

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO DISTRICT**

JO ELLIS,

Plaintiff,

v.

MATTHEW S. WALLACE,

Defendant.

COMPLAINT

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Plaintiff Jo Ellis ("Plaintiff") by and through undersigned counsel, brings this defamation action against Defendant Matthew S. Wallace ("Defendant") and alleges as follows:

I. NATURE OF THE ACTION

1. This is an action that occurred in the aftermath of the catastrophic mid-air collision between an Army UH-60L Black Hawk helicopter and a regional jet operating as Flight 5342 for American Airlines that occurred on the evening of January 29, 2025, approximately one-half mile from Washington Reagan National Airport ("DCA") and ended tragically in the Potomac River. The helicopter had three aircrew on board - two pilots and one crew chief. Flight 5342 was carrying 64 people – 60 passengers (many of whom were children), two pilots, and two flight attendants. Devastatingly, all 67 people aboard both aircraft perished in this accident, which was the first major commercial passenger flight accident in the United States in nearly 16 years.

2. In the wake of this horrible tragedy, Defendant decided to exploit this devastation for clicks and money. Defendant is a popular commentator on x.com (“X”) with over 2.3 million followers, so all he needed was a villain. And because Defendant is a notorious transphobe who knew an anti-transgender narrative would draw significant attention, he settled on Plaintiff—a transgender Army Black Hawk pilot, who recently learned she might be discharged from the military due to a new Executive Order, as the perfect target. Once he had Plaintiff in his sights, Defendant concocted a destructive and irresponsible defamation campaign against Plaintiff perpetrated on social media. Upon information and belief, Defendant has monetized his primary X profile, @MattWallace888, through his large follower count and engagement. Defendant also maintains three less popular X profiles—@JackWallace888, @MattWallace008, and @Final_StandDoge. Defendant used his prominent X platform to monetize a false narrative that Plaintiff was not only one of the Army pilots involved in the mid-air collision, but also that she engaged in “another trans terror attack” and intentionally caused the mid-air collision due to her “depression” and “Gender Dysphoria.”

3. The original lie fabricated by Defendant was posted less than 24 hours after the mid-air collision, which Defendant was closely “reporting” on his @JackWallace888 and @MattWallace888 profiles. On January 30, 2025, Defendant claimed his “brother” @JackWallace888 learned that the helicopter pilot was “a transgender,” and he included a picture of Plaintiff on his X post. Once Defendant’s clickbait went viral on social media, Defendant deleted his initial post and published additional falsehoods about Plaintiff. Around midnight on January 31, 2025, using @JackWallace888, Defendant posted a clip of Plaintiff’s January 29, 2025, podcast interview with Michael Smerconish with the caption, “Listen before it’s taken

down—why won't they reveal the woman pilot's name? Think about it." Several hours later, Defendant created another post containing Plaintiff's pictures on @MattWallace888 in which he said a transgender Black Hawk pilot "wrote a long letter about 'Gender Dysphoria' and depression" the day before crash. Defendant then alleged that Plaintiff might have participated in "another trans terror attack." This post received 4.8 million views on X. Approximately two hours later, Defendant posted yet another picture of Plaintiff with the caption, "JUST IN: The transgender Helicopter pilot who allegedly crashed into the plane was in the process of converting to Judaism."

4. Once Plaintiff learned that she was being viciously defamed, she created a "proof of life" video, which she posted to her personal Facebook page to shut down the rumors and avoid further harm to the families of the plane crash victims. As the internet became aware of the vicious falsehoods involving Plaintiff, Defendant tried to distance himself from his initial claims. Defendant reposted another X user's post containing Plaintiff's "proof of life" video and exclaimed it was an "Important Update!" Defendant said Plaintiff was, in fact, a military Black Hawk Pilot and "did write an article about his [*sic*] 'journey' as a transgender in the military," but was still alive and was not flying the helicopter involved in the collision. Within several minutes of Defendant's first "correction," Defendant created another post to shift the blame for the original rumor naming Plaintiff away from himself to X user @FakeGayPolitics. Defendant posted a screenshot of the post from user @FakeGayPolitics and alleged that it was the first account to allege that Plaintiff was the helicopter pilot. Defendant said the post "seemed credible" because Plaintiff "wrote an article calling out Trump's trans military ban only a few days ago." Defendant further stated he disagreed with Plaintiff's views and intentionally misgendered her.

5. Defendant's claims are outright and unequivocal falsehoods. Plaintiff was not flying the Black Hawk helicopter involved in the mid-air collision with a regional jet operated by American Airlines on January 29, 2025. She did not write an article "calling out" President Trump's trans military ban and she certainly did not engage in "another trans terror attack."

6. The damage caused to Plaintiff by Defendant was instantaneous and immense. Prior to Defendant's campaign, Plaintiff was a private citizen who led a private life away from social media and the limelight. When Plaintiff awoke on January 31, 2025, she discovered she was the second most-trending topic in the United States on X with more than 90,000 posts mentioning her name or her likeness. Plaintiff was forced into the public sphere and can no longer remain a private citizen due to Defendant's lies. Given her immediate notoriety and the fact that she is a transgender woman, she fears for the immediate safety of herself and her family on account of the hate inspired against her by Defendant's lies.

THE PARTIES

7. Plaintiff Jo Ellis ("Plaintiff") is an individual residing in Richmond, Virginia, and a citizen of the state of Virginia. She may be contacted c/o the Equality Legal Action Fund, P.O. Box 81465, Lincoln, Nebraska 68501.

8. Upon information and belief, Defendant Matthew S. Wallace ("Defendant") is an individual residing in Littleton, Colorado, and a citizen of the state of Colorado. Defendant may be served with process at [REDACTED].

III. JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action because there is complete diversity of citizenship between Plaintiff and Defendant, and the amount in dispute,

exclusive of interest and costs, exceeds \$75,000. Therefore, this Court has jurisdiction over this dispute under 28 U.S.C. § 1332.

10. This Court has personal jurisdiction over Defendant pursuant to C.R.S. § 12-1-124(1)(b) because Defendant is a citizen of the state of Colorado, and he committed tortious acts within the state of Colorado giving rise to this action.

11. Venue in this district is proper under 28 U.S.C. § 1391(b) because the Defendant resides in this district and a substantial part of the events and omissions giving rise to the claims in this Complaint occurred in Colorado, and because Defendant is subject to the Court's personal jurisdiction.

IV. FACTS

12. Plaintiff Jo Ellis has served over 15 years in the Virginia Army National Guard. She is currently a Chief Warrant Officer 2 UH-60 Black Hawk helicopter pilot. Plaintiff joined the Virginia Army National Guard in 2009 as a helicopter mechanic. In 2011, Plaintiff deployed to Iraq and earned an Air Medal for serving as a helicopter door gunner. In 2015, Plaintiff served in reserve operations in Guatemala, and she subsequently deployed to Kuwait in 2016. Plaintiff first began experiencing Gender Dysphoria symptoms at five years old. Plaintiff battled these symptoms until 2023 when she privately began her transition and hormone therapy. In 2024, Plaintiff publicly presented as a woman in both her personal and professional lives, including in the military.

13. Defendant is a cryptocurrency investor and YouTube personality with over 2.3 million followers on X, formerly known as "Twitter." Defendant's initial fame developed from his YouTube channel, @FinalStandChannel, which he started on March 11, 2018.¹ Defendant has created 1,185 YouTube videos with 40,649,900 views, amassing a following of 228,000

¹ See <https://www.youtube.com/channel/UCXqaGJjYsa810EJKvYvcJQ> (last visited Apr. 4, 2025)

subscribers.² Defendant’s YouTube Channel is currently active and is primarily focused on cryptocurrency investing. Upon information and belief, Defendant uses multiple profiles on X, including @MattWallace888, @JackWallace888, @JackWallace008, and @Final_StandDoge. Defendant’s primary X profile, @MattWallace888, has 2.3 million followers and is “verified,” which is denoted by a blue checkmark next to his name. According to X, “Verification boosts your credibility and visibility.”³ Verified X users with at least five million “organic impressions” on cumulative posts within the last three months and at least 500 followers can monetize their accounts through follower count and engagement.⁴

A. *The 2025 Potomac River mid-air collision was a tragic accident.*

14. On January 29, 2025, at about 8:48 p.m. eastern standard time (EST), a PSA Airlines MHI RJ Aviation (formerly Bombardier) CRJ700 regional jet (operating as Flight 5342 for American Airlines) was en route from Wichita, Kansas, to Ronald Reagan Washington National Airport (“DCA”) when it collided in flight with a Sikorsky UH-60L Black Hawk helicopter operated by the United States Army under the callsign “Priority Air Transport 25” or “PAT25.”⁵ The helicopter was conducting a check ride flight out of Davison Army Air Field, Fort Belvoir, in Fairfax County, Virginia, and contained three Army personnel—two pilots and one crew chief. The collision occurred approximately one-half mile from Runway 33 at DCA and impacted the Potomac River in southwest Washington, DC.⁶ Flight 5342 was carrying 64 people—60 passengers (many of whom were children), two pilots, and two flight attendants. All 67 people aboard both aircraft perished in this horrific accident.⁷

² *Id.*

³ *Id.*

⁴ *Id.*

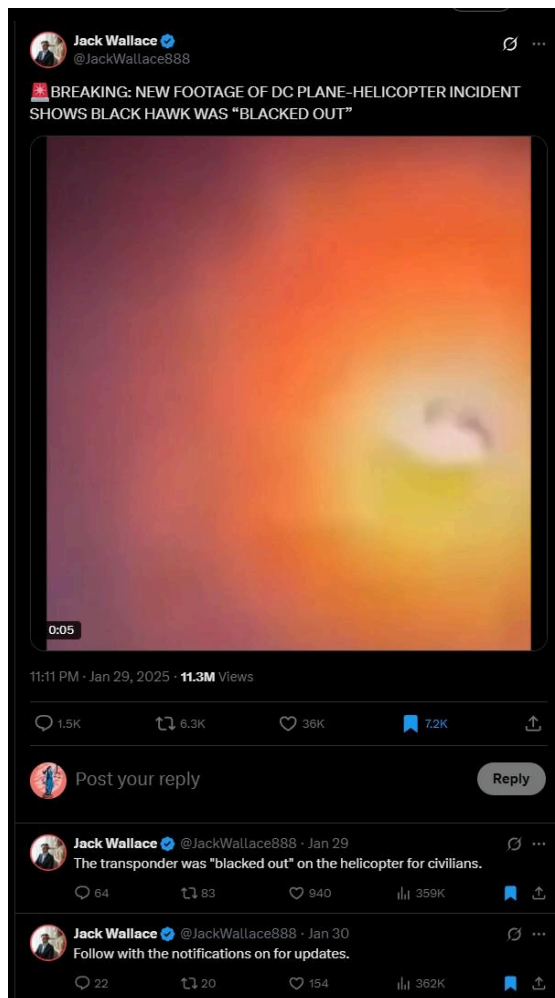
⁵ See National Transportation Safety Board (NTSB), *Aviation Investigation Preliminary Report*, <https://www.nts.gov/investigations/Documents/DCA25MA108%20Prelim.pdf>

⁶ *Id.*

⁷ *Id.*

B. Defendant lied about Plaintiff's involvement in the collision.

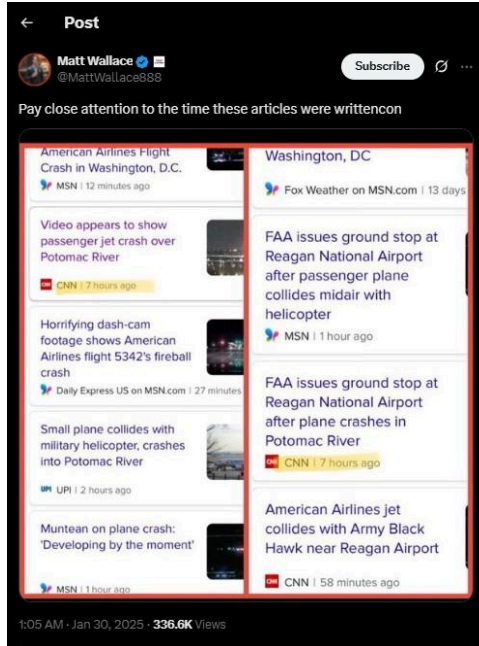
15. On January 29, 2025, at 11:11 p.m. CST, X user @JackWallace888 began “reporting” on the mid-air collision by posting videos of the crash and claiming the Black Hawk’s transponder was “blacked out,” meaning it was unable to detect other objects. X user @MattWallace888 immediately reposted this claim and this post had 11.3 million views. At 11:18 p.m. CST, @JackWallace888 commented on @MattWallace888’s repost and stated that the “transponder was ‘blacked out’ on the helicopter for civilians.” On January 30, 2025, at 12:32 a.m. CST, @JackWallace888 instructed his followers to “Follow with notifications on for updates.”



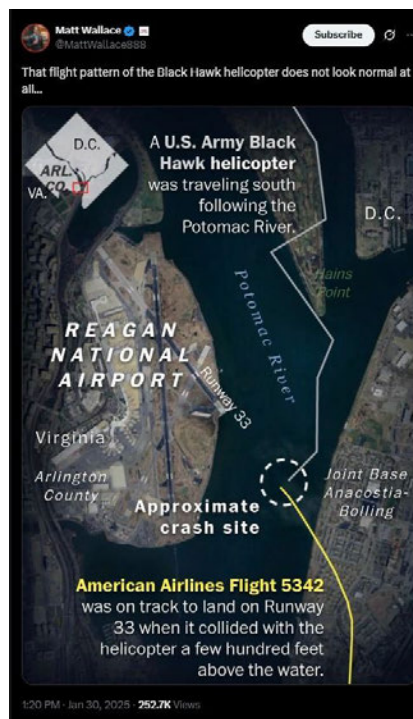
16. Defendant's theories continued to progress on January 30, 2025, as he posted numerous photos and videos related to the plane crash. Initially, he told his followers to "PAY CLOSE ATTENTION TO THE SITE OF THE PLANE CRASH." (Emphasis in original).



17. Then, Defendant said something felt "off" about the crash and suggested that articles were written about the crash prior to it occurring.



18. Next, he claimed the Black Hawk’s flight pattern was not “normal,” clearly implying that the collision was intentional.



19. On January 30, 2025, at 3:16 p.m. CST, @MattWallace888 posted a video of the collision from Fox News with the caption, “Breaking: A new video reveals how much time the

helicopter had to divert, casting serious doubt on the possibility that this was an accident.” This post received 14.7 million views and was reposted by @JackWallace888 at 3:25 p.m. CST.



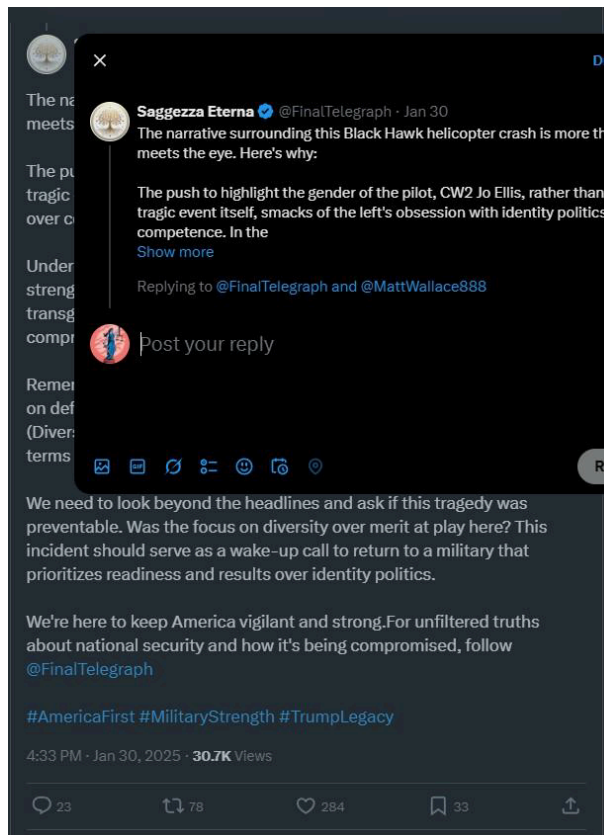
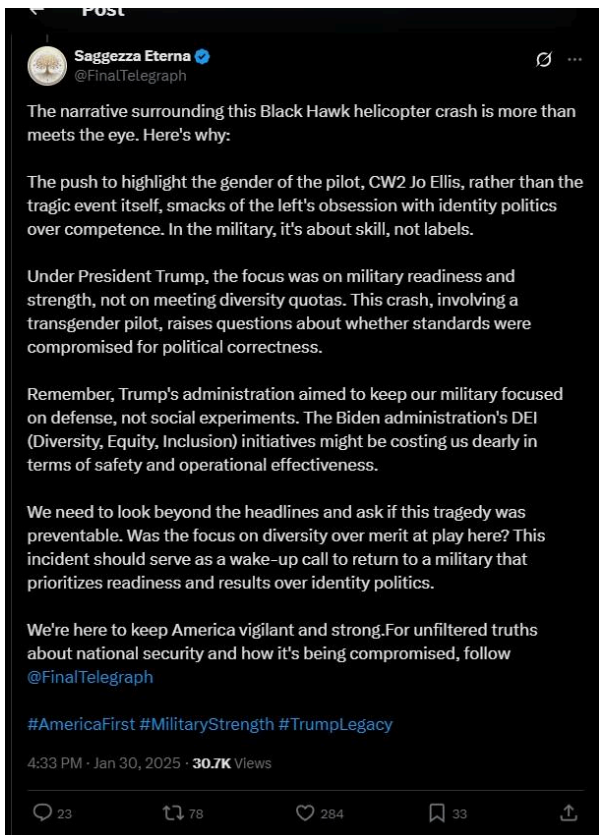
20. Approximately one hour later, @MattWallace888 started his transphobic attack against Plaintiff. Defendant’s false and defamatory statements about Plaintiff were made in furtherance of and to fit the preconceived transphobic narrative Defendant often spins to his X followers. After President Trump listed the Federal Aviation Administration’s diversity, equity, and inclusion hiring practices and the helicopter’s aircrew as potential causes of the crash, a transgender Black Hawk pilot seemed like the perfect target. When Defendant learned a transgender Army Black Hawk pilot existed just outside of Washington, DC, he jumped at the opportunity to malign her and the entire transgender community to further President Trump’s theory and his own “trans terror attack” narrative. Defendant knew the public wanted to blame

someone for this unspeakable tragedy and he knew a transgender Black Hawk pilot was the perfect villain for his story. While the exact time of the first post is unknown due to Defendant’s subsequent deletion, @MattWallace888 posted a picture of Plaintiff in her Army uniform and exclaimed the following: “MY BROTHER @JackWallace888 JUST FOUND OUT THE HELICOPTER PILOT WAS A **TRANSGENDER** \ THEY AREN’T GOING TO BE ABLE TO HIDE THIS MUCH LONGER !!” (Emphasis in original).



21. There are many theories as to who actually started the outlandish lie that Plaintiff was flying the Black Hawk and intentionally crashed it into Flight 5342 due to her “mental illness” and outrage with President Trump for banning transgender individuals from serving in

the military; however, a comment directed to @MattWallace888 and specifically naming Plaintiff was submitted on X at 4:33 p.m. central standard time (CST).

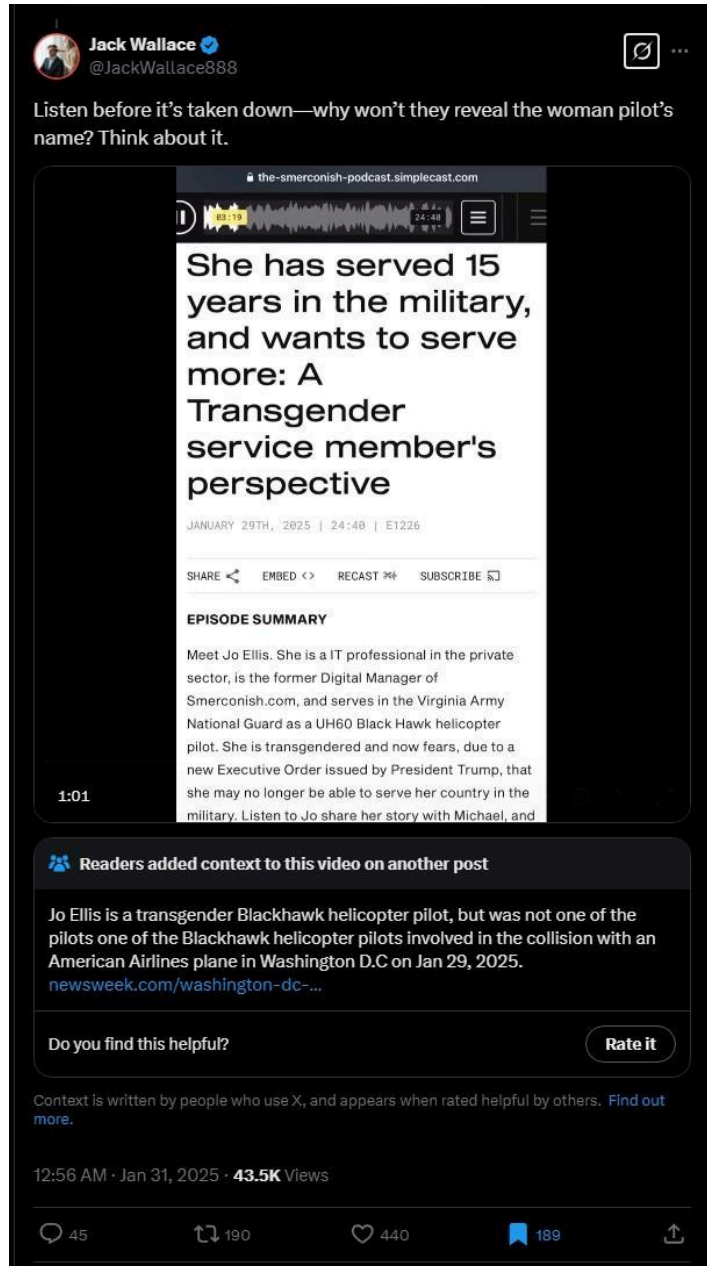


22. Once Defendant planted his inane theory that the collision was intentionally caused by the helicopter and that the helicopter was piloted by Plaintiff, a transgender Black Hawk pilot, the theory went viral. After Defendant's original post implicating Plaintiff went viral, Defendant deleted it from X. Defendant subsequently posted additional lies involving Plaintiff.

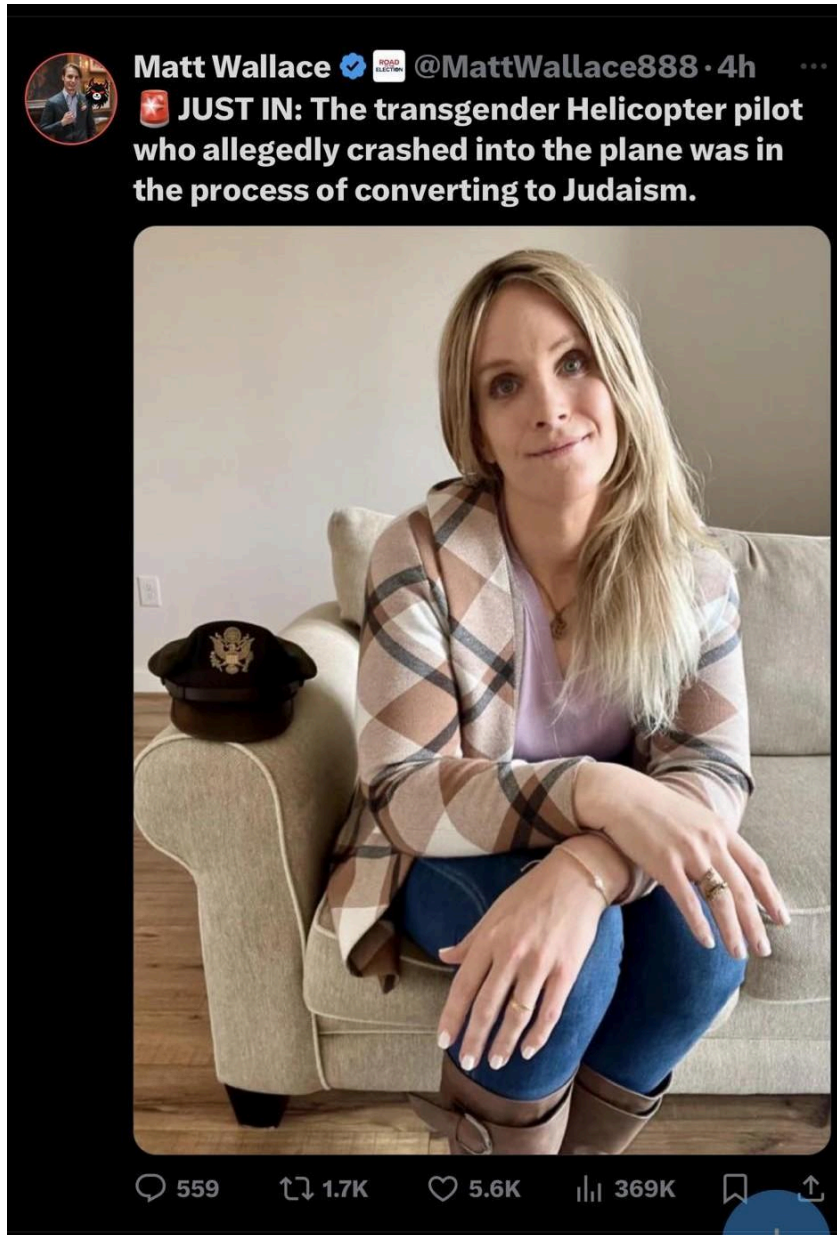
23. On January 31, 2025, at 12:56 a.m. CST, @JackWallace888 posted a one-minute clip of Plaintiff's interview with Michael Smerconish on his Sirius XM radio podcast.⁸

⁸ See <https://the-smerconish-podcast.simplecast.com/episodes/she-has-served-15-years-in-the-military-and-wants-to-serve-more-a-transgender-service-members-perspective> (last visited Apr. 4, 2025).

Defendant posted the caption, “Listen before it’s taken down—why won’t they reveal the woman pilot’s name? Think about it.” Unfortunately, this podcast was released the morning of January 29, 2025, just hours before the devastating plane crash. The coincidental timing of the podcast and the crash is likely the only reason Defendant and others on social media were able to find Plaintiff given her lack of social media and private life.

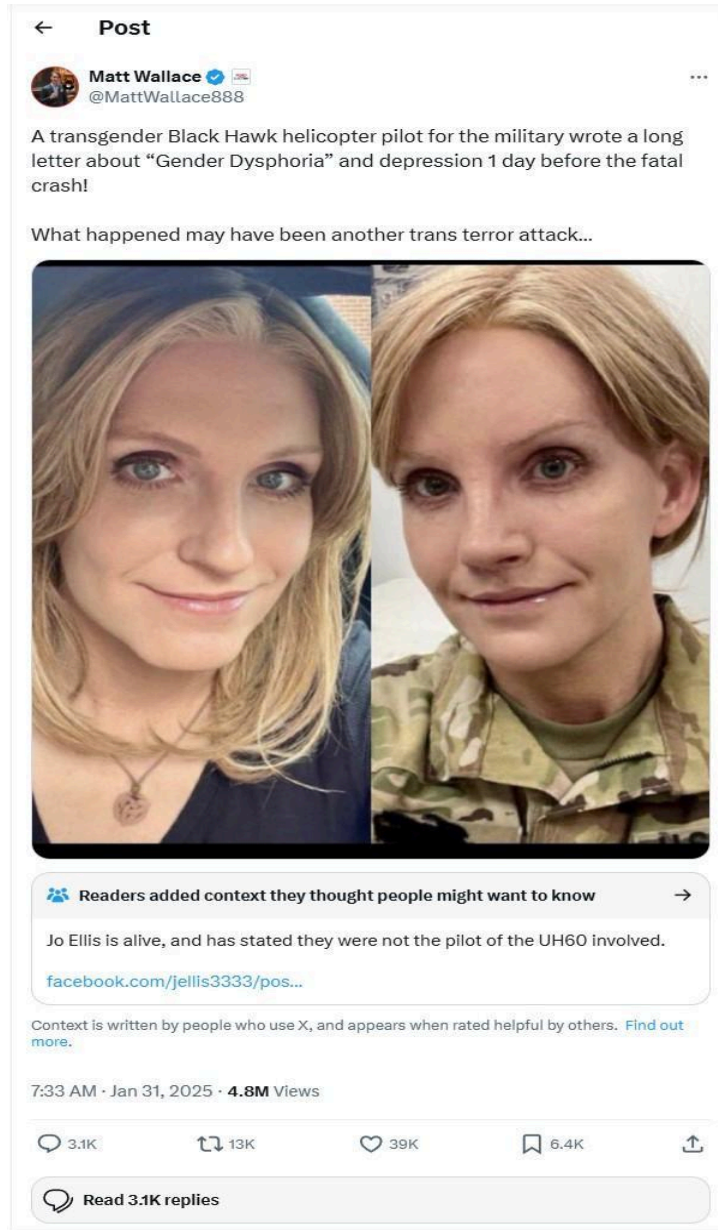


24. A few hours later, Defendant posted another photo of Plaintiff from her Michael Smerconish article with the caption, “ JUST IN: The transgender Helicopter pilot who allegedly crashed into the plane was in the process of converting to Judaism.”



25. On January 31, 2025, at 7:33 a.m. CST, @MattWallace888 posted two photos of Plaintiff and stated, “A transgender Black Hawk helicopter pilot for the military wrote a long

letter about ‘Gender Dysphoria’ and depression 1 day before the fatal crash! / What happened may have been another trans terror attack...” This post garnered 4.8 million views.



26. The morning of Friday, January 31, 2025, was a somber time for all Americans, particularly for the family members of the 67 people who perished in this catastrophic aviation accident. Plaintiff was 100 miles away from Washington, DC, living her private life as a private citizen and mourning with the rest of her own Black Hawk community. However, when Plaintiff

awoke that morning, she was instantly inundated with messages from friends who had heard the rumors that she perished in the crash. Initially, Plaintiff did not realize the gravity of these reports and assumed her name was only connected because of her interview with Michael Smerconish that was released the same day as the crash. However, when the Plaintiff received a call to her personal cell phone from The Daily Mail, she quickly realized how far this rumor had traveled. No matter where she looked on social media or the internet, Plaintiff could not escape the few pictures of herself that were available publicly and the vile things that were being said about her as a transgender Black Hawk pilot. Plaintiff soon discovered she was the second most-trending topic in the United States on X with more than 90,000 posts mentioning her name or her likeness. Gaining infamy overnight caused Plaintiff and her family tremendous suffering. Plaintiff was devastated that her story was overshadowing the tragic events of the plane crash and likely causing more suffering for the families who lost their loved ones. She also feared for her safety and for the safety of her family.

27. The harm caused by Defendant's irresponsible worldwide publication of false claims about Plaintiff is far-reaching. Despite an utter lack of any evidence whatsoever for the false claims, Plaintiff has received threats and hate spewed at her from individuals around the world.

28. X user @clara_winslow was one of many to lob slurs at Plaintiff and accuse her of "Trump Derangement Syndrome" or "TDS."



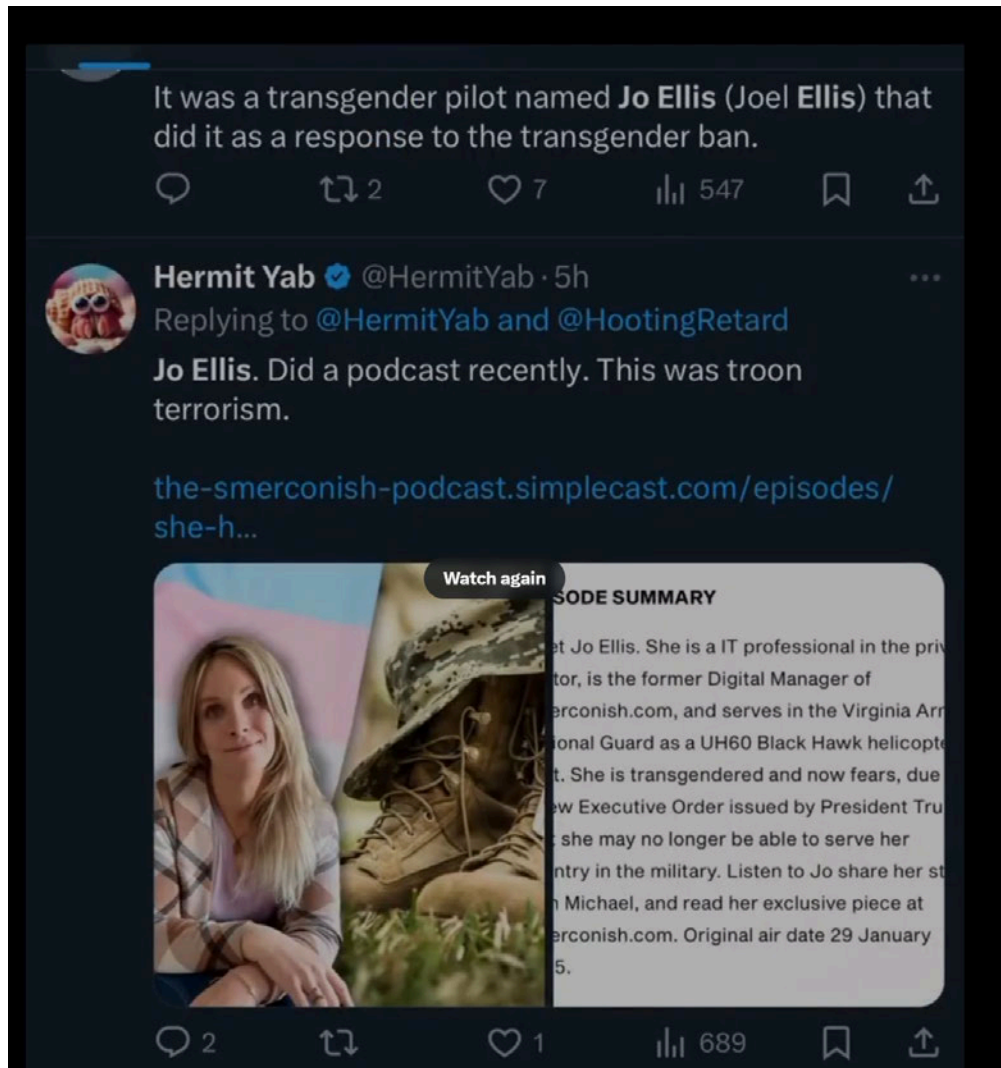
29. X user @DebiHay13 perpetuated the terrorism theory by referring to Plaintiff as a “trans-terrorist.”



30. X user @Christo20686995 continued with the slurs by calling Plaintiff a “tr@nny.”



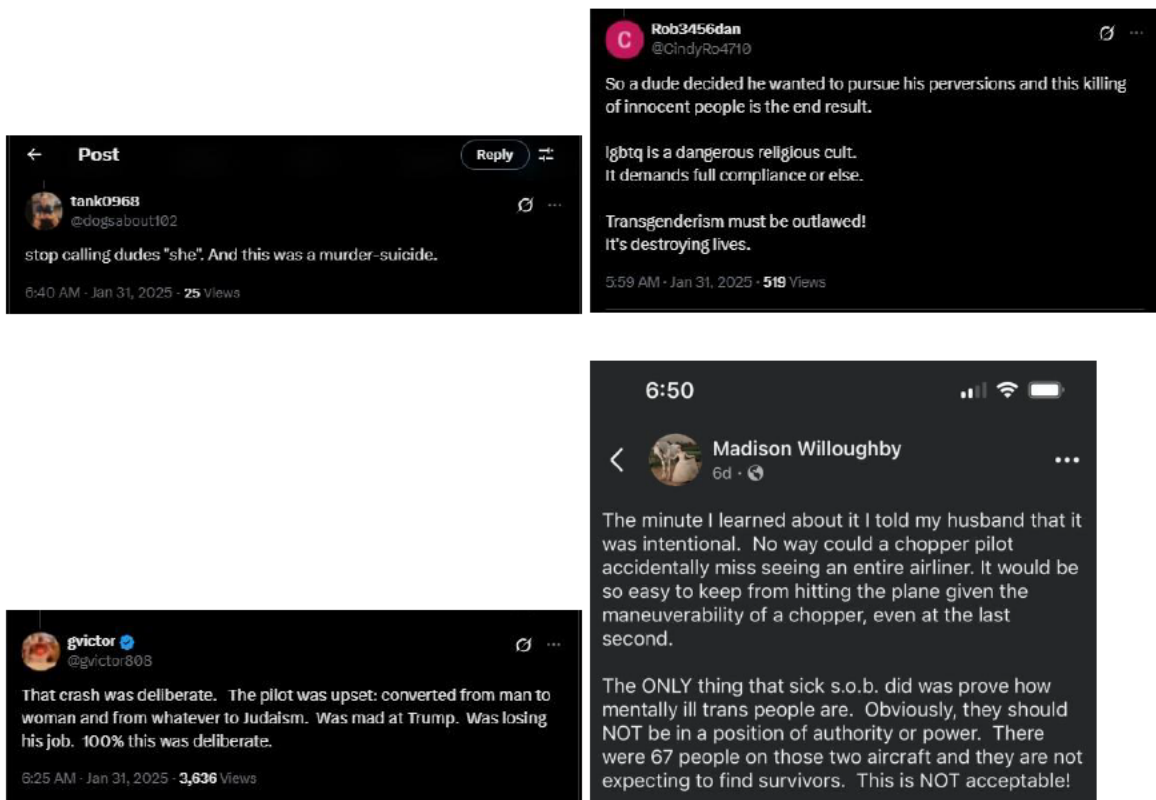
31. X user @HermitYab referred to Plaintiff's alleged acts as the pilot of the Black Hawk as "troon⁹ terrorism."



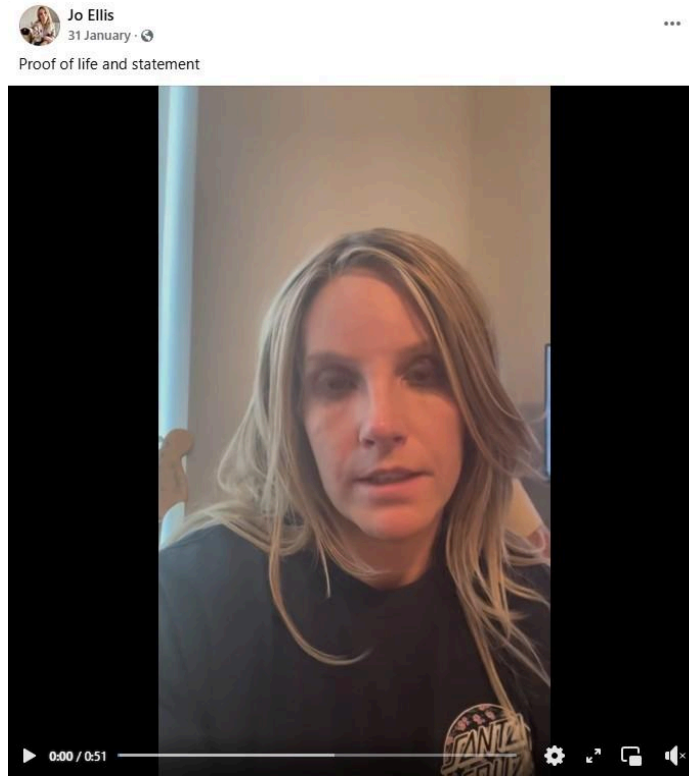
32. Notwithstanding the threats and horrendous comments lobbed at Plaintiff online, Defendant persisted and continued spreading his transphobic falsehoods about Plaintiff's supposed criminal and terroristic behavior. Defendant's viral disinformation campaign about Plaintiff reached over 18 million people on X and countless others around the world, causing immeasurable harm to Plaintiff and her family. As a result of Defendant's defamatory statements,

⁹ According to the The Online Hate Research and Education Project, "troon" is a slur used by transphobes to refer to and dehumanize transgender women. See <https://glaad.org/troon-definition-meaning-anti-lgbt-online-hate/> (last accessed Apr. 7, 2025)

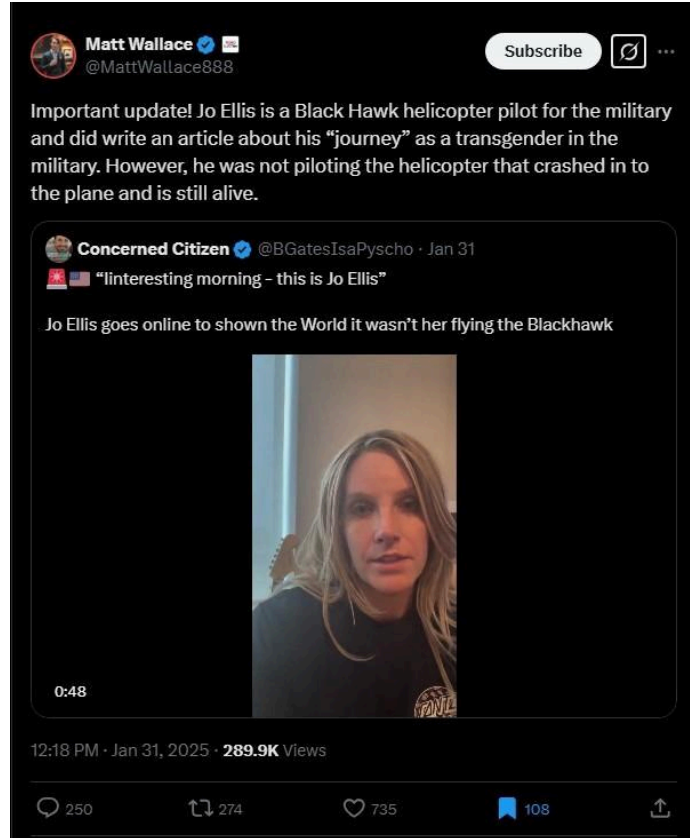
Plaintiff has been harassed, received credible death threats, been forced to hire a personal security detail, and began carrying a firearm for her own personal protection. The onslaught of threats Plaintiff has experienced and the necessary measures she has been forced to take to protect herself are the direct result of Defendant's defamatory conduct. Plaintiff has and will continue to experience severe physical and emotional distress as a result. The harm Defendant has caused to Plaintiff's reputation, privacy, safety, and other pecuniary loss is immense. Below are a few examples of accusations and threats directed at Plaintiff on social media.



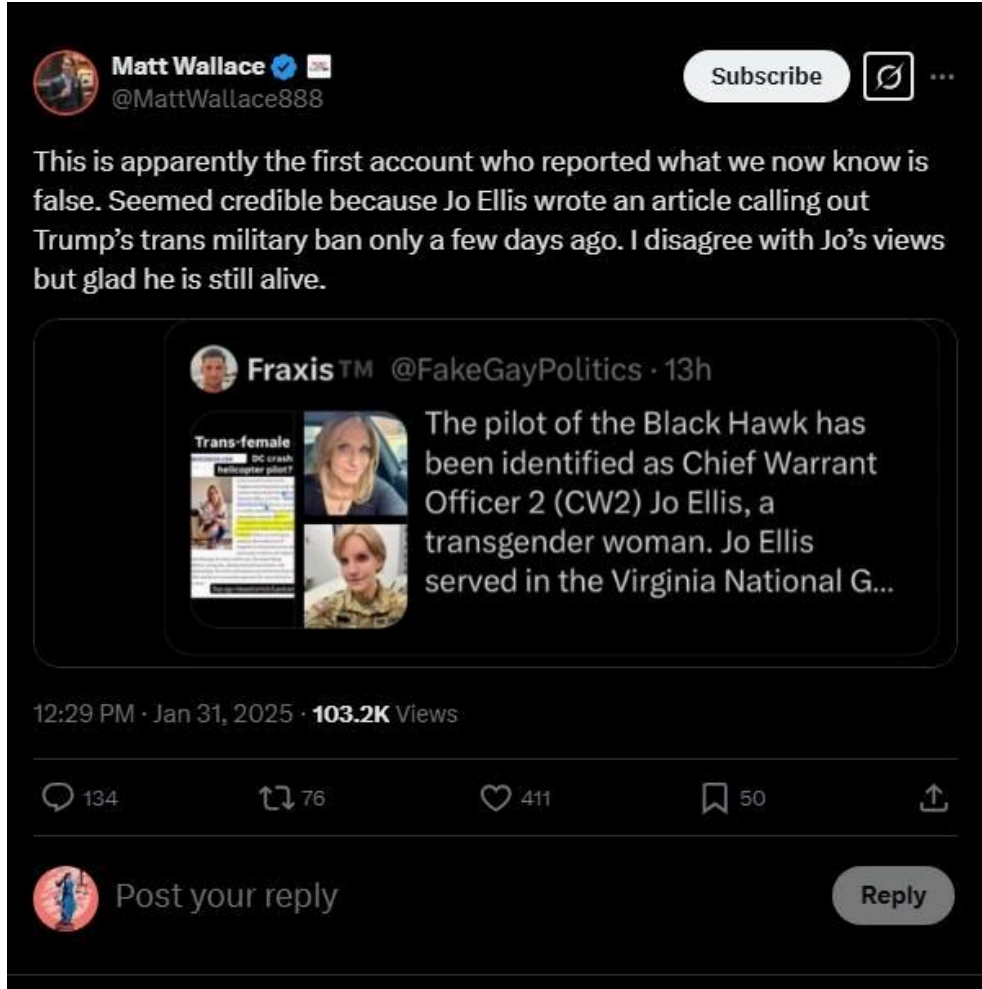
33. Eventually, the suffering became so great that Plaintiff realized she had to make a public statement to end the rumors. In coordination with a United States Army Public Affairs officer, Plaintiff quickly released statements on Facebook to prove that she was not involved in the crash and was, in fact, alive. On January 31, 2025, Plaintiff posted a “proof of life” video to her personal Facebook page on January 31, 2025, at 7:42 a.m. EST.



34. After Plaintiff posted her “proof of life” video, X users began criticizing Defendant for posting such baseless lies without doing any investigation. Numerous people told Defendant to delete his posts and apologize to Plaintiff. Once Defendant realized his lies had caught up with him, he panicked and started trying to cover his tracks by deleting posts and making new “updates.” On January 31, 2025, at 12:18 p.m. CST, @MattWallace888 posted, “Important update! Jo Ellis is a Black Hawk helicopter pilot for the military and did write an article about his [*sic*] ‘journey’ as a transgender in the military. However, he [*sic*] was not piloting the helicopter that crashed in to [*sic*] the plane and is still alive.” His post included a republication of another X user’s post that included Plaintiff’s “proof of life” video that she uploaded to her personal Facebook page.



35. At 12:29 p.m. CST, after it became clear that Defendant’s lies were being exposed, Defendant tried to blame another X user @FakeGayPolitics for originally inventing the falsehood. However, Defendant continued to disparage Plaintiff by continuing to misgender her. Defendant also justified his initial polls and said the “reports” about Plaintiff “seemed credible” because Plaintiff “wrote an article calling out [President] Trump’s military ban only a few days ago.”



36. Shortly thereafter, at 1:02 p.m. CST, Defendant changed his story again. Now, Defendant said, “we all believed” the lie about Plaintiff intentionally crashing the helicopter into a passenger plane because (1) Plaintiff “wrote an article only days ago that appeared to show serious mental struggles around being [a] transgender Black Hawk pilot in the military” and (2) “There have been a lot of recent school shootings & attacks carried out by trans individuals.” This time, Defendant used groupthink to rationalize his actions and to lessen his own culpability. In an attempt to normalize the vicious lies he started, Defendant lumped himself in with his followers and everyone else who spread these viral claims. Clearly, Defendant was grasping at straws now that the walls were caving in on him. Defendant realized he was on the hook for the

lies he spread about Plaintiff and he was willing to say anything to justify his malicious behavior. Defendant apparently changed his mind about Plaintiff seeming like a credible villain because she criticized President Trump’s policies and now thought it made sense that she would *intentionally* crash a helicopter into a passenger plane because of her “serious mental health struggles.” (Emphasis added). And, again, Defendant added his own transphobic argument that transgender individuals always carry out school shootings and other terror attacks.



37. While making excuses for creating viral lies about Plaintiff’s involvement in a terrorist act, Defendant tried to preserve credibility with his followers to benefit from the increased user engagement he received while “reporting” on the crash. Instead of completely recanting and apologizing to Plaintiff and the families of the plane crash victims, Defendant peddled another “big” headline involving government officials intentionally withholding the names of the Black Hawk’s aircrew. At 1:12 p.m. CST, @MattWallace888 reposted a comment

from X user @ksorbs and added, “This seems intentional. Why are they trying so hard to hide information about who was actually flying the helicopter?”



38. Defendant continued “breaking” every new theory he could find to harvest¹⁰ more clicks and user engagement for his own financial gain. Once he moved on from a narrative in which Plaintiff was targeted, Defendant claimed the Black Hawk helicopter was autonomously piloted to continue scaring the public and detracting from this tragic accident and the deaths of 67 innocent people.

¹⁰ “Engagement farming” or “harvesting” are deceptive practices on social media where users artificially inflate engagement metrics like likes, shares, comments, and followers to appear more popular or successful than they are. Popular methods of “engagement farming” include:

- (1) Controversial Posts: Sharing extreme opinions on hot-button issues to provoke strong reactions.
- (2) Content Recycling: Reposting popular content with minor changes to repeat past successes.
- (3) Mass Interactions: Using bots or automated systems to indiscriminately like, follow, or comment.
- (4) Engagement Bait: Urging people to interact with posts through likes, shares, comments, and other action



39. Defendant published his false and defamatory statements to make a profit at the expense of the truth, and at the expense of the families of the 67 victims who regrettably lost their lives in this tragic accident. Defendant’s financial motive to peddle his false narrative and lie about Plaintiff’s involvement in “another trans terror attack” was substantial. This mid-air collision was the first major commercial passenger flight accident in the United States in almost

16 years, the first fatal crash involving American Airlines in almost 25 years, and the first crash in the Potomac River since 1982.

C. Defendant's claims were and are clearly false.

40. When Defendant decided to post his baseless story about Plaintiff's "trans terror attack" in which she intentionally crashed an Army Black Hawk helicopter into Flight 5342, he knew his claims were false, or recklessly disregarded the truth. On their face, Defendant's lies falsely assert Plaintiff participated in a terrorist attack against United States citizens by intentionally flying an Army UH-60L Black Hawk helicopter into a passenger airplane carrying 67 innocent people. Defendant falsely claimed that Plaintiff intentionally committed a murder suicide due to her indignation with President Trump, who had recently banned transgender troops from serving openly in the military. While Plaintiff mentioned suffering from symptoms of Gender Dysphoria before she publicly transitioned as a transgender woman, Plaintiff clearly was not disgruntled to the point that she would harm herself or others, let alone launch a terrorist attack against United States citizens or a particular person on one of the aircraft. Defendant clearly peddled these falsehoods to increase traffic on his X profile, which ultimately allowed him to profit from this unspeakable tragedy. Defendant's false claims have subjected Plaintiff to scorn, outrage, and credible threats. His false statements have harmed Plaintiff's reputation by lowering her in the estimation of at least a substantial and respectable minority of the community. Defendant's statements were calculated to—and did, in fact—provoke outrage and cause Plaintiff enormous harm.

41. Defendant has offered no evidence in support of his allegations against Plaintiff and simply pedaled his transphobic theories in support of his assertions. Defendant's posts commonly have anti-LGBTQ+ and anti-transgender undertones, and he seems to believe that all

mass shootings are primarily perpetrated by transgender individuals. Moreover, the only “witness” Defendant claimed had personal knowledge of Plaintiff’s involvement in the crash was his “brother,” @JackWallace888, a profile which is likely operated by Defendant himself. Upon information and belief, Defendant does not have a brother and simply uses multiple X profiles to boost his user engagement. Defendant did not cite any sources for his reckless accusations other than loosely connecting an article written by Plaintiff¹¹ and a podcast interview with Michael Smerconish¹² discussing President Trump’s Executive Order 14183¹³ that banned transgender individuals from openly serving in the military. The unfortunate recency of the publication of that article and podcast became easy fodder for the Defendant’s web of lies.

42. The falsity of Defendant’s statements is obvious on their face, and it is clear that his statements are referring to Plaintiff. Defendant used Plaintiff’s likeness in every post he made about her. While Plaintiff is a Black Hawk pilot, she is a part-time member of the Virginia Army National Guard and is not affiliated with the active duty unit in Fort Belvoir that operated the Black Hawk involved in the accident. Clearly, Plaintiff was not flying the UH-60L Black Hawk helicopter using callsign PAT25 on January 29, 2025, that collided in flight with Flight 5342. Additionally, Plaintiff’s article on Michael Smerconish’s website did not criticize President Trump’s Executive Order banning transgender individuals from openly serving in the military. Rather, Plaintiff explained her military background, how she has dedicated 15 years of her life by serving her country honorably, and that she would like to continue serving honorably.

¹¹ See Jo Ellis, *Living to Serve, Living as Myself: A Transgender Service Member’s Perspective*, Smerconish.com, (Jan. 28, 2025), <https://www.smerconish.com/exclusive-content/living-to-serve-living-as-myself-a-transgender-service-members-perspective/>

¹² See <https://the-smerconish-podcast.simplecast.com/episodes/she-has-served-15-years-in-the-military-and-wants-to-serve-more-a-transgender-service-members-perspective> (last visited Apr. 4, 2025)

¹³ See *Prioritizing Military Excellence and Readiness*, 90 Fed. Reg. 8757-8759 (Feb. 3, 2025)

43. Defendant's allegations regarding Plaintiff's supposed involvement in the crash have varied and he did not cite any sources for his senseless accusations. Defendant initially claimed he received this information from his "brother" @JackWallace888. However, Defendant quickly deleted that information and continued reposting the same information from other sources after it went viral. Then, presumably after reviewing Plaintiff's article and podcast with Michael Smerconish, Defendant continued with his lies by stating Plaintiff wrote a letter about how she disagreed with President Trump's Executive Order, how the crash was clearly intentional, and how she was converting to Judaism (clearly to appeal to any anti-Semitic followers). Once his frauds were discovered, Defendant claimed @FakeGayPolitics was the original source of the material and that he simply republished what had already been publicized by @FakeGayPolitics and the rest of the X world.

44. Defendant's subsequent attempts to change his story and blame others for spreading the virulent lies about Plaintiff do not absolve him of responsibility in posting these vile falsehoods. In fact, they make his actions worse. They demonstrate how Defendant knew his initial claims were not based in fact and were fabricated out of thin air and without any investigation, yet he recklessly disregarded the truth and continued posting defamatory and harmful statements about Plaintiff anyway. Moreover, when questioned about the veracity of his statements and confronted with direct facts disproving them, Defendant refused to take accountability and apologize to Plaintiff for his egregious and harmful errors. Instead, Defendant changed his story and doubled down by blaming another X user, thereby further demonstrating his actual malice in publishing the statements.

V. CLAIM FOR RELIEF

Defamation Against Defendant

45. Plaintiff repeats and re-alleges paragraphs 1-44 as if set forth fully herein.

46. Defendant intentionally caused the publication of false and unprivileged written statements about Plaintiff, and ratified false statements of and concerning Plaintiff made by others.

47. Defendant's false statements have been seen, read, or heard by millions of individuals across the United States and around the world.

48. Defendant's statements are unmistakably false. The defamatory meaning of Defendant's false statements is apparent from the face of their publication, they clearly refer to Plaintiff, and are understood to be about her.

49. As explained above, at the time of publication, Defendant published his false statements of fact with actual malice. Defendant knew these statements were false and published his statements with knowledge or reckless disregard of their falsity. Defendant knowingly and intentionally perpetuated defamatory lies about Plaintiff despite having no sources or firsthand knowledge. Defendant deliberately conducted grossly inadequate investigations before publishing his false and defamatory statements about Plaintiff and then continuing to publish and republish the false statements.

50. Defendant had no applicable privilege of legal authorization to make these false and defamatory statements against Plaintiff.

51. Defendant's defamatory statements, whether taken individually or together in their cumulative impact, damaged Plaintiff in the various ways described herein.

52. Plaintiff is entitled to damages, including presumed economic damages, because of Defendant's malicious conduct.

53. Plaintiff is entitled to exemplary damages because Defendant intentionally published his defamatory statements about Plaintiff with malice, wantonness, and a conscious desire to cause injury to Plaintiff. Defendant purposefully made the defamatory statements heedlessly and with reckless and willful indifference to Plaintiff's rights.

54. Defendant's statements are defamatory *per se*, as they inherently injure Plaintiff's reputation and impute crimes against her.

55. In view of the foregoing, Plaintiff is entitled to actual, presumed, exemplary, and other economic damages in an amount to be specifically determined at trial.

VI. RIGHT TO AMEND

56. Plaintiff reserves the right to amend her pleadings in accordance with the Federal Rules of Civil Procedure, particularly after additional evidence becomes available through discovery.

VII. DEMAND FOR TRIAL BY JURY

57. Pursuant to Federal Rule of Civil Procedure 38, Plaintiff requests a trial by jury on all issues that are so triable.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that Defendant be cited to appear and answer, and that the Court enter judgment against Defendant, including, but not limited to:

- (a) awarding compensatory damages against Defendant in an amount to be proven at trial;
- (b) awarding consequential damages against Defendant in an amount to be proven at trial;
- (c) awarding noneconomic damages against Defendant in an amount to be proven at trial;

- (d) awarding exemplary damages against Defendant upon proof of malice;
- (e) leave to amend this Complaint and allege exemplary damages in an amount to be proven at trial after the exchange of initial disclosures pursuant to Colorado Rules of Civil Procedure and Plaintiff establishes prima facie proof of triable issues pursuant to C.R.S. § 13-21-102; and
- (f) such other and further relief, both general and special, to which Plaintiff may be justly entitled to receive.

Dated: April 9, 2025

Respectfully submitted,

s/ Meg Phelan

Meg Phelan, SC Bar No. 78209

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