

UNITED STATES DISTRICT COURT

DISTRICT OF COLORADO

Civil Action No. 09-CV-

BROKERS' CHOICE OF AMERICA, INC. and
TYRONE M. CLARK,

Plaintiffs,

v.

NBC UNIVERSAL, INC., GENERAL
ELECTRIC CO., CHRIS HANSEN, STEVEN
FOX ECKERT and MARIE THERESA
AMOREBIETA,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs, BROKERS' CHOICE OF AMERICA, INC. and TYRONE M. CLARK, by their attorneys Downey & Murray LLC and Carter Ledyard & Milburn LLP, allege as and for their Complaint as follows:

THE PARTIES

1. Plaintiff Brokers' Choice of America, Inc. is a company organized and existing under laws of Colorado, with its principal place of business at 10350 E. Easter Avenue, Centennial, Colorado, 80112.

2. Plaintiff Tyrone M. Clark, a resident of Colorado, is the founder, CEO, and majority owner of BCA.

3. Defendant NBC Universal, Inc. ("NBC") is a company organized and existing under the laws of Delaware, with its headquarters and principal place of business at 30 Rockefeller Plaza, New York, New York, 10112.

4. Defendant General Electric Company ("GE") is a company organized and existing under the laws of New York, with its principal place of business at 3135 Easton Turnpike, Fairfield, Connecticut, 06828. GE controls NBC as its 80% owner. GE has stated that it regards NBC employees as its own.

5. Defendant Chris Hansen ("Hansen") is an employee of NBC and GE. Hansen works as an on-screen reporter on *Dateline NBC*. Upon information and belief, Hansen resides in Connecticut.

6. Defendant Steven Fox Eckert ("Eckert") is an employee of NBC and GE. Eckert works as a producer for *Dateline NBC*. Upon information and belief, Eckert resides outside of Colorado and works in New York State.

7. Defendant Marie Theresa Amorebieta ("Amorebieta") is an employee of NBC and GE. Amorebieta works as a producer for *Dateline NBC*. Upon information and belief, Amorebieta resides outside of Colorado and works in New York State.

JURISDICTION AND VENUE

8. This case is within this Court's jurisdiction pursuant to 28 U.S.C. § 1331, 1332 and 1343. Venue is proper in this district pursuant to 28 U.S.C. § 1391. The matter in controversy in each cause of action asserted herein exceeds \$75,000.00.

INTRODUCTORY STATEMENT

9. This complaint arises out of a television program broadcast nationwide on April 13, 2008, on NBC Universal's *Dateline NBC* entitled "Tricks of the Trade," in which Defendants, acting with actual malice and reckless disregard of Plaintiffs' civil rights, defamed Plaintiff Tyrone M. Clark and the company he founded, Plaintiff Brokers' Choice of America, Inc., thereby severely harming Plaintiffs' business and personal reputations and causing tens of millions of dollars in damages.

10. The defamatory broadcast was the culmination of a collusive scheme by Defendants and officials of the State of Alabama to use Defendants to investigate alleged fraudulent practices in the marketing and sale of insurance products to senior citizens in Alabama. As part of this scheme, the Alabama officials deputized Defendants Eckert and Amorebieta, *Dateline* producers, making them state actors, and agreed with all Defendants that the *Dateline* producers would go to Colorado, infiltrate a private educational class concerning insurance products conducted by Plaintiffs on Plaintiffs' private property, and collect evidence for both the Alabama investigation and a *Dateline* production.

11. The educational seminar conducted by Plaintiffs was restricted to licensed insurance agents. To circumvent this restriction, the Alabama Department of Insurance issued credentials purporting to be insurance producer licenses to Eckert and Amorebieta and, upon information and belief, entered these purported licenses into its official database and another maintained by an outside insurance industry registry. The Alabama "licenses" were issued with the proviso, agreed to by Defendants in writing, that such credentials would be used solely for the purpose of gaining access to and recording surreptitiously Plaintiffs' educational seminar and

not for the actual sale of insurance products in Alabama. Defendants, in exchange for receiving these false credentials, promised, upon information and belief, to share with Alabama information it gathered from its surveillance and recording of Plaintiffs' seminar.

12. Defendants Eckert and Amorebieta, acting on behalf of the State of Alabama as well as *Dateline*, and using the false credentials supplied by that state's officials, proceeded to Colorado where they posed as licensed insurance agents and infiltrated Plaintiffs' private premises and private educational seminar. There, the *Dateline* producers secretly recorded on hidden cameras all or parts of two days of lectures in complete disregard of Plaintiffs' prominently posted and strict prohibition of recording any portion of the seminar by attendees.

13. Following their unauthorized and deceitful recording of Plaintiffs' educational class, Defendants selectively edited the thousands of words spoken by Plaintiff Tyrone Clark in those two days, reducing the hidden-camera footage into nine carefully edited snippets totaling 112 words. Defendants then inserted and broadcast on national television these 112 words out of Plaintiff Clark's context and placed them in a false and defamatory context uttered by *Dateline's* spokesman Defendant Chris Hansen on a program entitled "Tricks of the Trade," purporting to show the results of Defendants' investigation of alleged misleading, abusive or fraudulent practices in the sale of annuity products to senior citizens.

14. The material selectively edited and broadcast by Defendants stated and implied clearly that Plaintiffs had instructed insurance agents on how to terrify and mislead senior citizens into purchasing unsuitable insurance products, derided the intelligence of senior citizens, and that Plaintiffs imparted fraudulent sales techniques and practices to insurance agents in Alabama and across America.

15. As a result of this false and defamatory broadcast, Plaintiffs' businesses and reputations have been severely, perhaps irrevocably, harmed. In the wake of the *Dateline* broadcast, many of Plaintiffs' business associates, citing Defendants' defamatory broadcast, have terminated services agreements with Plaintiffs and Plaintiffs have been unable to proceed with planned business ventures. Insurance companies and agencies who have long participated in Plaintiffs' programs have severed their relationships with Plaintiffs, and Plaintiffs have been widely shunned and stigmatized within their industry. Plaintiffs' damages already are measured in millions of dollars of lost revenue and profits.

16. Accordingly, Plaintiffs seek compensatory and punitive damages, attorney's fees, and costs, on among other causes of action: defamation, trespassing, intrusion on privacy, and a violation of Plaintiffs' civil rights under 42 U.S.C. § 1983.

FACTUAL BACKGROUND

17. Plaintiff Brokers' Choice of America, Inc. ("BCA") operates as an Independent Marketing Organization ("IMO") in the insurance industry. IMOs enter into agreements with insurance companies to market their insurance products. IMOs then recruit and make these insurance products available to independent licensed insurance agents who, in turn, market these products to consumers. In this regard, IMOs provide services to insurance companies, independent insurance agents, and, ultimately to consumers who benefit by the variety of insurance products offered for sale.

18. BCA was founded in 1990 by Plaintiff Tyrone M. Clark ("Clark"). Clark is the majority owner of BCA and serves as BCA's CEO.

19. BCA had grown since 1991 into one of the largest IMOs in the United States. BCA has entered into marketing agreements with a number of major domestic and international insurance companies and has worked with over a thousand independent insurance agents (known within the industry as “producers”). Producers working with BCA since 1990 have been responsible for over \$4 billion in annuity and life insurance sales.

Annuity University

20. As part of its suite of marketing and educational services, BCA offers classes to licensed insurance producers on various insurance-related topics. One of these classes is presented to insurance producers under the trade name “Annuity University.” Annuity University is not an accredited educational institution, and disclaimers on Annuity University materials make this clear.

21. Annuity University is an intensive two-day educational class that covers a wide array of topics relevant to annuities products and the annuities industry. Its purpose is to assist insurance producers to understand the features of the annuity products they market to consumers for suitable fit. Typically, Annuity University classes cover the technical aspects of annuities and annuity contracts, annuity rules and regulations, and annuities marketing. The seminars also examine the suitability of annuity products for various populations and how different annuities products may benefit or adversely effect different individual portfolios. Significantly, the seminar goes to great lengths to stress BCA’s Code of Ethics, a set of guidelines drafted by Clark to underscore the importance of ethical business and sales practices in the annuities industry.

22. Annuity University seminars are taught by Clark who developed the course after years of experience in the annuities industry. Annuity University seminars are taught in

Centennial, Colorado in a building owned privately by a Clark-owned company and leased exclusively to BCA.

23. Annuity University and the BCA premises in which they are held are not open to the general public. All participants must be lawfully licensed insurance producers who register with BCA prior to attendance. BCA, by prominent signage in its classroom, prohibits attendees of Annuity University from recording its classes.

24. This action concerns a defamatory broadcast on *Dateline NBC* ("*Dateline*") of illicitly recorded video and audio footage from an Annuity University class held on October 25-26, 2007. As noted above and described below in greater detail, earlier in October, Defendants colluded with the State of Alabama which, per negotiations and written agreement, provided Defendants with false credentials in the form of insurance producer licenses to be used for the sole purpose of infiltrating, surveilling, and electronically recording the Annuity University seminar in aid of Alabama's investigation.

Dateline

25. *Dateline* is a television "newsmagazine" produced by Defendant NBC and broadcast weekly on NBC-affiliated television stations. Since its inception in the early 1990's, NBC has focused *Dateline's* programming on "investigations" and "exposés" conducted by its producers and featuring Hansen as on-air correspondent.

26. In order to appreciate the nature and willfulness of Defendants' acts against Plaintiffs stated herein, it is necessary to understand *Dateline's* investigative *modus operandi* and the culture in which its producers and correspondents operate. *Dateline's* routine investigative

practice includes a preference for staging and “creating” news stories, as well as purposeful collusion with law enforcement and government agencies across America, and even overseas.

Dateline: “Creating” Rather than Reporting News

27. *Dateline’s* early years were marked by questionable journalistic practices, such as rigging a pickup truck with an explosive device so it would burst into flames on camera and on cue in a staged crash to illustrate a program about alleged dangers of General Motors pickup trucks. More recently, *Dateline*, upon information and belief, brought Arabic-looking men to a NASCAR race for the sole purpose of secretly filming crowd reaction. In addition, upon information and belief, *Dateline* sent reporters to a St. Louis airport in an attempt to purchase access to a helicopter, employing methods thought to be used by international terrorists. *Dateline* has been widely criticized for these and other forays into the darker side of hidden-camera entrapment and the humiliation of persons who become its subjects.

28. *Dateline’s* attempts at “creating” rather than reporting news reached a sensationalistic nadir when *Dateline* began its “To Catch a Predator” series. For its “To Catch a Predator” series, NBC retained an organization called Perverted Justice which supplied persons to masquerade as minors in Internet chat rooms and invite suspected pedophiles to private homes – so-called “sting houses” – rented by *Dateline* and rigged with hidden cameras. Those targeted as pedophiles were lured to the *Dateline* homes with actual or implied promises of a sexual encounter. At these “sting houses,” the targeted individuals were greeted by the person posing as a minor claiming to be home alone. Shortly after his entry and initial encounter with the “minor,” *Dateline’s* Chris Hansen would suddenly appear and confront the target. All of this

was recorded by *Dateline*'s hidden cameras, edited for effect, and broadcast on national television.

Dateline's Historic Relationship With Law Enforcement

29. In addition to staging and "creating" news stories, *Dateline*'s producers, upon information and belief, made a strategic and long-term organizational decision during its "To Catch a Predator" series to work closely with law enforcement and government officials in jurisdictions all over the country. This strategic decision was, upon information and belief, the result of audience development and ratings considerations. *Dateline* features the imprimatur of police involvement to give their televised programming credibility in the eyes of viewers.

Further, the involvement of law enforcement also brings "reality" to and sensationalizes *Dateline*'s programs, which increases ratings and draws additional advertising revenue. Law enforcement officials and agencies, in turn, have been eager to work with *Dateline* employees often because these local agencies often lack the resources to investigate the numerous crimes committed in their jurisdictions.

30. In this way, *Dateline* effectively transformed itself from a tabloid-style news program into an appendage of local police organizations. An example of the enmeshment of *Dateline* and law enforcement in both the production and content of a "To Catch A Predator" program occurred in April 2006 when *Dateline* set up a "sting" to ensnare suspected sexual predators in Darke County, Ohio. According to a critical article in the *Columbia Journalism Review*, the police in Darke County "insisted that personnel from Perverted Justice be deputized for the operation so as not to compromise the criminal cases it wished to bring against the targets. After some discussion, NBC's lawyers agreed to the arrangement...."

31. In its review of *Dateline's* journalistic tactics, the *Columbia Journalism Review* concluded that “*Dateline* hasn’t so much covered a story as created one. In the process it has further compromised the barrier between reporters and cops that is central to the mission of journalism.”

32. An article published in the September 2007 issue of *Esquire Magazine* further revealed *Dateline's* intertwined relationship with local law enforcement. The article reported that *Dateline* actually wired a police station in Murphy, Texas with a live video feed of a private “sting house” rented by *Dateline* used to lure and record numerous suspected sexual predators, many of whom were immediately arrested by staked out Murphy police.

33. *Dateline's* Chris Hansen admitted in a July 10, 2007 interview with the author of the *Esquire Magazine* article that law enforcement officers making arrests in “some of the investigations” actually wore cameras provided by *Dateline's* “hidden-camera guys.” This was done, in Hansen’s own words, “[a]s a production technique” for the *Dateline* program.

34. The *Esquire Magazine* article reported that the Collin County District Attorney’s office announced on June 1, 2007, that none of the 24 alleged sexual predators lured to *Dateline's* Murphy, Texas house and arrested by Murphy police would be charged with a crime. The article quoted District Attorney John Roach as stating that “the Murphy Police Department was merely a player in the show and had no real law-enforcement position. Other people are doing the work, and the police are just there like potted plants, to make the scenery.” But the Murphy, Texas story does not end there.

35. *Esquire Magazine* also reported that Hansen and *Dateline* employees allegedly pressed Murphy police to obtain an arrest warrant for a Texas prosecutor, William Conradt

(“Conradt”), who was suspected by Perverted Justice of being a sexual predator. Conradt did not show up at *Dateline’s* Murphy, Texas “sting house” after being invited there by a Perverted Justice operative posing as a minor. Allegedly at *Dateline’s* behest, the local police sent a SWAT team to execute the warrant and to storm Conradt’s home as *Dateline* cameras recorded the scene. Conradt shot and killed himself as the encounter in his home began.

36. *Dateline’s* institutional practice of collusion with law enforcement and government officials was most recently the subject of a front-page article in the *New York Times* on February 11, 2009. In this article, the *New York Times* reported that *Dateline*, using tactics similar to those it employed in the “To Catch a Predator” series, has teamed up with government prosecutors in Rwanda to investigate and confront on camera United States residents suspected of war crimes and genocide. The article reports that *Dateline’s* collusion with Rwandan officials – which has already resulted in the possible deportation of a Maryland college professor on what appears to be politically-motivated and speculative evidence – has been criticized by human rights organizations and media watchdog groups as unethical and deeply troubling.

37. Hansen and the other Defendants apparently learned nothing from *Dateline’s* forays into police work in Ohio and Texas. Shifting their focus to alleged improper business practices, Hansen and *Dateline* continued their highly questionable relationships and joint activities with government officials, this time with agency heads in the State of Alabama. Thus, even after bungling police operations and possibly causing the suicide of a respected prosecutor in their “To Catch a Predator” series, *Dateline’s* Hansen, Eckert and Amorebieta with, on information and belief, the approval of their supervisors, proceeded to collude with Alabama state officials to conduct a civil and criminal investigation, trespass by fraud onto Plaintiffs’

property, and violate Plaintiffs' constitutional and civil rights. all in the course of producing and broadcasting a *Dateline* program which defamed Plaintiffs, causing them tens of millions of dollars in damages.

"To Catch a Conman" and "Tricks of the Trade"

38. Upon information and belief, the ratings success of *Dateline's* "To Catch a Predator" series persuaded its producers to venture into the business arena, in a series initially announced with the title "To Catch a Conman." One of the first of this series was the Alabama-based program which is the basis for this action, the name of which was changed before airing to "Tricks of the Trade."

39. As conceived, the "To Catch a Conman" programs borrowed many of the techniques use by *Dateline* in its "To Catch a Predator" series, such as a "sting house" where news stories can be "created" and the exploitation of a relationship with local government officials. But rather than seeking to entrap suspected pedophiles, *Dateline* shifted its focus in Alabama to alleged misleading and abusive business practices in the sale of annuities to seniors and retirees – more specifically, the sale of what are known in the insurance industry as "fixed-indexed annuities."

40. Fixed-indexed annuities are similar to traditional annuities in that the holder of the fixed-indexed annuity funds the annuity with a principal amount and then contributes monthly premiums for a specified number of years. Unlike traditional annuities, the yearly return on a fixed-indexed annuity is linked to a specified equities index, such as the S&P 500. Thus, within certain limits, the yearly return of an fixed-indexed annuity will parallel that of the annuities' underlying equities index. However, if the underlying index produces a negative return in a

given year, the holder of the annuity loses nothing and is guaranteed a minimum percentage return.

41. Given their guaranteed minimum return and their potential for increased returns in a rising market, fixed-indexed annuities are attractive for many insurance consumers. In exchange for these relatively risk-free features, however, many insurance companies restrict the withdrawal of money from these annuities for a stated number of years, allowing the insurance company to invest the monthly premiums in stable, long-term investments. Holders of fixed-indexed annuities are therefore generally charged a fee for the early withdrawal of funds. These fees, in certain respects, are similar to the costs incurred by IRA account holders for early withdrawals: in exchange for tax free growth and earnings in the years preceding their retirement, IRA account holders face tax penalties for early withdrawals.

42. *Dateline*, in “To Catch a Conman,” sought to investigate whether insurance salesman were omitting information about, or misrepresenting, the nature and extent of early withdrawal fees and other conditions on early withdrawal in fixed-indexed annuity contracts when marketing these products to seniors and retirees. NBC originally promoted the program – as implied by the name – as an exposé on “conmen.” For reasons not explained to the public, after touting the “To Catch a Conmen” title in promotional materials, NBC changed the name of the program shortly before it aired to “Tricks of the Trade.” Aside from changing the title, NBC, upon information and belief, made no other substantive changes to the program.

The State of Alabama Deputizes the *Dateline* Producers

43. *Dateline* found a willing partner in the investigation of annuities sales practices – the State of Alabama.

44. Because annuities are insurance products and the return on fixed-indexed annuities is tied to various securities indexes, the Alabama Department of Insurance (“ALDOI”) and the Alabama Securities Commission (“ASC”) each claimed an interest in regulating the sale and marketing of fixed-indexed annuities.

45. Accordingly, upon information and belief, ALDOI and ASC joined with the Alabama Attorney General’s office (“AAG’s office”) to explore ways in which the various agencies could combine their resources and work together in investigating and prosecuting improper annuities sales practices.

46. These discussions culminated in the creation of a joint task force named the Alabama Annuities Task Force (“AATF”). The existence of this task force was formally announced by ALDOI, ASC, and the AAG’s office in a press release on March 19, 2008 (the “press release”). However, upon information and belief, the AATF had been functioning for six to nine months prior to the press release, including the collaboration with Defendants hereafter described.

47. The purpose of the AATF as stated in the press release was to “work jointly on investigations of annuity sales, particularly as they apply to the suitability of the products sold to Alabama consumers.” ALDOI and ASC were to be the “regulatory” arms of the AATF, comprising “the working unit of the AATF, meeting regularly to monitor complaints, coordinate investigations, and pursue those who are operating outside of Alabama law.” The role of the AAG’s office in the AATF would be to “close the circle” beyond mere regulatory powers and controls, serving as the AATF’s criminal prosecutor. Alabama’s Attorney General noted in the

press release that some cases brought to the attention of the AATF “would follow a regulatory path, while others may need to be pursued in criminal court.”

48. It was in this climate of seeking a coordinated approach to the civil and criminal investigation of annuities sales practices in Alabama that certain individuals within AATF met with representatives of *Dateline* to discuss *Dateline*’s “Tricks of the Trade” investigation. At this time, Plaintiffs do not know if AATF members initiated contact with *Dateline* or if *Dateline* initiated contact with AATF members. Either way, both the governmental departments that comprised the AATF and *Dateline* had a clear incentive to work together. *Dateline*, upon information and belief, was looking for a business oriented counterpart to its popular “To Catch a Predator” series, and working with AATF members would give *Dateline* the type of relationship with governmental investigative and law enforcement authority it obtained regularly in the “Predator” series. The constituent agencies of AATF, in turn, were quite willing to utilize Defendants’ resources to investigate alleged misleading or abusive annuities sales practices within Alabama offered to them by *Dateline*, such as a video-wired “sting house” where *Dateline* producers hoped insurance salesmen might be caught on videotape in the act of misleading seniors in marketing presentations.

49. Accordingly, upon information and belief, *Dateline* and the AATF embarked on a program to jointly gather information on whether misleading, abusive or even criminal annuity sales practices were being conducted in Alabama. This joint operation was similar in many respects to *Dateline*’s collusion with law enforcement in its “To Catch a Predator” series. It began with *Dateline* renting a house in Cullman, Alabama, outfitting the house with hidden cameras, and enticing insurance producers to present annuity products to a senior citizen posing

as an interested consumer. The invited agents were, presumably, identified by the Alabama officials. *Dateline* recorded their sales presentations, and upon information and belief, shared its footage with AATF members. Some of this footage eventually appeared on “Tricks of the Trade,” and Joseph Borg, Director of the ASC, was featured prominently on the program viewing and commenting on this footage to Chris Hansen.

50. Upon information and belief, at some point *Dateline* and the AATF officials decided to broaden their investigation to include the training of insurance producers in marketing annuities. In a manner unknown to Plaintiffs, BCA was identified as one of the largest IMOs in the country and its Annuity University in Colorado taught by Clark as a course possibly attended by insurance producers from Alabama. However, before *Dateline* could infiltrate Annuity University a problem of access had to be solved.

51. BCA requires that all attendees of Annuity University be lawfully licensed insurance producers. To circumvent this strict requirement, ALDOI issued to Defendants Eckert and Amorebieta, the producers of the “Tricks of the Trade” program, purported Alabama insurance producer licenses. In this way, the State of Alabama acting through ACS, ALDOI and the AAG’s office deputized Eckert and Amorebieta to travel to Colorado and infiltrate BCA’s premises to gather evidence of possible civil and criminal violations.

52. The credentials provided to Eckert and Amorebieta were false as manifested by the fact that ALDOI required Eckert and Amorebieta to agree in writing not to sell insurance products with these licenses and to return these licenses immediately after surveilling and gathering evidence about the Annuity University class. Defendants, through Eckert and

Amorebieta, acceded in writing to these conditions and proceeded to implement the agreed plan by submitting applications to ALDOI for insurance producer licenses.

53. Eckert and Amorbieta falsely stated on their insurance producer license applications that they resided at 1328 Dogwood Lane NW, Cullman, Alabama, 35055, and that they intended to operate an insurance agency there. Upon information and belief, the address listed in the applications was the “sting house” in Cullman, Alabama rented by *Dateline* to lure and record annuities agents meeting with customers. Eckert and Amoebieta also falsely stated on their applications that they expected to work for a company in the insurance business called Hansen Group based at the Cullman address. Hansen Group, upon information and belief, is a fictitious company created by *Dateline* spokesperson Chris Hansen. Eckert and Amorebieta also identified General Electric – not NBC – as their current employer. Informed by Plaintiffs’ counsel prior to the broadcast of these statements of employment by General Electric, a highly placed official of NBC’s parent advised that NBC’s employees are considered employees of GE by the company.

54. When ALDOI issued these licenses to Eckert and Amorebieta, AATF officials were fully aware that much of the information contained in the applications for them was false. ALDOI nevertheless issued the insurance producer licenses in furtherance of the AATF scheme to investigate and infiltrate the Annuity University seminar in Colorado using *Dateline* operatives. After ALDOI issued these licenses to Eckert and Amorebieta, they were placed in official state records accessible on electronic databases to members of the public directly or through a non-governmental national registry.

Dateline/AATF Infiltrates the Annuity University Seminar

55. On or about October 19, 2007, Eckert and Amorebieta submitted registration forms to BCA *via* the internet for the October 25-26, 2007 sessions of Annuity University. Both registration forms falsely listed their address as 1328 Dogwood Lane NW, Cullman, Alabama, 35055. The email address listed on the applications was sfox.hansen@gmail.com. Upon information and belief, the email address listed on the applications was related to the fictitious company set up by Hansen to conceal the true nature of Eckert's and Amorebieta's employment and whose sole purpose and intent was to infiltrate Annuity University to record Clark's presentations for broadcast purposes in aid of the Alabama investigation.

56. After receiving Eckert and Amorebieta's registration forms, a BCA employee visited the National Insurance Producers Registry ("NIPR") website, in which ALDOI participates, to determine if Eckert and Amorebieta were agents licensed by Alabama. The NIPR website indicated that Eckert and Amorebieta had recently received insurance licenses in Alabama and the BCA employee printed confirmations of their license status from the website. After thus confirming that Eckert and Amorebieta appeared to be duly licensed insurance producers, BCA granted Eckert and Amorebieta admission to the BCA premises and Annuity University.

57. Eckert and Amorebieta proceeded to attend the two-day Annuity University seminar on October 25-26, 2007, at BCA's headquarters in Centennial, Colorado. At no point during the seminar did Eckert and Amorebieta reveal that they were *Dateline* producers and employees of NBC and GE; and at no point during the seminar did Eckert and Amorebieta reveal that they were not employed as insurance producers, that their licenses were issued based on

applications which they and ALDOI, ASC, and the AAG's office knew contained false information, and that their sole purpose in being there was to record surreptitiously video of the lecture for broadcast on national television in aid of the Alabama investigation.

58. Eckert and Amorbieta attended the seminar with a third person they claimed was their assistant. One or more of them were equipped with hidden cameras which they used, upon information and belief, to record substantial portions of the seminar with full knowledge and in deliberate violation of BCA's strict prohibition on recording its seminars and other intellectual property.

59. The Annuity University class recorded secretly by *Dateline* was conducted in day-long sessions over the course of two consecutive days. The seminar covered an extensive amount of information, mainly about the technical aspects of annuities, annuity rules and regulations, and common misunderstandings about annuities and annuity contracts. This material prominently featured discussion of potential negative aspects of annuities, the misapplication of annuities to the needs of some persons, and how annuities may adversely affect certain portfolios. The seminar covered BCA's Code of Ethics and stressed the importance of ethical business practices. There was also a session on generic and legitimate sales techniques, similar to what would be taught as a matter of course in real estate and mutual fund sales seminars.

60. Following its illicit recording of the Annuity University seminar, *Dateline*, upon information and belief, shared its footage with Alabama AATF authorities. In fact, on the subsequent "Tricks of the Trade" program, Hansen is seen showing recordings of the Annuity

University footage to the head of ASC, Joseph Borg, to solicit his comments. *Dateline* also shared footage of the recordings with Minnesota's Attorney General for the same purpose.

The Preview

61. Prior to airing "Tricks of the Trade" (the "Program"), *Dateline* broadcast a preview of the Program on *The Today Show* (the "Preview"). Video clips of the Preview were also made available for viewing on an NBC website.

62. During the Preview, *Today Show* host Meredith Viera ("Viera"), posed the following question to viewers: "Are [seniors] being tricked out of their hard earned money ... by deceptive sales practices?" Viera then proceeded to answer the question by playing a voiceover narrative of Hansen describing the program while images of an allegedly deceived senior were presented to viewers followed by hidden-camera images of Clark while speaking in the October 2007 seminar. While showing these images, Hansen asked: "*Are some agents being coached on how to mislead people when they sell annuities?*" (Emphasis supplied here and hereafter to Hanson's false and defamatory statements.) The Preview then showed images of Minnesota Attorney General Lori Swanson stating that Clark's statements during the secretly taped sessions of Annuity University are a "lie."

63. The Preview also displayed pictures of a book called "Alligator Proofing Your Estate" which the narrator stated is currently marketed and sold at sessions of Annuity University. The narrator stated that this book is a marketing device whereby an annuity salesman can pay a fee to the author to have the salesman's name placed on the front cover as the exclusive author of the book – a ghost written book. The edition of the book displayed in the Preview, however, had not been marketed at Annuity University seminars for over five years.

The edition of “Alligator Proofing Your Estate” offered by BCA in 2007 was co-authored by a qualified estate planning expert and an agent who writes a clearly identifiable personal chapter about his experience and goals as an insurance producer only, leaving the discussion of estate planning issues (the “Alligators”) to the expert. “Alligator Proofing Your Estate” is not a “ghost written” book in any sense of the word, and the Preview’s representation to the contrary was false and defamatory of BCA and Clark.

The Program

64. The Program was broadcast on April 13, 2008. Upon information and belief, over ten million viewers watched the Program. A true and correct transcript of the Program printed from an NBC website is attached hereto as Exhibit A.

65. During the first few minutes of the Program, Hansen invited viewers to “Join us in a ground-breaking hidden-camera investigation, as we go behind the scenes to uncover the techniques they use: *inside sales meetings – where we catch the questionable pitches; inside training sessions – where we discover agents being taught to scare seniors*; and, finally, inside senior’s homes to reveal the tricks some agents use to puff their credentials to make a sale.” The “training sessions” in which agents are “taught to scare seniors” is the Annuity University session taught by Clark and taped secretly and illicitly by *Dateline*.

66. The first half of the Program was dedicated to footage of unsuspecting insurance salesmen secretly recorded in the *Dateline* “sting house” in Cullman, Alabama. The footage portrayed these salesman as allegedly attempting to sell unsuitable fixed-indexed annuities and other retirement products to a *Dateline* recruit posing as a senior citizen prospect, allegedly without disclosing withdrawal fees associated with these products.

67. Plaintiffs do not know to what extent *Dateline* edited these “sting house” recordings for effect and broadcast them out of context, or even if the duped insurance agents were given a reasonable opportunity to complete their presentations. Nevertheless, the clear implication of this particular segment was that the insurance salesmen recorded surreptitiously in the “sting house” were attempting to trick and deceive senior citizens into purchasing unsuitable insurance products with their retirement savings.

68. In an obvious and successful effort to link Plaintiffs to the salesmen just seen, the Program then transitioned into the Annuity University footage with Hansen’s introduction: *“We’ve seen some of the tactics insurance agents use to sell to seniors. The agents seem awfully slick. How did they get so good? You are about to witness something few people have ever seen – a school where, authorities say, insurance salesmen are being taught questionable tools of the trade.”*

69. Hansen then stated that the Annuity University seminar was not open to the public and admitted, but without the details of the collusion, that *Dateline* received “help” from the State of Alabama to infiltrate the restricted Annuity University seminar: *“These training sessions are only open to licensed insurance agents. We don’t know whether the salesmen we’ve met so far studied here, but the state of Alabama agreed to help us investigate by issuing insurance licenses to two Dateline producers, so we could attend – and bring along our hidden cameras.”*

70. The Program then cut to a bit of grainy hidden-camera footage of Clark speaking: “Annuities are not liquid? That is baloney” Hansen followed up this seven word, out of context clip with a negative description of Clark and Annuity University: *“This is the man in charge of ‘Annuity University’ – Tyrone Clark, the self-proclaimed king of annuity sales.*

Annuities are legitimate investments for some people, and Clark is a strong advocate for them. He says they're safe and have no risk, which are selling points especially appealing to seniors."

71. In support of his assertion that Clark claimed that annuities "have no risk," Hansen showed another seven word hidden-camera clip of Clark stating: "What I sell is peace of mind" At no point, however, did Clark state that annuities "have no risk." Annuities, of course, do carry risks which Clark explained clearly in the seminar; and for Hansen to state without attribution that Clark believes and teaches insurance producers to tell seniors that annuities "have no risk" was in reckless disregard of Clark's actual statements and the content of the courses taught by Clark at Annuity University over the course of two days.

72. Hansen then launched into the defamatory practice of introducing clips of Clark's remarks into false characterizations scripted by him or the Program's producers, with the effect of portraying Clark as a devious purveyor of fraudulent marketing practices: *"But what else is Tyrone Clark teaching? In 2002, the state of Massachusetts accused Clark and his companies of a 'dishonest scheme to deceive, coerce and frighten the elderly.' Part of the evidence was the training manual in which Clark tells agents to sell to seniors by assuming they're 'selling to a 12-year-old' and by hitting their 'fear, anger or greed buttons.' Clark settled that case without admitting any wrongdoing. And, now, his company says it's become 'an industry leader' in promoting ethical conduct. But watch what our hidden cameras found, and see if you agree. Remember those scare tactics?"*

73. Without explaining that Massachusetts proved nothing of the kind against Clark in 2002 and rapidly terminated its claim by the settlement mentioned, but thus implying strongly that Clark teaches improper marketing tactics to trick seniors into purchasing unsuitable annuity

products, Hansen immediately displayed two more brief hidden-camera clips of Clark allegedly supporting this assertion. The first clip featured Clark stating, “And I’m bringing these things up that disturb the hell out of them,” after which Hansen stated, “*For Tyrone Clark, disturbing people seems to be Annuity Sales 101.*” This was followed immediately by another clip of Clark stating: “I bring out the stuff that – where they can’t sleep at night.”

74. None of these brief statements, which were displayed entirely out of their larger context, support Hansen’s derisive and defamatory assertion that Clark’s methodology for marketing annuities – “*Annuity Sales 101*” – is based either entirely or in part on provoking unwarranted fear in senior citizens. And nowhere in these clips – or the two days of lectures – does Clark speak of misleading senior citizens into annuities purchases by means of fabricated fears and scare tactics.

75. Undeterred by the contextual falsity of these recklessly edited clips, in a voice-over, Hansen added: “*And how do you do you make them worry? One way is to suggest their money may not be safe, even in a bank, by telling a potential client something like this.*” Clark was then displayed on a *Dateline* hidden camera clip stating: “FDIC is insolvent. FDIC only has \$1.37 per every \$100 on deposit.”

76. Again, the Program purposely failed to provide any of Clark’s actual context to the selectively edited and spliced statements in the Program. At no point in his discussion of bank accounts and FDIC insurance did Clark instruct Annuity University attendees to state that their customer’s “money may not be safe, even in a bank,” and the clip Hansen displayed simply did not support this assertion.

77. Further, Clark's discussion of the issues relevant to FDIC protection was proper in the context in which it was raised in the course. Some would even consider Clark's actual comments prescient in light of the current banking crisis in this country. Numerous commentators have noted recently that the FDIC's bank insurance fund is dangerously underfunded. Upon information and belief, failures of a relatively small number of FDIC-insured banks in 2008 have depleted the FDIC's insurance fund to well below its required statutory level; in addition, the FDIC has recently placed 252 more banks on its watch list of banks at risk for failure, while currently having only \$18 billion to cover losses at these banks.

78. Hansen, again misstating the true context of Clark's comments, continued: "*Another way is to mention a senior's natural fear of nursing homes.*" By way of example, the Program then displayed yet another out of context statement by Tyrone Clark: "I help my clients to protect their life savings from the nursing home and Medicaid seizure of their assets. See, that's scary, and it should be scary." Once again, the implication resulting from the juxtaposition of Hansen's preamble and the selectively edited clip of Clark is that Clark is teaching salesmen to raise false and misleading scenarios for the sole purpose of instilling fear in senior citizens.

79. Hansen continued: "*The next step? Promise people easy access to their money. Even though, with some exceptions, annuities lock up most of your money for a specified number of years, listen to the sales pitch Tyrone Clark suggests.*" This was followed again by another snippet of Clark on the hidden camera, again devoid of his actual context: "There are more ways to access your money. There are more options. There are more choices to access your money from an annuity than any other financial instrument." Since the complete context for this clip of

Clark was not supplied; only Hansen's falsely descriptive preamble was there to tell the viewers what meaning they should take from Clark's words.

80. Hansen, in a carefully staged and edited segment, then "*asked Minnesota Attorney General Lori Swanson to watch what our hidden cameras had captured.*" Speaking to Swanson, Hansen asked: "*How would you characterize what this man has said?*" Viewers were given no indication of how much of "*what our hidden cameras had captured*" was shown to Swanson to elicit her response. Lori Swanson then stated: "I think that he is not telling the truth when he tells those agents that an annuity is the most liquid place a senior citizen can put their money. It is simply not true." Clark, of course, never stated that "an annuity is the most liquid place a senior citizen can put their money." But this did not deter NBC, Hansen and the other Defendants from publishing in the broadcast Swanson's false and defamatory mischaracterization of Clark's out of context statement on national television.

81. Following this defamatory clip involving Swanson, Hansen introduced *Dateline* viewers to the book "Alligator Proofing Your Estate" which *Dateline* had previously described falsely in the Preview as a ghost written book which allowed agents to pose as expert authors. Repeating the false characterizations of the book first broadcast in the Preview, Hansen stated: *At Annuity University, this ad says you can be the author of a book called 'Alligator Proofing Your Estate.'* Apparently, agents like the idea of pretending to be authors, because *Dateline* found copies of the same 'Alligator' book supposedly co-written by Jeffrey D. Lazarus, Steven Delott, and Ronald and Robert Russell." At no point, however, do insurance agents "pretend" to be sole authors of the "Alligator book" marketed at Annuity University seminars. A single chapter of the book is actually authored by the insurance agent and is clearly identifiable as

such, while the rest of the book's chapters, discussing commonly arising estate planning issues, are clearly identified as written by a qualified expert. Contrary to Hansen's defamatory characterization, the "Alligators" book is not ghost-written or misleading to readers in any way whatsoever.

82. The editing technique used by Defendants, including Hansen, Eckert, and Amorebieta, employing false and defamatory introductory statements by Hansen followed by out of context video clips of actual statements by Clark, was intended to provide verisimilitude – the appearance of truth – to the Program's segments about Annuity University, and to link Plaintiffs to the alleged misleading and deceptive presentations of the Alabama agents shown in earlier portions of the Program. The result was the broadcast of false statements and implications about Plaintiffs, the defamatory meaning of which were made clear by Hansen's preamble to each clip – an outrageous example of reckless, and possibly deliberate disregard of the false depictions of BCA and Clark which these editing juxtapositions created.

Republication of the *Dateline* Falsehoods

83. Unfortunately, the defamatory falsehoods aired in the *Dateline* Program were subsequently republished in other media, further aggravating the damages suffered by Plaintiffs.

84. An article entitled "Ethics Alarm" in the June-July 2008 edition of *Reverse Mortgage Magazine*, published by the National Reverse Mortgage Lenders Association, republished the false statements and implications aired by *Dateline*. Citing the *Dateline* footage, the article branded and labeled Clark a "dubious character" who teaches "unethical sales tactics," particularly by teaching others "how to scare seniors." A true and correct copy of the *Reverse Mortgage Magazine* article is attached hereto as Exhibit B.

85. In addition, an article featuring Clark and BCA was published in the June 2008 issue of *The Register* – published by the International Association of Registered Financial Consultants, Inc. – and repeated with approval the false statements made on the Program. The article added falsely that BCA was “going out of business.” A true and correct copy of *The Register* article is attached hereto as Exhibit C.

Damages

86. The fallout from *Dateline’s* defamatory program has been severe.

87. On or about May 15, 2008, a major international insurance company terminated its contract with BCA. In conversations with Clark and BCA officials, representatives of this company cited the Program as the reason for its termination.

88. As a result of this insurance company’s termination, BCA has lost or is threatened with the loss of tens of millions of dollars in revenues and profits.

89. In addition, following *Dateline’s* airing of the Program, many insurance producers in BCA’s IMO network have stopped using BCA’s services. This had led and is expected to lead to a significant decrease in BCA’s revenues and profits in the form of override commissions related to network agents’ sales of insurance products.

90. Clark has also been unable to proceed with several planned business ventures. Potential partners that Clark has approached to start various business ventures have stated that they would not work with Clark because of the way he was depicted in the Program

91. Finally, Clark has been shunned and verbally disparaged within the Colorado community where he and his family reside.

**AS AND FOR A FIRST CAUSE OF ACTION
(Defamation)**

92. Plaintiffs repeat and incorporate herein paragraphs 1 to 91, above.

93. Defendants secretly and illicitly recorded large portions of Plaintiffs' seminar and selectively edited and reduced this footage to 112 words. Defendants then broadcast on national television these 112 words in contexts which stated and implied clearly, and were understood by viewers to mean that Plaintiffs had instructed insurance agents on how to frighten and mislead senior citizens into purchasing unsuitable insurance products, had derided the dignity and intelligence of senior citizens, and that Plaintiffs taught misleading, abusive and fraudulent sales techniques to insurance agents in Alabama and across America.

94. The statements and implications which Defendants crafted using selectively edited snippets of Plaintiff Clark's words and by framing and juxtaposing these words with false and misleading statements by Defendant Hansen produced a program which contained outright lies, false implications, and misleading half-truths about Plaintiffs.

95. Defendants broadcast these false and defamatory statements and implications (a) knowing they were false; or (b) with reckless disregard of whether they were true or false; or (c) without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible broadcasters; or (d) with negligence. Defendants also prepared and broadcast these false and defamatory statements and implications with a level of outrageous conduct that constituted malice, wantonness, recklessness, or willful disregard of the rights of Plaintiffs and the damages it would inflict upon them. Defendants were fully aware of exculpatory material contained in their recordings of Plaintiffs' seminar, and were fully aware of

the true context in which Plaintiffs' recorded statements were made. Defendants nevertheless took great pains to selectively edit Plaintiffs' seminar and to present Clark's words on national television in a false and maximally humiliating context.

96. As a result of this reckless and maliciously defamatory broadcast, BCA's business and reputation and Clark's personal and business reputations have been severely harmed. Plaintiffs' business partners, citing Defendants' defamatory broadcast, have terminated services agreements with Plaintiffs and Plaintiffs have been unable to proceed with planned business ventures. Insurance companies and agents who have long participated in Plaintiffs' programs have severed their relationships with Plaintiffs, and Plaintiffs have been widely shunned and stigmatized within their industry. Plaintiffs' damages will be proven at trial, but are currently expected to exceed \$20 million.

AS AND FOR A SECOND CAUSE OF ACTION (Trespassing)

97. Plaintiffs repeat and incorporate herein paragraphs 1 to 91, and 95 above.

98. The Annuity University seminar which Defendants Eckert and Amorebieta infiltrated was taught in a building in Centennial, Colorado owned privately by a Clark-owned company and leased exclusively to Plaintiff BCA. As such, BCA was at all relevant times the rightful and constructive possessor of the property Eckert and Amorbietta entered, with the right to enjoy peaceably and control access to such premises.

99. The Annuity University seminar which Eckert and Amorebieta infiltrated was not open to the general public. The seminar was restricted to duly licensed insurance producers, and this restriction was known to Defendants when they conspired to infiltrate the seminar.

100. In order to circumvent this known restriction on entry, Eckert and Amorebieta purposefully and falsely posed as licensed insurance producers. Eckert and Amorebieta then falsely represented to BCA through use of the false Alabama licenses that they were licensed employees of an insurance agency in Alabama and were granted entry by BCA to the Annuity University seminar in reliance on these representations. While participating in the Annuity University seminar, Eckert and Amorebieta continued to present themselves as licensed insurance producers and took great care to hide the true nature of their employment and their actions in recording the proceedings surreptitiously. Eckert and Amorebieta went to these lengths to insure that they could enter and remain on Plaintiffs' property, and not be asked to leave once granted entry. Accordingly, Defendants Eckert and Amorebieta knowingly trespassed upon Plaintiffs' property without right, privilege, or justification.

101. Eckert and Amorebieta trespassed upon Plaintiffs' property for the sole purpose of recording secretly the Annuity University seminar, editing snippets of Clark's presentation for sensationalistic effect, broadcasting their footage in an untruthful and defamatory context and sharing the footage with Alabama's AATF. Accordingly, Defendants trespassed upon Plaintiffs' property and broadcast the Program with a level of outrageous conduct that constituted malice, wantonness, recklessness, or willful disregard of the rights of Plaintiffs and the damages it would inflict upon them. Plaintiffs were harmed by Defendants' tortious and malicious conduct and are entitled to damages for this unlawful trespass and the broadcast which was its intended result. Plaintiffs' damages will be proven at trial, but are currently expected to exceed \$20 million.

**AS AND FOR A THIRD CAUSE OF ACTION
(Fraud)**

102. Plaintiffs repeat and incorporate herein paragraphs 1 to 91, and 95 above.

103. In order to gain entry to the Annuity University seminar, Eckert and Amorebieta knowingly misrepresented to BCA and its employees that they were insurance producers duly licensed by the State of Alabama. Eckert and Amorebieta also knowingly concealed their true vocations and employers and the true purpose of their enrollment in the Annuity University seminar, which was to record all or portions of the lecture for broadcast on national television.

104. BCA employees relied justifiably on these misrepresentations and deceptions when they granted Eckert and Amorebieta entry to the Annuity University seminar. Eckert and Amorebieta knew and intended that the BCA employees would so rely, and while participating in the Annuity University seminar, Eckert and Amorebieta took great care to hide the true nature of their enrollment and their surreptitious acts of recording so that they would not be asked to leave the seminar.

105. Eckert and Amorebieta made these knowing and fraudulent misrepresentations for the sole purpose of infiltrating Annuity University, recording secretly Plaintiffs' seminar, editing snippets of Clark's presentation for sensationalistic effect, and broadcasting their footage in an untruthful and defamatory context. Accordingly, Defendants' fraudulent misrepresentations and subsequent broadcast of the Program were achieved with a level of outrageous conduct that constituted malice, wantonness, recklessness, or willful disregard of the rights of Plaintiffs and the damages it would inflict upon them. Plaintiffs were harmed by Defendants' fraudulent misrepresentations and the broadcast which was their intended result. Plaintiffs' damages will be proven at trial, but are currently expected to exceed \$20 million.

**AS AND FOR A FOURTH CAUSE OF ACTION BY TYRONE CLARK
(Intrusion)**

106. Plaintiffs repeat and incorporate herein paragraphs 1 to 91, and 95 above.

107. As the instructor of a restricted educational seminar, Clark had a reasonable expectation of a zone of privacy where he could speak freely, pose rhetorical questions, discuss hypothetical scenarios, and seek to engage his students in serious study of an important insurance product and, above all, be free of concern that his presentation was being recorded for any purpose, let alone presentation on national television or in aid of a State investigation. A dynamic educational setting such as Annuity University is particularly vulnerable to misinterpretation and contextual confusion, especially by unlicensed laypersons and those with no serious intention of learning about and marketing annuities products. This is one of the reasons why BCA and Clark restrict Annuity University seminars to licensed insurance producers and maintain a strict prohibition on videotaping or recording seminars.

108. Defendants, fully aware of these restrictions and the private nature of the Annuity University classroom setting, intentionally violated Clark's expectation of privacy for the sole purpose of infiltrated Annuity University under false pretenses, secretly recorded Clark's seminar, and broadcasting selectively edited portions of this seminar in a false and defamatory context created by Defendants and wildly at odds with Clark's actual context, on national television. Any reasonable person would find Defendants' tactics and behavior malicious, highly objectionable, and offensive.

109. Clark has been harmed by Defendants' public disclosure of Clark's edited statements gained by intrusion into the private and restricted setting of Clark's own lecture

facility for the purpose of obtaining images and recorded statements for a nationally televised broadcast. As a direct result of Defendants' actions, Clark has been defamed and humiliated on national television. Clients have terminated their relationships with him, the future of his insurance and other businesses have been jeopardized, and he has been unable to proceed with planned business ventures. Clark's damages will be proven at trial, but are currently expected to exceed \$20 million.

AS AND FOR A FIFTH CAUSE OF ACTION
(Violation of 42 U.S.C. § 1983)

110. Plaintiffs repeat and incorporate herein paragraphs 1 to 109, above.

111. Defendants Eckert and Amorebieta, having agreed to act as agents of the State of Alabama, became state actors and participated in Alabama's efforts to investigate allegedly misleading, abusive and criminal practices in the marketing of annuities products to senior citizens. Alabama provided Defendants with purported insurance producer licenses for the sole purpose of infiltrating Plaintiffs' private educational seminar as the *quid pro quo* of a mutually beneficial arrangement. Accordingly, Defendants acted under color of Alabama state law when they gained access to Plaintiffs' premises, surveilled and secretly recorded Plaintiffs' seminar, shared their illicitly gained recordings with Alabama state officials, and defamed Plaintiffs on national television.

112. While acting under color of state law, Defendants deprived Plaintiffs of their constitutional rights and privileges guaranteed under the Fourth and Fourteenth Amendments by intruding, surveilling, recording and conducting an unreasonable search of Plaintiffs' premises and seizing Plaintiffs' property without first securing a valid search warrant from the proper authorities.

113. While acting under color of state law, Defendants deprived Plaintiffs of their constitutional rights and privileges guaranteed under the Fifth and Fourteenth Amendments by recording and seizing Plaintiffs' intellectual property without just compensation.

114. While acting under color of state law, Defendants violated Plaintiffs' liberty and property interests guaranteed under Fourteenth Amendment by using illicitly recorded information to defame and stigmatize Plaintiffs on national television such that Plaintiffs' freedom to retain and enter into contracts and ventures with business partners has been severely compromised, damaged or foreclosed.

115. While acting under color of state law, Defendants deprived Plaintiffs of their liberty and property interests guaranteed under the Fourteenth Amendment by entering Plaintiffs' premises without privilege and under false pretenses, secretly recording Plaintiffs' seminar without regard for Plaintiffs' restrictions, and intruding upon and violating Clark's expectation of privacy.

116. As a result of Defendants' willful and reckless violation of 42 U.S.C. § 1983, each act in furtherance of which was intended to obtain images and recorded statements for a national television broadcast, Plaintiffs have been damaged in an amount to be determined at trial, but are currently expected to exceed \$20 million. Defendants also seek recovery of their attorneys' fees pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Brokers' Choice of America, Inc. and Tyrone M. Clark demand judgment against Defendants NBC Universal, Inc., General Electric Company, Chris Hansen, Steven Fox Eckert and Marie Theresa Amorebieta jointly and severally as follows:

- a. On the First Cause of Action, damages in an amount to be determined at trial, but expected to exceed \$20 million;
- b. On the Second Cause of Action, damages in an amount to be determined at trial, but expected to exceed \$20 million;
- c. On the Third Cause of Action, damages in an amount to be determined at trial, but expected to exceed \$20 million;
- d. On the Fourth Cause of Action, damages in an amount to be determined at trial, but expected to exceed \$20 million;
- e. On the Fifth Cause of Action, damages in an amount to be determined at trial, but expected to exceed \$20 million, and attorneys' fees;
- f. punitive damages;
- g. attorneys' fees
- h. costs and disbursements;
- i. and such other relief this Court deems just and proper.

DEMAND FOR JURY

Plaintiffs, Brokers' Choice of America, Inc. and Tyrone M. Clark, request a jury on all issues so triable.

Dated this 31th day of March, 2009.

Respectfully submitted,

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