

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SARAH PALIN, an individual,

Plaintiff,

– against –

THE NEW YORK TIMES COMPANY,  
a New York corporation,

Defendant.

Case No.: 17cv4853

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff, Sarah Palin (“Mrs. Palin”), by her undersigned attorneys, for her Complaint against Defendant, The New York Times Company (“*The Times*”), alleges as follows:

**NATURE OF THE ACTION**

1. Mrs. Palin brings this action to hold *The Times* accountable for defaming her by publishing a statement about her that it knew to be false: that Mrs. Palin was responsible for inciting a mass shooting at a political event in January 2011. Specifically, on June 14, 2017, *The Times* Editorial Board, which represents the “voice” of *The Times*,<sup>1</sup> falsely stated as a matter of fact to millions of people that Mrs. Palin incited Jared Loughner’s January 8, 2011, shooting rampage at a political event in Tucson, Arizona, during which he shot nineteen people, severely wounding United States Congresswoman Gabrielle Giffords, and killing six, including Chief U.S. District Court Judge John Roll and a nine-year-old girl. A copy of the June 14, 2017, online version of *The Times*’ defamatory column about Mrs. Palin is attached as **Exhibit 1**. A copy of the print version of *The Times*’ defamatory column published on June 15, 2017, is attached as **Exhibit 2**.

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<sup>1</sup> See [www.nytimes.com/interactive/opinion/editorialboard.html](http://www.nytimes.com/interactive/opinion/editorialboard.html)

2. *The Times* used its false assertion about Mrs. Palin as an artifice to exploit the shooting that occurred on June 14, 2017, when James Hodgkinson, a man *The Times* described as a “Bernie Sanders supporter and campaign volunteer virulently opposed to President Trump,” launched a sniper-style attack with an assault rifle upon members of Congress and current and former congressional aides practicing for the annual charity Congressional Baseball Game at a field in Virginia near the nation’s Capitol.

3. In its prominently placed column “*America’s Lethal Politics*,” *The Times* capitalized on Mrs. Palin’s name and Loughner’s and Hodgkinson’s horrific attacks to support its assertion that there was a “sickeningly familiar pattern” of politically motivated violence against members of Congress. This supposed “pattern” consisted of two events: (1) what *The Times* falsely identified as Mrs. Palin’s “clear” and “direct” incitement of Loughner’s 2011 assault against Representative Giffords and other innocent bystanders in Tucson, Arizona; and (2) Hodgkinson’s Virginia shooting.

4. At the time of publication, *The Times* knew and had published pieces acknowledging that there was no connection between Mrs. Palin and Loughner’s 2011 shooting. Moreover, *The Times*’ false statements about the link between Mrs. Palin and the Loughner shooting stood in stark contrast to how *The Times* treated speculation about political motives behind Hodgkinson’s rampage: *The Times* concluded that there was not a connection between Hodgkinson and his professed penchant for Democratic stances sufficient to warrant implicating Democrats or the Bernie Sanders campaign as inciting factors for Hodgkinson’s attack. *The Times* sought to set the record straight by tweeting a “Fact Check” on June 15, 2017, directed at those who it wrote were “falsely blaming” Bernie Sanders and other Democrats for Hodgkinson’s Virginia shooting. (See **Exhibit 3**).

5. *The Times* published and promoted its Editorial Board’s column despite knowing that the linchpin of its “sickening pattern” of politically-incited shootings was the false assertion that Mrs. Palin incited Loughner to murder six people, among them a child and federal judge, and seriously wound numerous others.

6. In doing so, *The Times* violated the law and its own policies.

7. As the public backlash over *The Times*’ malicious column mounted, it responded by making edits and “corrections” to its fabricated story, along with half-hearted Twitter apologies—none of which sufficiently corrected the falsehoods that the paper published. In fact, none mentioned Mrs. Palin or acknowledged that Mrs. Palin did not incite a deranged man to commit murder.

8. Mrs. Palin brings this action to hold *The Times* accountable for falsely stating to millions of people that she, a devoted wife, mother and grandmother, who committed a substantial portion of her adult life to public service, is part of a pattern of “lethal” politics and responsible for inciting an attack that seriously injured numerous people and killed six, including a nine-year-old girl who, at that time, was the same age as Mrs. Palin’s youngest daughter.

#### **PARTIES, JURISDICTION AND VENUE**

9. Mrs. Palin is an individual who resides in and is a citizen of the State of Alaska.

10. *The Times* is a New York corporation with its principal place of business at 620 Eighth Avenue, New York, New York.

11. This Court has personal jurisdiction over *The Times* pursuant to New York Civil Practice Law and Rules § 301 (“CPLR”) because *The Times* has offices and its principal place of business in New York, New York, and the causes of action alleged herein arise out of *The Times*’ activities in New York, New York. This Court also has personal jurisdiction over *The Times*

under CPLR § 302(a) because this action arises out of *The Times*' transaction of business in New York, New York.

12. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

13. Venue properly lies within this judicial district pursuant to 28 U.S.C. § 1391 because *The Times* resides in this judicial district and a substantial portion of the events giving rise to the claims asserted in this action occurred in this judicial district.

## **THE FACTS**

### **Overview of the Parties**

14. Mrs. Palin is a dedicated wife, mother of five, and grandmother of five, who tries to live her life as a passionate voice on faith, family, and making America safe and secure for her family and the families of all Americans.

15. In 2006, Mrs. Palin became the youngest and first female Governor of Alaska.

16. Mrs. Palin rose to national prominence in 2008 when Senator John McCain tapped her as his vice-presidential running mate, making her the first woman to run on the Republican presidential ticket.

17. In July 2009, Mrs. Palin resigned as Governor of Alaska and focused her career on being a prolific author, political commentator, television personality and voice for conservative values.

18. Mrs. Palin has been named to TIME Magazine's "100 Most Influential People in the World" list and one of the Smithsonian Institute's "100 Most Significant Americans of All Time."

19. *The Times* is a multi-billion-dollar global media organization that publishes *The New York Times* daily newspaper, one of the oldest and most widely circulated print papers in the United States, and distributes content generated by its newsroom through its website [www.NYTimes.com](http://www.NYTimes.com) and several mobile platforms. *The New York Times* has been regarded as a national “newspaper of record,” a moniker that reflects the considerable weight and influence attributed to the “voice” of *The Times*.

20. *The Times*’ print newspaper is sold in the United States and around the world through individual home delivery subscriptions, bulk subscriptions (primarily by schools and hotels), and single-copy sales.

21. *The Times*’ content reaches a broad audience through its print, web and mobile platforms, including over three million paid subscribers and approximately 122 million monthly unique visitors to its website. *The Times* charges consumers for content provided on its website and mobile applications. Digital subscriptions can be purchased individually or through group corporate or group education subscriptions. *The Times*’ “Metered Model” offers Internet users free access to a set number of articles per month on its website, and then charges users for access to content beyond that limit.

22. In recent years, *The Times* has been transitioning from its celebrated past as a great American print newspaper to a subscription-first, mobile-first news provider that is increasingly dependent upon click-based digital advertisements to generate revenue. Its digital-only subscriptions have more than doubled during that time; its digital advertising revenue rose 19% in the first quarter of 2017.

23. As part of this transition, *The Times* and its Editorial section maintain their own social media accounts, such as Twitter and Facebook, on which they actively promote articles.

One such article was the June 14, 2017, column that defamed Mrs. Palin, “*America’s Lethal Politics.*”

**Mrs. Palin and Media Coverage of the 2011 Loughner Shooting**

24. In January 2011, immediately following Loughner’s Arizona shooting, Mrs. Palin was the subject of several speculative and unsubstantiated rumors about a possible connection between her and Loughner’s crime because of a map posted online which depicted congressional districts that Republicans were targeting for victory in an upcoming election.

25. This rank speculation was quickly dispelled, as Loughner’s criminal proceedings revealed that he was a mentally unstable man who was obsessed with Representative Giffords long before 2011.

26. Nevertheless, the mere suggestion that Mrs. Palin provoked or incited Loughner’s attack profoundly impacted Mrs. Palin’s personal and professional life. Among other things it led to the end of her position as a Fox News political commentator, influenced her decision not to run for President of the United States, and tainted her personal and professional image.

27. It took Mrs. Palin years to overcome the detrimental impacts of the false speculation that she caused Loughner to commit murder.

28. Unfortunately, members of the media perceive Mrs. Palin as a convenient target for attacks against conservative policies and a subject likely to spark readership interest.

29. *The Times* recognized this phenomenon in Charles M. Blow’s December 3, 2010 column “*She Who Must Not Be Named*” (attached as **Exhibit 4**):

She was a vice presidential nominee. But she lost. She was the governor of Alaska. But she quit. Now she’s just a political personality – part cheerleader, part bomb-thrower – being kept afloat in part by the hackles of her enemies and the people who admire her resilience in the face of them. The left’s outsize and unrelenting assault on her has made her a folk hero. The logic goes

that if she's making people on the left this upset, she must be doing something right.

Yet the left continues to elevate her every utterance so that they can mock and deride her. The problem is that this strategy continues to backfire. The more the left tries to paint her as one of the "Mean Girls," the more the right sees her as "Erin Brockovich." The never-ending attempts to tear her down only build her up. She's like the ominous blob in the horror films: the more you shoot at it, the bigger and stronger it becomes.

Yes, she's about as sharp as a wet balloon, but we already know that. How much more time and energy must be devoted to dissecting that? How is this constructive, or even instructive at this point? ***What purpose does it serve other than inflaming passions to drive viewership and Web clicks?***

As Politico's editor in chief, John F. Harris, and its executive editor, Jim VandeHei, very candidly expressed in August: "More traffic comes from an item on Sarah Palin's 'refudiation' faux pas than from our hundreds of stories on the complexities of health care reform or Wall Street regulation."

So left-leaning blogs like The Huffington Post plaster pictures of her and her family all over their sites with entries about her latest gaffe or sideswipe. But she's barely mentioned on popular conservative blogs.

The same leftward skew is also true on television. An analysis of CNN, MSNBC and Fox News from Nov. 3 to Dec. 2, using data from ShadowTV, a monitoring service, found that CNN mentioned the name "Sarah Palin" nearly 800 times... Left-leaning MSNBC mentioned it nearly 1,000 times. But Fox News, which employs her, mentioned it fewer than 600 times...

People on the left seem to need her, to bash her, because she is, in three words, the way the left likes to see the right: hollow, dim and mean. But since she's feeding on the negativity, I suggest three other words: get over it.

(Emphasis added)

30. Mr. Blow's column acknowledges that there is existing hostility held toward Mrs. Palin, and also recognizes that her name and attacks upon her inflame passions and thereby drive viewership and Web clicks to media companies.

31. *The Times* appreciates that in the increasingly competitive digital media landscape in which it finds itself, attacking Mrs. Palin brings an economic benefit to its business.

**The Defamatory Palin Article**

32. On June 14, 2017, *The Times* exceeded the bounds of legality, decency and civility by publishing the false and defamatory column “*America’s Lethal Politics*” (the “Palin Article”), which it Tweeted to nearly 39 million of its followers on Twitter. (See Exhibit 1).

33. On June 15, 2017, *The Times* published the Palin Article in *The New York Times* print edition. (See Exhibit 2).

34. The underlying premise of the Palin Article is that there is a “sickening” pattern of politically incited violence against members of Congress and that this pattern stems from Mrs. Palin’s direct and clear incitement of Loughner’s 2011 shooting in Arizona.

35. But *The Times* fabricated this supposed “pattern” and Mrs. Palin’s role in it, resurrecting a debunked connection between Mrs. Palin’s political activities and Loughner’s 2011 rampage in Arizona. By doing so, *The Times* implicitly attacked the conservative policies Mrs. Palin promotes and drove its digital advertising revenues at Mrs. Palin’s expense.

36. There was no legitimate reason or factual basis for the Palin Article, much less for *The Times* to have falsely linked Mrs. Palin to Loughner’s and Hodgkinson’s shootings in any respect.

37. In the Palin Article, within the context of the fabricated pattern of politically motivated shootings, *The Times* makes the following false and defamatory statements of and about Mrs. Palin:

Was this attack evidence of how vicious American politics has become? Probably. In 2011, when Jared Lee Loughner opened fire in a supermarket parking lot, grievously wounding Representative Gabby Giffords and killing six people, including a 9-year-old girl, the link to political incitement was clear. Before

the shooting, Sarah Palin's political action committee circulated a map of targeted electoral districts that put Ms. Giffords and 19 other Democrats under stylized cross hairs.

Conservatives and right-wing media were quick on Wednesday to demand forceful condemnation of hate speech and crimes by anti-Trump liberals. They're right. Though there's no sign of incitement as direct as in the Giffords attack, liberals should of course hold themselves to the same standard of decency that they ask for of the right.

38. These defamatory statements about Mrs. Palin were circulated to millions of *The Times*' readers in print, on-line, and through mobile and social media.

39. The online version of the Palin Article included several advertisements, which generated revenue for *The Times* (See online advertisements highlighted in **Exhibit 5**).

40. *The Times* generates advertising revenue from banners, video, rich media and other interactive ads on its web and mobile platforms, such as those that accompanied the Palin Article.

41. When *The Times* published the Palin Article, it knew that there was no link or connection, let alone a "clear" and "direct" one, between Mrs. Palin's political activities and Loughner's 2011 shooting. *The Times* also knew that Mrs. Palin did not incite Loughner's horrific crime.

42. For example, on June 14, 2017, *The Times* published the article "*Shooting Is Latest Eruption in a Grim Ritual of Rage and Blame*" (attached as **Exhibit 6**), which recognized:

In 2011, the shooting of Mr. Giffords by a mentally ill assailant came during a convulsive political period, when a bitter debate over health care yielded a wave of threats against lawmakers. Sarah Palin, the former vice-presidential candidate, drew sharp criticism for having posted a graphic online that showed cross hairs over the districts of several members of Congress; including Ms. Giffords – *though no connection to the crime was established*.

(Emphasis added)

43. A June 15, 2017 column written by *The Times* Op-Ed columnist Bret Stephens “*The Indigenous American Berserk’ Strikes Again*” (attached as **Exhibit 7**), acknowledged the same:

It was foul of the left to accuse the Tea Party of inciting Loughner’s rampage—Bernie Sanders among them—all the more so since evidence for the claim was so strained.

...

Jared Loughner was a paranoid schizophrenic of no fixed ideological orientation.

44. That same day, *The Times* published Charles M. Blow’s column “*Rhetoric and Bullets*” (attached as **Exhibit 8**), which recounts how shortly after Loughner’s 2011 attack, Mr. Blow was “moved to commit an entire column to condemning the left for linking the shooting so closely to political rhetoric,” and how he felt compelled to do the same thing on the heels of Hodgkinson’s Virginia shooting because:

What I abhor is ideological exploitation that reduces these acts to a political sport and uses them as weapons to silence political opponents and their “rhetoric,” rather than viewing them as American tragedies that we can work together to prevent through an honest appraisal and courageous action.

45. The “entire column” to which Mr. Blow referred in his June 15, 2017 column was published by *The Times* just days after Loughner’s 2011 rampage, and dispelled any notion that Loughner’s crime was incited by political rhetoric. Mr. Blow’s January 14, 2011, column, “*The Tucson Witch Hunt*” (attached as **Exhibit 9**), states:

Immediately after the news broke, the air became thick with conjecture, speculation and innuendo. There was a giddy, almost punch-drunk excitement on the left. The prophecy had been fulfilled: “words have consequences.” And now, the right’s rhetorical chickens had finally come home to roost.

The dots were too close and the temptation to connect them too strong. The target was a Democratic congresswoman. There was

the map of her district in the cross hairs. There were her own prescient worries about overheated rhetoric.

Within hours of the shooting, there was a full-fledged witch hunt to link the shooter to the right.

“I saw Goody Proctor with the devil! Oh, I mean Jared Lee Loughner! Yes him. With the devil!”

*The only problem is that there was no evidence then, and even now, that overheated rhetoric from the right had anything to do with the shooting. (In fact, a couple of people who said they knew him have described him as either apolitical or “quite liberal.”) The picture emerging is of a sad and lonely soul slowly, and publicly, slipping into insanity.*

(Emphasis added)

46. On January 15, 2011, *The Times* published another article, “*Looking Behind the Mug-Shot Grin*” (attached as **Exhibit 10**), which also recognized that no direct or clear link between political rhetoric and Loughner’s actions could be claimed:

Since last Saturday’s shooting frenzy in Tucson, investigators and the news media have spent the week frantically trying to assemble the Jared Loughner Jigsaw puzzle in hopes that the pieces will fit, a clear picture will emerge and the answer to why will be found, providing the faint reassurance of a dark mystery solved.

Instead, the pattern of facts so far presents only a lack of one, a curlicue of contradictory moments open to broad interpretation. Here he is, a talented saxophonist with a prestigious high school jazz band, and there he is, a high school dropout. Here he is, a clean-cut employee of an Eddie Bauer store, and there he is, so unsettling a presence that tellers at a local bank would feel for the alarm button when he walked in.

...

What the cacophony of facts do suggest is that Mr. Loughner is struggling with a profound mental illness (most likely paranoid schizophrenia, many psychiatrists say); that his recent years have been marked by a stinging rejection – from his country’s military, his community college, his girlfriends and, perhaps, his father; that he, in turn, rejected American society, including its government, its

currency, its language, even its math. Mr. Loughner once declared to his professor that the number 6 could be called 18.

...

In the last three months, Mr. Loughner had a 9-millimeter bullet tattooed on his right shoulder blade and turned increasingly to the Internet to post indecipherable tutorials about the new currency, bemoan the presence of illiteracy and settle scores with the Army and Pima Community College, both of which had slammed him. He also may have felt rejected by the American government in general, and by Ms. Giffords in particular, with whom he had a brief – and, to him, unsatisfactory – encounter in 2007.

47. *The Times* had ample facts available that established that there was no connection between Mrs. Palin and Loughner's crime. *The Times'* Editorial Board and staff followed Loughner's criminal case and the facts it revealed; the paper reported regularly about the case. Those proceedings failed to unearth any evidence that Loughner's actions were politically motivated. There is no evidence to suggest that Loughner ever saw the map of targeted electoral districts that the Palin Article references.

48. To the contrary, the facts revealed that Mrs. Palin did not incite Loughner's actions. *The Washington Post* summarized: "Loughner had no clear political views. Instead he was a troubled man who abused alcohol and drugs, and whose mental illness was apparent to his classmates and family even before he was diagnosed as schizophrenic during his court trial." (See **Exhibit 11**)

***The Times* Concedes the Falsity of the Palin Article –  
But Does Not Meaningfully Retract it or Apologize**

49. Soon after the Palin Article was published, *The Times* was hit by public backlash over falsely stating that Mrs. Palin incited Loughner to commit murder.

50. In response, *The Times* first tried to quietly save face by editing the Palin Article online. When that failed to quell the outcry, *The Times* made further edits and posted two woefully insufficient online “corrections” and an “apology” to its readers.

51. In its first edit, *The Times* merely deleted the phrase “the link to political incitement was clear” from the end of the following sentence: “In 2011, when Jared Lee Loughner opened fire in a supermarket parking lot, grievously wounding Representative Gabby Giffords and killing six people, including a 9-year-old girl.” It also added the words: “But no connection to that crime was ever established.” *The Times* left in place, however, an inconsistent and defamatory sentence in the next paragraph of the column, which stated: “*Though there’s no sign of incitement as direct as in the Giffords attack*, liberals should of course hold themselves to the same standard of decency that they ask of others.” (Emphasis added)

52. Faced with continuing public and media criticism, *The Times* eventually deleted the phrase, “[t]hough there’s no sign of incitement as direct as in the Giffords attack...” and posted a half-hearted correction (the “First Attempted Correction”), written in a passive voice, about the “link” between “political incitement” and Loughner’s heinous crime:

***Correction: June 15, 2017***

*An earlier version of this editorial incorrectly stated that a link existed between political incitement and the 2011 shooting of Representative Gabby Giffords. In fact, no such link was established.*

53. The First Attempted Correction did not remove the unnecessary reference to Mrs. Palin in the column, even though she had no connection to Loughner’s crime. As written, it also suggests that such a connection may still be established, when *The Times* already knew that no such link existed. In fact, the First Attempted Correction made no mention of Mrs. Palin, while the column continued to reference her by name.

54. Given that the entire premise of the Palin Article was the “disturbing pattern” of politically incited violence emanating from a non-existent link between Mrs. Palin and Loughner’s 2011 crime, which *The Times* conceded did not exist, the entire Palin Article should have been retracted – not minimally and inadequately corrected – and *The Times* should have apologized to Mrs. Palin.

55. *The Times* published a second online correction, which proved equally lacking. Still devoid of any reference to Mrs. Palin, this second correction (the “Second Attempted Correction”) was issued because the original column mischaracterized the subject map of targeted electoral districts as placing stylized cross hairs on Gabrielle Giffords and other lawmakers – *individually* – thus continuing to support the false narrative that there was a direct link between Mrs. Palin and Loughner’s vicious attack.

***Correction: June 16, 2017***

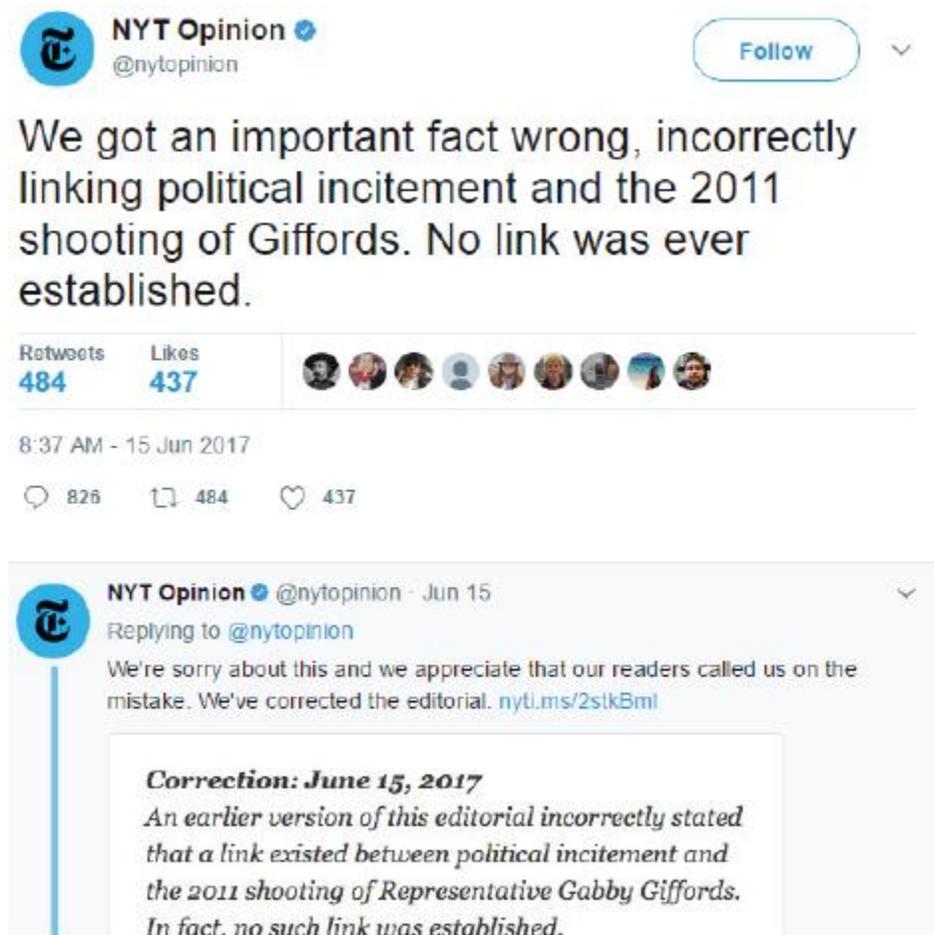
*An editorial on Thursday about the shooting of Representative Steve Scalise incorrectly stated that a link existed between political rhetoric and the 2011 shooting of Representative Gabby Giffords. In fact, no such link was established. The editorial also incorrectly described a map distributed by a political action committee before that shooting. It depicted electoral districts, not individual Democratic lawmakers, beneath stylized cross hairs.*

56. By referring only to “a” political action committee, *The Times*’ Second Attempted Correction continued the paper’s steadfast refusal to acknowledge that it had falsely asserted that Mrs. Palin incited Loughner’s deadly rampage.

57. Unbelievably, even after acknowledging the existence of the false and defamatory statements, *The Times* continued to publish the false and defamatory column and its reference to Mrs. Palin as its linchpin example of “vicious American Politics”:

Was this attack evidence of how vicious American politics has become? Probably. In 2011, Jared Lee Loughner opened fire in a supermarket parking lot, grievously wounding Representative Gabby Giffords and killing six people, including a 9-year-old girl. At the time, we and others were sharply critical of the heated political rhetoric on the right. Before the shooting, Sarah Palin's political action committee circulated a map that showed targeted electoral districts of Mrs. Giffords and 19 other Democrats under stylized cross hairs. But in that case no connection to the shooting was ever established.

58. In a reflection of *The Times*' utter lack of concern for the harm it had inflicted on Mrs. Palin, *The Times*' Editorial Page tweeted "We're sorry about this and we appreciate that our readers called us on the mistake;" as if *The Times* had made a simple, ministerial error such as misspelling someone's name or getting a date wrong:



59. *The Times* did not issue a full and fair retraction of its defamatory Palin Article, nor did it issue a public apology to Mrs. Palin for stating that she incited murder and was the centerpiece of a “sickening” pattern of politically motivated shootings.

60. For *The Times* to have made a legally sufficient retraction, it would have to have issued it in such a manner as to manifest an honest intention and sincere effort to repair the harm done to Mrs. Palin.

61. Quite simply, a full, fair, and legally sufficient retraction would have required the removal of the Palin Article in its entirety because, absent the false and defamatory assertion that Mrs. Palin incited Loughner’s 2011 shooting, *The Times*’ continued assertion that Mrs. Palin is part of a pattern of politically motivated crimes is indefensible.

62. *The Times*’ hesitant, equivocal and incomplete acknowledgement of the falsity of its statements connecting Mrs. Palin to Loughner’s and Hodgkinson’s acts, given the undeniable truth that Loughner’s 2011 Arizona shooting was not politically incited, did not approach the degree of the retraction and apology necessary and warranted by *The Times*’ false assertion that Mrs. Palin incited murder.

63. On June 16, 2017, *The Times*’ refusal to accept responsibility continued when, in its print edition of *The New York Times*, *The Times* merely re-published at the bottom of its Editorial page the same two prior, inadequate online corrections.

64. *The Times* confirmed that it would not accept responsibility for its defamatory Palin Article in a statement it provided to CNN through spokesperson, James Bennet, *The Times*’ Editorial page editor and member of the Editorial Board, in which he said:

While it is always ***agonizing*** to get something wrong we appreciate it when our readers call us out like this. We made an ***error of fact*** in the editorial and we’ve corrected it. ***But that error doesn’t undercut or weaken the argument of the piece.***

(Emphasis added)

65. Mr. Bennet's statement demonstrates that, when it comes to Mrs. Palin, *The Times* is willing to operate with a purposeful avoidance of the truth – marked by a deliberate decision not to acknowledge facts confirming the falsity of its charges against Mrs. Palin.

66. *The Times'* unwavering refusal to issue a meaningful apology to Mrs. Palin and a complete retraction is perhaps not surprising given *The Times'* public pronouncements about its imperviousness to legal liability for libel. As recently as May 10, 2017, *The Times'* Public Editor,<sup>2</sup> Liz Spayd, touted that “hardly anyone jousts with *The Times* when it comes to formally asserting libel...[because]...When they do, they almost never win...[and that]...the last time the newspaper lost a libel suit in the United States was at least the early 1960s” (see **Exhibit 12**), while further noting:

But it's curious how few companies or individuals actually do sue the paper for allegedly libelous claims. That's a good thing if this is a measure of how rarely people feel defamed by *The Times*. It's a bit more disconcerting if it suggests that those with a legitimate claim feel too intimidated to even try.

67. The Palin Article cites no sources establishing Mrs. Palin's clear and direct incitement of Loughner's shooting in Arizona – and even a basic review of *The Times'* own above-mentioned articles and the source materials its staff compiled from and about Loughner's criminal case during that highly publicized event would have demonstrated that there was no direct and clear link between Mrs. Palin and Loughner's heinous acts.

68. *The Times* deliberately ran the Palin Article knowing that the statements it made about Mrs. Palin were false and defamatory, or made a conscious decision to publish the Palin Article with reckless disregard for the truth of those statements.

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<sup>2</sup> *The Times'* Public Editor evaluates journalistic integrity and examines both the quality of journalism and the standards being applied across the newsroom.

69. Further evidence that *The Times* acted with actual malice towards Mrs. Palin is the fact that the Palin Article violates *The Times*' own policies and procedures, which forbid *The Times*' conduct here and label it intolerable. In its handbook entitled "Ethical Journalism: A Handbook of Values and Practices for the News and Editorial Departments"<sup>3</sup> (attached as **Exhibit 13**), *The Times* professes:

Reporters, editors, photographers and all members of the news staff of The New York Times share a common and essential interest in protecting the integrity of the newspaper. As the news, editorial and business leadership of the newspaper declared jointly in 1998: 'Our greatest strength is the authority and reputation of The Times. We must do nothing that would undermine or dilute it and everything possible to enhance it.'

...

The Times treats its readers as fairly and openly as possible. In print and online, we tell our readers *the complete, unvarnished truth as best we can learn it*. It is our policy to correct our errors, large and small, as soon as we become aware of them.

...

Staff members who plagiarize or *who knowingly or recklessly provide false information for publication betray our fundamental pact with our readers. We will not tolerate such behavior.*

(Emphasis added)

70. *The Times*' Standards and Ethics policy is posted online (attached as **Exhibit 14**), and states in pertinent part:

**Fairness**

The goal of The New York Times is to cover the news as impartially as possible – "without fear or favor," in the words of Adolph Ochs, our patriarch – and to treat readers, news sources,

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<sup>3</sup> The journalistic standards spelled out in *The Times* 1999 "Guidelines on Our Integrity" are a supplement to its 2004 Handbook, and states that: "... it is imperative that The Times and its staff maintain the highest possible standards... [and that]... falsifying any part of a news report cannot be tolerated and will result automatically in disciplinary action up to and including termination."

advertisers and others fairly and openly, and to be seen to be doing so. The reputation of The Times rests upon such perceptions, and so do the professional reputations of its staff members. Thus The Times and members of its news department and editorial page staff share an interest in avoiding conflicts of interest or an appearance of conflict.

### **Integrity**

For more than a century, men and women of The Times have jealously guarded the paper's integrity. Whatever else we may contribute, our first duty is to make sure the integrity of The Times is not blemished during our stewardship. At a time of growing and even justified public suspicion about the impartiality, accuracy and integrity of some journalists and some journalism, it is imperative that The Times and its staff maintain the highest possible standards to insure that we do nothing that might erode readers' faith and confidence in our news columns. This means that the journalism we practice daily must be beyond reproach.

Because our voice is loud and far-reaching, The Times recognizes an ethical responsibility to correct all its factual errors, large and small. The paper regrets every error, but it applauds the integrity of a writer who volunteers a correction of his or her own published story. We observe the Newsroom Integrity Statement, promulgated in 1999, which deals with such rudimentary professional practices as the importance of checking facts, the exactness of quotations, the integrity of photographs and our distaste for anonymous sourcing.

### **Truth**

As journalists we treat our readers, viewers, listeners and online users as fairly and openly as possible. Whatever the medium, we tell our audiences the complete, unvarnished truth as best we can learn it. We correct our errors explicitly as soon as we become aware of them. We do not want for someone to request a correction. We publish corrections in a prominent and consistent location or broadcast time slot. Staff members who plagiarize or who knowingly or recklessly provide false information for publication betray our fundamental pact with our readers. We do not tolerate such behavior.

71. *The Times* also publishes on its website the Society of Professional Journalists'

Code of Ethics (attached as **Exhibit 15**), which states in pertinent part:

### **Seek Truth and Report It**

Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.

Journalists should:

- Test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible.
- Diligently seek out subjects of news articles to give them the opportunity to respond to allegations of wrongdoing.
- Distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context.

...

### **Minimize Harm**

Ethical journalists treat sources, subjects and colleagues as human beings deserving of respect.

Journalists should:

- Show compassion for those who may be affected adversely by news coverage.

...

### **Be Accountable**

Journalists should:

- Admit mistakes and correct them promptly
- Expose unethical practices of journalists and the news media
- Abide by the same high standards to which they hold others

72. In publishing the Palin Article and its half-hearted “corrections” and apology – instead of removing the entire article or, at the very least, all references in it to Mrs. Palin, and

making a meaningful and sincere public apology – *The Times* violated and blatantly ignored the standards of ethical journalism which it has adopted and expects others to abide by.

***The Times Should Not Profit At Mrs. Palin’s Significant Expense***

73. In the Palin Article and the way in which *The Times* handled it in the days following its publication, *The Times* put profit and politics above its self-professed principles.

74. This is particularly troubling given that, on November 13, 2016, *The Times* had pledged to rededicate itself to the “fundamental mission” of *The Times* journalism (the “Pledge”):

That is to report to America and the world honestly, without fear or favor, striving always to understand and reflect all political perspectives and life experiences in the stories that we bring to you. It is also to hold power to account, impartially and unflinchingly.

75. In this instance, *The Times* is the power that must be held to account and, consistent with its Pledge, should accept full economic and journalistic responsibility to Mrs. Palin for the falsehoods in the Palin Article and the failure to retract it and issue a full and complete apology to Mrs. Palin.

76. As set forth above in Mr. Blow’s December 3, 2010, column, *The Times* knows that Mrs. Palin is a proverbial “lightning rod” that can be used as an easy target for political barbs intended to inflame passions to generate website traffic.

77. *The Times* knew that its defamatory statements about Mrs. Palin would be viewed by millions of people. *The Times* also knew that its defamatory column would be republished by numerous other news outlets and websites, both because of the horrific conduct *The Times* ascribed to Mrs. Palin in connection with the most prominent news story of that day, and also because such re-publication is a part of *The Times*’ conscious business strategy.

78. *The Times* actively promoted the Palin Article on social media, including on its Twitter feed, which has over 38 million followers, as did *The Times*' Editorial Board, whose Twitter feed has nearly 600,000 followers. (See **Exhibit 16**)

79. Not surprisingly, the widely circulated and heavily promoted Palin Article resulted in hatred and hostility toward Mrs. Palin.

80. As one example, a democratic strategist seized on *The Times*' narrative about Mrs. Palin, tagging Mrs. Palin in a Tweet about the false link between Mrs. Palin and the Giffords shooting along with the hash tag "#HuntRepublicans."

81. As set forth in the above-referenced ethical standards, which *The Times* adopted and expects of itself and others, "Ethical journalists treat... subjects... as human beings deserving of respect." *The Times* did not do that here.

82. When *The Times* resurrected a 6-1/2 year-old false rumor about Mrs. Palin, it not only ripped open old wounds, but also used its loud and far-reaching voice as the "newspaper of record" to inflict new ones which are far worse and painful for Mrs. Palin.

83. As a direct and proximate result of *The Times*' intentional and malicious misconduct, Mrs. Palin suffered anguish, humiliation, embarrassment and damage to her reputation – all of which are continuing in nature and will be suffered in the future.

84. As a direct and proximate result of *The Times*' intentional and malicious misconduct, and its deliberate misuse of the known benefits of Mrs. Palin's name and status, *The Times* also reaped ill-gotten gains from Internet advertising on the Palin Article, which under the unique and special circumstances of this case, should be disgorged.

85. *The Times* should not be permitted to profit from a false and defamatory column printed with malice and with the knowledge that the identity of the victim of the defamatory publication will “drive viewership and web clicks.”<sup>4</sup>

86. All conditions precedent to the filing and maintenance of this action have been performed, have occurred or have been waived.

87. Mrs. Palin has retained the undersigned attorneys in this action and is obligated to pay them a reasonable fee for their services.

**CLAIM FOR RELIEF**  
**(Defamation)**

88. Mrs. Palin re-alleges and incorporates paragraphs 1 through 87.

89. *The Times* published or caused to be published false and defamatory statements in the Palin Article, which did and had the tendency to expose Mrs. Palin to hatred, contempt, ridicule and/or disgrace.

90. The defamatory statements in the Palin Article are of and concerning Mrs. Palin, and reasonably understood to be about Mrs. Palin.

91. The defamatory statements in the Palin Article are false.

92. *The Times* published the defamatory statements in the Palin Article knowing that they are false or with reckless disregard for the truth of the statements.

93. The defamatory statements in the Palin Article constitute defamation *per se* because they tended to injure Mrs. Palin in her trade, business or profession and directly implicated Mrs. Palin in a horrific crime; specifically, that she incited a politically motivated attack and murder of innocent victims, among them sitting federal officials and a 9-year-old girl.

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<sup>4</sup> See Exhibit 4.

94. In light of Mrs. Palin's standing in the community, the nature of the statements made about her, the extent to which those statements were circulated, and the tendency of such statements to injure someone such as Mrs. Palin, the defamatory statements in the Palin Article have directly and proximately caused Mrs. Palin to suffer significant damages, including damage to her reputation, humiliation, embarrassment, mental suffering, shame and emotional distress. These damages are ongoing in nature and will continue to be suffered in the future.

95. The re-publication of the defamatory statements in the Palin Article in other publications, as well as via the dissemination of the Palin Article through social media, caused Mrs. Palin to suffer additional damages, all of which were foreseeable to *The Times*.

96. *The Times* published the Palin Article with actual knowledge that stories attacking Mrs. Palin inflame passions, which drives viewership and Web clicks. Thus, *The Times* knowingly and voluntarily exploited and retained a benefit conferred by Mrs. Palin, in special circumstances particular to this case in which it would be inequitable for *The Times* to retain that benefit without paying the value thereof to Mrs. Palin.

97. *The Times* conduct was committed knowingly, intentionally, willfully, wantonly and maliciously, with the intent to harm Mrs. Palin, or in blatant disregard of the substantial likelihood of causing her harm, thereby entitling Mrs. Palin to an award of punitive damages.

98. As a direct and proximate result of *The Times*' misconduct, Mrs. Palin is entitled to compensatory, special and punitive damages in an amount to be proven at trial far in excess of \$75,000.00.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, Sarah Palin, demands judgment against Defendant, The New York Times Company, as follows:

- i. An award of compensatory, special and punitive damages in amounts to be established at trial;
- ii. Injunctive relief prohibiting the publication or republication of the defamatory statements in the Palin Article;
- iii. An award of Plaintiff's costs associated with this action, including but not limited to her reasonable attorneys' fees and expenses; and
- iv. Such other and further relief as the Court deems just and proper to protect Plaintiff's rights and interests.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York  
June 27, 2017

GOLENBOCK EISEMAN ASSOR BELL &  
PESKOE LLP

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