

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
AT COVINGTON**

NICHOLAS SANDMANN, by and through his parents and natural guardians, TED SANDMANN and JULIE SANDMANN,	:	CASE NO.
	:	
	:	JUDGE
	:	
Plaintiff,	:	PLAINTIFF’S COMPLAINT WITH
	:	JURY DEMAND
	:	
v.	:	
	:	
ABC NEWS, INC.,	:	
	:	
and	:	
	:	
ABC NEWS INTERACTIVE, INC.,	:	
	:	
and	:	
	:	
THE WALT DISNEY COMPANY,	:	
	:	
Defendants.	:	
	:	

NOW COMES Nicholas Sandmann, by and through his parents and natural guardians, Ted Sandmann and Julie Sandmann, and by and through counsel, and states his Complaint for Defamation against ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company (collectively, “ABC”) as follows:

INTRODUCTION

1. This is a defamation action arising out of ABC’s publication and republication of a false and defamatory factual narrative accusing Plaintiff Nicholas Sandmann (“Nicholas”), at the time a 16-year old minor high school student, of racist misconduct at the National Mall on January 18, 2019 (the “January 18 Incident”).

2. ABC's coverage of the January 18 Incident included at least sixteen (16) online articles, only four (4) of which are the subject of this action (collectively, the "False and Defamatory Publications"). ABC also published several broadcasts concerning the January 18 Incident, which were embedded in the False and Defamatory Publications.

3. ABC's reporting conveyed the false and defamatory assertion that while at the Lincoln Memorial, Nicholas confronted and threateningly instigated a confrontation with Phillips, a Native American activist who was purportedly praying and singing during the Indigenous Peoples March.

4. ABC's reporting conveyed the false and defamatory charges that Nicholas "stood in [Phillips'] way," "blocked [Phillips'] way and wouldn't allow [Phillips] to retreat," and that Nicholas "wouldn't let [Phillips'] move," while a mass of other young white boys "swarm[ed]," taunted, jeered and physically intimidated Phillips.

5. ABC's reporting conveyed, among other things, the false and defamatory gist that Nicholas was the face of an unruly hate mob of hundreds of white, racist high school students who physically assaulted and harassed Native Americans who were engaged in peaceful demonstrations, song and prayer at the National Mall.

6. Moreover, ABC's reporting conveyed that, during the January 18 Incident, Nicholas committed conduct that could constitute, among other things, a hate crime, punishable by 18 U.S.C. § 245 (b), and an assault by aggressively interrupting song and prayer at the Indigenous Peoples March, at the Lincoln Memorial—a national park.

7. ABC accused Nicholas of behavior constituting menacing racial intimidation of Phillips, a Native American political activist, while Phillips was purportedly engaged in peaceful song and prayer at the Lincoln Memorial.

8. ABC's accusations against Nicholas are totally, provably, and unequivocally false.

9. The truth is that, after the Indigenous Peoples March was over, Phillips approached Nicholas and the other students from afar, bypassed wide open steps to his alleged destination of the Lincoln Memorial, specifically confronted Nicholas, and never attempted to move past, around, or away from Nicholas, as Nicholas stood quietly for several minutes in a "Make America Great Again" hat while Phillips beat a drum and sang loudly within inches of Nicholas' face.

10. The truth is that, at the time of the confrontation by Phillips, Nicholas and his classmates from Covington Catholic High School (the "CovCath students") were assembled on the stairs of the Lincoln Memorial at the direction of their chaperones for buses that would take them home to Northern Kentucky.

11. The truth is that, Nicholas and his CovCath classmates were bullied, attacked, and confronted with racist and homophobic slurs and threats of violence by the Black Hebrew Israelites, a recognized hate group, before being unexpectedly confronted without explanation by Phillips, an activist, who proceeded to target Nicholas while chanting and beating a drum inches from his face and being flanked by activist companions filming the event in the hopes of capturing a viral sensation that would be used to advance, via social media, an ulterior political agenda.

12. Phillips specifically targeted Nicholas and placed himself directly in front of Nicholas.

13. When Phillips approached, Nicholas stood still—in the same place he had been standing before Phillips approached—standing quietly and respectfully for several minutes while Phillips continued to beat his drum and sing in Nicholas' face.

14. Nicholas politely acquiesced in Phillips' chosen course of conduct.

15. To justify its reporting, ABC inexcusably relied on a false, incomplete and out-of-context viral video, published to Twitter on the evening of January 18, 2019, which showed Nicholas in a red "Make America Great Again" hat looking at Phillips. This viral video was originally published by a politically-weaponized Twitter account—an account designed to disseminate political disinformation.

16. On the evening of January 18, 2019—the same evening the viral video was published to Twitter—a complete video of the January 18 Incident (over ninety (90) minutes long) was uploaded to Facebook by one of the Black Hebrew Israelites and was widely available for public viewing. The truth contained in this full-length video was ignored by ABC in its False and Defamatory Publications, notwithstanding the fact that full-length video set forth the whole context of the January 18 Incident and plainly contradicted Phillips' assertion that Nicholas blocked Phillips' retreat.

17. To justify its reporting, ABC negligently relied on Phillips' false factual narrative of the January 18 Incident. Phillips is a documented liar who has a history of manufacturing false stories to advance his political and activist agenda.

18. Without conducting any reasonable investigation into Phillips, the short viral video clip or the suspicious account that posted it on Twitter (Twitter later banned that suspicious account from its platform), ABC jumped at the opportunity to falsely portray Nicholas as the white, Catholic, MAGA hat-wearing aggressor who blocked, bullied and beleaguered a Native American elder who was engaged in peaceful song and prayer because the narrative, even though it was provably false, fit neatly within ABC's anti-Trump credo.

19. If ABC had engaged in basic journalistic due diligence regarding the veracity of the viral video or the fraudulent, politically-weaponized account that posted it to Twitter, it would have quickly discovered—like many others did—that what the viral video depicted was merely a brief, incomplete moment of the January 18 Incident and that the viral video was completely deprived of any context whatsoever.

20. Likewise, if ABC had engaged in basic journalistic due diligence regarding the veracity of Phillips as a witness, it would have quickly discovered that he was a dubious and dishonest source with a criminal background, has a history of lying about his military service and stolen valor, and has a history of lying about other encounters with children to promote his political and activist agenda. Therefore, ABC would have discovered that Phillips was lying about his encounter with Nicholas at the January 18 Incident and should not have given Phillips a megaphone to disseminate his false narrative.

21. ABC engaged in an agenda-driven campaign to bully, harass, threaten, disparage and vilify Nicholas—a minor who literally and factually did nothing more than stand still when unexpectedly confronted by Phillips and his companions who pointed a myriad of cameras at Nicholas in the hopes of capturing a viral encounter.

22. Following the January 18 Incident, Phillips became a “mainstream media darling,” engaging in a publicity tour during which he manufactured out of whole cloth varying and conflicting descriptions of the events prior to, during, and after the January 18 Incident in a superficial attempt to garner public sympathy and advance his own political agenda.

23. In certain of his interviews, Phillips had tears in his eyes as he lied and said that Nicholas and the CovCath students were shouting, “Build that wall, build that wall.”

24. As one of America's most prominent news outlets, ABC knew but ignored the importance of verifying damaging and, in this case, incendiary accusations against a minor child prior to publication.

25. By failing to correct its false reporting, ABC continued to promote its false narrative that Nicholas had instigated a racist confrontation with Phillips, long after Phillips was exposed as a fraud whose fictitious version of the January 18 Incident was disavowed by responsible members of the media.

26. Given the breadth of ABC's media reach, its False and Defamatory Publications against Nicholas were published repeatedly on various outlets. As a result, ABC's coverage generated its own media frenzy that subjected Nicholas to public scorn, ridicule, and serious threats of physical harm.

27. ABC took advantage of the social media hate mob to further its own political and financial agenda.

28. In a practical demonstration that the accusations made against Nicholas in this case are factual events capable of being proven false, other news outlets have clarified, corrected, and/or retracted several false factual assertions also made by ABC and have admitted mistakes that were made in coverage of the January 18 Incident.

29. For example, KTXL Fox40 issued "A Note To Our Viewers About Our Covington Coverage," stating, in part, as follows:

"Early reports also contained unverified statements about the students' conduct, including statements by Phillips that they had chanted 'Build That Wall,' and made remarks offensive to Native Americans. Though several videos have come to light since the incident, none of them contains evidence of hostile remarks by the students."

“Our reports contained other remarks which, after videos emerged and both sides were heard from, proved unsubstantiated or untrue. Sandmann was accused of blocking Phillips’ path so he could not climb the steps of the Memorial to pray. Students were accused of assembling in the Indigenous People’s space, and taunting and mocking the Native Americans. We reported the Diocese of Covington’s condemnation of the Covington Catholic High School students, a denunciation that was retracted in six days when the church admitted it had rushed to judgment ... saying they had been ‘bullied and pressured into making a statement prematurely.’”

“The facts now available about this story show no evidence of taunting by the students ... Phillips was not denied freedom of movement – he approached the student gathering and said he wanted to promote peace between the students and the other activist group that taunted them with profanity. Sandmann, for his part, professed the same motive: keeping calm, and preventing the situation from getting out of hand. His behavior, and the prompt arrival of the school buses, achieved this goal. Until the story went viral the next day.”

“The lion’s share of the denunciations of this event landed on the students, and the focus of attention was on Sandmann, who reportedly had bought his red cap that afternoon. Such is the result of cell phone video presented as news: it shows a small window of reality for a short burst of time. Context, which is essential in any news report, is lacking. Judgments are reached without the benefit of all or even most of the facts. It is a prescription for error[.]”

“We should have considered that the targets of this story were high school students.”

“We owe an apology to the students, their families, and the face of the Covington student group, Nick Sandmann. . . . Because of the way this story came together – fueled by a viral video with no on-scene reporting by independent voices – we lost sight of our standard of fairness, context, and accuracy. This is especially serious when the groundswell of misinformed anger fell on a group of teenagers who never sought the attention, let alone the abusive treatment, they got. They deserved better, and so did our viewers.”

A true and correct copy of KTXL Fox40's statement is attached hereto as ***Exhibit A***.

30. After being sued, and while failing to issue an admission of fault, an apology, an adequate correction, or an unequivocal retraction, *The Washington Post* published an online "Editor's note related to Lincoln Memorial incident" providing, in part, as follows:

"Subsequent reporting, a student's statement and additional video allow for a more complete assessment of what occurred, either contradicting or failing to confirm accounts provided in that story – including that Native American activist Nathan Phillips was prevented by one student from moving on, that his group had been taunted by the students in the lead-up to the encounter, and that the students were trying to instigate a conflict."

The Washington Post published a similar Editor's Note in print as follows:

"A Jan. 20 Metro article provided an account from Native American activists about an encounter with a group of high school students from Covington, Ky. Subsequent reporting and video evidence contradicted or failed to corroborate that one of the activists was accosted and prevented from moving on, that the activists had been taunted by the students in the lead-up to the encounter, that the students were trying to instigate a conflict, or that 'March for Life' participants chanted 'Build that wall.' A Jan. 21 Page One article reported an account by one of the activists that he had heard students earlier make disparaging comments about Native Americans and had heard students shout 'Go back to Africa!' The story reported the denial of one student that he had heard any students say anything hateful or racist at any time. The story should have noted that widely circulated video from that day does not corroborate that such statements were made."

True and correct copies of *The Washington Post's* Editor's Notes are attached hereto as ***Exhibit B***.

31. Nicholas has already sued The Washington Post, Cable News Network and NBCUniversal for statements very similar, if not identical to those published in ABC's False and Defamatory Publications. Each of those defendants filed a motion to dismiss, but all three were denied by the Hon. William O. Bertelsman, District Court Judge for the Eastern District of Kentucky with respect to "statements ... that plaintiff 'blocked' Nathan Phillips and 'would not allow him to retreat.'" *See Sandmann v. WP Company LLC, d/b/a*

The Washington Post, Case No. 2:19-cv-00019 [Doc. 64]; *Sandmann v. Cable News Network, Inc.*, 2:19-cv-00031 [Doc. 43]; *Sandmann v. NBCUniversal Media, LLC*, Case No. 2:19-00056 [Doc. 43].

32. In order to fully compensate Nicholas for the perpetual reputational harm, emotional distress, mental anguish, and personal physical injury and physical sickness suffered as a result of ABC's false attacks, this action seeks compensatory damages in excess of Twenty Million Dollars (\$20,000,000.00).

33. In order to punish ABC and to deter it from ever again engaging in false, reckless, malicious, and agenda-driven attacks against children in violation of well-recognized journalistic standards and ethics, this action seeks punitive damages in excess of Seventy-Five Million Dollars (\$75,000,000.00).

DETAILED FACTUAL BACKGROUND

THE JANUARY 18 INCIDENT

34. On January 18, 2019, Nicholas attended the March for Life on a school trip chaperoned by sixteen (16) adults, nine (9) of whom were faculty members at Covington Catholic High School ("CovCath").

35. Nicholas and his classmates were instructed to meet at the steps of the Lincoln Memorial at the National Mall by 5:00 p.m. to catch their buses for the return trip to Kentucky.

36. Nicholas was wearing a red Make America Great Again hat ("MAGA hat") that he had purchased that day as a souvenir.

37. While at the National Mall, a small group of adult men who describe themselves as Black Hebrew Israelites—a recognized hate group—began verbally assaulting and taunting Nicholas and his CovCath classmates with threats of physical

violence and vitriolic statements, shouting, among other things, “you only got one n***er in the crowd,” “oh, you got two n***ers in the crowd,” “get out, n***er, get out,” “this is a faggot child molester,” “Christ is coming back to kick yo cracker ass,” “there will be no peace until there is bloodshed,” “incest babies,” “dirty ass crackers,” and “future school shooters.”

38. While still waiting for the buses, one of Nicholas’ classmates requested and received permission from a school chaperone to engage in CovCath school sports cheers in an effort to ignore and drown out the hate speech being hurled at them by the Black Hebrew Israelites.

39. During a school cheer, Phillips and his activist companions—all of whom had been participating in the Indigenous Peoples March at the National Mall earlier that day—instigated a confrontation with Nicholas and his CovCath classmates.

40. Phillips began singing the AIM song, which he has used previously in protests and as a type of rallying cry when confronting non-Indigenous Peoples.

41. Rather than focusing their attention on the Black Hebrew Israelites, who had been relentlessly hurling insults at both the teenagers for almost an hour and the Native Americans attending the Indigenous Peoples March prior to that, Phillips and his activist companions deliberately targeted the CovCath students from a distance while beating drums, singing, dancing, and carrying cameras to hopefully capture a viral video moment of the confrontation.

42. When Phillips first approached them, many of the CovCath students “felt like he was coming into their group to join in with the students’ cheers” and some joined in dancing to Phillips’ drumbeat and song.

43. Phillips intentionally walked up to the crowd of CovCath students.

44. Immediately behind and around Phillips were several of his own companions, and Nicholas and the CovCath students did not move toward Phillips or otherwise actively approach or surround him or his companions.

45. Nicholas and the students acquiesced in Phillips' election to confront their group and beat his drum within inches of Nicholas' face.

46. Once within their group, Phillips freely moved about, briefly walking up to certain students within the group, which included many children who were not CovCath students.

47. Phillips then walked directly to where Nicholas was standing on the steps so that he could confront Nicholas and get within inches of his face.

48. Phillips was a complete stranger to Nicholas.

49. While staring and glaring at Nicholas, Phillips continued to beat his drum and sing loudly within inches of Nicholas' face for several minutes.

50. Contrary to Phillips' initial lie that he was "swarmed" by the students as he was preparing to leave or his subsequent lie that he was trying to move to the top of the steps of the Lincoln Memorial and/or escape or exit, Phillips approached the students from a distance and walked past clear pathways leading to the Lincoln Memorial and never attempted.

51. When Phillips made his incursion into the crowd of students and directly confronted Nicholas, Phillips never made any attempt to move past, around, or away from Nicholas even though he could have done so at any time.

52. Phillips had walked a distance over to Nicholas and stopped directly in front of him, which was exactly where Phillips wanted to be.

53. Prior to being directly confronted by Phillips, Nicholas had not noticed Phillips at the National Mall.

54. Nicholas was startled and confused by the actions of Phillips in singling him out and confronting him.

55. During the confrontation instigated by Phillips, Nicholas stood still, as he was concerned that turning away from Phillips might be misconstrued as a sign of disrespect.

56. While he stood there with Phillips beating a drum near his face and singing loudly, Nicholas remained silent and did not utter a single word to Phillips.

57. Nicholas did not make any gestures by hand or otherwise toward Phillips.

58. At all times, Nicholas acted respectfully, responsibly, appropriately, and in a manner consistent with the values instilled upon him by his family and his faith.

59. While Phillips fully engaged Nicholas' attention, at least one of the other members of Phillips' group taunted and insulted Nicholas' classmates.

60. One of Phillips' accomplices walked up the steps around Nicholas and was berating one of Nicholas' classmates: "So if you want to make America a great cause for you white people, go back to Europe where you came from. This is not your land." After Nicholas' classmate responded, the adult Native American then said to the teenager: "Get the fuck out of my face with that shit."

61. At that point, Nicholas' attention wavered from Phillips—for the only time during the encounter—when Nicholas gestured to his classmate not to engage with Phillips' profanity spewing cohort and instead to pay attention to Phillips.

62. The confrontation ended when Nicholas and his fellow CovCath students were instructed to board buses to return to Kentucky.

63. After Nicholas moved away from him, Phillips made no attempt to climb the steps toward the Lincoln Memorial.

64. Instead, Phillips stepped up to the spot vacated by Nicholas, and he and his supporters celebrated their “victory” over the CovCath students.

65. The Phillips supporter who had told one of the other students to “go back to Europe” shouted “I got him man. I got him, man, I got him. . . . We won grandpa, we fucking won grandpa.”

66. Phillips then held his drum above his head and beat it loudly and rapidly as the rest of his group cheered, yelled, and jumped around in celebration.

67. In the interviews Phillips gave after the January 18 Incident, Phillips purported to express factual descriptions of the encounter to media, but Phillips intentionally lied in order to stir up controversy, and the media republished his lies without the slightest diligence.

68. At no point in time was Phillips frightened or blocked by Nicholas. To the contrary, Phillips was very deliberate in his actions, placing himself where he wanted to be. Therefore, any statements by Phillips that he was frightened or blocked by Nicholas were misrepresentations of the truth.

69. During the entirety of the January 18 Incident, contrary to Phillips’ statements, Nicholas:

- (a) did not instigate a confrontation of any kind;
- (b) did not surround Phillips or the Black Hebrew Israelites;
- (c) did not target, confront, or assault Phillips or the Black Hebrew Israelites;
- (d) did not threaten Phillips;

(e) did not move from where he was standing when Phillips approached him;

(f) did not block Phillips' path or egress;

(g) did not taunt, mock, or harass Phillips or anyone else present; and

(h) did not engage in any conduct whatsoever that could even remotely be described or characterized as racist, a hate crime, blocking, intimidation, or as placing any person in fear of bodily harm.

70. On January of 2019, ABC recklessly disregarded the truth and falsely accused Nicholas of, among other things, standing "in [Phillips'] way," "block[ing]" Phillips' way and not "allow[ing] [Phillips] to retreat" from the January 18 Incident in an aggressive manner such that it was worthy of days-long and widespread international news coverage.

ONLINE VIDEOS OF THE JANUARY 18 INCIDENT

71. On the evening of January 18, 2019, at 7:33 p.m., Kaya Taitano, a participant in the Indigenous Peoples March, posted online a selectively edited 59-second video depicting only a small portion of the interaction between Nicholas and Phillips, *see* <https://www.instagram.com/p/Bsy8ocfFVAR/> (last visited Feb. 7, 2020); and later that night, she posted a 3-minute 44-second video of the interaction that included the time period in the initial video, *see* <https://www.youtube.com/watch?v=sIG5ZBofw1k> (last visited Feb. 7, 2020) (collectively, the "Taitano Videos").

72. The Taitano Videos were a severely incomplete representation of the facts of the January 18 Incident. The Taitano Videos did not show, among other things:

(a) the Black Hebrew Israelites' misconduct and homophobic, racist slurs directed at the CovCath students;

(b) that Phillips had approached the students and inserted himself into their area before confronting Nicholas;

(c) that the students were already engaged in school cheers at the time Phillips approached;

(d) Nicholas engaging in any misconduct, including harassing, mocking, or taunting anyone;

(e) Nicholas making any gesture of any kind except to, at times, awkwardly smile;

(f) Nicholas uttering any words to Phillips or his companions;

(g) Nicholas moving into Phillips' path;

(h) Nicholas blocking Phillips' escape; or

(i) Nicholas physically or verbally threatening Phillips in any manner.

73. At 11:13 p.m. on January 18, 2019, @2020fight, a fake Twitter account with a following of approximately 41,000, tweeted a 1-minute 1-second clip from the Taitano Videos with the comment, "This MAGA loser gleefully bothering a Native American protestor at the Indigenous Peoples March" (the "2020fight Video" or "Viral Video"). For the Court's convenience, a screenshot or ("cover image") of the 2020fight Video tweet is attached here:



74. Upon information and belief, ABC did not take any reasonable steps to investigate the @2020fight account to determine whether the video had been edited and whether the account was legitimate.

75. The 2020fight Video is reported as having been viewed at least 2,500,000 times, retweeted 14,000 times, and liked 27,000 times before the account was suspended by Twitter no later than January 21.

76. Screenshots available online of the 2020fight Video show it was viewed at least 10.6 million times.

77. Any reasonable, objective, and unbiased journalist would have readily known that the 2020fight Video was little more than a snapshot of a limited portion of the January 18 Incident and that accurate and fair reporting on it required investigation

into the events which occurred before and after those depicted in the short video clip posted on Twitter.

78. According to media reports, the @2020fight account was created in December 2016, tweeted an average of 130 times a day, and immediately aroused suspicion for its high follower count, unusually high rate of tweets, highly polarized and yet inconsistent political messaging, and the use of someone else's image in the profile photo.

79. An accurate, contemporaneous video as to what occurred on January 18, 2019, was available online on the evening of January 18, 2019, when Shar Yaqataz Banyamyan, one of the Black Hebrew Israelites who was present for the encounter between Phillips and Nicholas, was streaming a Facebook Live video while the January 18 Incident was occurring (the "Banyamyan Video").

80. Following the conclusion of the Facebook Live video stream on January 18, the 1 hour and 46-minute video was available for public viewing on Banyamyan's Facebook page.

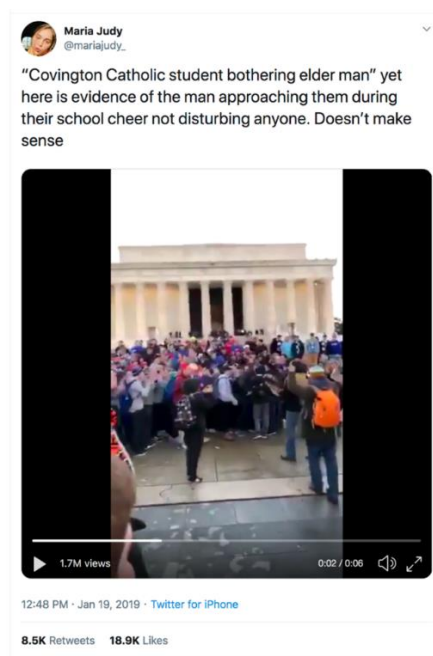
81. The Banyamyan Video was deleted from Facebook no later than January 20 at 2:00 am EST, but prior to being deleted, it was downloaded, copied, and mirrored onto YouTube by different individuals, and therefore preserved and made widely available on the internet no later than 1:00 am EST on January 20. *See, e.g.,* https://www.youtube.com/watch?v=t3EC1_gcr34&feature=youtu.be&t=523 (last visited Feb. 7, 2020); *see also* <https://twitter.com/Timcast/status/1086866650446655488> (last visited Feb. 7, 2020).

82. A plethora of additional relevant video of the January 18 Incident was also available online but ignored by ABC and the social media mob as ABC continued its false

reporting and the republication of other false accusations by Phillips and other news outlets.

83. In fact, before ABC even published its accusations about Nicholas on January 20, 2019, longer videos were available online that demonstrated the falsehoods in Phillips' account of the January 18 Incident.

84. For instance, and as an example only, video of Phillips instigating and approaching Nicholas and his classmates—rather than the other way around—was available on Twitter no later than 12:48 p.m. on January 19, 2019. Additional videos continued to appear on social media and in the media throughout January 19 and 20:



See <https://twitter.com/mariajudy/status/1086681831804674048> (last visited Feb. 7, 2020); *see also*, *e.g.*, <https://twitter.com/AmeerWashington/status/1086729474912276480> (tweeting longer video on January 19, at 3:57 pm) (last visited Feb. 7, 2020).

85. A statement from a CovCath student, along with links to additional videos, was available on Twitter at 10:00 pm on January 19, 2019. *See, e.g.,* https://twitter.com/AClementsWKRC/status/1086822521012473858?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1086822521012473858&ref_url=http%3A%2F%2Fwww.dailywire.com%2Fnews%2F42416%2Fheres-what-you-need-know-about-confrontation-emily-zanotti (last visited Feb. 7, 2020).

86. From online video and fair use of media broadcasts, Nicholas' counsel produced a fourteen-minute video distilling what occurred on January 18, entitled "Nicholas Sandmann: The Truth in 15 Minutes" (the "Sandmann Video"), available at <https://www.youtube.com/watch?v=lSkpPaiUF8s> (last visited Feb. 7, 2020).

87. The Banyamyan and Sandmann Videos accurately set forth the truth of the January 18 Incident.

88. The Banyamyan and Sandmann Videos demonstrate that this incident was instigated by Phillips and that Nicholas was targeted by professional activists whose false accusations neatly fit the mainstream media's and social media's anti-Trump agenda, particularly following the furor over the President's tweet about Elizabeth Warren earlier that week.

89. The Banyamyan and Sandmann Videos demonstrate that Nicholas did not engage in any misconduct and, more specifically, did not engage in the misconduct attributed to him by ABC.

NICHOLAS' STATEMENT AND NBC INTERVIEW

90. On the afternoon of January 20, 2019, in an attempt to stem the threats of physical violence being made against him, his family, and his CovCath classmates, Nicholas made public a statement in which he provided a detailed and accurate factual

description of the January 18 Incident. A copy of Nicholas' January 20 statement is attached hereto as ***Exhibit C***.

91. On January 23, 2019, in a further attempt to stem the threats of physical violence being made against him, his family, and his CovCath classmates, Nicholas agreed to an interview by Savannah Guthrie on the NBC *Today* show in which he reiterated his detailed and accurate factual description of his encounter with Phillips despite accusatory, "victim shaming" questions by Guthrie.

AN INVESTIGATION CONFIRMS THE TRUTH

92. ABC did not conduct a proper investigation before publishing its False and Defamatory Publications of and concerning Nicholas.

93. Pressured by the agendas of certain individuals, a false and defamatory statement of and concerning Nicholas was also published by the Diocese of Covington on January 19 before a proper investigation had been conducted by the Diocese.

94. If ABC had bothered to speak to the Diocese of Covington, it would have learned that the statement was issued without any investigation by the Diocese.

95. For instance, on January 25, 2019, the Diocese of Covington issued a statement stating, among other things, "[w]e should not have allowed ourselves to be bullied and pressured into making a statement prematurely," and "I especially apologize to Nicholas Sandmann and his family..." A true and correct copy of said statement is attached hereto as ***Exhibit D***.

96. Subsequently, the Diocese of Covington retained through its counsel a third-party investigative firm, Greater Cincinnati Investigation, Inc. ("GCI"), to investigate and determine the facts of the January 18 Incident.

97. On January 22, the Diocese of Covington issued a statement indicating that “the independent, third-party investigation is planned to begin this week” and stating that “[i]t is important for us to gather the facts that will allow us to determine what corrective actions, if any, are appropriate” and that “[w]e pray that we may come to the truth. . . .” See <https://www.archlou.org/statement-regarding-covington-catholic-incident/> (last visited Feb. 7, 2020).

98. On February 11, 2019, GCI issued its Final Investigative Report (the “GCI Report”), a true and correct copy of which is attached hereto as ***Exhibit E***.

99. On February 11, 2019, Diocese Bishop Foys released the GCI Report and said in a letter to the Covington Catholic parents that the GCI Report exonerated the students and demonstrated that the students did not instigate the incident at the Lincoln Memorial. A true and correct copy of said letter is attached hereto as ***Exhibit F***.

100. The GCI Report is entirely consistent with all video evidence as well as statements issued by Nicholas and other CovCath students and chaperones.

101. According to the GCI Report, four (4) licensed investigators spent approximately 240 man hours investigating the incident, interviewed 43 students and 13 chaperones, reviewed approximately 50 hours of Internet activity, and attempted to interview Phillips, who failed to respond to phone calls, emails, or investigators who waited outside his home for 6 hours and left a note asking him to contact them.

102. The GCI Report made the following key findings:

- (a) Nicholas’ January 20 statement accurately reflects the January 18 Incident.
- (b) There was “no evidence that students responded [to the Black Hebrew Israelites] with any offensive or racist statements of their own.”

(c) The students asked their chaperones if they could perform school cheers to drown out the Black Hebrew Israelites' invective, and upon receiving approval, they performed the same cheers that are commonly performed at football or basketball games.

(d) There was "no evidence that the students performed a 'Build the Wall' chant."

(e) Phillips approached the Covington Catholic students.

(f) There was "no evidence of offensive or racist statements by students to Mr. Phillips or members of his group."

(g) The majority, if not all, of the MAGA hats being worn by students were purchased before, during, or after the March for Life.

(h) In previous years, some students had purchased "Hope" hats in support of President Obama.

(i) "Mr. Phillips' public interviews contain some inconsistencies. . . ."

PHILLIPS WAS A BIASED AND UNRELIABLE WITNESS

103. ABC did not publish Phillips' narrative as opinion but rather published it as a factual narrative of what occurred during the January 18 Incident.

104. Phillips, while recounting the January 18 Incident, was not making truthful statements about the January 18 Incident or his state of mind during that incident. Instead, Phillips was spreading lies about the events and about Nicholas in an attempt to stir up animosity toward pro-life, Catholic Trump-supporters, and to create publicity for Phillips' activism in favor of Indigenous Peoples.

105. ABC knew or should have known that Phillips' factual account of Nicholas' purported actions was completely false. ABC published it anyway. ABC saw the January 18 Incident as a lucrative money-making opportunity.

106. Phillips' statements were republished by ABC as a factual narrative of the events capable of being proven false, not expressions of Phillips' opinion.

107. Publicly available information demonstrates that Phillips is—and was at all times during ABC's reporting on the January 18 events—a biased and unreliable witness, and it was negligent and reckless for ABC to publish without any investigation Phillips' narrative as if it were a truthful, factual account of the January 18 Incident or of Phillips' feelings or reactions during those events.

Activism and Publicity-Seeking

108. Phillips has a well-documented history of leftist activism that should have caused ABC to question his accusations against a white, MAGA hat-wearing Catholic teenager.

109. Phillips has a known bias against President Trump that was readily discoverable with a single Google search.

110. Indeed, there are dozens of photographs and articles involving Phillips available online, as he regularly seeks out the media and publicity.

111. In 2012, Phillips was featured in a Skrillex video for a song called "Make it Bun Dem," which depicts activism and violence against a police officer, including Phillips wielding a shotgun while staring down a police officer. See <https://www.youtube.com/watch?v=BGpzGu9Yp6Y&fbclid=IwARo3qui2DycCtozD4yw>

[LoyAMf6kUqp2ZkxEDWDA1ezWfKlt59Q8QgOYgTA](#) (last visited Feb. 7, 2020). This video has in excess of 430 million views.

112. Also in 2012, Phillips was the subject of a documentary titled “Between Earth and Sky.” See, e.g., <https://www.imdb.com/title/tt2508074/> (“The story of a Native American family’s struggle against cancer and cultural extinction takes an unexpected turn as money becomes more and more important.”) (last visited Feb. 26, 2020).

113. From November 2016 to February 2017, Phillips lived at a camp in North Dakota near Standing Rock Indian Reservation to protest the Dakota Access Pipeline project that was revived by President Trump shortly after he was elected.

114. That protest was ended when the governor of North Dakota ordered the evacuation of the camps, and 200 law enforcement officers in full riot gear forcibly removed those protestors who refused to leave willingly. Phillips left just ahead of the deadline—after his group started fires that resulted in injuries to protestors.

115. Phillips’ daughter initially left the camp ahead of the deadline, but then she returned to the camp to be one of the last protestors to be forcibly removed. As she went back into the camp, Phillips sang the AIM song as a rally cry in her support against the authorities—the same song that he sang during the January 18 Incident.

116. On April 27, 2017, Phillips protested regarding various environmental issues, including the Dakota Access Pipeline, by beating his drum and singing on the steps of the Trump International Hotel in Washington, D.C.:



: Native Youth Alliance Executive Director Nathan Phillips of Omaha Tribe in Nebraska beats a drum on the steps in front of the Trump International Hotel during a protest April 27, 2017 in Washington, DC. Organized by The Indigenous Environmental Network, the protesters gathered in front of the hotel that bears the name of U.S. President Donald Trump to rally against the Dakota Access Pipeline, the XL Pipeline and other projects and programs that they say damages the environment. (Photo by Chip Somodevilla/Getty Images)

117. Phillips, along with his group Native Youth Alliance, participated in numerous marches and protests in Washington, D.C. and New York City throughout 2017 and 2018, including the Native Nations Rise March on Washington; divestment actions in New York City where they camped outside a Wells Fargo bank branch and then marched to City Hall; the Peoples' Climate March in Seattle; and the United Nations Permanent Forum on Indigenous Issues. See, e.g., <https://www.vogue.com/projects/13542941/return-to-standing-rock/> (last visited Feb. 26, 2020).

118. On January 13, 2019, just five (5) days before the January 18 Incident, Phillips live-streamed on Facebook and said, among other things, that “[w]e need

universal healthcare for everybody in America. We could do it, we could feed everybody in America, but yet they want to build a wall, and they want to divide people. . . .” See <https://www.facebook.com/NativeYouthAlliance/videos/2262929833751375/> (last visited Feb. 26, 2020).

119. Shortly after the January 18 Incident, Phillips appeared at a “Fake Trump Emergency” protest at the White House on February 18, during which he announced to the crowd that “[w]e need to build up this country instead of building a wall.” See <https://www.facebook.com/moveon/videos/vb.7292655492/324827541476931/?type=2&theater> (last visited Feb. 7, 2020).

Protest at Washington D.C. Catholic Church

120. ABC should have known by the evening of January 19, 2019, that Phillips was using the January 18 Incident for his own benefit and political motives.

121. Phillips’ activism in Washington, D.C. continued the following day, January 19, 2019, when Phillips led a group of protestors in a rally at the Basilica of the National Shrine of the Immaculate Conception in Washington, D.C. around 5:00 pm. See, e.g., “Nathan Phillips and Other Protestors Storm DC Basilica, Demand Punishment For Covington Boys,” Daily Caller, Jan. 24, 2019, *avail. at* <https://dailycaller.com/2019/01/23/nathan-phillips-protesters-storm-basilica-covington/> (last visited Feb. 7, 2020).

122. The protestors, who were playing drums and chanting, attempted to enter the Basilica during Mass but were rebuffed by security guards.

123. Security guards were forced to lock the doors of the Basilica with the congregation still inside to prevent Phillips' group from entering the Basilica and disrupting Mass.

124. During the protest at the Basilica, Phillips read a statement saying that "[w]e demand that the students of Covington Catholic High School be reprimanded not just by the school officials but, as seniors, by their upcoming universities."

125. Phillips also made demands from the Catholic Church, asking that it "hold itself responsible for the . . . hundred-plus years of genocide that indigenous peoples have endured and endure persistently."

126. As part of their demonstration outside the Basilica, the protestors reportedly performed the AIM song, the same one that Phillips sang during the January 18 Incident.

Stolen Valor

127. ABC falsely reported that Phillips was a Vietnam veteran in an attempt to bolster outrage at his purported mistreatment.

128. Phillips previously stated unequivocally in a video posted to Facebook on January 3, 2018, that "I'm a Vietnam vet . . . I got honorable discharge, and one of the boxes in there . . . shows whether it is peacetime or what my box says is that I was 'in theater.'"

See

<https://www.facebook.com/NativeYouthAlliance/videos/1552014181500389/> (Jan. 3, 2018) (Phillips live-streaming: "I got a Section 8 home because I'm a veteran, a wartime veteran like that, honorable, 'in theater.'") (last visited Feb. 7, 2020); <https://www.facebook.com/NativeYouthAlliance/videos/1713504705351335> (May 18,

2018) (Phillips live-streaming: “Myself, I’m a Vietnam veteran, uh times like that, you know. My DD-214, my discharge paper, says um, says uh ‘honorable discharge,’ um and it says uh ‘in theater’....”) (last visited Feb. 7, 2020); <https://www.facebook.com/NativeYouthAlliance/videos/1369302426544046/> (Dec. 17, 2018) (Phillips live-streaming: “some of my supporters who come to support me as a veteran, you know, Vietnam times, honorably discharged, ‘in theater,’ that’s what my DD-214 says” and “I was gifted a place to stay because of my Vietnam times”) (last visited Feb. 7, 2020).

129. However, it was quickly discovered and exposed that Phillips had lied about his service, that he did not serve in Vietnam, that he was “discharged” instead of “honorably discharged,” that he had been AWOL at least three times, and that he had never even been deployed outside of the United States. *See, e.g.,* <https://www.theblaze.com/news/nathan-phillips-awol-criminal-record>, Jan. 24, 2019 (last visited Feb. 7, 2020).

130. Unlike most media organizations who reported on the January 18 Incident, ABC never issued a retraction or statement clarifying that Phillips is not a Vietnam veteran.

Previous Unsubstantiated Claim of Harassment

131. The January 18 Incident is not the first time that Phillips claimed to have been taunted and harassed by a group of white students.

132. In April 2015, Phillips claimed that he was harassed by a group of students at Eastern Michigan University. *See* “Native American claims racial harassment by EMU students dressed as indians [sic],” Fox 2 Detroit, Apr. 22, 2015, *avail. at*

<http://www.fox2detroit.com/news/native-american-claims-racial-harassment-by-emu-students-dressed-as-indians> (last visited Feb. 26, 2020).

133. Phillips asserted that he walked over to a yard where a theme party was being held at which 30-40 students were dressed as Hurons, the former EMU mascot, and that when he asked what they were doing, they said that they were honoring him.

134. Much like his statement in response to the January 18 Incident, Phillips said in an interview in 2015 that after he walked over to the fence and told the students they were being racist, “it really got ugly.” *Id.*

135. Although Phillips called the police to report the EMU students, he said that by the time the police arrived, “it was like there was no party there at all.”

136. Phillips said that “there’s a lot of hate behind that” and called on school authorities to investigate and punish the students: “Whoever would sit judgment on them, the university, the law, you know, society, that is their job. . . .” *Id.*

137. In a different interview, Phillips said that the students told him that they were “doing a ceremony to impregnate women.” See “College students in ‘red face’ mock native elder, claim racist party is ceremony to ‘impregnate women,’” Raw Story, Apr. 19, 2015, *avail. at* <https://www.rawstory.com/2015/04/college-students-in-red-face-mock-native-elder-claim-racist-party-is-ceremony-to-impregnate-women/> (last visited Feb. 7, 2020).

138. In another interview, Phillips claimed that the party-goers “began charging the fence,” which is reportedly why he called the police. See “University Party in MI Reveals Unsafe Climate For Native American Students,” Indian Country Today, Apr. 25, 2015, *avail. at* <https://newsmaven.io/indiancountrytoday/archive/university-party-in->

[mi-reveals-unsafe-climate-for-native-american-students-FBGkN1DHYky5iAUol88lUQ/](https://www.detroitnews.com/story/news/local/michigan/2015/06/16/eastern-michigan-university-hurons-logo/28797179/)

(last visited Feb. 26, 2020).

139. Much like the political climate surrounding the January 18 Incident, the political climate in Ypsilanti at the time of the alleged taunting and harassment in 2015 was already racially charged with debates over a partial reinstatement of the former EMU mascot, the Huron, a Native American logo.

140. Fueled in part by Phillips' claim of harassment, protestors held press conferences and demonstrations at the school, objecting to any use of the mascot. *See, e.g.,* "Native Americans rally against Hurons logo at EMU," Detroit News, June 16, 2015, *avail.* *at*

<https://www.detroitnews.com/story/news/local/michigan/2015/06/16/eastern-michigan-university-hurons-logo/28797179/> (last visited Feb. 26, 2020).

141. Phillips attended one of the on-campus rallies, giving an interview to MLive, and playing his drum. *See* "Drum-Banging Indian Nathan Phillips Was in the News 4 Years Ago, Telling an Eerily Similar Story," The Western Journal, Jan. 21, 2019, *avail. at* <https://www.westernjournal.com/ct/drum-banging-indian-nathan-phillips-news-4-years-ago-telling-eerily-similar-story/> (last visited Feb. 26, 2020).

142. There was never any identification of the students who allegedly taunted Phillips in that instance, and there is no available record that any type of disciplinary actions were taken by the university or the police.

Criminal Activities

143. Unlike Nicholas, Phillips actually has a criminal background involving violence and assault, which should have led ABC to question the truthfulness and

accuracy of Phillips' claims that he was "blocked" by Nicholas or that he was frightened by the high school student.

144. Phillips has admitted to violence, proudly and laughingly stating that he "beat up" the boyfriend of a "little blonde-hair, blue-eyed hippie girl" who spit on him. *See*

<https://www.facebook.com/NativeYouthAlliance/videos/326861671434840/?t=4351>

(Oct. 29, 2018) (last visited Feb. 26, 2020).

145. Phillips also has reportedly been charged with, arrested for, and/or convicted of numerous crimes, including escaping from prison, assault, and various alcohol-related crimes. *See, e.g.,* <https://www.washingtonexaminer.com/politics/native-american-activist-nathan-phillips-has-violent-criminal-record-and-escaped-from-jail-as-teenager> (last visited Feb. 26, 2020).

Inconsistent Statements

146. Phillips is known to have given at least nine interviews to mainstream media following the January 18 Incident, including *Detroit Free Press*, *The Washington Post*, *CNN*, *NBCUniversal*, *The Associated Press*, *MSNBC*, *ABC*, *CBS*, *NBC*, and *DemocracyNow!*.

147. The accusations of Phillips as published by ABC are remarkable in their inconsistency with each other because Phillips' factual retelling of the January 18 Incident changed with each passing day.

148. According to the first *Washington Post* print article, Phillips stated that the students "suddenly swarmed around him as he and other activists were wrapping up the march."

149. According to *The Associated Press*, Phillips changed his story to say that “he felt compelled to get between two groups with his ceremonial drum to defuse a confrontation.”

150. According to *DemocracyNow!*, Phillips stated that “I wasn’t focusing on anybody except taking the youth out of there, the Indigenous youth that was with me, out of that situation, and that’s when Mr. Sandmann stood in front of me and blocked my path.”

151. According to the *Washington Post*, Phillips stated that it “was getting ugly” and he needed to find “an exit out” of there, but Nicholas “blocked [his] way and wouldn’t allow me to retreat.”

152. According to NBC, Phillips stated that “I was blocked” because “we couldn’t go right. We couldn’t go left, back.”

153. But according to another *Washington Post* print article, Phillips queried “why should I go around him?”

154. Contrary to Phillips’ public claims that the students yelled “build that wall,” “go back to Africa,” and “go back to the reservation,” and that Phillips has seen video in which you can hear the students shouting “build that wall,” no video evidence exists substantiating these accusations.

155. Contrary to Phillips’ claim to *DemocracyNow!* that the students left because they were “running from the police,” the video evidence and statements of witnesses demonstrate that the students left to catch their buses, and Phillips then turned away from the top of the stairs and celebrated his perceived “win” with his companions.

156. The fact that Phillips changed his story within the first day after the events were reported should have put ABC on further notice that Phillips was not a reliable or trustworthy witness.

157. Phillips told his narrative as though it were a factual recitation of events, and that is how ABC reported it.

158. Even a cursory review of Phillips' past would have raised serious concerns among objective journalists as to his reliability and credibility as a source for describing the January 18 Incident and would have revealed that Phillips was a liar and an agenda-driven activist.

THE ABC COVERAGE

159. ABC was among the first members of the broadcast and online mainstream media to assassinate Nicholas' character and reputation.

160. To the extent the January 18 Incident was newsworthy at all, it was not "hot news" or "breaking news."

161. ABC did not investigate the January 18 Incident prior to publishing its False and Defamatory Publications.

162. ABC ignored all ethical standards of journalism, especially concerning the heightened duty of care when reporting on matters concerning minors.

163. To the date of the filing of this Complaint, ABC has never issued a formal retraction, correction, or an apology to Nicholas, despite a written demand from Nicholas that ABC do so.

EXPRESSIONS OF HATRED AND SCORN BY THE PUBLIC

164. Within hours after ABC published its False and Defamatory Publications, Nicholas became the subject of overwhelming public hatred, contempt, disgrace and scorn from the public.

165. ABC, whose coverage emphasized that Nicholas blocked Phillips' retreat, contributed to the rampant cyber-assault and cyber-bullying suffered by Nicholas in the aftermath of its reporting, which was also undertaken in mass by the mob of other bullies made up of other members of the mainstream media, individuals on Twitter, church officials, celebrities, and politicians.

166. It is well-known, and it was well-known at the time ABC published its False and Defamatory Publications, that many people consider the phrase "Make America Great Again"—and particularly wearing a MAGA hat—to be the equivalent of a racist statement. *See, e.g.*, "Are Trump's Make America Great Again hats patriotic or racist?" Detroit Free Press, Jan. 24, 2019, *avail. at* <https://www.freep.com/story/news/local/michigan/2019/01/24/maga-hats-racism-donald-trump/2659479002/> (last visited Feb. 7, 2020) ("Many, including actress and activist Alyssa Milano, now are calling the baseball caps the modern-day white hoods of the Ku Klux Klan, representing a white nationalist ideology pushed by the president.").

167. It also is well-known, and it was well-known at the time ABC published its False and Defamatory Publications, that many people consider chanting "Build the wall!" to be racist. *See, e.g.*, "Trump's Wall of Shame," The New York Times, Jan. 24, 2019, *avail. at* <https://www.nytimes.com/2019/01/24/opinion/trump-wall-shutdown.html> (last visited Feb. 7, 2020) ("Whether praised by its supporters or condemned by its opponents, the wall is a stand-in for the larger promise of broad racial (and religious)

exclusion and domination. It's no surprise, then, that some Americans use 'Build the wall' as a racist chant. . . . In fact, you can almost think of the wall as a modern-day Confederate monument. . . ."); "Trump Never Actually Believed in the Wall," New York Magazine, Jan. 10, 2019, *avail. at* <http://nymag.com/intelligencer/2019/01/trump-never-believed.html> (last visited Feb. 7, 2020) ("'Build the wall!' chants whipped [Trump's] nativist base into a frenzy when he was a candidate . . . as both rallying cry and racist taunt.").

168. In fact, the understanding that "Build the wall!" is racist is so widespread that chanting that phrase has been used as the basis for termination of employees and disciplining of students. *See, e.g.*, "A School Employee Was Removed From Campus After Shouting 'Build the Wall' at Striking Los Angeles Teachers," Jan. 17, 2019, <https://www.buzzfeednews.com/article/briannasacks/los-angeles-teachers-strike-employee-build-wall> (last visited Feb. 26, 2020).

169. The false accusation that Nicholas and his classmates were chanting "Build the wall!" at Native Americans during and/or following an Indigenous Peoples March provided additional context to the false and defamatory factual narrative published by ABC, from which a reasonable reader would undoubtedly conclude that they were being accused of racist conduct.

170. This is particularly true given the furor just days earlier regarding a tweet on January 13, 2019, by the President in which he referred to Elizabeth Warren as "Pocahontas" and referenced the Wounded Knee massacre of Native Americans. *See, e.g.*, "Trump invokes one of the worst Native American massacres to mock Elizabeth Warren," The Washington Post, Jan. 14, 2019, *avail. at* <https://www.washingtonpost.com/nation/2019/01/14/trump-invokes-one-worst-native-american-massacres-mock-elizabeth-warren/> (last visited Feb. 26, 2020); "Native

Americans Slam Trump For Racist ‘Wounded Knee’ Dig At Sen. Elizabeth Warren,” HuffPost, Jan. 14, 2019, *avail. at* https://www.huffpost.com/entry/native-americans-trump-wounded-knee-elizabeth-warren_n_5c3d4086e4boe0baf540636f (last visited Feb. 26, 2020).

171. Phillips, who told numerous news outlets that Nicholas and his classmates had chanted “Build the wall!” obviously considered the chant to be offensive.

172. If chanting “Build the wall!” was not considered to be a racist chant, which added additional context to the false narrative, ABC would have had no reason to report it.

173. Similarly, if wearing a MAGA hat was not considered by some to be racist, there would have been no reason for ABC to include that detail so prominently in its False and Defamatory Publications.

PARTIES, JURISDICTION, AND VENUE

174. Nicholas Sandmann and his parents are citizens of Kentucky.

175. Nicholas Sandmann and his parents reside in Kenton County, Kentucky.

176. Nicholas is a 17-year-old 12th grade student who attends CovCath, an all-male Catholic high school in Park Hills, Kentucky. At the time of the January 18 Incident and relevant ABC reporting, Nicholas was 16 years old and was an 11th grade student.

177. Defendant ABC News, Inc. is a foreign corporation existing under the laws of the State of Delaware with its principal place of business being located at 47 West 66th Street, New York, New York 10023. Defendant ABC News, Inc., may be served by delivery of a copy of the summons and complaint to its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

178. Defendant ABC News, Inc. is a citizen of the State of Delaware and the State of New York.

179. Defendant ABC News Interactive, Inc. is a foreign corporation existing under the laws of the State of Delaware with its principal place of business being located at 47 West 66th Street, New York, New York 10023. Defendant ABC News Interactive, Inc. may be served by delivery of a copy of the summons and complaint to its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

180. Defendant ABC News Interactive, Inc. is a citizen of the State of Delaware and the State of New York.

181. Defendant The Walt Disney Company is a foreign corporation existing under the laws of the State of Delaware with its principal place of business being located at 500 South Buena Vista Street, Burbank, California 91521. Defendant The Walt Disney Company may be served by delivery of a copy of the summons and complaint to its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

182. Defendant The Walt Disney Company is a citizen of the State of Delaware and the State of California.

183. There exists complete diversity of citizenship between Plaintiff and ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company.

184. The amount in controversy greatly exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interests, costs, and attorneys' fees, as required to sustain subject-matter jurisdiction in this Court.

185. This Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a).

186. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company transact business in the State of Kentucky, including through the distribution of their content through cable television and the Internet.

187. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company committed the tortious acts identified herein in the State of Kentucky.

188. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company published the False and Defamatory Publications identified herein in the State of Kentucky.

189. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company have intentionally sought and obtained benefits from its tortious acts in the State of Kentucky.

190. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company directed their conduct at Nicholas, a citizen of Kentucky.

191. There is a reasonable and direct nexus between ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company's tortious conduct in Kentucky and the harm suffered by Nicholas in Kentucky and beyond.

192. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company's conduct had a Kentucky focus because it reported on the purported actions of Kentucky high school students who attend CovCath in Northern Kentucky.

193. ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company are subject to the jurisdiction of this Court pursuant to KRS § 454.210.

194. Nicholas suffered substantial and perpetual reputational and emotional harm in this District.

195. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because ABC News, Inc., ABC News Interactive, Inc., and The Walt Disney Company are subject to personal jurisdiction in this District and/or a substantial part of the events giving rise to this claim occurred in this District, including publication and injury.

CAUSE OF ACTION FOR DEFAMATION

196. Nicholas reasserts and incorporates by reference the foregoing paragraphs of this Complaint as if fully restated herein.

197. ABC published to third parties without privilege at least sixteen (16) online articles covering the January 18 Incident, four (4) of which are the subject of this action. ABC also published several broadcasts concerning the January 18 Incident, which were embedded into its False and Defamatory Publications.

198. ABC's four (4) false and defamatory publications about Nicholas are collectively referred to herein as the "False and Defamatory Publications."

199. In its False and Defamatory Publications, ABC repeatedly referenced, embedded and displayed a short clip from the Taitano Videos (the "2020fight Video" or "Viral Video"), which featured Nicholas prominently by publication of his face.

200. The False and Defamatory Publications conveyed in context that Nicholas, among other things, engaged in racist misconduct.

201. ABC negligently and with reckless disregard of the truth relied on the false and incomplete Viral Video and Phillips' manufactured lies, which gave its readers a false and incomplete factual basis about what occurred at the January 18 Incident.

202. ABC published imputations of specific conduct, such as that Nicholas “blocked” Phillips’ “retreat,” which are words that have factual connotations that can be proven either true or false.

ABC’S FIRST ONLINE ARTICLE

203. On January 20, 2019, ABC published an article via its website abcnews.com under the headline, “Viral Video of Catholic School Teens in ‘MAGA’ Caps Taunting Native Americans Draws Widespread Condemnation; Prompts School Investigation” (the “First Online Article”). The First Online Article is still publicly available online and can be viewed by the Court at

<https://abcnews.go.com/US/viral-video-catholic-school-teens-taunting-native-americans/story?id=60498772> (last accessed Feb. 29, 2020). See ***Exhibit G***.

204. The First Online Article prominently republished and embedded ABC’s Good Morning America broadcast, which republished the Viral Video that depicts Nicholas by prominent publication of his face:



VIDEO

LIVE

SHOWS

2020 ELECTIONS

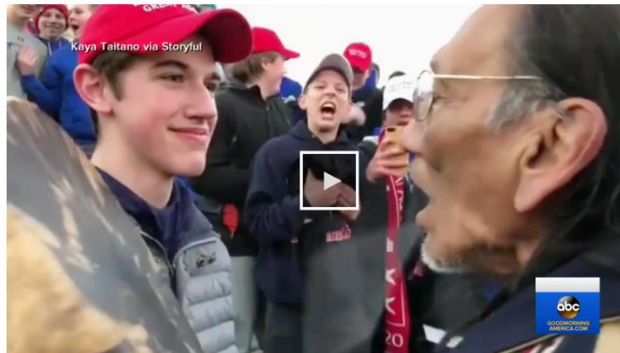


Viral video of Catholic school teens in 'MAGA' caps taunting Native Americans draws widespread condemnation; prompts a school investigation

A series of viral videos is sparking outrage across the political spectrum.

By **Chris Francescani** and **Bill Hutchinson**

January 20, 2019, 9:49 PM • 14 min read



Outrage over viral video of encounter between teens and Native Americans

The video shows an encounter between teens wearing "Make America Great Again" hats and a Native American veteran.

Outrage spread across the political spectrum over the weekend after dozens of teens, many from an all-male Kentucky Catholic school and some wearing bright red "Make America Great Again" [baseball caps](#), appeared to

205. The First Online Article is about Nicholas because it emphasizes his individual and singular involvement by:

- (a) specifically identifying Nicholas by his name several times in the article;
- (b) specifically identifying, referencing, and embedding the Viral Video which, along with its cover image, prominently displays Nicholas' face; and
- (c) other descriptive circumstances such as "[the Viral Video] shows a young man in a red "MAGA" hat, later identified as Nick Sandmann...."

206. Nicholas' friends and acquaintances reasonably understood the First Online Article to be about Nicholas specifically.

207. In its First Online Article, ABC published or republished the following false and defamatory factual narrative from documented liar Nathan Phillips:

In a separate interview with the Washington Post, Phillips said that the dozens of teens began to swarm around his group as they concluded their march and were getting ready to leave. "It was getting ugly," he told the newspaper. "I started going that way, and that guy in the hat stood in my way and we were at an impasse. He just blocked my way and wouldn't allow me to retreat."

208. This statement from Phillips is unequivocally and provably false because Nicholas did not commit any conduct that could reasonably be construed as blocking Phillips' retreat.

209. The First Online Article accuses Nicholas of menacingly shouting "Build that wall, build that wall." This accusation is false because Nicholas never shouted that statement.

210. In its First Online Article, ABC paints the false picture that it was Nicholas and the CovCath students who first approached Phillips and the other Native Americans. ABC claimed that the interaction was "viscerally distressing." ABC further claimed that the viral video purportedly showing the confrontation was "jarring."

211. These statements and the gist of the First Online Article convey a defamatory meaning because they impute to Nicholas racist conduct, including:

- (a) aggression constituting an intent-to-intimidate assault against Phillips, a Native American elder and veteran;
- (b) menacing racial intimidation of Phillips; and
- (c) a hate crime for interfering with a Native American prayer and song ceremony at the National Mall during the Indigenous Peoples March.

212. ABC published First Online Article negligently and with actual malice, in purposeful avoidance of the truth.

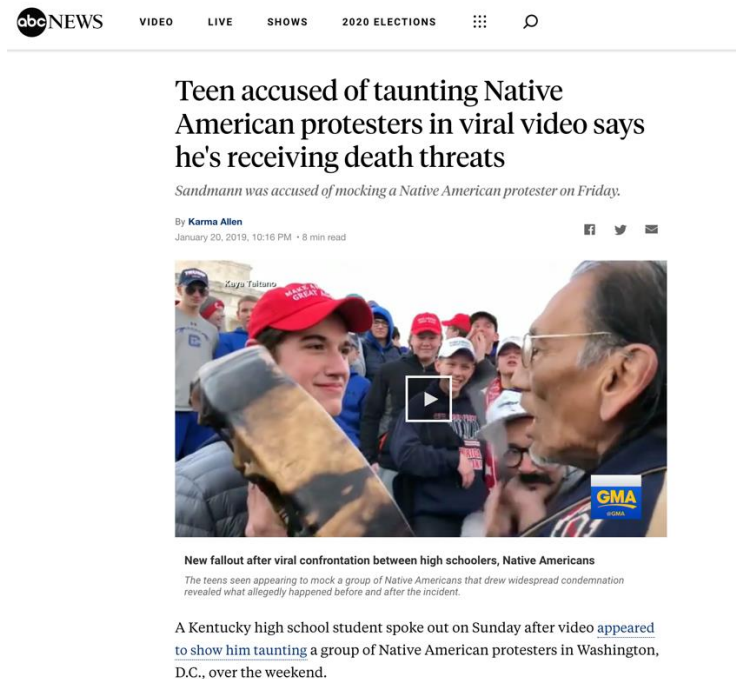
213. ABC's First Online Article was unprivileged.

214. ABC's First Online Article is defamatory per se.

ABC'S SECOND ONLINE ARTICLE

215. On January 20, 2019, ABC published an article via its website abcnews.com under the headline, "Teen Accused of Taunting Native American Protestors in Viral Video Says He's Receiving Death Threats." The Second Online Article is still publicly available online and can be viewed by the Court at <https://abcnews.go.com/US/teen-accused-taunting-native-american-protesters-breaks-silence/story?id=60512874> (last accessed Feb. 29, 2020). See **Exhibit H**.

216. The Second Online Article prominently republished and embedded another Good Morning America broadcast, which republished the Viral Video that depicts Nicholas by prominent publication of his face:



217. The Second Online Article is about Nicholas because it emphasizes his individual and singular involvement by:

- (a) specifically identifying him by name several times within the article;
- (b) specifically identifying and embedding the Viral Video which, along with its cover image, prominently displays Nicholas' face;
- (c) republishing the other descriptive circumstances identifying Nicholas.

218. The Second Online Article published or republished the following false and defamatory statement from documented liar Phillips:

"It was getting ugly," [Phillips] said, describing his confrontation with Sandmann, who was wearing a red "Make America Great Again" hat at the time. "I started going that way, and that guy in the hat stood in my way and we were at an impasse. He just blocked my way and wouldn't allow me to retreat."

219. This statement from Phillips is unequivocally and provably false because Nicholas did not commit any conduct that could reasonably be construed as blocking Phillips' retreat.

220. The Second Online Article accuses Nicholas of menacingly shouting "Build that wall, build that wall." This accusation is false because Nicholas never shouted that statement.

221. These statements and the gist of the Second Online Article convey a defamatory meaning because they impute to Nicholas racist conduct, including:

- (a) aggression constituting an intent-to-intimidate assault against Phillips, a Native American elder and veteran;
- (b) menacing racial intimidation of Phillips; and

(c) a hate crime for interfering with a Native American prayer and song ceremony at the National Mall during the Indigenous Peoples March.

222. ABC published its Second Online Article negligently and with actual malice, in purposeful avoidance of the truth.

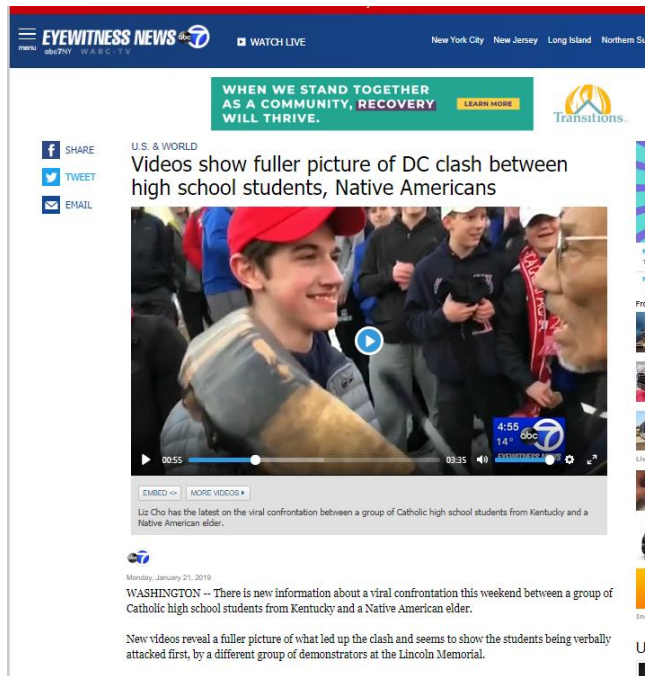
223. ABC's Second Online Article was unprivileged.

224. ABC's Second Online Article is defamatory per se.

ABC'S THIRD ONLINE ARTICLE

225. On January 21, 2019, ABC published an article via its website abc7ny.com under the headline, "Videos Show Fuller Picture of DC Clash Between High School Students, Native Americans." The Third Online Article is still publicly available online and can be viewed by the Court at <https://abc7ny.com/5099681/> (last accessed Feb. 29, 2020). See **Exhibit I**.

226. The Third Online Article prominently republished and embedded a broadcast from ABC 7 Eyewitness News, which republished the Viral Video that depicts Nicholas by prominent publication of his face atop the article:



227. The Third Online Article is about Nicholas because it emphasizes his individual and singular involvement by:

- (a) specifically identifying him by name several times within the article;
- (b) specifically identifying and embedding the Viral Video which, along with its cover image, prominently displays Nicholas' face;
- (c) republishing the other descriptive circumstances identifying Nicholas.

228. The Third Online Article published or republished the following false and defamatory statement from documented liar Phillips:

Phillips said he heard people chanting "Build that wall" or yelling, "Go back to the reservation." At one point, he said, he sought to ascend to the Lincoln statue and "pray for our country." Some students backed off, but one student wouldn't let him move, he added.

"They were making remarks to each other ... (such as) 'In my state those Indians are nothing but a bunch of drunks.' How do I report that?" Phillips said. "These young people were just roughshodding through our space, like what's been going on for 500 years here - just walking through our territories, feeling like 'this is ours.'"

229. These assertions are unequivocally and provably false because Nicholas did not commit any conduct that could reasonably be construed as restricting Phillips' free movement or shouting "Build that wall."

230. These statements and the gist of the Third Online Article convey a defamatory meaning because they impute to Nicholas racist conduct, including:

- (a) aggression constituting an intent-to-intimidate assault against Phillips, a Native American elder and veteran;
- (b) menacing racial intimidation of Phillips; and
- (c) a hate crime for interfering with a Native American prayer and song ceremony at the National Mall during the Indigenous Peoples March.

231. The false and defamatory statement identified, above, from the Third Online Article was republished by numerous ABC affiliates from around the country. *E.g.*, ABC Philadelphia, <https://6abc.com/politics/boys-in-maga-hats-mock-indigenous-elder-in-dc-video/5097427/> ("one student wouldn't let [Phillips] move"), <https://6abc.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same); ABC San Francisco, <https://abc7news.com/politics/boys-in-maga-hats-mock-indigenous-elder-in-dc-video/5097427/> (same), <https://abc7news.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same); ABC Houston, <https://abc13.com/politics/boys-in-maga-hats-mock-indigenous-elder-in-dc-video/5097427/> (same); <https://abc13.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same); ABC Raleigh, <https://abc13.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same).

<https://abc11.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same); ABC Fresno, <https://abc30.com/politics/boys-in-maga-hats-mock-indigenous-elder-in-dc-video/5097427/> (same), <https://abc30.com/politics/videos-show-fuller-picture-of-dc-clash-involving-students/5099681/> (same).

232. ABC published its Third Online Article negligently and with actual malice, in purposeful avoidance of the truth.

233. ABC's Third Online Article was unprivileged.

234. ABC's Third Online Article is defamatory per se.

ABC'S FOURTH ONLINE ARTICLE

235. On January 20, 2019, ABC published an article via its website abc7ny.com under the headline, "Students in 'MAGA' Hats Taunt Indigenous Elder, Demonstrators in Washington: VIDEO." The Fourth Online Article is still publicly available online and can be viewed by the Court at <https://abc7chicago.com/5097427/> (last accessed Feb. 29, 2020). See *Exhibit J*.

236. The Forth Online Article prominently republished and embedded the Viral Video that depicts Nicholas by prominent publication of his face atop the article:



237. The Fourth Online Article is about Nicholas because it emphasizes his individual and singular involvement by:

- (a) specifically identifying him by name several times within the article;
- (b) specifically identifying and embedding the Viral Video which, along with its cover image, prominently displays Nicholas' face;
- (c) republishing the other descriptive circumstances identifying Nicholas.

238. The Fourth Online Article published or republished the following false and defamatory statement from documented liar Phillips:

During the incident, Phillips said he heard people chanting "Build that wall" or yelling, "Go back to the reservation." At one point, he said, he sought to ascend to the Lincoln statue and "pray for our country." Some students backed off, but one student wouldn't let him move, he added.

239. These assertions are unequivocally and provably false because Nicholas did not commit any conduct that could reasonably be construed as restricting Phillips' free movement or shouting "Build that wall."

240. These statements and the gist of the Fourth Online Article convey a defamatory meaning because it imputes to Nicholas racist conduct, including:

- (a) aggression constituting an intent-to-intimidate assault against Phillips, a Native American elder and veteran;
- (b) menacing racial intimidation of Phillips; and
- (c) a hate crime for interfering with a Native American prayer and song ceremony at the National Mall during the Indigenous Peoples March.

241. In a practical demonstration that the gists contained in ABC's Fourth Online Article were capable of a defamatory meaning, at the bottom of the Fourth Online Article, ABC noted that some of the "Related Topics" of the January 18 Incident were "bullying" and "Native American."

242. ABC published its Fourth Online Article negligently and with actual malice, in purposeful avoidance of the truth.

243. ABC's Fourth Online Article was unprivileged.

244. ABC's Fourth Online Article is defamatory per se.

NICHOLAS IS A PRIVATE FIGURE

245. Nicholas is a private figure for the purposes of this defamation action, having lived his entire life outside of the public eye.

246. Prior to the January 18 Incident, Nicholas had no notoriety of any kind in the community at large.

247. Nicholas did not, by any voluntary act, involve himself in any particular and identifiable public controversy.

248. Nicholas did not involve himself publicly to the extent that he either assumed a role of public prominence or was in a position to influence others or the outcome of any identifiable public controversy.

249. Nicholas has never enjoyed regular and continuing access to the media.

250. Nicholas made no public appearances prior to the initial false accusations against him arising from the January 18 Incident.

251. Following the January 18 Incident, Nicholas issued only one public statement and gave one interview.

252. Nicholas' limited public statements were reasonable, proportionate, and in direct response to the false accusations against him and do not render Nicholas a limited purpose public figure with respect to the False and Defamatory Publications or any of ABC's reporting.

ABC PUBLISHED NEGLIGENTLY AND MALICIOUSLY

253. ABC published its False and Defamatory Publications negligently and with actual knowledge of falsity or a reckless disregard for the truth.

254. As one of the world's leading news outlets, ABC knew but ignored the importance of verifying damaging and, in this case, incendiary accusations against a minor child prior to publication.

255. ABC recklessly rushed to publish its False and Defamatory Publications in order to advance its own political agenda and possibly other agendas to be discovered in the course of this litigation, and to create a false narrative in which it framed the January 18 Incident as being part of a rising trend in racial animosity, spawned by President Trump, toward Native Americans and others.

256. The negligence and actual malice of ABC is demonstrated by its utter and knowing disregard of the truth contained in the complete video of the January 18 Incident (the Banyamyan Video), which was available online as early as January 18, 2020, contemporaneously with the selectively-edited and highly misleading video clip it actually relied on when reporting its False and Defamatory Publications.

257. ABC's False and Defamatory Publications failed to provide a reader with a complete picture of the January 18 Incident and instead gave Phillips a megaphone from which to spread his false factual narrative of the encounter.

ABC Published Negligently

258. ABC negligently published its False and Defamatory Publications by failing to conduct a reasonable investigation prior to publication.

259. ABC negligently published its False and Defamatory Publications by relying on unreliable and biased sources with questionable credibility.

260. ABC knew, or certainly could have discovered with a simple and instantaneous Google search, that Phillips has a history of activism, opposition to President Trump and his policies, and criminal activity such that it was not reasonable for ABC to publish Phillips' statements without some minimal level of corroboration and additional investigation. Indeed, ABC relied primarily upon interviews with Phillips and other participants and organizers in the Indigenous People March who had biased pre-dispositions.

261. ABC negligently failed to consult publicly available information demonstrating the charge of its False and Defamatory Publications to be false, including, without limitation, other video evidence available online demonstrating that Phillips

specifically approached the students and specifically confronted Nicholas, and that Nicholas did not engage in surrounding, blocking, or otherwise physically intimidating Phillips or anyone else present.

262. ABC negligently failed to seek information from other obvious sources who were present at the January 18 Incident and would have demonstrated the charge of its False and Defamatory Publications to be false, including Nicholas, and upon information and belief, his classmates, and/or the chaperones.

263. ABC negligently published its False and Defamatory Publications despite internal inconsistencies in Phillips' statements, as well as material differences in his statements to other outlets published January 19 and 20.

264. ABC's duty to investigate is heightened where, as here, the January 18 Incident was not breaking news and involved a minor child.

265. Upon information and belief, at the time it published its False and Defamatory Publications, ABC did not know Nicholas' age and did not make any reasonable attempt to ascertain it despite the general knowledge that Nicholas was a high school student and thus a minor.

266. ABC departed from the reasonable standard of care employed by journalists, including those standards articulated by the Society of Professional Journalists' Code of Ethics and its self-prescribed ethical Code by:

- (a) failing to verify each accusation before publication;
- (b) failing to take special care not to misrepresent or oversimplify its coverage;
- (c) failing to use special sensitivity when dealing with children;

- (d) failing to provide accurate context to its False and Defamatory Publications;
- (e) failing to avoid stereotyping;
- (f) failing to examine the way in which its own biases and agenda shaped its false reporting;
- (g) failing to treat Nicholas as a human being deserving of respect;
- (h) wrongfully placing an anti-Trump, anti-Catholic, and anti-pro-life agenda over the harm its False and Defamatory Publications caused to Nicholas.

ABC Published with Actual Malice

267. ABC recklessly published its False and Defamatory Publications by failing to conduct a reasonable investigation prior to publication.

268. ABC recklessly published its False and Defamatory Publications by relying on unreliable and biased sources with questionable credibility.

269. ABC knew, or should have known, that Phillips—a man who was in the Marines, who faced down law enforcement in riot gear, and who has admitted to committing assault—was not actually scared of a teenage boy who did nothing more than stand completely still. Instead, ABC should have investigated the possibility that Phillips was fabricating his description of the entire incident to get publicity and further his activist narrative.

270. Phillips is wholly unreliable and lacks credibility, as shown in part by his false claim to have served in Vietnam while a member of the military, his status as a professional activist with a known bias against President Trump and his supporters, his

documented history of making similar false accusations, his use of the January 18 Incident to promote his own political and personal agenda, the contradictions in his story established in his interviews, and the video evidence that undeniably refutes his narrative.

271. ABC had obvious reasons to doubt the veracity of its purported firsthand source, Nathan Phillips, because he is manifestly biased.

272. ABC knew, or should have known by reviewing contemporaneously available video, that Phillips' account of the January 18 Incident could not be truthful because Nicholas did not do anything that could possibly be described as blocking Phillips retreat from the January 18 Incident. Yet, ABC republished Phillips' description as being factual and true. Indeed, Nicholas did not engage in any of the above conduct whatsoever because he stood perfectly still. Therefore, any other characterization of conduct on his part was necessarily a false statement of fact.

273. ABC consciously elected to ignore this contrary information in favor of its pre-conceived false narrative against President Trump and his supporters.

274. ABC, in purposeful avoidance of the truth, failed to consult publicly available information, available from a simple and instantaneous Google search, demonstrating the charge of its False and Defamatory Publications to be false, including, without limitation, other video evidence available online demonstrating that Phillips specifically approached the students and specifically confronted Nicholas, and that Nicholas did not engage in surrounding, blocking, or otherwise physically intimidating Phillips or anyone else present.

275. Not only was ABC aware that the snippets of video it reviewed and broadcast did not support the charge of its False and Defamatory Publications, ABC knew that the video it reviewed (the Viral Video) was unsourced and obviously incomplete. Despite this

and the knowledge that the January 18 Incident was not “breaking” or “hot news,” ABC published its False and Defamatory Publications against Nicholas without any reasonable investigation.

276. In fact, upon information and belief, prior to the publication of its False and Defamatory Publications, ABC knew that the Black Hebrew Israelites had hurled slurs and taunts at the students, who responded with school cheers, and that Phillips had confronted Nicholas and his classmates. But ABC wholly contradicted this information by publishing Phillips’ false factual narrative.

277. ABC recklessly failed to seek information from other obvious sources who were present at the January 18 Incident and would have demonstrated its False and Defamatory Accusations to be false, including Nicholas, and upon information and belief, his classmates, and/or the chaperones.

278. ABC recklessly published its False and Defamatory Publications despite internal inconsistencies in Phillips’ statements, as well as material differences in his statements to other outlets published on January 19 and 20, 2019.

279. Nicholas’ counsel propounded a written demand for retraction of the False and Defamatory Publications upon ABC on January 24, 2020. A true and correct copy of the retraction demand is attached hereto as ***Exhibit K***.

280. To the date of filing this Complaint, ABC has stood behind its False and Defamatory Publications, long after it had actual knowledge of its falsity. ABC has not retracted its False and Defamatory Publications.

281. ABC’s actual malice is further evidenced by its failure to retract its False and Defamatory Publications.

282. ABC published its False and Defamatory Publications with common law malice because:

- (a) ABC intended to harm Nicholas because he was a Catholic student at the March for Life wearing a MAGA hat, and it consciously ignored the threats of harm that it knew would inevitably ensue from its accusatory coverage in favor of its political agenda;
- (b) ABC failed to retract its False and Defamatory Publications despite the harm and danger it knew would be inflicted upon Nicholas; and
- (c) ABC callously ignored the consequences of its actions upon a minor child.

DAMAGES

283. The publication of the False and Defamatory Publications directly and proximately caused substantial and permanent damage to Nicholas.

284. As a direct and proximate result of its False and Defamatory Publications, ABC created a false reputation for Nicholas, which continues to garner significant public hatred and scorn directed against Nicholas.

285. By imposing a false reputation on Nicholas, the False and Defamatory Publications deprive Nicholas, a minor, of his right to create, through his own acts and words, his unique reputation as an adult and human being.

286. The False and Defamatory Publications are now forever a part of the historical Internet record and will haunt and taint Nicholas for the remainder of his natural life and impugn his reputation for generations to come.

287. The False and Defamatory Publications were republished by third parties and members of the mainstream and social media mob, which was reasonably foreseeable.

288. The False and Defamatory Publications against Nicholas are defamatory per se because they are libelous on their face without resort to additional facts, and subjected Nicholas to public hatred, contempt, scorn, obloquy, and shame.

289. As a direct and proximate result of ABC's publication of its False and Defamatory Publications:

- (a) Nicholas suffered personal physical injury and physical sickness;
- (b) Nicholas suffered permanent, perpetual harm to his reputation;
- (c) Nicholas suffered and will continue to suffer severe emotional and mental distress;
- (d) Nicholas sought and received medical treatment for emotional and mental distress at Cincinnati Children's Hospital and to date has incurred Four Hundred Thirty-Eight Dollars (\$438.00) in out-of-pocket medical expenses, with a probability of additional expenses being incurred in the future; and
- (e) Nicholas is forced to live his life in a constant state of concern over his safety and the safety of his family.

290. ABC published its False and Defamatory Publications with actual malice and common law malice, thereby entitling Nicholas to an award of punitive damages.

291. ABC's conduct was outrageous and willful, demonstrating that entire want of care that raises a conscious indifference to consequences.

292. Nicholas is entitled to an award of punitive damages to punish ABC and to deter it from repeating such egregiously unlawful misconduct in the future.

WHEREFORE, Nicholas respectfully prays:

(a) That judgment be entered against ABC for substantial compensatory damages in an amount not less than Twenty Million Dollars (\$20,000,000.00);

(b) That judgment be entered against ABC for punitive damages in an amount not less than Seventy-Five Million Dollars (\$75,000,000.00);

(c) That Nicholas recover his reasonable attorneys' fees and expenses from ABC;

(d) Trial by jury on all issues so triable;

(e) That all costs of this action be taxed to ABC; and

(f) That the Court grant all such other and further relief that the Court deems just and proper, including equitable relief.

Respectfully submitted this 2nd day of March, 2020.

L. LIN WOOD, P.C.

/s/ L. Lin Wood

L. Lin Wood (will seek admission *pro hac vice*)

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