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May 23, 2017

**VIA EMAIL**

Andrew J. Levander, Esq.  
Dechert LLP  
1095 Avenue of the Americas  
New York, New York 10036-6797

Re: *Tantaros v. Fox News Network, LLC, et al.*, Case No. 17-cv-2958 (S.D.N.Y.)

Dear Andy:

I write in response to your May 2, 2017 letter that you sent to me in support of the sanctions motion you have served.

At the outset, I am offended by your indignation. I understand that you are primarily a criminal defense lawyer, and it is understandable why you were retained. I certainly do not fault you for representing the guilty; that's what you do for a living. But you have gone much too far in expressing your outrage over my client's supposed breaches of confidentiality when you know you have clients who have repeatedly denied sexual harassment only to later admit that it took place. You have clients who have lied to you, but you still take everything they say at face value and express outrage when someone disputes their accounts of the facts.

Does it ever occur to you to take a step back and think about what you are doing in a broader context? For many years, harassment by police and prosecutors deterred women who had been raped from reporting the crime because they did not want to be victimized a second time. You are doing the same thing to victims of sexual harassment and retaliation. Shame on you. I certainly hope for your sake that you do not have any daughters because, if they are anything like my daughter, they would be outraged at the way you put your own credibility on the line for people who have engaged in such reprehensible conduct towards women. Indeed, on a day when my client has been receiving death threats in the wake of Roger Ailes's son's eulogy, your lack of perspective is all the more appalling. You are part of the reason why we have a climate in which these kinds of threats are made.

I now turn to your sanctions motion.

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I first note that, if you file your sanctions motion, I will then file an amended complaint before the return date of the motion. The new complaint will provide far more extensive detail -- including names of other sockpuppet social media accounts and additional evidence of illegal electronic surveillance -- which took place **after** Defendant Fox News Network, LLC (“Fox News”) terminated Plaintiff Andrea Tantaros’s (“Ms. Tantaros”) employment. I do not believe that your sanctions motion has any merit, or that the Complaint will be dismissed. However, you have identified what you believe to be shortcomings in the pleading, so I will address them in a new pleading. I am certainly not going to sit back and let your client try to take the highroad by throwing around the word “sanctions” in a motion that you apparently intend to file this week. Any motion you file will be met with the publication of this letter. I am not going to detail the new allegations I will be adding to the amended complaint in this letter because you have threatened that if I do so, I will be in breach of Ms. Tantaros’s confidentiality obligations. But if you file a motion for sanctions before moving to compel arbitration, you will have thereby forced me to make new public filings.

Turning now to the specifics of your letter:

**First**, you seem to forget that the Complaint is governed by Fed. R. Civ. P. 8. Even if I do not amend, my pleading meets the *Ashcroft* standard. In this regard, I note that the Complaint makes clear that I have only alleged **some** of my evidence. I am not required to plead my entire case.

**Second**, you are wrong in claiming that I made an error by alleging that Daniel Wayne Block’s (“Block”) Twitter account (the “Block Twitter Account”) is a sockpuppet account because Block is an actual human being. In advancing this frivolous argument, you ignore (a) Paragraph 39 of the Complaint, which defines “sockpuppet account” as including “a real person who is paid to Tweet particular messages...,” and (b) Paragraph 48 of the Complaint, which explicitly alleges that Block is a real person who lives in Florida whose Twitter account was used by the Defendants in this action. **It would be very helpful if you took the time to carefully read the Complaint before criticizing it.**

**Third**, your selective choice of Tweets to criticize is both revealing and indicative of your failure to adequately analyze the Complaint. On the selectivity front, for example, **how is it that you have no answer for the Tweet about my client’s dead brother?** As for the Tweets you have identified, I find your lack of attention to detail shocking:

- a. Your contention that the Block Twitter Account sent out “the exact same image” depicted in Exhibit D to the Complaint on May 24, 2016 is absolutely false. As shown by Exhibit A hereto (a copy of a Twitter “Advanced Search” of the Block Twitter Account for Tweets using the word “Mickey”), Exhibit D to the Complaint is the only such image that

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was ever tweeted from the Block Twitter Account.<sup>1</sup> And while there was a Disney-related Tweet from the Block Twitter Account on May 24, 2016, it was an image of Goofy.

- b. While you make the point that “[t]he Block Twitter [A]ccount shows multiple tweets about cult science fiction films, **such as ‘The Black Scorpion’**” (emphasis added), you conveniently do not mention **that there was only one “Black Scorpion” Tweet**, and, as alleged in the Complaint, it came at a time when Ms. Tantaros’s friend was hospitalized after having been bitten by a poisonous scorpion.
- c. As will be shown in the amended complaint, I did not allege the entirety of the story concerning the Blue Angels Tweets.
- d. While you focus upon the fact that there are a number of Tweets that were sent from the Block Twitter Account with images of lions, you curiously omit the fact that the image with the “Be strong and courageous” message was tweeted a host of times, commencing in April of 2016, at a time when Ms. Tantaros had become more vocal in refusal to be victimized.

**Fourth**, your discussion of the “bookplate” vs. “book” is incomprehensible. More importantly, how do you explain the fact that the Tweet from the Block Twitter Account reading “Dear Andrea” only now shows up as a Tweet to @realNASCARman, when the original Tweet was addressed to @andreatantaros? Moreover, why, out of nowhere would Block and @realNASCARman have suddenly started communicating on May 21, 2015? **AND HOW IS IT THAT BOTH TWEETS WERE SENT FROM ENGLAND?** Also, on what possible basis can you claim to know that the book was sent to Fox News by Block and then sent on to Ms. Tantaros? It seems to me that you are confirming that Fox News was behind the book being sent to Ms. Tantaros.

**Fifth**, your reference to a Spokeo report showing an address for Ms. Tantaros also makes no sense. If, as you claim to know, Block sent the book to Fox News, then there would have been no reason for you to check whether Ms. Tantaros’s address was publicly available. More importantly, **the primary address listed on the Spokeo report you sent me is NOT the address to which the book was sent.** Further, in order to secure that Spokeo report, one would have to pay money for it. It is absurd to suggest that Block, whose home is in a state of disrepair and is the subject of foreclosure proceedings, was spending money to obtain Ms. Tantaros’s address.

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<sup>1</sup> A search of the term “new friends” also did not reveal an identical image.

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**Sixth**, the notion that I have engaged in sanctionable conduct because (wonder of wonders!) Mr. Snyder has denied culpability is absurd. If a defendant's denial of guilt were the test for sanctions, every plaintiff would be sanctioned.

**Seventh**, you have simply misread the Complaint in connection with Ms. Tantaros's electronic surveillance claim. The combination, *inter alia*, of (a) Fox News's history of using sockpuppet accounts, (b) its motive to harm Ms. Tantaros, (c) its resources, and (d) the fact that the Block Twitter Account Tweets (and Tweets from other accounts) were so closely tied to Ms. Tantaros's telephone conversations provide more than a sufficient basis for the Complaint's information and belief pleading.

**Eighth**, Ms. Tantaros's claim under 18 U.S.C. § 2701 is based solely upon unlawful access to her email. Paragraph 45 of the Complaint clearly alleges that (a) a forensic analysis of Ms. Tantaros's computer found unique surveillance viruses that are not found in any mass malware, and (b) Fox News was the only party with both the resources and the motive to have placed that spyware on Ms. Tantaros's computer. Based on these allegations, the Complaint has provided an adequate basis for pleading, on information and belief, that Fox News was surveilling Ms. Tantaros's emails. Why else would the viruses have been placed on her computer?

**Ninth**, you are so desperate to threaten me that you plainly have not read Ms. Tantaros's claim for intentional infliction of emotional distress. While Defendants' conduct did in fact violate 18 U.S.C. § 2261A, Ms. Tantaros's claim is based upon a state law cause of action. *See Dennis v. Napoli*, 148 A.D.3d 446 (1st Dep't 2017). The criminal statute is relevant only to the issue of punitive damages, and it is only mentioned in connection with that issue. (Complaint, at ¶ 89)

**Tenth**, with respect to arbitration, the amended complaint will make it crystal clear that Ms. Tantaros is only seeking damages arising from the actions of the Defendants after her employment at Fox News was terminated. Plainly, her employment agreement does not require her to arbitrate claims arising from post-employment conduct by Fox News that she does not allege to be a violation of her employment agreement.

**Eleventh**, I am not going to dignify your improper purpose claims because they misrepresent the facts and also because so long as the Complaint is colorable, the issue of improper purpose is irrelevant. *See Sussman v. Bank of Israel*, 56 F.3d 450, 459 (2d Cir. 1995).

Very truly yours,

Judd Burstein

Encl.

# EXHIBIT A

# Mickey from:danielwayneblo1

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**#SilenceForManchester**

19.4K Tweets

**#الهلال\_الاحواز**

176K Tweets

**Roger Moore**

394K Tweets

**#PrayForMarawi**

675K Tweets

**#TrumpBudget**

45K Tweets

**#النفسيه\_محتاجه**

67.7K Tweets

**Cortez Kennedy**

16.8K Tweets

**Bond**

279K Tweets

**Paulina Rubio**

11.8K Tweets

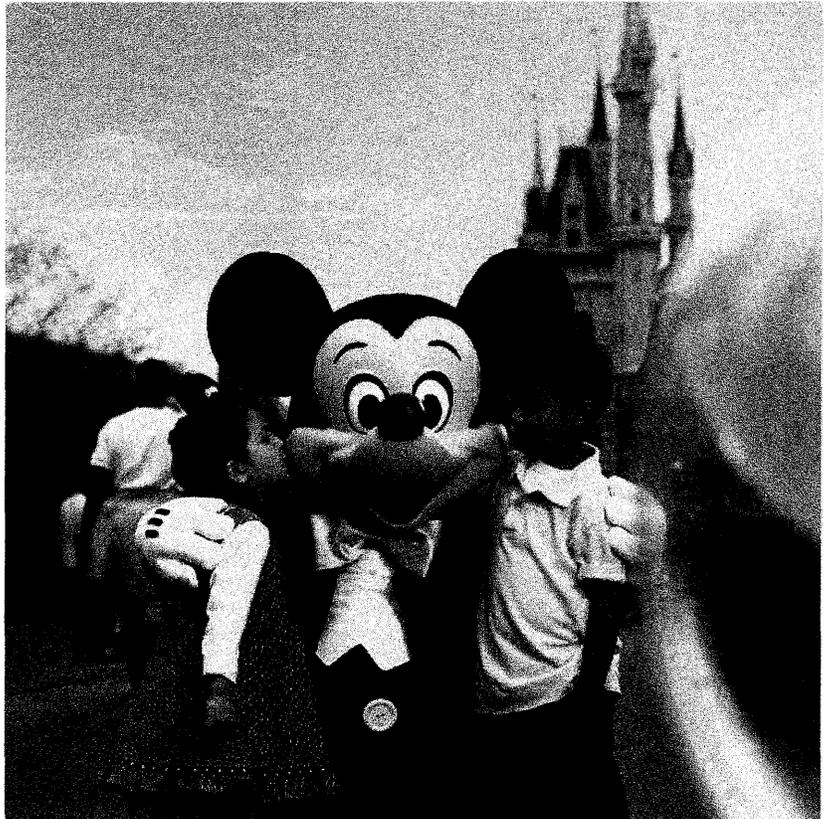
**Dumoulin**

42.4K Tweets



Daniel Wayne Block @DanielWayneBlo1 · 23 Jun 2016

Mickey Mouse and "new Friends"...



Retweet icon



Daniel Wayne Block @DanielWayneBlo1 · 9 Jun 2016

RARE Vintage Mickey Mouse Cowboy Chaps Disney by CuteVintageToys  
etsy.me/1tfsYi5 via @Etsy

**RARE Vintage Minnie Mouse 1960s Plush Plushie Stuffed Disney Mi...**

This adorable larger sized 1960s vintage Minnie Mouse plush is a real treasure. Shes in good vintage condition with some matted fur and some...

etsy.com

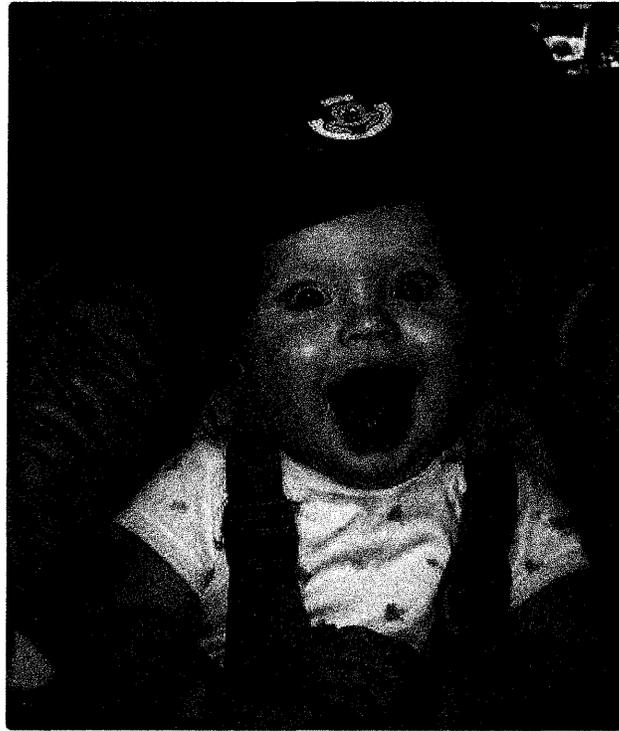
# Mickey from:danielwayneblo1

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Walt Disney Autographed Print Plaque Signed Mickey Mouse Shadow Walter E. world | Collectibles, Autographs, Celebrities | eBay! ebay.com



**Daniel Wayne Block** @DanielWayneBlo1 · 18 May 2016  
This is his first time at Disney World,& he just saw **Mickey!**...



**Daniel Wayne Block** @DanielWayneBlo1 · 16 May 2016  
My 'ol time Friends,"The O'Kane's", I think **Mickey** is Irish, but am not completely sure!



# Mickey from:danielwayneblo1

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**Daniel Wayne Block** @DanielWayneBlo1 · 19 May 2016  
The Best of the Original **Mickey** Mouse Club Disney  
amazon.com/dp/B0007Z9QXK/... via @amazon



**Daniel Wayne Block** @DanielWayneBlo1 · 16 May 2016  
Walt Disney Treasures - The Adventures of Spin & Marty - The **Mickey** Mouse  
Clu... amazon.com/dp/B000ATQYUQ/... via @amazon

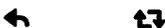


**Daniel Wayne Block** @DanielWayneBlo1 · 25 Apr 2016  
Disney World Sued -- **Mickey's** Parade Ruined My Life



### Disney World Sued -- Mickey's Parade Ruined My Life

Disney World is NOT "The Most Magical Place On Earth" for one man who says he was severely injured ... not on a ride, but while watching the  
tmz.com



**Daniel Wayne Block** @DanielWayneBlo1 · 20 Apr 2016  
Charmed Memories **Mickey** & Minnie Mouse Sterling Silver Charm  
kay.com/en/kaystore/ch... via @KayJewelers



**Daniel Wayne Block** @DanielWayneBlo1 · 9 Apr 2016  
DisneyWorld,the place where children enjoy being with **Mickey**,Minnie,Pluto  
and the "rest-of-the-gang!



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