

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: _____

JURY TRIAL DEMANDED

ALAN DERSHOWITZ

Plaintiff,

vs.

CABLE NEWS NETWORK, INC.

Defendant.

_____ /

COMPLAINT

Plaintiff, ALAN DERSHOWITZ, by and through the undersigned counsel, sues defendant CABLE NEWS NETWORK, INC., and states as follows.

JURISDICTION AND VENUE

1. Jurisdiction for this cause of action lies within this court by virtue of 28 USC 1332. This is an action for defamation and the parties are diverse in citizenship.

2. Plaintiff, ALAN DERSHOWITZ, is a citizen and resident of the State of Florida.

3. CABLE NEWS NETWORK, INC. (hereinafter CNN), is a corporation based and operating in the State of Georgia and is therefore diverse in citizenship to Alan Dershowitz by virtue of 28 USC 1332 (c)(1).

4. The amount of damages sought in this cause of action is \$50,000,000 in compensatory damages and \$250,000,000 in punitive damages, thus meeting the requirements of 28 USC 1332 (a).

5. Venue is proper in the Southern District of Florida for the following reasons:

a) The tort which is the basis of this lawsuit was committed in South Florida in addition to all over the world. South Florida has a population of approximately 10 million people, thus making the alleged defamatory statements in this venue significant.

b) Plaintiff is a resident of South Florida and is domiciled in South Florida.

c) CNN does business in South Florida and has registered in Florida as a foreign corporation and voluntarily chose to have its registered agent in Broward County, which is where this court is based.

COUNT ONE – DEFAMATION
(SLANDER AND LIBEL)

6. On January 27, 2020, plaintiff represented the President of the United States in the impeachment trial before the United States Senate. On January 29, 2020, in response to a question posed by Senator Ted Cruz, plaintiff delivered a brief response in which he said that the constitution does not support an impeachment of a president simply because a lawful action taken by a president might have been based in small part to or to some degree on a desire to be reelected and if the president believes his reelection is in the public interest. This argument was being made in rebuttal to the house managers' claim that a president can be impeached and removed from office if he takes any action whatsoever that is motivated by any percentage or any degree of desire to be reelected, no matter how minimal.

7. The relevant part of plaintiff's argument which serves as the basis of this cause of action was the following:

“The only thing that would make a quid pro quo unlawful is if the quo were somehow illegal. Now we talk about motive. There are three possible motives that a political figure could have. One, a motive in the public interest and the Israel argument would be in the public interest. The second is in his

own political interest and the third, which hasn't been mentioned, would be his own financial interest, his own pure financial interest, just putting money in the bank. I want to focus on the second one for just one moment. Every public official that I know believes that his election is in the public interest and, mostly you are right, your election is in the public interest, and if a president does something which he believes will help him get elected in the public interest, that cannot be the kind of quid pro quo that results in impeachment."

Video link to the above excerpt: <https://youtu.be/6efQaNZVc-A>

It is clear therefore, that Professor Dershowitz expressly stated that a president could be impeached and removed from office if what he did was "somehow illegal," regardless of his motive to be reelected.

8. Shortly after that argument was presented before the Senate, CNN then went to work by assembling panels for programming throughout the day in which the hosts shared only this part of Professor Dershowitz's argument...

"Every public official that I know believes that his election is in the public interest and, mostly you are right, your election is in the public interest, and if a president does something which he believes will help him get elected in the public interest, that cannot be the kind of quid pro quo that results in impeachment."

Following the airing of that clip over and over again, the hosts, together with their panel guests, including CNN employees and paid commentators, exploded into a one-sided and false narrative that Professor Dershowitz believes and argued that as long as the President believes his reelection is in the public interest, that he could do anything at all – including illegal acts – and be immune from impeachment. The very notion of that was preposterous and foolish on its face, and that was the point: to falsely paint Professor Dershowitz as a constitutional scholar and intellectual who had lost his mind. With that branding, Professor Dershowitz's sound and meritorious arguments would then be drowned under a sea of repeated lies. With that portion of Professor

Dershowitz's words played without his words that preceded that sentence, it was an easy sell to CNN's viewers that the respected Alan Dershowitz believed that the President of the United States could commit illegal acts as long as he thought it would help his reelection and that his reelection was in the public interest, even though it was the opposite of what he said. The only way to fool its viewers into believing that Professor Dershowitz actually said and meant what the CNN hosts and panel guests knew was the exact opposite of what he said was to deliberately omit: "*the only thing that would make a quid pro quo unlawful is if the quo were somehow illegal.*"

9. Without question, CNN understood that allowing its viewers to hear those words spoken immediately before CNN's selected video portion, would cause its viewers to categorically reject the conclusions of its hosts and panel guests. In fact, no panel guest would have even considered embarrassing himself or herself on national television with their false conclusions had the video clip properly included the part where Professor Dershowitz unequivocally and unambiguously stated that an illegal act would prevent a quid pro quo from being lawful. The phrase that included the word "illegal" was an essential part of his argument, and that is precisely why CNN decided to omit it. It is evident that the decision to omit the portion in question was no accident or simple negligence on the part of CNN. Immediately after Professor Dershowitz presented his argument, CNN employees, Wolf Blitzer and Jake Tapper, played the entire clip properly, so CNN knew for certain that Professor Dershowitz had prefaced his remarks with the qualifier that a quid pro quo could not include an illegal act. That portion then disappeared in subsequent programming.

10. Such conduct is in direct violation of law and outside first amendment protection. The Supreme Court made this clear in Masson v. New Yorker Magazine,

Inc., 501 U.S. 496 (1991), where the Court held that a media organization can be held liable for damages when it engages in conduct that changes the meaning of what a public figure has actually said. While Masson involved the use of quotation marks to falsely attribute words to Jeffrey Masson, the law that the case created is broad, and unequivocally denies first amendment protections to a media organization that takes deliberate and malicious steps to change the meaning of what a public figure has said. That is exactly what CNN did when it knowingly omitted the portion of Professor Dershowitz's words that preceded the clip it played time and time again. CNN's hosts and panelists knew that the selective editing of the tape and the elimination of Professor Dershowitz's words declaring that an illegal act would make a quid pro quo unlawful, would allow them to pretend that Professor Dershowitz had said the exact opposite of what he had argued on the Senate floor.

11. The decision to omit the crucial word "illegal" from Professor Dershowitz's argument had the functional equivalency of doctoring the recording because it had the practical effect of reversing the meaning. When a network sets in motion a deliberate scheme to defraud its own audience and does so at the expense of another's reputation, Masson recognizes that such behavior is actionable.

12. The aftermath of that barrage of defamatory programming was its ripple effect throughout the entire media industry. From other news outlets, to talk show hosts and social media trends, CNN's deliberately false narrative spread like a disease, with each other forum replaying solely that portion of the tape and mimicking CNN's malignant conclusion that Alan Dershowitz believes that a president could commit crimes and escape impeachment as long as he subjectively believes it is in the nation's interest that he be reelected.

13. The damage to Professor Dershowitz's reputation does not have to be imagined. He was openly mocked by most of the top national talk show hosts and the comments below CNN's videos show a general public that has concluded that Professor Dershowitz had lost his mind. All of these impressions were the direct result of CNN intentionally misleading its viewers and hiding the truth from their eyes and ears. A few egregious examples are those of Joe Lochhart and John Berman, stating the following after airing only the chosen snippet of the video and Paul Begala in written form after omitting the part of the argument that said that illegal acts were impeachable:

"Having worked on about a dozen campaigns, there is always the sense that, boy, if we win, it's better for the country. But that doesn't give you license to commit crimes or to do things that are unethical. So, it was absurd. What I thought when I was watching it was this is un-American. This is what you hear from Stalin. This is what you hear from Mussolini, what you hear from authoritarians, from Hitler, from all the authoritarian people who rationalized, in some cases genocide, based what was in the public interest." – Joe Lochhart @ 7:11 p.m., January 29, 2020.

"The President's defense team [Dershowitz] seems to be redefining the powers of the President, redefining them towards infinity." . . . [out of context video snippet then played]. . . then Berman continues... "If you look at what he says there it blows your mind. He says if a President is running for re-election because he thinks getting elected will help America, he can do anything, anything. And that redefines the presidency and America." – John Berman @ 6:17 a.m., January 30, 2020.

"I did not go to Harvard Law, but I did go to the University of Texas School of Law, where I studied criminal law and constitutional law, but never dreamed a legendary legal mind would set them both ablaze on the Senate floor. The Dershowitz Doctrine would make presidents immune from every criminal act, so long as they could plausibly claim they did it to boost their re-election effort. Campaign finance laws: out the window. Bribery statutes: gone. Extortion: no more. This is Donald Trump's fondest figurative dream: to be able to shoot someone on Fifth Avenue and get away with it." Paul Begala on CNN.COM, January 29, 2020 @ 9:11 p.m.

14. Professor Dershowitz was one of the most revered and celebrated legal minds of the past half century. His reputation relating to his expertise in criminal and

constitutional matters was one that lawyers would only dream about attaining in their lifetimes. However, Professor Dershowitz appears to have made one mistake. He chose to defend the President of the United States and defend the U.S. Constitution at a moment in time where CNN has decided that doing so is not permitted. For this, CNN set out to punish him and destroy his credibility and reputation, and unfortunately, succeeded.

15. Due to the overwhelming vastness of its broadcasts, CNN caused substantial damage to Professor Dershowitz by irreparably harming his reputation.

16. The defamatory statements CNN published were made by each person knowing that what they were stating was false, and in the alternative, those making the statements acted with reckless disregard for the truth or falsity of their statements.

17. The defamatory statements made by each commentator were made in the course and scope of their employment relationship and/or agency relationship with CNN, thus making CNN vicariously liable for any and all damages resulting from each commentator's tortious conduct, in addition to CNN being directly liable for the publication of false statements and for its failure to exercise due care to prevent the publication or utterance of such statements.

18. CNN's decision to omit the part of plaintiff's argument in which he prefaced his upcoming remarks with the fact that it did not apply to illegal acts, was done intentionally and deliberately with knowledge and malice to facilitate its ability to falsely claim that plaintiff said the opposite of what he actually said.

19. As a direct and proximate result of CNN's defamatory actions, plaintiff has suffered and continues to suffer damage, including, but not limited to, damage to his

reputation, embarrassment, pain, humiliation, mental anguish, and has sustained past and future loss of earnings.

20. CNN knew that its statements were false at the time the statements were made or had serious doubts about their truth, and nonetheless, made and/or published the statements with an intent to indulge ill will, hostility, and an intent to harm, thus giving rise to the right to recover punitive damages in order to deter CNN from engaging in this conduct in the future and hopefully restore integrity to both CNN and the media as a whole.

WHEREFORE, plaintiff demands:

- a) Judgment against the defendant in the amount of Fifty Million Dollars (\$50,000,000) as compensatory damages.
- b) Two Hundred and Fifty Million Dollars (\$250,000,000) as punitive damages.
- c) All taxable litigation costs, pre-judgment interest and post-judgment interest.
- d) A trial by jury.

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