

FILED
CLERK, DISTRICT COURT
AUG 28 2024
CENTRAL DISTRICT OF CALIFORNIA
BY *MLV* DEPUTY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CALEB L. MCGILLVARY) CIVIL ACTION NO.
PLAINTIFF)
) *2:24 cv 7473-MRA(SKX)*
V.)
)
THEODOR)
VONKURNATOWSKI,)
BRIAN MONARCH)
DEFENDANT)

COMPLAINT

I. PARTIES IN THIS COMPLAINT

A. PLAINTIFF (*PRO SE PLAINTIFF IS INCARCERATED*)

NAME: Caleb L. McGillvary
STREET ADDRESS: #1222665/SBI#102317G NJSP Po Box 861
COUNTY, CITY: Mercer, Trenton
STATE & ZIP CODE: New Jersey 08625
TELEPHONE NUMBER: N/A

B. DEFENDANTS

NAME: Theodor VonKurnatowski
STREET ADDRESS: 401 South Barrington Ave
COUNTY, CITY: Los Angeles, Los Angeles
STATE & ZIP CODE: California 90049
TELEPHONE NUMBER: Unknown

NAME: Brian Monarch
STREET ADDRESS: 4374 Ventura Canyon Ave, Unit 2
COUNTY, CITY: Unknown, Sherman Oaks
STATE & ZIP CODE: California 91423
TELEPHONE NUMBER: Unknown

1 **II. BASIS FOR JURISDICTION**

2 This Court has jurisdiction under 28 U.S.C. 1331 and 28 U.S.C.
3 1338 over plaintiff's claims under 17 U.S.C. 501 et seq. This Court has
4 jurisdiction under 28 U.S.C. 1332 and 28 U.S.C. 1367 over plaintiff's
5 state law claims. Plaintiff is a citizen of Canada residing in New Jersey
6 and Defendants are citizens of California. The amount in controversy
7 exceeds \$75,000.

8
9 **III. STATEMENT OF CLAIM**

10
11 A. The events giving rise to these claims occurred at Theodor
12 VonKurnatowski's place of residence and/or YouTube channel in
13 or around Los Angeles, California

14
15 B. Where indicated, these claims accrued on October 1, 2021; on or
16 about January 25, 2023; and on or about February 20 and 22,
17 2023; and on or about September 12, 2023.

18
19 C. The facts giving rise to these claims are as follows:
20

21 **INTRODUCTION**

22 1.) Plaintiff Caleb L. McGillvary ("Plaintiff") immigrated to America
23 from Canada in 2012. He has never been convicted of any crime in
24 Canada. Plaintiff is a professional street performer who plays music
25 and creates and performs troubadour and dramatic works while
26 busking for money in public places and on his social media platforms.
27 On February 1, 2013, in Fresno, CA, Plaintiff used his camping hatchet
28 to heroically save a crowd of people from a violent white supremacist;
29 who was trying to kill them all. Plaintiff immediately thereafter
30 performed an interview consisting of spoken words and a dramatic
31 work; which was broadcast on KMPH FOX News, and declined to
32 perform an interview on any other station ("The Original Video"). The
33 video of this interview went viral, and plaintiff became widely known as
34 "Kai the Hatchet Wielding Hitchhiker"; a legendary folk hero. This
35 video is incorporated herein from its URL, and is sine qua non to
36 understanding what follows:

37 <https://www.youtube.com/watch?v=-Xa0NfCdlk4>

1 Plaintiff subsequently appeared under this widely recognized mark on
2 Jimmy Kimmel Live!, EBaumsworld, and the Gregory Brothers.
3 Plaintiff, who was a homeless street performer at the time, also enjoyed
4 a multitude of fans who invited him to stay with them at their homes.
5 Plaintiff still enjoys massive esteem, respect, goodwill, and confidence
6 from the millions of people who recognize him for his heroic actions on
7 February 1, 2013.

8 Plaintiff Caleb L. McGillvary (“Plaintiff”) relies upon the Court Record
9 of People v McBride No. F13901235 in the California Superior Court of
10 Fresno County; and of People v McBride No. F068949 in the Court of
11 Appeal of California, 5th Appellate District; and incorporates same by
12 reference herein. Specifically, Plaintiff makes reference to the following
13 facts adduced at trial:

14 a.) Nelson Pereira (“Nelson”), Kenneth Simon (“Kenneth”), and Nicholas
15 Starkey (“Nicholas”); all eyewitnesses to the events of February 1, 2013
16 at the intersection of Marks and McKinley in Fresno, California (“The
17 incident”); each testified under oath that they could see into Jett
18 Simmons McBride (“McBride”)’s car leading up to and including the
19 incident. They each saw that, immediately before McBride intentionally
20 crashed his car into a crowd of power line workers, McBride had both
21 his hands on the steering wheel; and that Plaintiff had his hands in
22 front of himself in his lap. Neither McBride nor Plaintiff were
23 communicating with each other, and Plaintiff was completely in the
24 passenger compartment of the car, with no part of himself in the
25 driver’s compartment.

26 b.) Kenneth, Nicholas, and two other eyewitnesses to the incident;
27 Ginger Miller-Barraza (“Ginger”) and Tonya Baker (“Tonya”); each
28 testified under oath that they observed McBride’s conduct immediately
29 after the collision but before Plaintiff smashed him in the head with a
30 hatchet. They stated that McBride was continuing his assault on
31 Rayshawn Neely (“Rayshawn”): yelling that he was “sent to take
32 [Rayshawn] home; that “I am God. I am Jesus. I was sent here to take
33 all the niggers to heaven”; that “all niggers need to die”; “death to all
34 niggers”; and “I will kill you all.”

35 c.) Nelson, Nicholas, Ginger, and Tonya each testified under oath that,
36 subsequent to McBride’s expression of deadly intent in “2.)b.”; McBride
37 grabbed Tonya in a “bear hug” and was escalating force against her
38 rapidly. Plaintiff loudly warned McBride 3 times to release Tonya.

1 McBride yelled, "I'll kill you all"; then Plaintiff used his camping
2 hatchet with force 3 times on McBride's head in defense of Tonya

3 d.) Fresno County Sheriff's Officer Lyman testified under oath that,
4 when officers arrived on the scene, McBride yelled "I did it! Get off of
5 me! I'll kill you all!"

6 e.) Laboratory analysis of the marijuana smoked by Plaintiff and
7 McBride prior to the incident revealed that there was "no substance in
8 the plant material other than the active ingredient in marijuana."

9 f.) Blood was drawn from McBride at the hospital immediately after the
10 incident. Tests on the blood were negative for every drug except for
11 marijuana.

12 g.) McBride admitted to Jeff Stricker ("Stricker") that he "did it"; and
13 when Stricker asked McBride whether he hit the truck on purpose and
14 tried to kill Rayshawn, McBride responded in the affirmative, and
15 explained that he did so because Rayshawn was Illuminati, and
16 expressed remorse

17 h.) McBride admitted during his sworn testimony that he told Stricker
18 that he "hit the truck on purpose and tried to kill Rayshawn." He denied
19 doing it because Rayshawn was black, but agreed he did it because
20 Rayshawn was Illuminati. He confessed to having Illuminati delusions
21 long before having met Plaintiff.

22 i.) Plaintiff was found by law enforcement at the scene to have used
23 justified force in defense of others; was cleared of any wrongdoing in the
24 incident; and was released without any charges or reprimands.

25 Plaintiff avers that Defendants Theodor VonKurnatowski ("Defendant
26 TV"); and Brian Monarch (Collectively, "Defendants") acquired
27 knowledge of these facts through news reports and public records prior
28 to the events hereafter described, or in the alternative, that Defendants
29 acquired knowledge of these facts prior to having made the slanderous
30 statements or incitements and intentional infliction of emotional
31 distress hereafter described.

32

33 INITIAL DEEPPFAKE INFRINGEMENTS

34 2.) On or about October 1, 2021, Defendants Theodor VonKurnatowski
35 ("Defendant TV"); and Brian Monarch (Collectively, "Defendants") met
36 with each other, and agreed to act in concert and to aid and abet each
37 other in wilfully infringing on Plaintiff's copyrighted spoken words and
38 dramatic works described in "14" below, for commercial purposes, by

1 copying and publishing Plaintiff's spoken words and dramatic work
2 "Smash, Smash, SUH-MASH" onto various social media platforms to
3 generate revenues through the sale of advertisements made by the
4 copying and display of the works; and agreed that Defendant TV would
5 thereafter incite his fans to threaten and intimidate Plaintiff out of
6 litigating to vindicate his copyrights. Pursuant to this agreement, Brian
7 Monarch, aided by Theodor VonKurnatowski, published a motion
8 picture derivative of Plaintiff's spoken words and dramatic work
9 "Smash, Smash, SUH-MASH!", without Plaintiff's permission, on the
10 monetized YouTube channel, "Brian Monarch": in which they
11 superimposed Theodor VonKurnatowski's face onto Plaintiff's February
12 1, 2013 performance. Plaintiff's spoken words and dramatic works are
13 clearly copied and displayed in their original form, with Defendant TV's
14 face exactly copying Plaintiff's entire performance: word for word and
15 expression for expression. ("The Initial Deepfake") The Initial Deepfake
16 received views, and was thereby displayed on YouTube. The Initial
17 Deepfake on YouTube is annexed hereto from its URL:
18 <https://youtu.be/o4CCVEwks3c>. To this date, the proceeds of this
19 agreement have not been fully distributed, but revenue continues to be
20 produced pursuant to the torts aided and abetted by each party to this
21 agreement.

22 3.) On or about March 6, 2022 Defendant TV republished the Initial
23 Deepfake on his monetized Instagram, pursuant to the agreement in
24 "2". It has received views, and thereby displayed Plaintiff's spoken
25 words and dramatic work "Smash, Smash, SUH-MASH" on Instagram
26 to generate revenues through the sale of advertisements made by the
27 copying and display of the works. The video on Instagram is annexed
28 hereto from its URL: <https://instagram.com/p/CaqLPeRDhp/>

29 4.) On or about June 13, 2022 Defendant TV republished the Initial
30 Deepfake on his monetized TikTok, pursuant to the agreement in "2".
31 It has received views, and thereby displayed Plaintiff's spoken words
32 and dramatic work "Smash, Smash, SUH-MASH" on TikTok to
33 generate revenues through the sale of advertisements made by the
34 copying and display of the works. The video on Instagram is annexed
35 hereto from its URL:
36 [https://tiktok.com/@TheoVon/Video/7108847165212020014?is_copy_url=](https://tiktok.com/@TheoVon/Video/7108847165212020014?is_copy_url=1&is_from_webapp=v1&lang=en)
37 [1&is_from_webapp=v1&lang=en](https://tiktok.com/@TheoVon/Video/7108847165212020014?is_copy_url=1&is_from_webapp=v1&lang=en)

1 5.) On August 13, 2022, Plaintiff sent a letter to Defendant TV via
2 email, requesting Defendant TV to permanently remove and cease
3 broadcasting the Video. The letter specifically stated:

4 “Mr. Von;

5 It has recently come to my attention that you have republished a video
6 of me; but with your face superimposed over mine. I am told that you’ve
7 published this video on Instagram and TikTok.

8 This is to notify you that any such republished videos are in violation of
9 my right of publicity. California Civil Code Section 3344 provides that I
10 have a right to recover the gross revenue from your unauthorized
11 monetization of my voice and likeness. I urge you to consider the legal
12 ramifications of a similar situation:

13 How do you think Marvel would legally respond if you edited your face
14 onto Spiderman and republished the movie “Spiderman” on your
15 channel, monetized?

16 Additionally, your aforementioned videos are infringing on my
17 copyright in my performance of the interview contained therein. Strikes
18 under the Digital Millennium Copyright Act could affect your ability to
19 monetize videos in the future.

20 I hereby request that you remove any such offending videos from all
21 platforms; that you turn over all of the monetization revenue therefrom,
22 which I am entitled to under Cal. Civ. Code 3344, to a fundraiser of my
23 choosing; and that you kindly refrain from violating my right of
24 publicity in the future.

25 I would prefer to resolve this quickly and amicably.

26 Very Truly,

27 /s/

28 Caleb L. McGillvary

29 a/k/a “Kai the Hitchhiker”

30 Date: 8/13/22”

31
32 **INITIAL COMPLAINT AND RETALIATION THEREFOR**

33 6.) On or about November 21, 2022, Plaintiff Caleb L. McGillvary
34 (“Plaintiff”) sent Defendant TV Theodor VonKurnatowski (“Defendant
35 TV”) a settlement offer in a previous matter, in writing. Affixed to this
36 letter was a copyright notice and an explicit statement that Plaintiff
37 reserved all his rights therein and that the information contained

1 therein was confidential and not for publication nor broadcast. This
2 letter is incorporated by reference and attached hereto as Exhibit A
3 7.) On or about January 25, 2023, as conduct in furtherance of the
4 conspiracy in "2", while the proceeds of the conspiracy had not yet
5 been fully distributed, Defendant TV filmed and published a motion
6 picture work on his YouTube channel; which is derivative of, and in
7 which he reads from and thereby displays and republishes, the letter in
8 "6" to generate revenues through the sale of advertisements made by
9 the copying and display of the work. In this video, Defendant TV
10 indicates that he is being sued by Plaintiff, and for this reason he
11 incites viewers of the video to bully, sexually harass, and/or threaten or
12 commit sexual violence against Plaintiff and thereby intentionally
13 cause emotional distress to him, by stating to the viewers of the video
14 that Plaintiff is a "kind of dude that would just, you know, give you the
15 skirt off his back, you know, or whatever." Defendant TV's followers and
16 subscribers thereafter did, in fact, harass and threaten Plaintiff in a
17 sexual way; and bully him; going so far as to credibly threaten anal rape
18 against Plaintiff and "pay[ing] his cell mate to fuck him." The
19 Defamatory video received views, and was thereby displayed on
20 YouTube; and its comments are incorporated by reference herein from
21 the URL "<https://youtube.com/watch?v=GZdLINF94LY>"
22 8.) On January 30, 2023, Plaintiff sent Defendant TV a retraction letter,
23 asking Defendant TV to retract the statements described in "7". He sent
24 this letter to the same address to which he sent the letter in "6"; using
25 the same institutional mailing system to send it via USPS first class
26 mail. A copy of the retraction letter is attached at Exhibit B.
27 Defendant TV never retracted nor corrected his statements in response
28 to this demand.

29

30 **SECOND DEEPPFAKE INFRINGEMENT**

31 9.) On or about February 22, 2023, as conduct in furtherance of the
32 conspiracy in "2", while the proceeds of the conspiracy had not yet
33 been fully distributed, Defendant Brian Monarch created a second
34 deepfake video infringing upon Plaintiff's rights ("Arnie Deepfake") on
35 Defendant Brian Monarch's YouTube account "Brian Monarch"; with
36 the intention of causing and aiding the causing of emotional distress to
37 Plaintiff; through a pattern of sexual harassment and intimidation in
38 republishing threats of sexual violence and death incited by the

1 Defamatory Video; and to wilfully infringe upon Plaintiff's copyright in
2 his performance and spoken words "Smash, Smash, SUH-MASH!"
3 underlying the motion picture work which the Arnie Deepfake is an
4 unauthorized derivation of; for a commercial purpose of selling
5 advertisements and increasing lifetime value of subscribers; and to
6 damage or deprive Plaintiff in or of his revenues from his Dramatic
7 Work and Spoken Words.; embodied by sales of advertisements and
8 increase of lifetime value of subscribers, which directly and/or indirectly
9 resulted from the copying of said works and are thus infringer's profits
10 as defined by 17 U.S.C. 504(b)

11 10.) On or about February 22, 2023, as conduct in furtherance of the
12 conspiracy in "2"; while the proceeds of the conspiracy had not yet
13 been fully distributed, Defendant Brian Monarch published the Arnie
14 Deepfake on the YouTube "Brian Monarch"; in which Arnold
15 Schwarzenegger's face and voice are superimposed upon Plaintiff's
16 performance in the Original Video, displaying copyright protected
17 spoken words and dramatic work "Smash, Smash, SUH-MASH!"; in
18 their entirety, and wilfully copying same for a commercial purpose of
19 selling advertisements and increasing lifetime value of subscribers; and
20 to damage or deprive Plaintiff in or of his revenues from his Dramatic
21 Work and Spoken Words.; embodied by sales of advertisements and
22 increase of lifetime value of subscribers, which directly and/or indirectly
23 resulted from the copying of said works and are thus infringer's profits
24 as defined by 17 U.S.C. 504(b). Defendants never received permission
25 Plaintiff to make derivative works from his copyrighted dramatic work
26 nor spoken words. The Arnie Deepfake received views, and was thereby
27 displayed on YouTube; and is incorporated by reference herein from its
28 URL:

29 <https://youtube.com/shorts/FZvrpt0r3I8?feature=share>

30

31 **THIRD RETALIATION VIDEO**

32 11.) On or about September 12, 2023; as conduct in furtherance of the
33 conspiracy in "2", while the proceeds of the conspiracy had not yet
34 been fully distributed; Defendant TV made a video and published it on
35 his YouTube Channel ("The Petrousian Video"). In The Petrousian
36 Video, Defendant TV specifically referenced this civil action and
37 Plaintiff, then proceeded to accuse Plaintiff of multiple murders which
38 he never committed, knowing the falsity of the statement at the time it

1 was made or exhibiting constitutional malice, that is, with reckless
2 disregard for the truth of the matter pleaded in “1” which was known to
3 Defendants prior to the time the statements were made, stating
4 verbatim in regards to Plaintiff: “He did a few murders”. The
5 Petrousian video received views, and was thereby displayed on
6 YouTube; and is annexed hereto and incorporated by reference herein
7 from its URL:

8 <https://youtube.com/watch?v=UYqY6tmxfqU>

9 12.) On or about September 12, 2023, Defendant TV’s Viewers and
10 fans, as a result of both Defendant TV’s video incorporated by reference
11 herein from the URL “<https://youtube.com/watch?v=GZdLINF94LY>”,
12 and the video incorporated by reference herein from its URL:

13 “<https://youtube.com/watch?v=UYqY6tmxfqU>”; began to comment at
14 and message Plaintiff as a direct result of the incitement made by
15 Defendant TV in his video described above in “11”. Defendant TV has
16 control over which comments are displayed on his YouTube videos. The
17 process by which comments are published is that a person writes the
18 comment, clicks a button, and the comment is published to Defendant
19 TV for approval. Defendant TV must then either disprove the comment
20 and thereby delete it; or approve the comment which thereby
21 republishes it onto the Video.

22 13.) On September 15, 2023, Plaintiff sent Defendant TV a retraction
23 letter, asking Defendant TV to retract the slanderous statements
24 described in “11” and “12”. He sent this letter to the same address to
25 which he sent the letter in “8”; using the same institutional mailing
26 system to send it via USPS first class mail. A copy of the retraction
27 letter is attached at Exhibit 13. Defendant TV never retracted nor
28 corrected his slanderous statements in response to this demand.

29

30

COUNT 1: COPYRIGHT INFRINGEMENT

31

Plaintiff’s Ownership of Copyright

32

33 14.) Plaintiff is the author of the dramatic work and words spoken in
34 the Original video described in “1”; and the legal title to said dramatic
35 work and words spoken vested in Plaintiff at the time the Original
36 Video was made on February 1, 2013. Plaintiff has never assigned nor
37 transferred title to his copyrights. In accordance with 17 USC 411,
38 Plaintiff has registered this work with the Copyright Office on January

1 20 and February 6, 2023; copies of the registration certificates are
2 incorporated by reference herein as Exhibit D
3 Plaintiff registered his copyright to the dramatic work “Smash, Smash,
4 SUH-MASH!” underlying the Original Video on February 6, 2023. A
5 copy of his certificate of registration of this dramatic work PA 2-398-664
6 is incorporated by reference herein.

7 Plaintiff registered his copyright to the spoken words of the “Smash,
8 Smash, SUH-MASH!” interview underlying the Original Video on
9 January 20, 2023. A copy of his certificate of registration of these
10 spoken words PA 2-398-110 is incorporated by reference herein.

11 15.) Plaintiff is the author of the literary work described in “8”; and the
12 legal title to said literary work vested in Plaintiff at the time the work
13 was made on November 21, 2022. Plaintiff has filed for registration of
14 this work with the Copyright Office on March 26, 2023; a copy of the
15 registration certificate is incorporated by reference herein as Exhibit
16 E.

17

18 Defendant TV’s Infringing Initial Deepfake

19 16.) Defendant TV Defendant TV’s Initial Deepfake described in “2”-
20 “4”, is an unauthorized derivative work of Plaintiff’s spoken words
21 described in “14” and dramatic work described in “14” underlying the
22 Original video described in “1”; which wilfully copied, republished, and
23 made a derivative work from Plaintiff’s copyright protected work
24 without Plaintiff’s permission, infringing upon Plaintiff’s exclusive
25 rights under 17 USC 106-113 to copy, publish, and make derivative
26 works from his dramatic work and spoken words, in violation of 17 USC
27 501.

28 17.) Defendant TV’s wilful infringement and unauthorized use has had
29 a negative effect on the potential market for or value of Plaintiff’s work;
30 by creating the false impression that Defendant TV is the author of the
31 dramatic work and spoken words; and also by subsequent incitement of
32 viewers of the Initial Deepfake by Defendant TV to harass or intimidate
33 Plaintiff to dissuade him from enforcing his copyrights, thereby creating
34 the impression in the potential market for Plaintiff’s work that the work
35 may be used without payment or permission; whereas before, Plaintiff
36 was commanding \$14,000 per use of his work in a YouTube video as
37 described in “19”-“29”. Plaintiff was deprived of his fee for use of
38 copyright and revenues for use of the copyright by Defendant TV, and

1 Defendant TV was unjustly enriched by the revenues of the copyright
2 material and lifetime value of the subscribers gained thereby, which are
3 described in "18"-"29".

4 18.) Defendant TV's use described in "2-4" of Plaintiff's copyright
5 protected work described in "14" was intended for commercial gain as
6 described in "2"-"4" and "19"-"29"; in the form of the monetization
7 partnership and enterprise therein described; which shows that a
8 meaningful likelihood of future harm exists from Defendant TV's
9 continued commercial use and unjust enrichment and deprivation of
10 Plaintiff's entitled revenues under 17 USC 504.

11 19.) Defendant TV has unjustly enriched himself using plaintiff's
12 copyright protected spoken words and dramatic work "Smash, Smash,
13 SUH-MASH!" to sell the services of pay per click and pay per view
14 advertisements on his videos and channels, and to advertise his
15 monetized video and channel pursuant to the monetization
16 partnerships described in "24"-"26" below; thereby acquiring direct
17 proceeds through monetization; and indirect proceeds through the
18 lifetime value of new subscribers; produced by said advertisements, on
19 his YouTube, Instagram, and TikTok channels. The lifetime value of
20 these new subscribers represents infringer's profits as defined by 17
21 U.S.C. 504(b).

22 20.) Defendant TV's subscribers on his YouTube Channel "Theo Von"
23 increased from 632,000 in May of 2020, resulting from Defendant TV's
24 use of plaintiff's copyright protected spoken words and dramatic work
25 "Smash, Smash, SUH-MASH!"; to advertise his video and channel for
26 the purpose of gaining subscribers.

27 21.) Defendant TV also had a commensurate increase in subscribers or
28 followers to his TikTok and Instagram accounts. This increase resulted
29 from Defendant TV's use of plaintiff's copyright protected spoken words
30 and dramatic work "Smash, Smash, SUH-MASH!"; to advertise his
31 video and channel for the purpose of gaining subscribers.

32 22.) The lifetime value of each of Defendant TV's YouTube subscribers
33 is calculated by the following formula:

34 $[(\text{Channel total video views per year})/(\text{Average number of subscribers}$
35 $\text{per year})]/[(\text{Average number of subscribers per 1000}$
36 $\text{views})/1000]] \times [(\text{California average life expectancy}) - (\text{Defendant TV's age}$
37 $\text{in years at time of publishing})] \times (\text{monetization rate}) = \text{Subscriber}$
38 Lifetime Value

1 23.) The lifetime value of each of Defendant TV's Instagram and
2 TikTok subscribers is calculated with the same formula as "22"

3 24.) On a date and time, and at a location, which will be ascertained
4 with certainty upon discovery, Defendant TV entered into an agreement
5 with YouTube and/or Google Adsense on terms which will be
6 ascertained with certainty upon discovery, which is believed on
7 information to be a monetization partnership with YouTube and/or
8 Google AdSense; in which Defendant TV sells the service of providing
9 advertisements and for that service is paid approximately an estimated
10 \$3.40 per 1000 video views on each of his monetized videos. This money
11 is generated from that advertising, whereby third parties purchase ads
12 which are played before, during, and after videos; which are broadcast
13 to citizens of all 50 states and internationally. Each of these third
14 parties pay YouTube and/or Google from their home state; who in turn
15 apportion Defendant TV an amount of revenue from every thousand of
16 these transactions. This amount is transferred from YouTube and/or
17 Google to Defendant TV's bank account; from which he invests the
18 proceeds in real estate, personalty, and/or other enterprises.

19 25.) Defendant TV has a similar partnership to that described in "24"
20 with Instagram

21 26.) Defendant TV has a similar partnership to that described in "24"
22 with TikTok

23 27.) According to socialblade, Defendant TV's YouTube channel has
24 182,725,133 total video views over the past 16 years; or about an
25 average of 11,300,000 per year. With an average of about 75,000
26 subscribers, this makes for an average of 151 views per subscriber per
27 year; at an estimated average rate of \$0.034 per 1000 views. California's
28 average life expectancy is believed to be 74 years, and Defendant TV
29 looks about 40; so the estimated lifetime value of Defendant TV's
30 568,000 new subscribers, resulting from his conduct pleaded in "24"
31 and "16" above and elsewhere in this complaint, is \$99,147.81. The
32 lifetime value of these new subscribers represents infringer's profits as
33 defined by 17 U.S.C. 504(b).

34 28.) Defendant TV's TikTok subscriber increase resulted in a
35 commensurate lifetime value to that pleaded in "27"; an estimated
36 \$99,147.81. The lifetime value of these new subscribers represents
37 infringer's profits as defined by 17 U.S.C. 504(b).

1 29.) Defendant TV's Instagram subscriber increase resulted in a
2 commensurate lifetime value to that pleaded in "27"; an estimated
3 \$99,147.81. The lifetime value of these new subscribers represents
4 infringer's profits as defined by 17 U.S.C. 504(b).

5
6 **Defendant TV's Infringing Defamatory Video**

7 30.) Defendant TV's Defamatory Video described in "7", is an
8 unauthorized derivative work of Plaintiff's literary work described in
9 "15"; which copied, republished, and made a derivative work from
10 Plaintiff's copyright protected work without Plaintiff's permission,
11 infringing upon Plaintiff's exclusive rights to copy, publish, and make
12 derivative works from his literary work.

13 31.) Defendant TV's infringement and unauthorized use has had a
14 negative effect on the potential market for or value of Plaintiff's work;
15 by disparaging the work through the false and defamatory statement
16 that its author, Plaintiff, is "the type of dude who would give you the
17 skirt off his back"; and also by subsequent incitement of viewers of the
18 Defamatory Video by Defendant TV to harass or intimidate Plaintiff to
19 dissuade him from enforcing his copyrights, thereby creating the
20 impression in the potential market for Plaintiff's work that the work
21 may be used without payment or permission; whereas before, Plaintiff
22 was commanding \$14,000 per use of his works in a YouTube video as
23 described in "18"-"29". Plaintiff was deprived of his fee for use of
24 copyright and revenues for use of the copyright by Defendant TV, and
25 Defendant TV was unjustly enriched by the revenues of the copyright
26 material and lifetime value of the subscribers gained thereby, which are
27 described in "18"-"29".

28 32.) Defendant TV's use described in "7" of Plaintiff's copyright
29 protected work described in "15" was intended for commercial gain as
30 described in "2"-"7", "18"-"29" and "31"; in the form of the
31 monetization partnership and enterprise therein described; which
32 shows that a meaningful likelihood of future harm exists from
33 Defendant TV's continued commercial use and unjust enrichment and
34 deprivation of Plaintiff's entitled revenues.

35

1 Defendant TV's Infringing Arnie Deepfake

2 33.) Defendant TV's Arnie Deepfake Video described in "9"-"10"
3 above, is an unauthorized derivative work of Plaintiff's Dramatic Work
4 described in "14" above and Spoken Words described in "14" above,
5 underlying his Original video described in "1"; which copied,
6 republished, and made a derivative work from Plaintiff's copyright
7 protected works without Plaintiff's permission, infringing upon
8 Plaintiff's exclusive rights to copy, publish, and make derivative works
9 from his dramatic work and spoken words.

10 34.) Defendant TV's infringement and unauthorized use has had a
11 negative effect on the potential market for or value of Plaintiff's work;
12 by creating the false impression plaintiff is not the rightful author of
13 the dramatic work and spoken words; and also by subsequent
14 incitement of viewers of the Arnie Deepfake Video by Defendant TV to
15 harass or intimidate Plaintiff to dissuade him from enforcing his
16 copyrights, thereby creating the impression in the potential market for
17 Plaintiff's work that the work may be used without payment or
18 permission; whereas before, Plaintiff was commanding \$14,000 per use
19 of his work in a YouTube video as described in "18"-"29". Plaintiff was
20 deprived of his fee for use of copyright and revenues for use of the
21 copyright by Defendant TV, and Defendant TV was unjustly enriched
22 by the revenues of the copyright material and lifetime value of the
23 subscribers gained thereby, which are described in "18"-"29".

24 35.) Defendant TV's use described in "10" of Plaintiff's copyright
25 protected work described in "14" was intended for commercial gain as
26 described in "9"-"10", "18"-"29" and "34"; in the form of the
27 monetization partnership and enterprise therein described; which
28 shows that a meaningful likelihood of future harm exists from
29 Defendant TV's continued commercial use and unjust enrichment and
30 deprivation of Plaintiff's entitled revenues.

31

32

COUNT 2: DEFAMATION

33 36.) Plaintiff repleads "11" as publication by Defendant TV of the
34 provably false statement that Plaintiff "did a few murders"; which itself
35 was an explicit and provably false statement that Plaintiff had
36 committed multiple murders; and which was reasonably understood by
37 viewers of the video; as evidenced by comments incorporated by
38 reference from the URL "<https://youtube.com/watch?v=UYqY6tmxfqU>"

1 and also by those listed specifically below in "42"-"48"; to imply the
2 provably false statement that Plaintiff is a serial killer. The truth of the
3 matter is that Plaintiff has not committed multiple murders, nor is he a
4 serial killer. Defendant TV knew the falsity of his explicit and implicit
5 false statements of fact at the time he made them, or had a reckless
6 disregard for the truth of the matter; and so had constitutional malice
7 against Plaintiff when he made the statements. The explicit and
8 implicit defamatory statements accused Plaintiff of criminal conduct of
9 serial killing, which false accusations constitute slander per se.

10 37.) Defendant TV made the statements in "11" after having watched
11 a documentary about Plaintiff and having read information about
12 Plaintiff published online that made him aware and knowing of the
13 statement's falsity, or with reckless disregard for its falsity, and
14 knowing and intending that the false statement would expose Plaintiff
15 to hatred, contempt, ridicule, or obloquy; and/or that it would cause him
16 to be shunned or avoided' and/or that they would injure Plaintiff in his
17 occupation as a performer. That the statements did indeed have this
18 effect is evidenced by comments from viewers of the video incorporated
19 by reference from the URL
20 "<https://youtube.com/watch?v=UYqY6tmxfqU>"

21 38.) Defendant TV's conduct in "36"-"38" harmed Plaintiff through
22 causing general damages and emotional distress and mental anguish,
23 by exposing Plaintiff to hatred, contempt, ridicule, or obloquy; and/or
24 that it would cause him to be shunned or avoided'. Plaintiff seeks
25 general damages of \$1,000,000.00 against Defendant TV for slander per
26 se as pleaded in "36"-"38".

27
28 **COUNT 3: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

29 39.) Defendant TV admits in his video incorporated by reference herein
30 from the URL "<https://youtube.com/watch?v=GZdLINF94LY>"; that he
31 had watched a documentary film in which Plaintiff is depicted
32 describing being violently raped as a teenager. Defendant TV thereafter
33 researched Plaintiff and was made aware from information published
34 online, that Plaintiff had a diagnosis of Post Traumatic Stress Disorder
35 (PTSD). The circumstances causing Plaintiff's diagnosis of PTSD, and
36 the fact of Plaintiff having a diagnosis PTSD, were thus admittedly
37 known to Defendant TV prior to him making the video incorporated by
38 reference herein from the URL

1 “https://youtube.com/watch?v=GZdLINF94LY”; and prior to him making
2 the video incorporated by reference from the URL
3 “https://youtube.com/watch?v=UYqY6tmxfqU”.

4 40.) On or about September 12, 2023, Defendant TV’s Viewers and
5 fans, as a result of Defendant TV’s videos in “6”-“13”; began to
6 comment at and message Plaintiff as a direct result of the incitement
7 made by Defendant TV in his videos described above in “7”. Defendant
8 TV has control over which comments are displayed on his YouTube
9 videos. The process by which comments are published is that a person
10 writes the comment, clicks a button, and the comment is published to
11 Defendant TV for approval. Defendant TV must then either disprove
12 the comment and thereby delete it; or approve the comment which
13 thereby republishes it onto the Video.

14 41.) Defendant TV made and published the videos in “7” and “11”;
15 and the statements pleaded in “7”-“12” made therein; and
16 republished intimidating or threatening comments directed at Plaintiff,
17 in an attempt to intimidate or threaten Plaintiff by creating a climate of
18 sexual violence and harassment against Plaintiff which would affect his
19 custody status and/or safety at NJ State Prison, with the intention of
20 causing emotional distress against Plaintiff by triggering Plaintiff’s
21 PTSD.

22 42.) As conduct in furtherance of the conspiracy in “2”, while the
23 proceeds of the conspiracy had not yet been fully distributed, Defendant
24 TV republished the defamatory and harassive and/or threatening
25 statement, “This is what mentally ill obsessive murderers who are
26 locked in a cage – where they belong – do all day. Theo is probably the
27 most exciting thing that has happened to the fkin psycho since he got
28 raped in the showers last month”, incorporated by reference herein from
29 the URL,
30 “https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgwpQHsipZ1b6c0K
31 wgN4AaABAg”; which had the implied meaning reasonably understood
32 to be a threat of rape “in the showers” against Plaintiff; in an attempt to
33 intimidate or threaten Plaintiff, directly and by creating a reasonable
34 possibility of inciting a climate of sexual violence and harassment
35 against Plaintiff which would affect his custody status and/or safety at
36 NJ State Prison, with the intention of causing emotional distress
37 against Plaintiff by triggering Plaintiff’s PTSD.

1 43.) As conduct in furtherance of the conspiracy in "2", while the
2 proceeds of the conspiracy had not yet been fully distributed, Defendant
3 TV republished the defamatory and harassive and/or threatening
4 statement, "Hopefully another inmate deals with him and puts an end
5 to this for good. This pisses me off, he's in there harassing Theo who did
6 absolutely nothing to him on the taxpayer's dime. Fingers crossed Kai
7 gets dealt with prison style", incorporated by reference herein from the
8 URL, "[https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgywQU-](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgywQUkRHBKrF5zfQ94AaABAq)
9 [kRHBKrF5zfQ94AaABAq](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgywQUkRHBKrF5zfQ94AaABAq)"; which had the implied meaning reasonably
10 understood to be a threat of death by gang violence against Plaintiff,
11 the reference to "fingers crossed" being an implicit reference to gang
12 hand signs; in an attempt to intimidate or threaten Plaintiff, directly
13 and by creating a reasonable possibility of inciting a climate of sexual
14 violence and harassment against Plaintiff which would affect his
15 custody status and/or safety at NJ State Prison, with the intention of
16 causing emotional distress against Plaintiff by triggering Plaintiff's
17 PTSD.

18 44.) As conduct in furtherance of the conspiracy in "2", while the
19 proceeds of the conspiracy had not yet been fully distributed, Defendant
20 TV republished the defamatory and harassive and/or threatening
21 statement, "I'd be writing a lot of letters too if it kept wieners out of my
22 butt", incorporated by reference herein from the URL,
23 "[https://youtube.com/watch?v=UYqY6tmxfqU&lc=Ugxs3gsJMB9G6EnN](https://youtube.com/watch?v=UYqY6tmxfqU&lc=Ugxs3gsJMB9G6EnNZ6d4AaABAq)
24 [Z6d4AaABAq](https://youtube.com/watch?v=UYqY6tmxfqU&lc=Ugxs3gsJMB9G6EnNZ6d4AaABAq)"; which had the implied meaning reasonably understood
25 to be a threat of anal rape against Plaintiff; in an attempt to intimidate
26 or threaten Plaintiff, directly and by creating a reasonable possibility of
27 inciting a climate of sexual violence and harassment against Plaintiff
28 which would affect his custody status and/or safety at NJ State Prison,
29 with the intention of causing emotional distress against Plaintiff by
30 triggering Plaintiff's PTSD.

31 45.) As conduct in furtherance of the conspiracy in "2", while the
32 proceeds of the conspiracy had not yet been fully distributed, Defendant
33 TV republished the defamatory and harassive and/or threatening
34 statement, "If Kai is mysteriously found 'unconscious' in his cell, we
35 know who did it, gang gang", incorporated by reference herein from the
36 URL,
37 "[https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyxU8dvh8X5bqZDj](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyxU8dvh8X5bqZDjwJAaABAq)
38 [wJAaABAq](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyxU8dvh8X5bqZDjwJAaABAq)"; which had the implied meaning reasonably understood to

1 be a threat of death by gang violence against Plaintiff; in an attempt to
2 intimidate or threaten Plaintiff, directly and by creating a reasonable
3 possibility of inciting a climate of sexual violence and harassment
4 against Plaintiff which would affect his custody status and/or safety at
5 NJ State Prison, with the intention of causing emotional distress
6 against Plaintiff by triggering Plaintiff's PTSD.

7 46.) As conduct in furtherance of the conspiracy in "2", while the
8 proceeds of the conspiracy had not yet been fully distributed, Defendant
9 TV republished the defamatory and harassive and/or threatening
10 statement, "Persuade' a fellow inmate to smash smash saaamaaash his
11 teeth out", incorporated by reference herein from the URL,
12 "[https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyYHUhknGdHpaC](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyYHUhknGdHpaCvkEl4AaABAg)
13 [vkEl4AaABAg](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgyYHUhknGdHpaCvkEl4AaABAg)"; which had the implied meaning reasonably understood
14 to be a threat of physical striking and deadly assault of Plaintiff; in an
15 attempt to intimidate or threaten Plaintiff, directly and by creating a
16 reasonable possibility of inciting a climate of sexual violence and
17 harassment against Plaintiff which would affect his custody status
18 and/or safety at NJ State Prison, with the intention of causing
19 emotional distress against Plaintiff by triggering Plaintiff's PTSD.

20 47.) As conduct in furtherance of the conspiracy in "2", while the
21 proceeds of the conspiracy had not yet been fully distributed, Defendant
22 TV republished the defamatory and harassive and/or threatening
23 statement, "If we send kai enough hate mail he might smash himself",
24 incorporated by reference herein from the URL,
25 "[https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgwLj1q18yl3ylgrx6B](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgwLj1q18yl3ylgrx6B4AaABAg)
26 [4AaABAg](https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgwLj1q18yl3ylgrx6B4AaABAg)"; which had the implied meaning reasonably understood to be
27 a threat of overwhelming Plaintiff with hate mail with the specific,
28 wilful, knowing intention of inducing him to commit suicide; in an
29 attempt to intimidate or threaten Plaintiff, directly and by creating a
30 reasonable possibility of inciting a climate of sexual violence and
31 harassment against Plaintiff which would affect his custody status
32 and/or safety at NJ State Prison, with the intention of causing
33 emotional distress against Plaintiff by triggering Plaintiff's PTSD.

34 48.) As conduct in furtherance of the conspiracy in "2", while the
35 proceeds of the conspiracy had not yet been fully distributed, Defendant
36 TV republished the defamatory and harassive and/or threatening
37 statement, "Suing Theo is such an L. Hope Kai is enjoying getting sa-
38 mashed in prison", incorporated by reference herein from the URL,

1 “https://youtube.com/watch?v=UYqY6tmxfqU&lc=UgzbdKg47TGG_tRg
2 YNp4AaABAg”; which had the implied meaning reasonably understood
3 to be a threat of physical striking and deadly assault of Plaintiff; in an
4 attempt to intimidate or threaten Plaintiff, directly and by creating a
5 reasonable possibility of inciting a climate of sexual violence and
6 harassment against Plaintiff which would affect his custody status
7 and/or safety at NJ State Prison, with the intention of causing
8 emotional distress against Plaintiff by triggering Plaintiff’s PTSD.

9 49.) Plaintiff repleads “7”-“12” and “39”-“48” as showing Defendant
10 TV’s extreme and outrageous conduct of inciting sexual harassment and
11 threats of sexual violence against Plaintiff, and publishing and
12 republishing sexual harassment and threats of death and gang rape,
13 with the intention of causing, or reckless disregard of the probability of
14 causing, emotional distress against Plaintiff triggering rape-related
15 PTSD and thereby harassing or intimidating him in retaliation for; and
16 attempt to hinder, impede, or obstruct, Plaintiff’s lawsuit.

17 50.) Plaintiff has suffered severe or extreme emotional distress
18 proximately caused by Defendant TV’s conduct triggering Plaintiff’s
19 PTSD and thereby causing anguish, anxiety, panic attacks, flashbacks,
20 sleep disturbances, and nightmares; for which Plaintiff has needed to
21 seek help from a Mental Health Professional who has documented these
22 symptoms and diagnosed him with acutely triggered PTSD, which was
23 triggered by Defendant TV’s conduct.

24 51.) Plaintiff requests compensatory and general damages of
25 \$1,000,000.00 against defendant for intentional infliction of emotional
26 distress.

27 28 Punitive Damages

29 52.) Plaintiff repleads “2”-“51” as showing that Defendant TV, aided
30 and abetted by coconspirator Brian Monarch, and in furtherance of the
31 conspiracy described in “2”; engaged in knowing and intentional
32 tortious and criminal conduct actuated by malice, both constitutional
33 and in the truest sense of the word, with the purpose of subverting a
34 Federal Official Proceeding through bullying Plaintiff and the woman
35 whose life he saved and whom Plaintiff obviously by virtue of such act
36 has an interest in the welfare of; including with credible threats of anal
37 rape and violence designed to trigger Plaintiff’s PTSD. Defendant’s
38 conduct threatens to undermine the Authority of the Federal Courts

1 with sexually violent mob-lynchings of plaintiffs who petition the
2 government for redress, and cannot be tolerated in a society ruled by
3 Law and Order. The Court is therefore respectfully urged to award
4 Plaintiff punitive damages against Defendants for the sake of example
5 deterring others who might incite sexual harassment or sexual violence
6 as a means to dissuade someone from petitioning the government for
7 redress; and by way of punishing Defendants for their own malicious
8 conduct in doing so. To this end, Plaintiff requests five times
9 compensatory damages in punitive damages to reflect the severity of,
10 and need for effective deterrent against, the conduct of attempting to
11 subvert Federal Judicial Process with sexual violence.

12

13 **LIBERAL CONSTRUCTION OF PRO SE PLEADING**

14 53.) Pursuant to the Supreme Court and Ninth Circuit mandates to
15 liberally construe pro se pleadings, if any paragraph of this complaint
16 pleaded as an element of one claim substantiates or bolsters any other
17 claim; then plaintiff adopts it by reference and repleads that paragraph
18 in support of each claim it substantiates or bolsters.

19

1 IV. PRAYER FOR RELIEF

2 WHEREFORE Plaintiff respectfully prays that this Court enter
3 judgment:

4 54.) Granting Plaintiff a declaration that the acts of Defendants
5 described herein are unlawful and tortious; and that the Initial
6 Deepfake described in "2"-"4"; the Defamatory video described in
7 "7", and the Arnie Deepfake described in "9"-"10" each and all
8 infringe upon Plaintiff's exclusive copyrights to the underlying works
9 pleaded herein;

10 55.) A preliminary and permanent injunction, under 17 U.S.C. 501,
11 ordering Defendants to remove the Initial Deepfake Video described in
12 "2"-"4" from broadcast; and to cease using Plaintiff's marks, image,
13 or likeness to market Defendants' products; on all platforms;

14 56.) A preliminary and permanent injunction, under 17 U.S.C. 501,
15 ordering Defendants to remove the Defamatory Video described in "7"
16 from broadcast on all platforms; and to cease using Plaintiff's marks,
17 image, or likeness to market Defendants' products on all platforms;

18 57.) A preliminary and permanent injunction, under 17 U.S.C. 501,
19 ordering Defendants to remove the Arnie Deepfake described in "9"-
20 "10" from broadcast on all platforms;

21 58.) Granting plaintiff statutory damages in the amount of
22 \$297,443.43, which are gross revenues and infringer's profits to which
23 Plaintiff is entitled under 17 U.S.C. 504(b); against Defendants, jointly
24 and severally for the Copyright Act violations described in "16"-"35";

25 59.) Granting plaintiff restitution and/or compensatory damages
26 against Defendants, jointly and severally, in the amount of gross
27 revenues of broadcast of the Initial Deepfake Video in "2"-"4", the
28 Defamatory Video in "7", and the Arnie Deepfake in "9-10"; and the
29 lifetime value of the subscribers represented by the views thereof; for
30 the Copyright Infringement in "16"-"35"; which are the gross revenues
31 and infringer's profits to which Plaintiff is entitled under 17 U.S.C.
32 504(b);

33 60.) Granting plaintiff restitution and/or compensatory damages
34 against Defendants, jointly and severally, in the amount of gross
35 revenues of broadcast of the Arnie Deepfake in "10"; and the lifetime
36 value of the subscribers represented by the views thereof; for the
37 Copyright Infringement in "16"-"35", which are the gross revenues

1 and infringer's profits to which Plaintiff is entitled under 17 U.S.C.
2 504(b);

3 61.) Granting plaintiff restitution and/or compensatory damages
4 against Defendants, jointly and severally, in the amount of gross
5 revenues of broadcast of the Defamatory Video in "7"; and the lifetime
6 value of the subscribers represented by the views thereof; for the
7 Copyright Infringement in "16"-"35", which are the gross revenues
8 and infringer's profits to which Plaintiff is entitled under 17 U.S.C.
9 504(b);

10 62.) Granting plaintiff general damages against Defendants, jointly
11 and severally, in an amount not less than \$1,000,000.00; for the
12 defamation in "36"-"38";

13 63.) Granting plaintiff compensatory and general damages against
14 Defendants, jointly and severally, in the amount of \$1,000,000.00 for
15 the intentional infliction of emotional distress in "39"-"51";

16 64.) Plaintiff also seeks punitive damages in the amount of five times
17 statutory, compensatory, and general damages against Defendants,
18 jointly and severally;

19 65.) Plaintiff also seeks statutory damages under the Copyright Act
20 against Defendants, jointly and severally;

21 66.) Plaintiff also asks for any other relief this court deems just,
22 proper, and equitable.

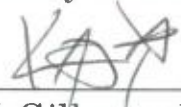
23

1 I declare under penalty of perjury that all the documents attached
2 hereto are true and accurate copies of the originals.

3
4 I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that
5 the foregoing statements are true and accurate to the best of my
6 knowledge and belief.

7
8 Executed this 8TH Day of AUGUST, 2024

9 Respectfully Submitted,

10 

11
12 Caleb L. McGillvary, Pro se
13 #1222665/SBI#102317G NJSP
14 Po Box 861 Trenton, NJ 08625-0861

Exhibit A

THIS MESSAGE IS PRIVATE & CONFIDENTIAL, NOT FOR PUBLICATION OR SALE
COPYRIGHT © 2022 CALEB L. MCGILLVARY

CALEB L. MCGILLVARY

JAILHOUSE LAWYER #1222665/SBI #1023176

NJSP PO BOX 861

TRENTON, NJ 08625

NOVEMBER 21, 2022

THEODOR C. VONKURNATOWSKI

401 S. BARRINGTON AVE

LOS ANGELES, CA 90049

RE: MCGILLVARY V. VONKURNATOWSKI

U.S. DISTRICT COURT - CENTRAL DIST. OF CA

"THEO VON";

I'VE JUST FILED A LAWSUIT AGAINST YOU BE CAUSE OF YOUR VIDEOS ABOUT ME. ANY DAY NOW, THE U.S. MARSHALLS WILL KNOCK ON YOUR DOOR & HAND YOU A SUMMONS. IF YOU TRY TO EVADE SUMMONS, THEY CAN ARREST YOU & CHARGE YOU WITH CONTEMPT.

IF YOU WANT TO SETTLE OUTSIDE OF COURT, NOW'S YOUR CHANCE. CHECK OUT THE RETAINER FEES FOR YOUR LOCAL LAWYERS. FACTOR IN THE APPEAL TO THE 9TH CIRCUIT. PROBABLY \$15,000 FOR THE DISTRICT COURT, \$25,000 FOR THE APPEAL.

YOU'LL NEVER GET THAT MONEY BACK.

I'LL SETTLE FOR WHAT MY COSTS ARE THUS FAR, WHICH IS APPROXIMATELY \$4,000; PLUS WHATEVER YOU MADE OFF THOSE VIDEOS; BUT ONLY IF YOU TAKE THOSE VIDEOS

ABOUT ME DOWN & PROMISE NOT TO MAKE ANY MORE
ABOUT ME. IF YOU DO SO, & PUT YOUR PROMISE IN WRITING, I
WILL WITHDRAW MY LAWSUIT & WE CAN GO OUR SEPERATE
WAYS.

I THINK THIS OFFER IS VERY REASONABLE, ESPECIALLY
CONSIDERING THE OUTRAGE I FELT WATCHING YOU TAKE
CREDIT FOR MY ACTIONS IN SAVING THOSE PEOPLE.

HAVE A LOOK AT MY INITIAL COMPLAINT AGAINST YOU ON
P.A.C.E.R. (PUBLIC ACCESS TO COURT ELECTRONIC RECORDS);
BY SEARCHING YOUR NAME ON THE U.S. DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA'S WEBSITE.

I'M A JAILHOUSE LAWYER, SO IT REFLECTS MY 19 YEARS
OF LITIGATION EXPERIENCE. ALL I DO IS STUDY LAW.

IF YOU DECIDE TO SETTLE BEFORE PAYING YOUR RETAINER
FEES, PLEASE LET ME KNOW AS SOON AS POSSIBLE. IF NOT,
SEE YOU IN COURT.

ALL THE BEST,
KAI THE FITCHHIKER

ENCL:

CC: FILE

ALTERNATE ADDRESS

Exhibit C

CALEB L. McMillan, PRO SE
#1222665/SBI #1023176 NJSP
PO Box 861 Trenton, NJ 08625

SEPTEMBER 15, 2023

THEODOR VONKURNATOWSKI
4405 LEALAND AVE
NASHVILLE, TN 37204

RE: McMillan v. VonKurnatowski

DEAR MR. VONKURNATOWSKI:

PLEASE RETRACT & CORRECT YOUR SLANDEROUS STATEMENT THAT I "DID A FEW MURDERS" AND PUBLISH A RETRACTION VIDEO ADMITTING YOU'RE WRONG. ALSO, PLEASE RETRACT & CORRECT THE NUMEROUS SLANDEROUS COMMENTS WHICH YOU'VE REPUBLISHED & CONTINUE TO REPUBLISH ON YOUR YOUTUBE CHANNEL, INCLUDING BUT NOT LIMITED TO THE COMMENTS THREATENING SEXUAL ASSAULT, ACCUSING ME OF CRIMES I DIDN'T COMMIT, OR FALSELY STATING SEXUAL CONDUCT ATTRIBUTED TO ME, INCLUDING BUT NOT LIMITED TO THE COMMENTS ON:

<https://youtu.be/UYqY6tmxfqU?si=bHZUFQ6Jxr9QGLgk>

THE VIDEO YOU PUBLISHED ON YOUTUBE ON 9/12/23.

PLEASE PUBLISH A RETRACTION FOR EACH OF THOSE, WITH A CORRECTION THAT THE LAW WOULD ALLOW ME TO USE DEADLY FORCE AGAINST ANY MAN WHO ATTEMPTED SEXUAL ASSAULTS

UPON ME & I WOULD, IN FACT, KILL ANY MAN WHO ATTEMPTED A SEXUAL ASSAULT UPON ME; & THAT I HAVE NEVER COMMITTED THE CRIMES WHICH SAID COMMENTS FALSELY ACCUSE ME OF; & THAT I AM A VIRTUE HETEROSEXUAL MAN WITH BOUNDING SEXUAL CHARISMA RESERVED FOR THE LOVELY LADY I HAVE IN MY LIFE, A MAN WHO DOESN'T ENGAGE IN THE TYPE OF SEXUAL CONDUCT FALSELY ATTRIBUTED TO ME BY THE COMMENTS.

UNTIL YOU RETRACT YOUR SLANDEROUS STATEMENTS, & PUBLISH THE CORRECTIONS, MY GENEROUS OFFER OF SETTLEMENT IS OFF THE TABLE.

AND FOR GOD'S SAKE, GET YOURSELF TO A DRUG REHAB.

DATE: 9/15/23

WITH SOME REGARD,
~~KEP~~

CAEB L. MCGILLVARY
IN PROPRIA PERSONA

CAROL L. MCGILLIVRAY, PRO SE
#1222665/SBI #1023176 NJSP
PO BOX 861 TRENTON, NJ 08625

SEPTEMBER 15, 2023

THEODOR VONKURNATOWSKI
4405 LEALAND AVE
NASHVILLE, TN

RE: MCGILLIVRAY v. VONKURNATOWSKI

DEAR MR. VONKURNATOWSKI:

I HEREBY DEMAND THAT YOU RETRACT THE FOLLOWING COMMENTS WHICH YOU'VE REPUBLISHED ON <https://www.youtube.com/watch?v=UYqY6tmxfqU>:

1.) "THERO IS PROBABLY THE MOST EXCITING THING THAT HAS HAPPENED TO THAT FKIN PSYCHO SINCE HE GOT RAPED IN THE SHOWERS LAST MONTH."

I REQUEST THAT YOU PUBLISH A CORRECTION THAT "GETTING RAPED DOES NOT FACITE ME," THE LAW ALLOWS ME TO USE DEADLY FORCE TO DEFEND MYSELF AGAINST SEXUAL ASSAULT, & I WOULD IN FACT KILL ANY MAN WHO TRIED TO RAPE ME; I HAVE NEVER, SINCE BEING LOCKED UP, BEEN "RAPED IN THE SHOWERS LAST MONTH."

2.) "I'D BE WRITING A LOT OF LETTERS TOO IF IT KEPT WIENERS OUT OF MY BUTT"

I REQUEST THAT YOU PUBLISH THE CORRECTION

DESCRIBED IN "1"; & THAT I AM NOT SUBJECT TO ANAL RAPE IN CONSEQUENCE FOR WRITING LETTERS.

3.) "IF KAI IS MYSTERIOUSLY FOUND 'UNCONSCIOUS' IN HIS CELL, WE KNOW WHO DID IT, GANG GANG"
I REQUEST THAT YOU PUBLISH A CORRECTION THAT I AM NOT SUBJECT TO GANG VIOLENCE OR DEATH FOR EXERCISING MY RIGHT TO PETITION FOR REDRESS OR ATTENDING THIS FEDERAL OFFICIAL PROCEEDING.

4.) "PERSUADE A FELLOW INMATE TO SMASH SMASH SAAAMAASH HIS TEETH OUT,"
I REQUEST THAT YOU PUBLISH A CORRECTION THAT IT IS UNACCEPTABLE TO INCITE VIOLENCE AGAINST A PARTY & WITNESS TO A FEDERAL OFFICIAL PROCEEDING TO DISSUADE THEM FROM ATTENDING

5.) "IF WE SEND KAI ENOUGH HATE MAIL HE MIGHT SMASH HIMSELF"
I REQUEST THAT YOU PUBLISH A CORRECTION THAT IT IS UNACCEPTABLE TO WILFULLY & KNOWINGLY HARASS A PARTY & WITNESS TO A FEDERAL OFFICIAL PROCEEDING, WITH THE INTENTION OF INDUCING THEM TO COMMIT SUICIDE SO THAT THEY WILL NOT ATTEND THE PROCEEDING.

6.) "HOPE KAI IS ENJOYING GETTING SA - MASHED IN PRISON"; WHICH IMPLIES A THREAT OF PRISON RAPE. I REQUEST THAT YOU PUBLISH THE CORRECTION DESCRIBED IN "1"; & THAT IT IS UNACCEPTABLE TO THREATEN A PARTY & WITNESS TO A FEDERAL OFFICIAL PROCEEDING WITH PRISON RAPE TO DISUADE THEM FROM ATTENDING.

7.) ALL OTHER COMMENTS OF A SIMILAR TENOR, TO BE CORRECTED AS DESCRIBED IN "1" - "6" ABOVE. I ALSO NOTE THAT IN SAID VIDEO, YOU STATED AN INTENTION TO DEPOSE ME, THEREBY RECOGNIZING THAT I AM A WITNESS TO A FEDERAL OFFICIAL PROCEEDING FOR THE PURPOSES OF 18 USC 1512.

DATE: 9/15/23

THANKS A BUNCH,
~~KAT~~

CAVER L. MCGILLIVRAY
IN PROPRIA PERSONA

Exhibit D

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shira Perlmutter

United States Register of Copyrights and Director

Registration Number

PA 2-398-664

Effective Date of Registration:

February 06, 2023

Registration Decision Date:

February 27, 2023

Title

Title of Work: **Smash, Smash, SUH-MASH!**

Completion/Publication

Year of Completion: 2013

Date of 1st Publication: February 02, 2013

Nation of 1st Publication: United States

Author

- Author: Caleb McGillivray
- Author Created: text, Dramatic work
- Citizen of: Canada
- Domiciled in: United States
- Year Born: 1988
- Year Died: 1988

Copyright Claimant

Copyright Claimant: Caleb McGillivray
NJSR P.O. Box 861, #102317G, Trenton, NJ, 08625, United States

Certification

Name: Caleb McGillivray

Date: February 06, 2023



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

United States Register of Copyrights and Director

Registration Number

PA 2-398-110

Effective Date of Registration:

January 20, 2023

Registration Decision Date:

February 23, 2023

Title

Title of Work: Smash, Smash, SUH-MASH!

Completion/Publication

Year of Completion: 2013
Date of 1st Publication: February 01, 2013
Nation of 1st Publication: United States

Author

- Author:** Caleb McGillivary
Author Created: words spoken by the interviewee
Citizen of: Canada
Year Born: 1988

Copyright Claimant

Copyright Claimant: Caleb McGillivary
NJSP P.O. Box 861, #102317G, Trenton, NJ, 08625

Certification

Name: Caleb McGillivary
Date: January 20, 2023

Correspondence: Yes

Exhibit E



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shirley P. Weimer
United States Register of Copyrights and Director

Registration Number

TXu 2-367-123

Effective Date of Registration:

March 26, 2023

Registration Decision Date:

May 01, 2023

Title

Title of Work: Settlement Offer for Theo Von

Completion/Publication

Year of Completion: 2022

Author

• Author: Caleb McGillivray
Author Created: text
Citizen of: Canada
Domiciled in: United States
Year Born: 1988

Copyright Claimant

Copyright Claimant: Caleb McGillivray
NJSP P.O. Box 861, #102317G, Trenton, NJ, 08625, United States

Certification

Name: Caleb McGillivray
Date: March 26, 2023

Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ 08625

August 8, 2024

Clerk, US Dist. Ct. - CDCA
US Courthouse
255 E. Temple St., Rm 180
Los Angeles, CA 90012

RE: Caleb L. McGillvary v. Theodor VonKurnatowski
Civil Action No. _____
NOT YET ASSIGNED

Dear Clerk;

Please find enclosed and file onto the docket my intial
complaint, Civil Case Information Sheet, and IFP Application;
initiating a civil action in this Court.

Kind Regards,


Caleb L. McGillvary
In Propria Persona

ENCL:
CC: FILE


PROOF OF SERVICE

I, Caleb L. McGillvary, declare pursuant to 28 U.S.C. 1746 that on today's date, I placed in the institutional mailing system here where I'm incarcerated at NJ State Prison 3rd & Federal Streets Trenton, NJ 08625; with First Class Postage prepaid to be sent via USPS Mail; the original of my initial complaint with attached appendix, in forma pauperis application, civil case information sheet, and AO-121 form; to the Clerk of the Court at USDC-CDCA 255 E. Temple St. Rm 180 Los Angeles, CA 90012.

I hereby invoke the prison mailbox rule.

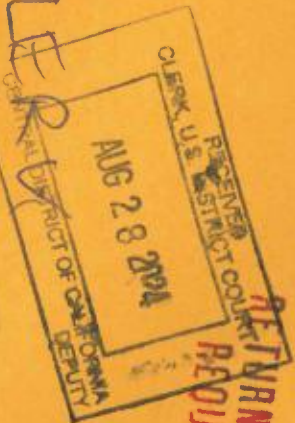
I declare under penalty of perjury that the foregoing statements made by me are true and accurate.

Executed this 8TH Day of AUGUST, 2024



Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ
08625-0861

C MCGILLIVRAY
#1222665/S&L#1023176
N55P PO Box 861
TRENTON, NJ
08625



RETURN RECEIPT
REQUESTED

ON

CLERK BY
U.S. DIST. CT. - C.D. CA
OFFICE OF THE CLERK
255 E. TEMPLE ST. RM 180
LOS ANGELES, CA
90012

RETURN RECEIPT
REQUESTED



LEGAL MAIL

