IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

RICKEY G. BOYER,

Plaintiff

v. Case No. 6:17CV00033

HOMESCHOOL ALUMNI REACHING OUT, INC.,

Serve:
RYAN LEE STOLLAR
2250 HOMESTEAD CT., APT. #109
LOS ALTOS CA 94024

NATALIE GREENFIELD,

Serve:
NATALIE GREENFIELD
425 E. Spotswood
Moscow, ID 83843

JORY MICAH PETERSON,

Serve:
JORY PETERSON
205 CEDAR HILL DR.
CANONSBURG, PA 15317

BRENDA H. RODGERS,

Serve:
BRENDA H. RODGERS
2358 ALDERBROOK DR. 258
HIGH POINT, NC 27265

and

NATE SPARKS,

Serve:

NATE SPARKS
130 W. RAINBOW RIDGE DR. APT. 614
OAK CREEK, WI 53154

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

NATURE OF THE CASE

1. This is a civil action in diversity jurisdiction, for damages alleging violations of Virginia law regarding defamation by Defendants.

2. The suit alleges that Defendants both republished false and defamatory claims made by Ms. Ashley Easter against Plaintiff on her Internet weblog, and further defamed Plaintiff with additional allegations of their own. Plaintiff and Easter are both residents of Virginia, and the underlying case between them is being tried in Circuit Court.

3. The allegation Plaintiff makes with regard to each Defendant is that each reposted Easter's false and defamatory attacks on Plaintiff, and further made false and defamatory statements toward Defendant in their own right. Plaintiff asserts that Defendants acted in reckless disregard for the truth, and in the alternative, asserts that each Defendant acted negligently in making false and defamatory statements toward Plaintiff.

4. Plaintiff further asserts that Defendants' defamation caused significant financial and reputational losses, both personally and to his business, and that Defendants are liable jointly and severally for punitive and compensatory damages for defamation *per se*, and in the alternative, that Defendants are liable jointly and severally for compensatory damages for defamation *per quod*.

PARTIES, JURISDICTION AND VENUE

5. This case arises under the Constitution of the United States and the laws of the

Commonwealth of Virginia. Plaintiff is a citizen of the Commonwealth of Virginia. Defendant Homeschool Alumni Reaching Out, Inc. ("HARO") is a corporation organized under the laws of and doing business in the State of California. Defendant Jory Peterson ("Peterson") is a citizen of the State of Pennsylvania. Defendant Nate Sparks ("Sparks") is a citizen of the State of Wisconsin. Defendant Natalie Greenfield ("Greenfield") is a citizen of the State of Idaho. Defendant Brenda Rodgers is a citizen of the State of North Carolina. The matter in controversy exceeds, exclusive of interest and costs, the sum of $75,000.

6. The Court has jurisdiction under 28 U.S.C. §1332.

7. The Court also has pendant jurisdiction as provided under 28 U.S.C. §1367(a).

STATEMENT OF FACTS

8. Plaintiff, who at all times material to this complaint was primarily self-employed as a drywall contractor, and his wife Marilyn Boyer, run a side business out of their home, called "Character Concepts." The business was formerly called "The Learning Parent."

9. Character Concepts/The Learning Parent is a Christian ministry that produces Bible-based character curriculum for children.

10. Plaintiff and his wife also spend several Saturdays each year speaking at home schooling conferences in various locations, as part of their Character Concepts ministry.

11. Although Plaintiff spends only a few Saturdays each year speaking, Character Concepts also does significant Internet sales of curriculum, and Plaintiff's occasional speaking schedule largely promotes those sales.

12. The home school convention season involves weekends primarily from April through July.

13. Plaintiff derives a substantial portion of his family's income from the Character Concepts

ministry.

14. Plaintiff's business, known as "Character Concepts," depends entirely on its customers' perception of its promotion of biblical Christian concepts of character and morality.

15. Defendant Homeschool Alumni Reaching Out, Inc. ("HARO"), is a 501(c)(3) that according to its website, https://hareachingout.wordpress.com, "aim[s] to equip parents and communities with community-specific information about issues such as child abuse, mental health, self-injury, and LGBT* students' needs."

16. Among the activities of Defendant HARO is "Homeschoolers Anonymous," ("HA") which according to its website, https://homeschoolersanonymous.org, is a "project of Homeschool Alumni Reaching Out."

17. Both HARO and HA maintain Twitter social media accounts.

18. Defendant Peterson is a writer and blogger focusing on "gender equality" issues. Peterson also maintains Twitter and Facebook social media accounts. Her blog's online address is "jorymicah.com."

19. Defendant Greenfield is likewise a writer and blogger focusing on "gender equality" issues. Greenfield also maintains Twitter and Facebook social media accounts. Her blog's online address is https://natalierose-livewithpassion.blogspot.com.

20. Defendant Nate Sparks is likewise a writer and blogger focusing on "gender equality" issues. Sparks also maintains Twitter and Facebook social media accounts. His blog's online address is https://natesparks130.com.

21. This cause arises initially out of false and defamatory statements made against Plaintiff by Ms. Ashley Easter.

22. On April 15, 2016, Easter published a false and defamatory weblog ("blog") post on her

Internet site, www.ashleyeaster.com. The post was titled: "Rick Boyer and Sexual Boundary Crossing: My Story."

23. The post falsely accused Plaintiff of improper physical contact with Defendant.

24. Easter's birth family attends church with Plaintiff's family at Timberlake Baptist Church in Lynchburg, Virginia, and both families home schooled their children. Easter no longer attends Timberlake.

25. Easter's birth family and Plaintiff's family have a very close personal relationship.

26. Easter and Plaintiff's daughters were especially close friends.

27. Easter briefly sought a romantic relationship with one of Plaintiff's sons.

28. Both Plaintiff and Easter would frequently hug each other at church, with Plaintiff's wife and Easter's parents present.

29. Plaintiff would occasionally kiss Easter on the cheek at church, with Plaintiff's wife and Easter's parents present.

30. Neither Easter or her parents ever stated to Plaintiff any objection to the contact, which was sometimes initiated by Plaintiff and frequently by Easter.

31. Easter's family frequently attended homeschooling conventions with Plaintiff's family and were aware of Plaintiff's curriculum sales schedule.

32. For some time, Easter worked on an occasional basis in the Boyers' downstairs home office and helped Plaintiff and his wife Marilyn administer The Learning Parent website on their home computer.

33. Easter would frequently bring her younger sister Amber, who was not of driving age, to Plaintiff's home to visit with his daughters.

34. On or about April 15, 2016, Easter published her false and defamatory Internet weblog

("Post 1") accusing Plaintiff of sexual abuse. The blog post is attached as Plaintiff's Exhibit A.

35. In the post, Easter states, "I used to believe I was immune to abuse…. I used to believe that covering my body, knees to neck, would divert lust and abuse… I didn't know that most of the time victims are acquainted with and often groomed to trust those who victimize them."

36. Easter's post began with statements that Plaintiff was "like a father figure to me," and that "[o]ur families have been friends since before I was born."

37. Easter states that "I was seventeen when [Plaintiff] first took an interest in me."

38. Easter stated that she "looked forward to what I then perceived as his fatherly hugs" in church.

39. Easter falsely claims that Plaintiff "would even wait up for me after his wife had gone back to the bedroom." The claim is false and defamatory. In fact the reverse is true. Plaintiff would customarily retire to bed before guests would leave, leaving his wife to conclude the evening with the guests.

40. Easter states that the "hugs went on for several years."

41. Easter claims that "this all changed the night I had to park my car next to their house instead of out front due to parking issues. For the first time we were out of view of the front window when he walked me out to my car. As I was sitting in my van about to leave, [Plaintiff] leaned in and planted a firm kiss on my cheek."

42. The claim is false and defamatory.

43. Easter further claims that "As I sat there, in shock, he told me to kiss him back. I'll never forget him saying, 'Give an old man a kiss.'"

44. The claim is false and defamatory.

45. Some time later, Easter claims,

> I was at his house again…. I found myself alone with him downstairs in his office. I am not sure how he arranged for us to be alone that evening as many of his 13 children were still living at home. Without warning, [Plaintiff] embraced me in a very different way from the fatherly hugs I had become accustomed to. This time, he pulled me in tight for a from hug and pressed my body and breasts into his. As he did this, he put one hand around my waist and the other around my neck. Because of the positioning of his hands, I immediately realized this was something very different than I had experienced before. Because of the tightness of his hold, I remember the thoughts flashing through my mind, 'I can't get away even if I tried. He is stronger than me.'

46. Easter's claim is false and defamatory. The office is shared by Plaintiff and his wife, and the incident Easter relates never occurred.

47. Easter claims she spoke to her parents and they spoke to Plaintiff to request that he not hug Easter. Easter's claim is false. Neither of Easter's parents, both of whom had frequently seen Plaintiff and Easter initiate hugs and occasionally seen Plaintiff kiss Easter on the cheek in church, ever stated to Plaintiff that they objected to his contact with their daughter or requested that he refrain from doing so.

48. Easter eventually became engaged to a young man at Timberlake Baptist. But some time later she broke off the engagement.

49. Easter underwent a time of emotional difficulty following the breakup.

50. Easter states, "I remember thinking that Mr. Boyer had always seemed to understand me and take me seriously, and would always provide an encouraging and affirming word. I just knew he would give me the empathy and support that I so desperately needed, so I sought him out…. I decided to tell him I had been abused, and how much I was hurting."

51. Easter claims, "[Plaintiff] "immediately led me away from the group of people who were gathered at the house…. [H]e took me to a secluded area at the back of his property to talk…. [Plaintiff] listened for a while and then said that I looked cold. He left and returned a few minutes later with his truck. He leaned over from the driver's seat to push open the passenger

side door and encouraged me to get in."

52. The claim is false and defamatory. In fact, Easter came upstairs from watching a movie with Plaintiff's grown daughters and Easter's younger teenage sister. Easter was crying and appeared to be very troubled. Easter walked into the upstairs living room where Plaintiff and his wife were sitting and stated, "Mr. Boyer, I really need to talk to you alone," and requested that Plaintiff step outside, which Plaintiff did. Plaintiff did not "lead [Easter] away from the group." The claim is false and defamatory.

53. The night was cold, and Plaintiff started the engine on his truck, sat behind the wheel, turned on the heater, and invited Easter to sit in the passenger seat to finish her conversation.

54. Easter claims, "I hadn't been in the truck for very long when one minute I was sitting upright and the next minute he had laid me down and placed my head in his lap. He never asked – he just did it…. [H]e had just isolated me from the group, taken me in the dark to the back of his property, and had just placed my head on his thighs by his crotch…. I sat up and ended the conversation by saying I needed to go home."

55. The claim is false and defamatory. Plaintiff sat in the truck listening until Easter ended the conversation. Plaintiff did not pull Easter's head into his lap. Plaintiff did not "isolate [Easter] from the group," and take[ ] Easter in the dark to the back of his property." Plaintiff's yard was well lit with floodlights. Plaintiff's wife and daughters and Easter's sister were present in the house, and Plaintiff's wife and daughters were aware Plaintiff and Easter had stepped outside. Plaintiff stepped outside with Easter at her direct request, and due to the chill, when the conversation continued, finished the conversation in the heated truck. Easter asked Plaintiff to step outside in front of Plaintiff's wife, who was aware of where Plaintiff and Easter were going. Easter's sister was still indoors watching a movie with Plaintiff's grown daughters. When the

conversation finished, Easter walked back inside to call her sister, who needed Easter for a ride home. Easter's claim that anything more occurred is false and defamatory.

56. After making the false and defamatory statements, Easter states, "[M]en who engage in this behavior are acting with ill intent. There was nothing accidental about any of this."

57. Yet for months after the alleged incident, Easter continued driving to Plaintiff's residence to spend time with his daughters.

58. Easter continued to bring her younger sister, who did not yet have a driver's license, to Plaintiff's home for months after the alleged incidents.

59. Easter alleges multiple incidents of hugs and kisses on the cheek by Plaintiff.

60. At no point does she allege ever stating to Plaintiff that the contact was unwelcome, in fact stating that she "looked forward" to his hugs at church.

61. At no point does Easter allege that she ever attempted to pull away or in any way communicated to Plaintiff that she no longer "looked forward" to hugs from him.

62. Eventually Easter began attending another church, where she met her husband Will Easter ("Mr. Easter.")

63. On November 15, 2014, the Easters were married.

64. Ms. Easter asked several of Plaintiff's daughters and daughters-in-law to be bridesmaids in her wedding.

65. Easter personally invited Plaintiff to her wedding.

66. As of the date of her wedding, Easter had never suggested to Plaintiff that she found his hugs or kisses on the cheek unwelcome.

67. As of the date of her wedding, Easter had never indicated to Plaintiff that she saw him as anything other than a "father figure."

68. On February 15, 2015, Easter posted on her personal Facebook page a photograph of Plaintiff and his daughter at her wedding.

69. Less than nine months later, in November, 2015, a year after the wedding, Mr. Easter contacted Plaintiff and asked to speak with him.

70. Mr. Easter showed Plaintiff a recorded video of Ms. Easter making a less-specific recitation of the allegations she would eventually publish in Post 1 in April 2016, and stating that "it's not OK."

71. Plaintiff denied to Mr. Easter the allegations of kisses on the cheek in his yard and pulling Ms. Easter's head into his lap in his truck, and expressed that Easter had never communicated to him that hugs and kisses on the cheek in church were unwelcome, and that in fact Easter had initiated numerous hugs in church with Plaintiff over a period of years.

72. Plaintiff inquired of Mr. Easter if anything could be done to repair the relationship.

73. Mr. Easter stated that he did not have any suggestions or specific demands or requests.

74. Until that point, Ms. Easter had never expressed to Plaintiff by statement or action that the hugs initiated by both parties were in any way unwelcome.

75. Shortly after the meeting with Plaintiff, Mr. Easter requested a meeting with Pastor Bryan Ferrell of Plaintiff's church, Timberlake Baptist.

76. At the meeting, Mr. Easter repeated the defamatory allegations to Ferrell.

77. Ferrell asked Mr. Easter if the Easters believed Plaintiff's conduct had been illegal in any way, and advised that if so, the Easters had an obligation to report it to authorities.

78. Mr. Easter stated that the Easters did not believe any illegal conduct had occurred.

79. Ferrell than suggested that a hug or a kiss on the cheek might be either well-intentioned or with illicit intent depending on circumstances, and asked whether the Easters believed

Plaintiff's conduct to be inherently immoral, even if not illegal. Ferrell added that if the Easters so believed, the matter would be one that should be addressed by Timberlake Baptist through church discipline.

80. Mr. Easter stated that the Easters did not believe any inherently immoral conduct had occurred.

81. Ferrell accordingly advised that Ms. Easter should approach Plaintiff directly, in the company of pastors from both churches and others if necessary, and tell him directly what conduct she found offensive.

82. The Easters rejected Ferrell's advice and did not contact Plaintiff again.

83. On April 15, 2016, Ms. Easter published her defamatory post.

84. On April 21, 2016, Easter published another blog post (Post 2"), titled "4 Common Ways Churches Fail Abuse Victims." The article is attached as Exhibit B.

85. The article continues, "When I reached out to church leadership about the abuse I had experienced, one of the pastors quickly began defending the abuser [referring to Plaintiff]. I was told, 'It's not a big deal,' and 'he is NOT a predator.'

86. The article continues, "Many of the stories that have been shared with me have highlighted that even in instances of child rape, the sexual abuse was not reported to the police and licensed counselors were never recommended for the trauma victims. When I shared my abuse experience, the assistance of professionals was completely rejected…"

87. The article continues, "A healthy, informed response would have been to reach out to trained professionals and authorities immediately following abuse disclosure. Even if a state does not enforce mandatory reporting, pastors are under moral obligation to report crimes."

88. Although Easter's exact words in Post 1 allege only hugs initiated by two consenting

adults, the defamatory intent of Easter's words is to convey to her audience that Plaintiff was a "predator," analogous to a "child rapist," and that pastors had covered up "crimes" committed by Plaintiff.

89. In subsequent months, after publishing Post 1 in April 2016, Easter repeatedly posted additional false and defamatory Internet blog posts describing Plaintiff as an "abuser" and Easter as a "survivor."

90. Virginia law clearly defines the offense of sexual abuse. Code of Virginia §18.2-67.10 states, in relevant part:

> 'Sexual abuse' means an act committed with the intent to sexually molest, arouse, or gratify any person, where:
> a. The accused intentionally touches the complaining witness's intimate parts or material directly covering such intimate parts;
> b. The accused forces the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts….

91. Nothing in the direct words of Easter's April 15, 2016 Post 1 alleges any illegal act.

92. Easter clearly attempts, however, to convey the innuendo that Plaintiff was guilty of sexual abuse, an offense illegal in the Commonwealth of Virginia, and her subsequent posts directly use the word "abuse."

93. The Virginia Supreme Court list four categories of

> "defamatory words which are actionable *per se*…(1) Those which impute to a person the commission of some criminal offense involving moral turpitude, for which the party, if the charge is true, may be indicted and punished. (2) Those which impute that a person is infected with some contagious disease, where if the charge is true, it would exclude the party from society. (3) Those which impute to a person unfitness to perform the duties of an office or employment of profit, or want of integrity in the discharge of the duties of such an office or employment. (4) Those which prejudice such person in his or her profession or trade. *Fleming*, 275 SE 2d at 635 (Va. 1981).

94. Plaintiff was severely damaged in both his reputation and his business.

95. Easter's false statements are defamatory *per se* on two grounds, imputation of a crime of moral turpitude, and prejudicing Plaintiff in his profession or trade.

96. Mr. Easter, under specific questioning from Pastor Bryan Ferrell, stated directly that the Easters believed that nothing illegal or immoral had occurred.

COUNT ONE– DEFAMATION *PER SE*

97. Plaintiff realleges and incorporates all facts alleged in Paragraphs 1 through 96 above, by reference.

98. A federal court sitting in diversity applies the substantive law of the state where the court is situated. "[F]ederal courts sitting in diversity cases, when deciding questions of 'substantive' law, are bound by state court decisions as well as state statutes." *Hanna v. Plumer*, 380 US 460, 465 (1965).

99. In this case, with complete diversity between Plaintiff and each Defendant, Virginia substantive law with regard to defamation *per se* and defamation *per quod* are the proper rule of decision for this Court to apply.

100. Under Virginia law, defamatory words are those which "make the plaintiff appear odious, infamous or ridiculous." *Schaecher v. Bouffault*, 772 S.E. 2d 589, 594 (Va. 2015).

101. In Virginia, defamatory words "tend so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from dealing with him." *Id.*

102. "In Virginia, when a plaintiff alleges defamation by publication, the elements are '(1) publication of (2) an actionable statement with (3) the requisite intent.'" *Id*. To be actionable by a plaintiff, the publication must be "of and concerning" the plaintiff. *New York Times Co. v. Sullivan*, 376 U.S. 254, 288 (1964).

103. As alleged in the Statement of Facts *supra*, in her April 15, 2016 Post 1, Easter published

numerous and repeated allegations against Plaintiff that were completely and knowingly false, thus actionable.

104. In her posts subsequent to April 15, Easter specifically accused Plaintiff of sexual "abuse," a crime under the laws of the Commonwealth of Virginia, knowing full well that Plaintiff was innocent of the accusations, and that the "facts" she actually alleged in her Post 1 did not state a claim of sexual abuse.

105. Mr. Easter clearly stated that the Easters did not believe any illegal conduct had occurred.

106. Yet Ms. Easter clearly intends to convey the false innuendo that Plaintiff committed illegal conduct.

107. As alleged *supra*, Easter's statements about Plaintiff were both false and defamatory, severely injurious to Plaintiff's reputation.

108. Almost immediately after her Post 1 was published, Defendants in this case began to publish their own false and defamatory statements toward Plaintiff.

109. Defendants' statements accusing Plaintiff of sexual abuse were intended to and did "make the plaintiff appear odious and infamous" before a wide audience reached by the defamatory statements.

110. Defendants' defamatory allegations "prejudice Plaintiff in his profession or trade," and "falsely convey the charge of a criminal offense involving moral turpitude."

111. The allegations are therefore accordingly actionable as defamatory *per se*.

112. Defendants are not entitled to a defense under Section 230 of the Communications Decency Act. "The relevant portion of § 230 states: 'No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.' 47 U.S.C. § 230(c)(1)." *Zeran v. America Online, Inc.*,

129 F. 3d 327 (4th Cir. 1997).

113. In Defendants' cases, the acts they have committed are far more than simple repostings or allowing guest posters. They are not "publishers or speakers" of Ms. Easter's defamation. Rather, in each case, Defendants have made their own clearly defamatory statements regarding Plaintiff, and have utilized the original words from Easter as supporting "evidence" for their own defamatory statements.

114. Defendant Sparks goes far beyond simply republishing Easter's words. Sparks' article is entitled "Ashley Easter tells her story of being sexually preyed upon by Rick Boyer, Sr." Sparks' words falsely defame Plaintiff as a sexual predator in their own right. Nowhere in Easter's April 15, 2016 post does she claim that Plaintiff "sexually preyed upon" her. Sparks' words are his own statement of "fact," not a republication.

115. Sparks goes on to state, "Yesterday, my friend and fellow blogger Ashley Easter published a bold and admirable post. Ashley chose to detail the grooming and sexual abuse she experienced at the hands of Rick Boyer, Sr."

116. Sparks goes on to state, "Ashley has shared her story as a victim. She is believed and supported. She will be paid all respect due a survivor of sexual abuse."

117. Accordingly, Sparks is not simply republishing the defamatory words of another. He is defaming Plaintiff in his own right, and using Easter's words as evidence to claim that Plaintiff is a sexual predator. A printout of Sparks' defamatory post is attached as Plaintiff's Exhibit C.

118. Defendant Greenfield categorizes the defamatory language on her blog as a "guest post," with the title "Guest post by Ashley Easter, 'Rick Boyer and Sexual Boundary Crossing: My Story.'"

119. However, Defendant prefaces Easter's attached blog post with her own defamatory

words. Defendant touts Easter's narrative of "abuse that occurred during her teenaged years."

120. Defendant goes on to state, "It is a fragile and vulnerable process for victims of abuse to decide to speak out publicly," and to describe her publication of the defamation against Plaintiff as the "sacred process of coming forward in order to expose abuse."

121. Defendant, by naming Plaintiff, publishing the claim that Easter was the victim of "abuse that occurred during her teenage years," and describing Easter as a "victim[] of abuse," is clearly defaming Plaintiff in her own right, while using Easter's article as evidence of her own defamatory claim. A copy of Defendant's defamatory post is attached as Plaintiff's Exhibit D.

122. Defendant further states, "Ashley and I have spoken for a long time about the possibility of me helping her spread her story through my blog." Clearly Defendant herself wished to defame Plaintiff, regardless of her motivation for doing so.

123. Both Defendants Sparks and Greenfield also "retweeted" Easter's false and defamatory post on their "Twitter" online social media accounts on April 15, 2016, the same day it was published. A screenshot of Sparks' retweeting of Greenfield's initial tweet is attached as Plaintiff's Exhibit E.

124. Neither Defendant made any effort to contact Plaintiff or otherwise to investigate the truth or falsity of Easter's claims.

125. Defendant HARO likewise defamed Plaintiff. On its "HomeschoolersAnon" Twitter account, HARO reposted Easter's blog, and added this comment, "HEAV Board member Rick Boyer accused of sexual harassment, grooming, and stalking."

126. Stalking is a criminal offense in Virginia. Code of Virginia § 18.2-60.3 defines it as follows:

> Any person … who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the

> conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

127. Easter has never, in the April 15, 2016 post or elsewhere, accused Plaintiff of stalking.

128. Defendant HARO had reason to know that Plaintiff had not been accused of stalking, simply by reading the article it reposted.

129. Accordingly, Defendant's statement that Plaintiff was "accused of stalking" is a false statement of fact about Plaintiff, which would clearly subject Plaintiff to "appear[ing] odious, infamous or ridiculous." *Schaecher* 772 S.E. 2d at 594. Defendant's false statement is accordingly defamatory. A printout of Defendant's defamatory post is attached as Plaintiff's Exhibit F.

130. By posting an article and attributing an accusation which it did not make, and for which no other evidence existed either, Defendant demonstrated "reckless disregard for the truth."

131. Actual malice means that Defendant made the statement "with knowledge that it was false or with reckless disregard of whether it was false or not." *N.Y. Times*, 376 U.S. at 279-80.

132. Accordingly, Defendant HARO acted with actual malice toward Plaintiff with publication of the false claim that he was "accused … of stalking."

133. On May 6, 2016, Easter's Post 1 was hyperlinked on another blog, "Triple Braided Life," run by Defendant Brenda H. Rodgers. The article states, "Today I want to share with you a story of spiritual and sexual abuse one of my blogging friends, Ashley Easter, experienced." The words "Ashley Easter" are hyperlinked back to Post 1, and another link to the article is provided farther down the online page. A copy of the article is attached as Plaintiff's Exhibit G.

134. Defendant does more than merely reposting Easter's false and defamatory statements toward Plaintiff. She affirmatively states that Easter suffered "spiritual and sexual abuse," as an introduction to Easter's defamation of Plaintiff. Defendant's statement is actionable defamation in itself.

135. Defendant further states, "I cannot imagine the courage it took to write these posts and expose the truth. But as I told her, my prayer is that her bringing light to darkness will save many other girls' lives. I'm praying Genesis 50:20 over her – 'You intended to harm me, but God intended it all for good.'"

136. Defendant not only affirmatively states that Easter's post is "truth," but puts forward the innuendo that Plaintiff risks the lives of "other girls," and "intended to harm" Easter. These statements are false and defamatory.

137. On March 30, 2017, Easter again appeared as a "guest poster" on "Triple Braided Life," in an article titled "Understanding The Stages of Child Sexual Abuse and Keeping Your Child Safe."

138. The article states in its opening, "I have experienced multiple forms of abuse in my lifetime…. Because of the abuse I experienced from adults who I thought were trustworthy, I am vigilant about learning the signs of a predator and how to keep children safe. I want to start out with a brief description of what goes on in the mind of a sexual predator. Despite what we often assume, sexual crimes against children (and adults) are usually premeditated and calculated."

139. Under the heading "6 Stages of Sexual Grooming," Easter writes, "Grooming is a process where predators choose their prey and subtly manipulate them into a sexualized relationship…."

140. At the end of the article is a list of "resources." The first "resource" is titled "My story of grooming by a leader in the homeschooling movement," and is hyperlinked back to Post 1. The

article is attached as Plaintiff's Exhibit H.

141. Rodgers wrote an introduction to Easter's "guest post," stating, "In recent years Ashley [has] bravely spoken out about the abuse she experienced as a young girl and woman. I am honored to have Ashley here today sharing more of her story and ways we can protect our own daughters from different forms of abuse."

142. Accordingly, Rodgers is not merely republishing Easter's false and defamatory statements, but further defaming Plaintiff in her own right. Rodgers' statement that Easter "experienced" abuse, in the context of Easter's repeated attack on Plaintiff which opens the article, is itself actionable. Linking back to Easter's initial defamatory post is sufficient to show that Plaintiff is the individual whom Defendant is defaming.

143. On April 15, 2016, Defendant Jory Peterson reposted Easter's Post 1 immediately after its first publication. Above the headline, 'Rick Boyer, Sr. and Sexual Boundary Crossing: My Story," Peterson refers to Plaintiff as "her [Easter's] abuser." A copy of Defendant's post is attached as Plaintiff's Exhibit I.

144. As shown in Count One *supra*, sexual abuse is a crime in Virginia. Peterson's use of the words "her abuser" above a headline reading "Sexual Boundary Crossing" could leave no doubt in the mind of a reasonable reader that Peterson was accusing Plaintiff of sexual abuse.

145. Likewise, Defendants had the "requisite intent" for Plaintiff to meet the third element of the *Schaecher* test.

146. Plaintiff is not a "public figure," nor, under the circumstances of this case, a "limited purpose public figure." Under the circumstances of this case, Plaintiff is a "private individual."

147. Accordingly, the "requisite intent" Plaintiff must prove to recover damages is negligence by Defendants as to the falsity of their defamatory statements.

148. However, Plaintiff can establish the higher "actual malice" standard required of "limited purpose public figure" plaintiffs to recover damages for defamation.

149. The Supreme Court recognizes both "public figures" and "limited purpose public figures."

150. Public figures are those who "have assumed roles of especial prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved. In either event, they invite attention and comment." *Gertz v. Robert Welch, Inc*. 418 U.S. 323, 345 (1974). These persons are classified as "limited purpose public figures."

151. Plaintiff belongs in neither category. He "has not accepted public office or assumed an 'influential role in ordering society.'" *Id.*

152. As such, Plaintiff is a "private individual." "[P]rivate individuals are not only more vulnerable to injury than public officials and public figures; they are also more deserving of recovery." *Id.*

153. "When a person thrusts himself into the forefront of public debate, he is treated as a 'limited-purpose public figure' for purposes of comment on issues arising from that debate. Such 'limited-purpose public figures,' like other public figures, may only recover for defamatory statements made with actual malice." *Carr v. Forbes, Inc*., 259 F.3d 273, 278 (4th Cir 2001) (emphasis added).

154. "Whether a person has achieved the status of a limited-purpose public figure is a question of law…. In answering that question, we conduct a two-part inquiry. First, we ascertain whether

a public controversy gave rise to the defamatory statement. Second, we determine whether the plaintiff's participation in that controversy sufficed to establish him as a public figure within the context of that public controversy. The Defendant bears the burden of proving the plaintiff's public figure status." *Id*. (internal citations omitted).

155. While Plaintiff speaks several weekends each year at conferences, and has written several books on topics of homeschooling and parenting, the actions and words falsely alleged by Defendants are completely unrelated to either topic, involving a purely personal alleged matter. No "public controversy" in any way gave rise to Defendants' defamatory statements. No action or statement alleged by Defendants, even if presumed to be true, involves Plaintiff in any way "thrusting himself into public debate" on any "public controversy."

156. Accordingly, Plaintiff is a private individual and need only prove Defendants' negligence.

157. However, Defendants' actions nonetheless meet the "actual malice" standard applicable to "limited purpose public figures."

158. Actual malice means that the Defendants made the statement "with knowledge that it was false or with reckless disregard of whether it was false or not." *N.Y. Times*, 376 U.S. at 279-80.

159. No Defendant named in this case ever sought out Plaintiff or otherwise investigated the truth or falsity of Easter's allegations.

160. "Every false … imputation, spoken, written or printed which imputes to a business or professional man conduct which tends to injure him in his business or profession is libelous." *James v. Haymes*, 160 Va. 253 (Va. 1933).

161. "A statement is defamatory per se if … it 'imputes an unfitness to perform the duties of a job or a lack of integrity in the performance of the duties' or 'prejudices the party in [his or] her

profession or trade." *Reynolds v. Pionear, LLC*, 2016 U.S. Dist. LEXIS 39720, E.D. Va. (2016).

162. Imputation of poor moral character to Plaintiff, whose business is named "Character Concepts" and is predicated upon a reputation for moral uprightness, goes directly to the heart of Plaintiff's business and professional reputation, and severely "prejudices the [Plaintiff] in [his] profession or trade."

163. The false statements made by Defendants, therefore, constitute defamation *per se.*

164. Likewise as with words imputing unfitness or a lack of integrity in business, words "…falsely conveying the charge of a criminal offense involving moral turpitude are … considered to be libelous per se in an action for defamation at common law." *Payne v. Tancil*, 35 S.E. 725 (Va., 1900).

165. Thus, on two grounds, "conveying the charge of a criminal offense involving moral turpitude," and "imputing an unfitness to perform the duties of a job or a lack of integrity in the performance of the duties and prejudicing the party in his profession or trade," Defendants' false statements against Plaintiff are defamatory per se.

166. Defendants' defamatory statements had a dramatic negative impact on Plaintiff's reputation and business.

167. As a direct and specific result of Defendants' false and defamatory allegations, as well as those of Easter, the Home Educators Association of Virginia ("HEAV") disinvited Plaintiff from his previously contracted agreement to perform in period costume as "Uncle Rick," reading stories to children at the 2016 HEAV Virginia homeschooling convention as was his custom. The disinvitation cost Plaintiff's business, Character Concepts, significant financial losses.

168. Shortly before the 2016 convention, Anne Miller, President and Executive Director of HEAV, telephoned Plaintiff stating that Defendants' allegations were the reason for HEAV's

decision to disinvite Plaintiff from his "Uncle Rick" speaking role at the HEAV convention.

169. Prior to Defendant's false and defamatory allegation, Plaintiff's business had received speaking slots at the HEAV convention regularly since the late 1980s, and had been invited every year.

170. 2016 was the first year Plaintiff had experienced a speaking cancellation at the HEAV convention.

171. As a further direct and specific result of Defendants' false and defamatory allegations, the Home School Legal Defense Association ("HSLDA") terminated its contract by which Character Concepts curriculum was advertised on the HSLDA website.

172. This termination cost Plaintiff's business, Character Concepts, significant financial losses.

173. To date, Character Concepts has not been featured on HSLDA's website since Defendants' false and defamatory allegation was first published.

174. As a further direct and specific result of Defendants' false and defamatory allegations, HSLDA removed Character Concepts from its list of recommended speakers for state homeschooling conventions.

175. On June 7, 2016, Luke Thomas of HSLDA sent Plaintiff an electronic mail communication stating that Defendants' allegations were the reason for HSLDA's decision to remove Character Concepts from its list of advertisers. A copy of the email is included as Plaintiff's Exhibit J.

176. As a result of this removal, Plaintiff and his wife have seen their number of convention speaking invitations drop from an average of 5.5 per year between 2011 and 2016 to just two in 2017.

177. In the spring of 2016, before Defendants' defamatory attacks, Plaintiff was invited to attend HSLDA's National Christian Homeschool Leadership Conference ("NCHLC").

178. In August, 2016, Michael Smith of HSLDA telephoned Plaintiff to inform him that Plaintiff had been disinvited from the HSLDA's National Christian Homeschool Leadership Conference ("NCHLC"), due to Defendants' false and defamatory allegations.

179. State homeschool convention organizers typically draw many of their speakers from the NCHLC.

180. Plaintiff has attended the yearly NCHLC regularly since 2004 in an effort to attract speaking engagements for his business.

181. Plaintiff's business, Character Concepts, has received many of its speaking invitations on the basis of being a participant in the NCHLC.

182. As a former administrator of Plaintiff's website, and as demonstrated by her citations to HEAV and the NCHLC in Post 1, Defendant was well aware of the business relationship between Plaintiff on one hand, and HEAV and the NCHLC on the other.

183. As stated by Anne Miller, Luke Thomas and Michael Smith, but for Defendants' conspiracy and defamation, Plaintiff would have retained the lost contracts with both HEAV and HSLDA.

184. As a result of their lost convention speaking slots, Plaintiff and his wife have seen online sales from their home-based part-time Character Concepts business decline dramatically as well.

185. Defendants' false and defamatory statements caused severe economic damage to Plaintiff and his business.

186. For the five-year period from 2011 to 2015, gross income to Plaintiff's business averaged $168,830, with the lowest year's total at $141,732.

187. In 2016, even though part of the year's sales predated Defendants' defamatory attacks, Plaintiff's business gross income fell to only $110,078.

188. For the six-year period from 2011 to 2016, Plaintiff and his wife spoke at an average of five and a half conventions per year, with the lowest total of four coming in 2014. Invitations to speak 2016 conventions had been offered before Defendants' defamation.

189. In spite of speaking at four conventions in 2016 due to invitations that predated Defendants' defamatory attacks, Plaintiff's business grossed only $110,078 in 2016. This was approximately thirty-five percent and $58,752.00 below the average of the previous five years.

190. In 2017, the first year convention invitations were issued after Defendants' defamatory attacks, Plaintiff and his wife were invited to only two conventions, half the number from 2016.

191. Accordingly, Plaintiff lost at least $58,752 in 2016, and given that he was only invited to approximately half the conventions for 2017 as in 2016, the losses project to be almost twice as high in 2017.

192. Defendants are therefore liable, jointly and severally, to Plaintiff in the amount of $197,504 in compensatory damages for economic losses alone.

193. Plaintiff is also "entitled to recover compensatory damages upon proof of actual injury, including such elements as damage to his reputation and standing in the community, embarrassment, humiliation, and mental suffering." *Fleming v. Moore*, 275 SE 2d 632, 638-39 (Va. 1981).

194. Defendants are therefore liable, jointly and severally, to Plaintiff in the amount of $592,512 in compensatory damages for "damage to his reputation and standing in the community, embarrassment, humiliation, and mental suffering." *Id*.

195. Accordingly, Defendants are liable, jointly and severally, in the amount of $790,016, in

compensatory damages for Plaintiff's financial losses.

196. As noted *supra*, Defendants' defamatory statements are actionable *per se*, both on the grounds of imputation of commission of a crime of moral turpitude, and by virtue of severely prejudicing Plaintiff in his trade or business. *Fleming*, 275 SE 2d 632, 635.

197. Accordingly, damage to Plaintiff is presumed, and Defendants are liable to Plaintiff.

198. "[I]n a slander or libel action, where the defamation is actionable per se, punitive damages … may be awarded." *Fleming*, 275 at 638 (Va. 1981). Defendants are accordingly liable to Plaintiff for punitive damages as well as all compensatory damages.

COUNT TWO – DEFAMATION *PER QUOD*

199. Plaintiff realleges and incorporates all facts alleged in Paragraphs 1 through 198 above, by reference.

200. To establish defamation *per quod* under Virginia law, a plaintiff can show that words that do not directly name him were intended to refer to him and would be so understood by recipients of the publication who know extrinsic facts surrounding the situation. *Scheduled Airlines Traffic Offices v. Objective*, 180 F. 3d 583, 593 (4th Cir. 1999) (citing *Gazette, Inc. v. Harris*, 229 Va. 1, 325 S.E.2d 713, 738 (Va. 1985) ("the plaintiff satisfies the "of or concerning" test if he shows that the publication was intended to refer to him and would be so understood by persons reading it who knew him").

201. "Under Virginia law, the defamatory meaning of published words may appear from the face of the publication ("defamation per se") or may arise by innuendo from the published words in combination with known extrinsic facts, the "inducement" ("defamation *per quod*")." *Wilder v. Johnson Pub. Co.*, 551 F. Supp. 622, 623 (E.D. Va. 1982).

202. "In order to render words defamatory and actionable it is not necessary that the

defamatory charge be in direct terms but it may be made indirectly, and it matters not how artful or disguised the modes in which the meaning is concealed if it is in fact defamatory. Accordingly, a defamatory charge may be made by inference, implication or insinuation." *Carwile v. Richmond Newspapers*, 196 Va. 1, 7 (Va., 1954).

203. "In determining whether a statement is one of fact or opinion, a court may not isolate one portion of the statement at issue from another portion of the statement. . . . Rather, a court must consider the statement as a whole." *Hyland v. Raytheon Tech. Servs. Co*., 670 S.E.2d 746, 751 (Va. 2009).

204. "A defamatory innuendo is no more protected by the First Amendment than is defamatory speech expressed by any other means." *Pendleton v. Newsome*, 772 SE 2d 759, 764 (Va. 2015).

205. "In determining whether the words and statements complained of … are reasonably capable of the meaning ascribed to them by innuendo, every fair inference that may be drawn from the pleadings must be resolved in the plaintiff's favor." *Id*. at 8.

206. In her March 30 "guest post" on Defendant Rodgers' blog Triple Braided Life, titled, "Understanding The Stages of Child Sexual Abuse and Keeping Your Child Safe," Easter states, "I have experienced multiple forms of abuse in my lifetime…. Because of the abuse I experienced from adults who I thought were trustworthy, I am vigilant about learning the signs of a predator and how to keep children safe. I want to start out with a brief description of what goes on in the mind of a sexual predator.

207. Under the heading "6 Stages of Sexual Grooming," Easter writes, "Grooming is a process where predators choose their prey and subtly manipulate them into a sexualized relationship…."

208. At the end of the article is a list of "resources." The first "resource" is titled "My story of

grooming by a leader in the homeschooling movement," and is hyperlinked back to Easter's initial false and defamatory Post 1.

209. Easter's defamatory innuendo is clear. "Because of the abuse I experienced," she clearly wishes the reader to perceive Plaintiff as a "sexual predator" who "groomed" and then "sexually abused" a "child," even though the "facts" alleged in her Post 1 do not support such a claim.

210. Defendants in this case do more than simply republishing Easter's defamation. Simple republication itself might be protected under Section 203 of the Communications Decency Act. But their republication of Easter's words provides ample evidence of the understanding their own defamatory statements are meant to convey to their audiences.

211. Defendant Rodgers accuses Plaintiff of "spiritual and sexual abuse." As discussed in Count One *supra*, sexual abuse is a crime under the laws of the Commonwealth, and accordingly the accusation is defamatory, even though Rodgers fails to specifically allege the elements of the offense. Likewise, in referring to "the abuse she experienced as a young girl and woman" as the introduction to an article titled "Understanding The Stages of Child Sexual Abuse and Keeping Your Child Safe," Rodgers clearly intends to lead the reader to follow Easter's "logic" that Plaintiff was a child abuser. Child abuse is also a crime in Virginia, and to impute the commission of a crime to Plaintiff is defamatory *per se*.

212. Defendant Peterson likewise, even should the Court find that she does not directly allege "sexual abuse," or attribute it to Plaintiff directly, by the use of the term "her abuser" above the headline "Rick Boyer and Sexual Boundary Crossing," plainly intends to lead the reader to that precise conclusion by innuendo.

213. Defendant HARO's false assertion "Rick Boyer accused of … stalking" may appear at first glance to be a mere report of an accusation by Easter.

214. But Easter at no point even suggests that Plaintiff ever "stalked" her.

215. As shown in Count One *supra*, stalking is a criminal offense in Virginia.

216. "[It] would be destructive of the law of libel if a writer could escape liability for accusations of defamatory conduct simply by using, explicitly or implicitly, the words 'I think.'" *Milkovich v. Lorain Journal Co*., 497 U.S. 1, 19 (1990).

217. [I]t is not necessary to make a writing libelous that the imputations should be made in the form of positive assertion. Therefore, "[s]imply couching . . . statements in terms of opinion does not dispel [factual] implications." Consequently, the preamble "I firmly believe" does not provide [Defendant] with shelter if the remainder of her statement contains a provably false connotation. The standard previously articulated by this Court is whether a statement can "reasonably be understood . . . to convey a false representation of fact." *Schaecher*, 772 SE 2d at 600 (internal citations omitted).

218. Defendant HARO had reason to know that Easter had not been accused of stalking, simply by reading the article it reposted.

220. Defendant's statement that Plaintiff was "accused of stalking" is intended to "convey a false representation of fact" about Plaintiff, which would clearly subject Plaintiff to "appear[ing] odious, infamous or ridiculous." *Schaecher*, 772 S.E. 2d at 594. Defendant's false statement is accordingly defamatory.

221. A plaintiff may bring an action for defamation for 'any implications, inferences, or insinuations that reasonably could be drawn from each statement' of fact. *Hyland*, 670 S.E.2d at 751 (emphasis added).

222. "The meaning of the word used must be determined from the whole context of the subject matter in which it is employed." *Alexandria Gazette Corp. v. West*, 198 Va. 154, 162 (Va. 1956).

223. "[A]llegedly defamatory words are to be … understood by courts and juries as other people would understand them, and according to the sense in which they appear to have been used." *Carwile*, 196 Va. at 7.

224. The Virginia Supreme Court has held that

> "In determining whether or not the language does impute a criminal offense, the words must be construed in the plain and popular sense in which the rest of the world would naturally understand them. It is not necessary that they should make the charge in express terms. It is sufficient if they consist of a statement of matters which would naturally and presumably be understood by those who heard them as charging a crime." *Zayre, Inc., v. Gowdy*, 207 Va. 47, 50 (Va. 1966).

225. Even when some facts claimed by a Defendant may be objectively true in isolation from their context, a defamation claim will still lie when a Defendant uses some true facts to convey a false and defamatory implication.

226. As the Virginia Supreme Court has said,

> Our decisions in defamation cases do not include a requirement that 'a libel-by-implication plaintiff must make an especially rigorous showing where the expressed facts are literally true"…. Nor have we held that the Defendant's words must, by themselves, suggest that the author intends or endorses the allegedly defamatory inference. Such a holding would immunize one who intentionally defames another by a careful choice of words to ensure that they state no falsehoods if read out of context but convey a defamatory innuendo in the circumstances in which they were uttered. Motive, intent, scheme, plan or design are issues of fact that may be proved by circumstantial evidence as well as by direct evidence. See *Banovitch v. Commonwealth*, 196 Va. 210, 216, 83 S.E.2d 369, 373 (1954) ('The specific intent may, like any other fact, be shown by circumstances.'). *Pendleton*, 772 S.E.2d at 764-765.

227. HARO's "motive, intent, scheme, plan or design" is clear from the context surrounding their defamatory statements toward plaintiff.

228. "In order to render words defamatory and actionable it is not necessary that the defamatory charge be in direct terms but it may be made indirectly, and it matters not how artful or disguised the modes in which the meaning is concealed if it is in fact defamatory. Accordingly, a defamatory charge may be made by inference, implication or insinuation." *Carwile*, 196 Va. at 7.

229. If HARO's words are "construed in the plain and popular sense in which the rest of the world would naturally understand them," it is "not necessary that they should make the charge in

express terms." HARO's words "consist of a statement of matters which would naturally and presumably be understood by those who heard them as charging a crime." *Zayre*, 207 Va. at 50.

230. Defendant Greenfield is likewise liable for defamation *per quod*. On April 15, she "tweeted" from her Twitter account Easter's Post 1. Above the article's headline, "Rick Boyer and Sexual Boundary Crossing: My Story," Greenfield added her own comment, drawn from the text of the article. "The story of a girl who trusted a spiritual leader and found herself targeted, betrayed and hurt."

231. Though the text is drawn from the article, it stands as Greenfield's defamatory statement in its own right. Greenfield is plainly not simply reposting someone else's words, but stating for herself that Plaintiff was "targeted" by Plaintiff via the "sexual boundary crossing" alleged in the headline below.

232. Greenfield further reposted Easter's entire article as a "guest post" on her own blog the same day. In her introduction to the article, Greenfield refers to Easter as a "victim[] of abuse that "occurred during her teenage years."

233. Under the identical headline as her Twitter post, ""Rick Boyer and Sexual Boundary Crossing: My Story," Greenfield's innuendo is clear. She may not be directly charging Plaintiff with sexual abuse by name, but it is unnecessary "that the Defendant's words must, by themselves, suggest that the author intends or endorses the allegedly defamatory inference. Such a holding would immunize one who intentionally defames another by a careful choice of words to ensure that they state no falsehoods if read out of context but convey a defamatory innuendo in the circumstances in which they were uttered." *Pendleton*, 772 S.E.2d at 764-765.

234. Likewise, Defendant Sparks is liable for defamation *per quod*, even if he were not plainly liable *per se*.

235. Defendant states, "Ashley has shared her story as a victim. She is believed and supported. She will be paid all respect due a survivor of sexual abuse."

236. Defendant states directly that Easter was "Sexually Preyed Upon by Rick Boyer, Sr.," and that she experienced "grooming and sexual abuse … at the hands of Rick Boyer, Sr."

237. Like Easter herself, Sparks may not specifically state the elements of Va. Code § 18.2-67.10. But he clearly "impute[s] the commission of a crime" in the "plain and popular sense in which the rest of the world would naturally understand" his words. *Zayre*, 207 Va. at 50.

238. Defendants' "requisite intent" to defame Plaintiff both per se and by implication is clear. Plaintiff has met all three elements for a showing of defamation *per quod*. Accordingly, Defendants, by republishing the false and defamatory statements with reckless disregard for their truth or falsity, are liable for all damages chargeable to the defamatory falsehoods.

239. Indeed, it is not necessary that Plaintiff show that Defendants stood in "reckless disregard for the truth" in order to recover compensatory damages. The Virginia Supreme Court has held that

> [I]n libel actions not based upon per se defamation, where knowing falsity or reckless disregard for the truth is not shown, the compensatory damages should be limited to the actual damages proved to have been sustained, but such damages should not necessarily be restricted to out-of-pocket loss….Therefore, [a plaintiff] is entitled to recover compensatory damages upon proof of actual injury, including such elements as damage to his reputation and standing in the community, embarrassment, humiliation, and mental suffering. "Special damages", which under the common-law rule must be shown as a prerequisite to recovery where the defamatory words are not actionable per se, are not to be limited to pecuniary loss. *Fleming*, 275 S.E. 2d at 638-39.

240. Accordingly, should this Court not find Defendants liable for defamation per se, Defendants are still chargeable with a judgment for Plaintiff's out-of-pocket costs, plus for "damage to his reputation in the community, embarrassment, humiliation and mental suffering." *Id.*

241. As shown in Count One above, Plaintiff lost at least $58,752 in 2016, and given that he was

only invited to approximately half the conventions for 2017 as in 2016, the losses project to be almost twice as high in 2017.

242. Defendants are liable to Plaintiff, jointly and severally, in compensatory damages for Plaintiff's financial losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays this Court to grant the following relief:

I. For defamation *per se*:

1. A judgment against Defendants jointly and severally in the amount of one hundred ninety-seven thousand five hundred dour dollars ($197,504) in compensatory damages for Plaintiff's economic losses.

2. A judgment against Defendants jointly and severally in the amount of five hundred ninety two thousand, five hundred twelve dollars ($592,512) in compensatory damages for the damage to Plaintiff's "reputation and standing in the community, embarrassment, humiliation, and mental suffering."

3. A judgment against Defendants jointly and severally in the amount of three hundred thousand dollars ($300,000) in punitive damages for defamation *per se*.

II. Pleading in the alternative, for defamation *per quod*:

4. In the event that the Court finds defamation only *per quod* and not *per se,* a judgment against Defendants jointly and severally in the amount of one hundred ninety-seven thousand five hundred dour dollars ($197,504) in compensatory damages for Plaintiff's economic losses.

5. A judgment against Defendants jointly and severally in the amount of five hundred ninety-two thousand, five hundred twelve dollars ($592,512) in compensatory damages for the damage to Plaintiff's "reputation and standing in the community, embarrassment, humiliation,

and mental suffering."

6. Such other and further relief as this honorable Court finds just and appropriate.

Respectfully Submitted,

Rickey G. Boyer
By Counsel