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IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO.:

JOSEPH SCHMIDT,

Plaintiff.

vs.

THE WASHINGTON EXAMINER,

Defendant.

\_\_\_\_\_ /

**COMPLAINT**

Plaintiff, JOSEPH SCHMIDT, sues Defendant, THE WASHINGTON EXAMINER, a Foreign Corporation, and alleges:

**PARTIES, JURISDICTION, AND VENUE**

1. This is an action for damages in excess of \$15,000, exclusive of interest, costs, and attorneys' fees.

2. Defendant WASHINGTON EXAMINER is a Foreign Corporation. The principal address of the corporation is 1152 15<sup>th</sup> St. Northwest Suite 200, Washington, DC 20005. WASHINGTON EXAMINER is a digital and print news publication that has subscribers and readers all over the nation, including in Palm Beach County, Florida.

3. WASHINGTON EXAMINER regularly conducts business in Palm Beach County, Florida.

4. WASHINGTON EXAMINER published a photo of JOSEPH SCHMIDT in a highly defamatory article. Above JOSEPH SCHMIDT's photo, WASHINGTON EXAMINER wrote the words "Navy SEAL charged with making child porn." Below JOSEPH SCHMIDT's photo, WASHINGTON EXAMINER wrote the words "His phone had photos showing

molestation of a sleeping prepubescent minor and a trove of other children in sex acts[.]” This article was seen by readers in Palm Beach County, Florida.

5. The highly defamatory article published by the WASHINGTON EXAMINER was subsequently republished by multiple media outlets. One of the major media outlets that ran the story is headquartered in Palm Beach County, Florida.

6. The Plaintiff, JOSEPH SCHMIDT, is a resident of San Diego County, California.

7. Venue is proper in Palm Beach County, Florida, because the Defendant conducts business in Palm Beach County, Florida. Additionally, the Defendant has subscribers and readers in Palm Beach County, Florida. After seeing the WASHINGTON EXAMINER’s story, a media outlet located in Palm Beach County, Florida ran the WASHINGTON EXAMINER’s article with the photo of JOSEPH SCHMIDT.

### **GENERAL ALLEGATIONS**

#### **I. Background**

8. Leading Chief Petty Officer of the Special Operations Command JOSEPH SCHMIDT (“Officer Schmidt”) is a highly-decorated Navy SEAL who has proudly served this country for the last 23 years.

9. Officer Schmidt is active duty in SEAL Team 1 based out of San Diego County, California. He lives with his wife and children.

10. Officer Schmidt has an exemplary military record and he has received numerous commendation medals. Officer Schmidt has received a citation of valor for combat overseas and he was named the “Sailor of the Year” in both 2009 and 2011. Officer Schmidt has also been awarded the Army Commendation Medal, the Navy and Marine Corps Commendation Medal with

Valor (two times), the Navy and Marine Corps Achievement Medal (seven times), the Combat Action Ribbon, the Navy Good Conduct Medal (five times), and the Instructor of the Quarter in 2008 and 2009.

11. Officer Schmidt was deployed to active combat in 2002 and 2003.

12. Officer Schmidt works with the Make a Wish Foundation and regularly visits hospitals to lift the spirits of gravely ill children. In addition to his work in the community as a SEAL, Officer Schmidt spends a significant amount of his free time volunteering at his children's school and working with underprivileged kids. He also created a program called Navy Seal Scout Team that has been instituted in many different schools to motivate and assist local youth. Put simply, Officer Schmidt has dedicated his life to serving others.

## **II. The Washington Examiner Article**

13. On April 21, 2017, the WASHINGTON EXAMINER wrote a story about a Navy SEAL who had been charged with committing absolutely heinous crimes against children and engaging in bestiality. For reasons yet to be determined, WASHINGTON EXAMINER recklessly published the story with a photo of Officer Schmidt instead of a photo of the actual predator.

14. WASHINGTON EXAMINER placed a large headline over the photo of Officer Schmidt that read "Navy SEAL charged with making child porn" Below Officer Schmidt's photo, WASHINGTON EXAMINER wrote the words "His phone had photos showing molestation of a sleeping prepubescent minor and a trove of other children in sex acts..."

15. WASHINGTON EXAMINER published Officer Schmidt's photo on the homepage of the WASHINGTON EXAMINER's website with the headline "Navy SEAL charged with making child porn" printed over his photo. The WASHINGTON EXAMINER placed a caption

below Officer Schmidt's photo on the homepage of its website which read "His phone had photos showing molestation of a sleeping prepubescent minor and a trove of other children in sex acts..."

16. WASHINGTON EXAMINER touts that it has millions of readers who visit the homepage of its website each day.

17. WASHINGTON EXAMINER intended for the shocking allegations and headline to entice readers to read the full article. WASHINGTON EXAMINER placed a link to the full article under Officer Schmidt's photo and statements accusing Officer Schmidt of sexually abusing small children.

18. Once the reader followed the link, the full story with Officer Schmidt's photo pulled up with additional details and even more disgusting allegations.

19. The full story detailed perverse acts committed by a sexual predator and former Navy SEAL from Virginia Beach—someone that Officer Schmidt did not even know. The facts of the story include grotesque and horrific allegations accusing Officer Schmidt of sexually molesting a "prepubescent minor" and raping a woman. WASHINGTON EXAMINER accused Officer Schmidt of taking videos of himself sexually assaulting children and possessing a "trove of other photos of children in sex acts." Later versions of the story run also stated that Officer Schmidt had engaged in bestiality by having sex with a dog.

20. A reasonable person who saw the publication would logically assume that Officer Schmidt had been "charged with making child porn" and "had photos showing molestation of a sleeping prepubescent minor and a trove of other children in sex acts[.]" Further, readers would believe that the horrific acts outlined in the body of the article had also been committed by Officer Schmidt.

21. Officer Schmidt has never engaged in any of the abhorrent acts described in the article—nor had he ever previously been suspected or accused of such things. Through no fault of Officer Schmidt, WASHINGTON EXAMINER’s negligent and sloppy reporting falsely identified him as the face of a child predator and rapist.

22. WASHINGTON EXAMINER’s article quickly spread all over the internet. Trusting that WASHINGTON EXAMINER had done its homework and associated the correct photo to its article identifying a child sex predator, multiple media outlets followed suit and published Officer Schmidt’s photo on their websites. Within a few minutes, the article—and Officer Schmidt’s photo—went viral and were being viewed by people all over the world. Multiple media outlets in Officer Schmidt’s community ran the story with his photo attached as a direct consequence of WASHINGTON EXAMINER’s egregious error. As a result, Officer Schmidt’s reputation, built through a lifetime of military and community service, was smeared in his community and throughout the world.

23. Readers of the article called Officer Schmidt a “child molester,” a “sicko,” and a “predator.” They called for him to be *killed* and locked in prison. As the article began to spread on Facebook, the comments got even more sickening and violent.

24. After some time passed, WASHINGTON EXAMINER realized that they posted the photo of a highly decorated military hero to its article and publically accused him of countless unspeakable crimes. Nevertheless, WASHINGTON EXAMINER did not even bother to print a retraction or tell its readers that its inexcusable blunder falsely identified an innocent man.

25. Officer Schmidt and his family began getting calls from friends and acquaintances asking if the allegations that the WASHINGTON EXAMINER had lodged against him were true.

The Schmidt family was terrified to go outside for fear that someone would actually make good on their threats. Officer Schmidt called NCIS, the FBI, and the local police to warn them about the article and tell them that he and his family may need protection at their home. The Schmidt family was approached by people from their suburban neighborhood and at their son's middle school asking them about the child rape allegations and questioning why he was not in jail.

26. After reading all of the death threats, Officer Schmidt bought a security camera system for his home and did not leave his home without a firearm. Officer Schmidt and his wife continue to live in fear. They were forced to sell their home and transfer their son to a different school.

27. Officer Schmidt's reputation has been forever tarnished by the outrageous allegations that were lodged against him by the WASHINGTON EXAMINER.

28. Further, Officer Schmidt's photo is still associated with disgusting internet search terms to this day. As a result of the reckless errors of the WASHINGTON EXAMINER, Officer Schmidt's photo is still one of the top results appearing in response to internet searches for "navy seal child rape", "military child rape" and "navy seal child porn."

29. Like the people commenting on The WASHINGTON EXAMINER article, Officer Schmidt agrees that child rapists are truly the most despicable people in our society. Being accused of something so heinous has had a profound effect on Officer Schmidt and caused him severe mental anguish, emotional distress, and anxiety.

30. On July 26, 2017, Officer Schmidt contacted the WASHINGTON EXAMINER and demanded that a retraction be printed within 24 hours. WASHINGTON EXAMINER did not

even bother to respond to the request. To date, WASHINGTON EXAMINER has never printed a retraction or even apologized to Officer Schmidt.

**COUNT I – DEFAMATION AGAINST THE WASHINGTON EXAMINER**

31. Plaintiff, Officer Schmidt, incorporates paragraphs 1 to 30 as if each were fully set out in this Count.

32. WASHINGTON EXAMINER published false and defamatory statements with Officer Schmidt's photo and published it to millions of its readers.

33. The WASHINGTON EXAMINER article, its contents, and associated photo were not privileged in any manner.

34. WASHINGTON EXAMINER's written statements associated with Officer Schmidt's photo were made with reckless disregard for their truth or falsity and with legal malice. Malice can be inferred from WASHINGTON EXAMINER's failure to publish a retraction as require by Fla. Stat. § 770.02. These statements are completely false and extremely defamatory. Officer Schmidt's reputation was damaged by the false allegations lodged by the WASHINGTON EXAMINER.

35. WASHINGTON EXAMINER negligently published Officer Schmidt's photo on an article identifying him as the perpetrator of heinous crimes that he did not commit.

36. WASHINGTON EXAMINER knew or should have known that Officer Schmidt did not commit any of the crimes that WASHINGTON EXAMINER accused him of committing in the article.

37. Officer Schmidt is a private individual and not a public figure.

38. WASHINGTON EXAMINER's false statements accusing Officer Schmidt of committing the crimes outlined above are libel per se.

39. WASHINGTON EXAMINER's publication of the statement along with Officer Schmidt's photo has falsely tainted and permanently damaged Officer Schmidt's reputation.

40. WASHINGTON EXAMINER's publication of the statement along with Officer Schmidt's photo has caused Officer Schmidt severe mental and emotional distress and anxiety.

41. As a direct and proximate result of the publication of these defamatory statements and Officer Schmidt's photo, Officer Schmidt has suffered economic and noneconomic losses, lost wages, damage to reputation, mental anguish, inconvenience, loss of capacity for the enjoyment of life, personal humiliation, expense of medical care and treatment, and aggravation of a previously existing condition. The losses are permanent and continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Officer Schmidt demands judgment in his favor and against WASHINGTON EXAMINER for:

- a. An award of all compensatory damages that Officer Schmidt has suffered in the past and will suffer in the future, including incidental and consequential damages resulting from WASHINGTON EXAMINER's publication in an amount to be determined at trial;
- b. An award of pre-judgment and post-judgment interest;
- c. An award of all costs and expenses Officer Schmidt has incurred and will incur in this action; and,



- d. An award of such other relief this Court may deem just, equitable and proper.

**COUNT II—DEFAMATION BY IMPLICATION**

42. Plaintiff, Officer Schmidt, incorporates paragraphs 1 to 30 as if each were fully set out in this Count.

43. The WASHINGTON EXAMINER recklessly published a photo of Officer Schmidt with the headline “Navy SEAL charged with making child porn” written above it. Below Officer Schmidt’s photo, WASHINGTON EXAMINER wrote the words “His phone had photos showing molestation of a sleeping prepubescent minor and a trove of other children in sex acts...”

44. A reasonable person who saw the publication would logically assume that Officer Schmidt had been “charged with making child porn” and “had photos showing molestation of a sleeping prepubescent minor and a trove of other children in sex acts...” Further, readers would believe that the horrific acts outlined in the body of the article had also been committed by Officer Schmidt.

45. The article under his photo detailed heinous allegations of sexual abuse against women, children and animals.

46. The article would clearly lead the reader to believe that Officer Schmidt was a rapist and child sex predator.

47. WASHINGTON EXAMINER acted in reckless disregard as to the falsity of the publicized matter and the false light in which Officer Schmidt would be placed.

48. Any reasonable person would be seriously offended and aggrieved by the publicity, invasion of privacy and being associated with such vile conduct.

49. WASHINGTON EXAMINER's publication of the statement along with Officer Schmidt's photo has falsely tainted and permanently damaged Officer Schmidt's reputation.

50. WASHINGTON EXAMINER's publication of the statement along with Officer Schmidt's photo has caused Officer Schmidt severe mental and emotional distress and anxiety.

51. WASHINGTON EXAMINER omitted the fact that Officer Schmidt was an innocent man and had never been accused or suspected of being a child predator or abuser.

52. As a direct and proximate result of the publication of these defamatory statements and Officer Schmidt's photo, Officer Schmidt has suffered economic and noneconomic losses, lost wages, damage to reputation, mental anguish, inconvenience, loss of capacity for the enjoyment of life, personal humiliation, expense of medical care and treatment, and aggravation of a previously existing condition. The losses are permanent and continuing and Plaintiff will suffer the losses in the future.

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- c. An award of all costs and expenses Officer Schmidt has incurred and will incur in this action; and,

- d. An award of such other and further relief this Court may deem just, equitable and proper.

**COUNT III – INFLICTION OF EMOTIONAL DISTRESS**

53. Plaintiff, Officer Schmidt, incorporates paragraphs 1 to 30 as if each were fully set out in this Count.

54. The WASHINGTON EXAMINER recklessly inflicted mental suffering on Officer Schmidt by attaching his photo to accusations and an article that were highly defamatory and accused him of committing horrific sex crimes against children, women and animals and published it for millions of people to see. The WASHINGTON EXAMINER was reckless when it published the photo and failed to research the story or the identity of Officer Schmidt before publishing his photo on an article about a man who committed crimes against women, children and animals.

55. WASHINGTON EXAMINER knew or should have known that posting the photo with such an outrageously defamatory headline, caption and/or article would likely cause emotional distress.

56. Publishing an innocent person's photo on an article which would lead a reasonable person to believe that the individual was a rapist and child sex predator is outrageous and atrocious conduct. Failing to identify the individual in the photo before attaching their face to the story is shameful and shocking.

57. The WASHINGTON EXAMINER's conduct and its publication of the photo and article caused Officer Schmidt severe emotional distress.

58. The article would clearly lead the reader to believe that Officer Schmidt was a rapist and child sex predator.

59. WASHINGTON EXAMINER's publication of the statement along with JOSEPH SCHMIDT's photo has falsely tainted and permanently damaged Officer Schmidt's reputation.

60. WASHINGTON EXAMINER's publication of the statement along with Officer Schmidt's photo has caused Officer Schmidt severe mental and emotional distress and anxiety.

61. As a direct and proximate result of the publication of these defamatory statements and Officer Schmidt's photo, Officer Schmidt has suffered economic and noneconomic losses, lost wages, damage to reputation, mental anguish, inconvenience, loss of capacity for the enjoyment of life, personal humiliation, expense of medical care and treatment, and aggravation of a previously existing condition. The losses are permanent and continuing and Plaintiff will suffer the losses in the future.

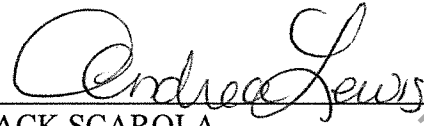
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- c. An award of all costs and expenses Officer Schmidt has incurred and will incur in this action; and,
- d. An award of such other and further relief this Court may deem just, equitable and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, JOSEPH SCHMIDT, hereby demands trial by jury on all issues so triable.

DATED this 28th of February, 2018.



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