenix Newspapers' comments, and a juxtaposed voice-over narration lead-in stating that Plaintiff's "simmering anger" and "paranoid threats of violence take a sudden and disturbing turn, says Arizona Republic reporter Dennis Wagner." To this effect, Defendants' factual omission and juxtaposition imply a defamatory connection and creates a defamatory implication, that being, Plaintiff *threatened* to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare.

239. Defendants NBCUniversal and Kurtis Productions ignored or otherwise failed to include in the Segment relevant content, context, and presentation of the email relied upon by Defendants Wagner and Phoenix Newspapers, which Plaintiff believes and thereupon alleges does not contain any actual threats to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare. Rather, Plaintiff believes and thereupon alleges that the content, context, and presentation of the email communicates a hypothetical civil war scenario that may result if the United States were overthrown by hypothetical unknown third parties at some unknown future date. To this effect, Defendants' factual omission creates a defamatory implication, that being, Plaintiff made an actual threat to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare.

240. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers created the defamatory implication that Plaintiff committed infamous crimes

commonly known as a felonies, that being, threatening to commit acts of terrorism, threatening to commit murder, and threatening to assassinate politicians.

241. Threatening to commit acts of terrorism, threatening to commit murder, and threatening to assassinate politicians (or otherwise threatening to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), each separately and together amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

242. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' defamatory implication that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians (or otherwise threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), each separately and together injure Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

243. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' defamatory implication that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians (or otherwise threatened to use drones for assassinations of politicians and missiles for delivering biological or chemical warfare), Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

244. As a direct and proximate result of Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' defamatory implication that Plaintiff threatened to commit acts of terrorism, threatened to commit murder, and threatened to assassinate politicians (or otherwise threatened to use drones for assassinations of

politicians and missiles for delivering biological or chemical warfare), Plaintiff has been damaged and will be damaged in an amount subject to proof.

245. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers knew or should have known that their depiction of and claims about Plaintiff were false. Neither Plaintiff's indictment nor the Factual Statement (attached to Plaintiff's plea agreement) contain the aforementioned false claims. The indictment and Factual Statement both pre-existed publication of the Segment. Furthermore, Plaintiff believes and thereupon alleges that the unedited version of Defendant Wagner and Phoenix Newspapers' comments do not communicate or support Defendants' defamatory implication, and that Defendants NBCUniversal and Kurtis Productions were responsible for the deceptive video editing and deceptive juxtaposed voice-over narration lead-in.

246. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the information disclosed in the above identified pre-existing case documents, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

247. Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' failure to review and/or decision to ignore the relevant content, context, and presentation of the email relied upon by Defendants Wagner and Phoenix Newspapers, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers' actual knowledge of falsity and/or reckless disregard for the truth.

248. Defendants NBCUniversal and Kurtis Productions' deceptive video editing of and lead-in narration describing Defendant Wagner and Phoenix Newspapers' comments constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

249. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal, Kurtis Productions, Wagner, and Phoenix Newspapers in conscious disregard of Plaintiff's rights.

17. Seventeenth Cause of Action (Defamation *per se* by Implication and Defamation by Implication Against Defendants NBCUniversal and Kurtis Productions).

250. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-65 listed above.

251. Defendants NBCUniversal and Kurtis Productions engaged in defamation *per se* by implication (via libel and slander) and, in the alternative, defamation by implication (via libel and slander) against Plaintiff by creating the defamatory implication that Plaintiff used felony, black hat computer hacking to further the tax refund fraud scheme. *See* ¶¶ Nos. 53-65, *supra*.

252. Defendants NBCUniversal and Kurtis Productions ignored, and otherwise failed to mention, in the Segment that Plaintiff's charge under the Computer Fraud and Abuse Act (CFAA) was dropped by the USDOJ, and that Plaintiff was never convicted of that charge. Defendants NBCUniversal and Kurtis Productions also used juxtaposed voice-over narration to continually refer to Plaintiff as "the hacker." To this effect, Defendants' factual omission, in combination with the juxtaposition of continually referring to Plaintiff as "the hacker," creates a defamatory implication, that being, Plaintiff engaged in felony, black hat computer hacking to further the tax refund fraud scheme.

253. Defendants NBCUniversal and Kurtis Productions created the defamatory implication that Plaintiff committed infamous crimes commonly known as felonies, that being, using black hat computer hacking to further the tax refund fraud scheme, which is chargeable under the Computer Fraud and Abuse Act (CFAA) and other criminal statutes.

254. Using black hat computer hacking to further a tax refund fraud scheme amounts to conduct incompatible with the proper exercise of Plaintiff's business, trade, and profession.

255. Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff used black hat computer hacking to further the tax refund fraud scheme injures Plaintiff in his business, trade and profession, and subjects him to hatred, distrust, ridicule, contempt and disgrace.

256. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff used black hat computer hacking to further the tax refund fraud scheme, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

257. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions' defamatory implication that Plaintiff used black hat computer hacking to further the tax refund fraud scheme, Plaintiff has been damaged and will be damaged in an amount subject to proof.

258. Defendants NBCUniversal and Kurtis Productions knew or should have known that their depiction of and claims about Plaintiff were false. The Factual Statement (attached to Plaintiff's plea agreement) does not contain the aforementioned false claims. The Factual Statement pre-existed publication of the Segment. Furthermore, the charge in Plaintiff's indictment under the CFAA was dropped by the USDOJ prior to production and airing of the Segment.

259. Defendants NBCUniversal and Kurtis Productions' failure to review and/or decision to ignore the information disclosed in the pre-existing Factual Statement, both prior to publication and during the continual dissemination of the Segment, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

260. Defendants NBCUniversal and Kurtis Productions' decision to ignore or otherwise failure to include in the Segment that Plaintiff's charge under the Computer Fraud and Abuse Act (CFAA) was dropped by the USDOJ, constitutes Defendants NBCUniversal and Kurtis Productions' actual knowledge of falsity and/or reckless disregard for the truth.

261. Therefore, Plaintiff is informed and believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions acted with actual malice for the purpose of increasing viewership and ratings for the Segment calculated to financially capitalize therefrom, garner publicity throughout the world, and to unjustly enrich Defendants NBCUniversal and Kurtis Productions in conscious disregard of Plaintiff's rights.

18. Eighteenth Cause of Action (Violation of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) Against Defendants NBCUniversal and Kurtis Productions).

262. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-71 listed above.

263. Because Defendants NBCUniversal and Kurtis Productions advertises the *American Greed* series as depicting and reenacting true stories using in-depth reporting, and because the objectively understood premise of the series is to depict and reenact true-crime stories, Defendants NBCUniversal and Kurtis Productions violated and continue to violate Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) by selling to

Florida consumers the episode of *American Greed* containing the Segment. See ¶¶ Nos. 66-71, *supra*.

264. Florida consumers acting reasonably under the circumstances (the class relevant to Plaintiff's request for class certification) who purchased and will purchase the episode of *American Greed* containing the Segment receive(d) a falsely advertised and otherwise deceptively presented product, that being, an episode of *American Greed* containing false facts about Plaintiff and the tax refund fraud scheme.

265. Plaintiff, a consumer in Florida and member of the class, purchased a digital copy of the episode of *American Greed* containing the Segment for \$2.99 on Amazon Video Direct. Therefore, Plaintiff suffered an actual loss of \$2.99 as a result of Defendants NBCUniversal and Kurtis Productions violating Florida's Deceptive and Unfair Trade Practices Act (FDUTPA). Plaintiff believes and thereupon alleges that Defendants NBCUniversal and Kurtis Productions are or were compensated for the purchase.

A. Class Representation Allegations (Violation of Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) Against Defendants NBCUniversal and Kurtis Productions).

266. Plaintiff's claim under Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) is maintainable on behalf of the class because "the party opposing the class has acted... on grounds generally applicable to all the members of the class, thereby making final injunctive relief or declaratory relief concerning the class as a whole appropriate[.]" Fla. R. Civ. P. 1.220(b)(1).

267. The questions of fact that are common to the claim of Plaintiff and each class member are (1) whether the Segment contains false facts about Plaintiff and the tax refund fraud scheme; (2) whether Defendants NBCUniversal and Kurtis Productions are

or were falsely advertising and/or presenting the *American Greed* episode containing the Segment as depicting a true story based on in-depth reporting; and (3) whether Defendants NBCUniversal and Kurtis Productions sold the *American Greed* episode containing the Segment to Plaintiff and each class member. The questions of law that are common to the claim of Plaintiff and each class member are whether Defendants NBCUniversal and Kurtis Productions violated Florida's Deceptive and Unfair Trade Practices Act (FDUTPA).

268. The particular facts and circumstances showing the claim advanced by Plaintiff is typical of the claim of each class member are: (1) he/she was misled by Defendants NBCUniversal and Kurtis Productions' false advertising and presentation of the Segment as depicting and telling a true-crime story; and (2) he/she suffered an actual monetary loss by purchasing the *American Greed* episode containing the Segment, considering he/she expected to receive or view a true-crime story, as opposed to the fabricated story depicted in the Segment.

269. The approximate number of class members is currently unknown, but will be revealed through pending requests for production. It is within the Court's discretion to delay determining whether the claim is maintainable on behalf of the class until after the needed discovery is produced. *See* Fla. R. Civ. P. 1.220(d)(1). The definition of the class is as follows: all Florida consumers who purchased or otherwise paid to view or download the *American Greed* episode containing the Segment. Plaintiff will fairly and adequately protect and represent the interests of each member of the class considering he expects to retain an attorney to prosecute this case after the pleading stage, notwithstanding the fact that Plaintiff is capable of prosecuting a class action himself. It is within the Court's discretion to issue a conditional order, requiring that Plaintiff retain an attorney in order for the claim to be maintainable on behalf of the class. *See* Fla. R. Civ. P. 1.220(d)(1).

270. The particular facts and circumstances that support the conclusions required of the Court in determining that the action may be maintained as a class action are as

follows: NBCUniversal and Kurtis Productions are advertising the *American Greed* episode containing the Segment to Florida consumers and those consumers are purchasing the episode. This series of events is common to all members of the class.

19. Nineteenth Cause of Action (Violation of Florida Common Law Right of Publicity and rights under Fla. Stat. § 540.08 Against Defendants NBCUniversal and Kurtis Productions).

271. Plaintiff re-alleges and incorporates by reference into this section paragraphs Nos. 1-79 listed above.

272. Defendant NBCUniversal used and continues to use clips of the Segment in internet advertisements for the on-demand purchase of full episodes and complete seasons of *American Greed* that depict murderers, stolen valor, a former prostitute plotting murder, opioid drug peddling doctors, and the other heinous crimes. Some advertisements do not offer for purchase the season ten (10) episode of *American Greed* containing the Segment, and instead seek to sell entire seasons and single episodes of *American Greed* as recent as and from season twelve (12), **airing nearly two (2) years after** the first airing of the Segment. See ¶¶ Nos. 72-79, *supra*.

273. Defendant NBCUniversal's unauthorized use of Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story to continually and indefinitely advertise entire seasons and episodes of *American Greed* for on-demand purchase (for nearly two (2) years and counting) constitutes a violation and misappropriation of Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08, in that Defendant NBCUniversal misappropriated Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story by using them for the purpose of Defendants NBCUniversal and Kurtis Productions' commercial gain without Plaintiff's consent.

274. The misappropriation of Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08 was for Defendants NBCUniversal and Kurtis Productions' advantage in that Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story were used and intended to create and enhance Defendants NBCUniversal and Kurtis Productions' pecuniary gain and profit.

275. Defendant NBCUniversal continues to violate Plaintiff's common law right of publicity and rights under Fla. Stat. § 540.08 by using clips of the Segment in internet advertisements and elsewhere, which offer for consumer purchase entire seasons and episodes of *American Greed* released as recent as July 2018 (nearly two (2) years after the first air date of the Segment), notwithstanding Plaintiff's request that they cease and desist immediately and permanently.

276. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions using and associating Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story to advertise episodes and seasons of *American Greed* depicting murderers, stolen valor, a former prostitute plotting murder, opioid drug peddling doctors, and the other heinous crimes, Plaintiff has suffered actual damages in both his personal and professional life, including injury to his reputation, humiliation, embarrassment, mental anguish and suffering, and emotional distress.

277. As a direct and proximate result of Defendants NBCUniversal and Kurtis Productions using and associating Plaintiff's name, image, photograph, identity, character, persona, likeness, and/or back story to advertise episodes and seasons of *American Greed* depicting murderers, stolen valor, a former prostitute plotting murder, opioid drug peddling doctors, and the other heinous crimes, Plaintiff has been damaged and will be damaged in an amount subject to proof.

278. As a direct and proximate result of the aforementioned acts, Defendants NBCUniversal and Kurtis Productions have earned profits attributable to this unauthorized commercial use and exploitation of Plaintiff's name, image, photograph,

identity, character, persona, likeness, and/or back story. The amount of such ill-gotten gains has yet to be ascertained. In addition to relief for the damages noted above, Plaintiff is entitled to recover all said unjust enrichment, including all profits earned by Defendants NBCUniversal and Kurtis Productions as a result of their unauthorized commercial exploitation as herein alleged.

VI. Requested Relief

WHEREFORE, Plaintiff requests that this Court:

279. For each (1) defamation *per se* cause of action, (2) defamation cause of action, (3) defamation *per se* by implication cause of action, (4) defamation by implication cause of action, and (5) common law right of publicity and Fla. Stat. § 540.08 cause of action: Award general and special damages in an amount in excess of the minimum jurisdictional limits of this Court in accordance with proof at trial together with interest thereon at the maximum legal rate.

280. For each (1) defamation *per se* cause of action, (2) defamation cause of action, (3) defamation *per se* by implication cause of action, (4) defamation by implication cause of action, and (5) common law right of publicity and Fla. Stat. § 540.08 cause of action: Award nominal damages.

281. For each (1) defamation *per se* cause of action, (2) defamation cause of action, (3) defamation *per se* by implication cause of action, (4) defamation by implication cause of action, and (5) common law right of publicity and Fla. Stat. § 540.08 cause of action: Issue declaratory relief.

282. For each (1) defamation *per se* cause of action, (2) defamation cause of action, (3) defamation *per se* by implication cause of action, and (4) defamation by

implication cause of action: Issue a permanent injunction^[19] against all Defendants, and all persons acting under their control, to (1) cease any and all activity that would cause the distributing, disseminating, publishing, displaying, posting for view or access on or through television, the internet, or any other manner or media outlet, broadcasting, transferring, licensing, selling, offering to sell or license, or otherwise using, exploiting or attempting to exploit, the Segment and written accounts of the Segment, or any portions or content of the Segment or any copies or references thereof, in any and all formats and media, including all electronic and physical media; (2) contact all major search engines to have all references of the Segment removed from their indexes; and (3) issue a full and immediate retraction and public apology;

283. For the Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) cause of action: Issue a permanent injunction against Defendants NBCUniversal and Kurtis Productions, and all persons acting under their control, enjoining any and all activity in Florida that would cause Florida consumers to exchange money for a copy of the falsely advertised *American Greed* episode containing the Segment, or exchange money for the right to view the falsely advertised *American Greed* episode containing the Segment, in any and all formats and media, including all electronic and physical media.

284. For the Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) cause of action: Award Plaintiff his actual damages of \$2.99 suffered from purchasing the falsely advertised *American Greed* episode containing the Segment.

285. For the Florida's Deceptive and Unfair Trade Practices Act (FDUTPA) cause of action: Award the class its actual damages suffered from purchasing the falsely advertised *American Greed* episode containing the Segment.

19. Because Florida applies the rule that a defamation cause of action for multiple broadcasts of the same defamatory material accrues at the time of first publication (Fla. Stat. § 770.07 (2018)), Plaintiff requests a permanent injunction preventing Defendants from ongoing separate and distinct publications of the same defamatory Segment and its derivative works, whether to a new person or to the same persons (Restatement (Second) of Torts § 577A cmt. a (1977)).

Respectfully Submitted: August 19, 2018

DANIEL RIGMAIDEN,
Pro Se Plaintiff:

s/ Daniel Rigmaiden _____
Daniel Rigmaiden
PO Box 398041
Miami Beach, FL 33239
Telephone: (480) 389-4831
Email: ddrigmaiden@gmail.com

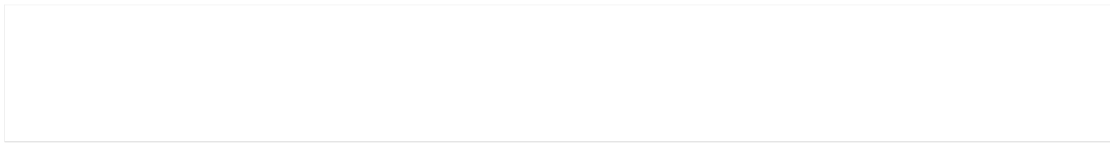
VERIFICATION

I have read the foregoing complaint and hereby verify and attest that the facts stated therein are true and accurate to the best of my knowledge and belief.

Executed in Miami Beach, Florida, on August 19, 2018.

s/ Daniel Rigmaiden _____
Daniel Rigmaiden

EXHIBIT 01



CATCH UP ON DEMAND

CATCH UP ON DEMAND

ABOUT

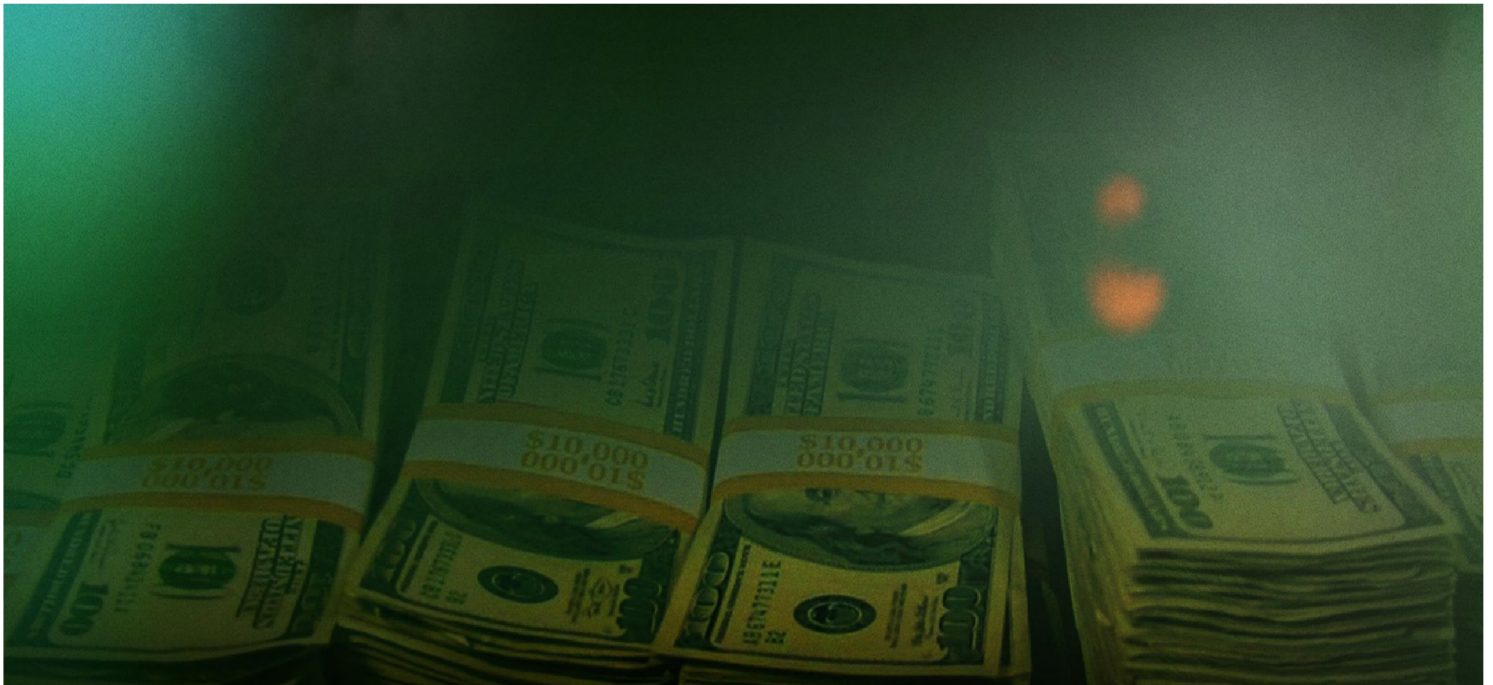
STACY KEACH

FULL EPISODES

VIDEOS

THE AMERICAN GREED REPORT

EVIDENCE



ABOUT

Discover multi-million dollar scams that build unimaginable wealth. Go to places where devious frauds feed deviant desires. And witness the fatal flaws that bring criminals to justice.

American Greed takes you deep inside shocking true stories of brazen con artists who thrive on stealing fortunes, ruining and even taking lives. In-depth reporting exposes the devastating effects greed has on victims-, bringing you up-close to heartless villains living large on other people's life savings. How do these crooked masterminds defraud the wealthy, rip off their own families, and scam their friends?

On American Greed crime pays well, until the crooks get caught.

Some people will do ANYTHING for MONEY...with evil like this, no one is safe.

About Kurtis Productions

"American Greed" is produced for CNBC by the independent documentary production company Kurtis Productions, which was formed in Chicago in 1988 by broadcast journalist Bill Kurtis. Mr. Kurtis has narrated nearly 1,000 documentaries, including "The New Explorers" on PBS, "Cold Case Files" on A&E, and "Investigating History" on the History Channel, among many others. Kurtis Productions and its staff producers have been honored with some of the most prestigious awards in broadcasting, including the George Foster Peabody Award, the Thurgood Marshall Journalism Award and local and national Emmy awards.



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EXHIBIT 02



Details for Order # [REDACTED]

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Amazon.com order number: [REDACTED]

Order Total: \$2.99

Digital Order: August 4, 2018 Status: Pending

Items Ordered	Price
American Greed - Hack Me If You Can / Goodfella Gone Bad [Prime Video] Season 10, Episode 16 (Original Air Date: 08/25/2016) By: Charles Schaeffer, Mike West Quantity: 1 Sold By: Amazon Digital Services LLC	\$2.99
	Item(s) Subtotal: \$2.99

	Total Before Tax: \$2.99
	Tax Collected: \$0.00

	Total for this Order: \$2.99

Payment Information

Payment Methods [REDACTED]	Item(s) Subtotal: \$2.99
Billing Address Daniel Rigmaiden [REDACTED]	Total Before Tax: \$2.99 Tax Collected: \$0.00
	Grand Total: \$2.99

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EXHIBIT 03



American Greed
Get full season 12 on YouTube **FROM \$12.99**



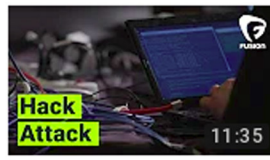
Hack Me If You Can & Goodfella Gone Bad (Extended Look) | American Greed | CNBC Prime

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He stole money from the IRS using the identities of the living and the dead!
All New American Greed, Thursday August 25 10P ET/9P CT/10P PT.
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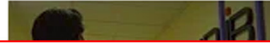
Up next AUTOPLAY



Real Future: What Happens When You Dare Expert Hacker...
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Forensic Investigators - S3 E9 - Catch Me If You Can
Almo Nutz
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Inside Russia's Hacker Underworld