

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONSORTIUM FOR INDEPENDENT
NEWS, INC.,

Docket No:

Plaintiff,

v.

NewsGuard TECHNOLOGIES, INC.,

Defendant.

COMPLAINT

Plaintiff by its attorney, Bruce I. Afran, as and for its complaint against defendant asserts as follows:

PRELIMINARY STATEMENT

This Complaint asserts that NewsGuard Technologies has defamed and slandered Consortium News, a non-profit internet news and opinion provider, by attaching false and libelous “brand safety” “labels” to all Consortium News (CN) articles that appear on any NewsGuard’s subscriber’s computer or mobile phone.

NewsGuard, a self-appointed media “safety” company, falsely labels each and every Consortium News article or video production that appears on its subscribers’ computers as purveying “false content”, violating journalistic standards, failing to correct errors and by being an “anti-U.S.” news organization.

NewsGuard attaches an electronic “label” to every CN item **on search engines and social media** that warns NewsGuard subscribers to “Proceed with caution” because Consortium News “fails to maintain basic standards of accuracy and accountability.” Such statements slander and defame Consortium News and are arbitrary, wanton, malicious and reckless, as described in this Complaint.

In actuality, NewsGuard has identified no “false content” but disputes the opinion of five CN commentaries on matters concerning Ukraine and Syria and because of such dispute, NewsGuard has labelled all 20,000-plus CN articles and videos, **while reviewing only five of them**, as purveying “false content” and failing to meet minimum journalistic standards.

These matters are addressed in substance in the Complaint herein.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a non-profit corporation organized under the laws of the State of Virginia that provides original news and commentary and articles by guest writers through its internet-based platform operating under the trade names Consortium News, CN or CN Live! Plaintiff edits and produces its news content in Virginia or Washington, D.C. or at other locations but has no offices in the State of New York.

2. Defendant is a corporation organized under the laws of Delaware with its principal office and place of business in the Southern District of New York at 25 W. 52nd Street, 15th Floor, New York, NY 10019.

3. Jurisdiction is properly predicated on 28 U.S.C. 1332(a)(1) based on the diversity of citizenship of the parties and that the amount in controversy exceeds Seventy-five thousand dollars (\$75,000).

4. Venue is properly in the Southern District of New York based on defendant's principle place of business being in this District.

FACTUAL BACKGROUND

5. Consortium News or CN is an internet-based news and opinion provider that is dedicated to producing independent content or publishing guest content of an independent nature, frequently challenging U.S. governmental or foreign policy.

6. Consortium News was founded in 1995 by the late Robert Parry, a highly respected journalist who was a former investigative reporter for the Associated Press and *Newsweek*. Parry won the George Polk Award for his work on the Iran-Contra affair in which he revealed the identity and role of Oliver North in fomenting a U.S. operation under President Ronald Reagan to fund the Contras, a Nicaraguan militia whose support by the U.S. was barred by Congress under what was known as the Boland amendment. In 2015, Parry was awarded the IF Stone Medal for Journalistic Independence by Harvard University and in 2017 the Martha Gellhorn Prize for Journalism.

7. Parry began Consortium News after he found that significant and important stories were suppressed by his editors at commercial news organizations.

8. Parry sought to provide a publication for a consortium of journalists whose work, often critical of U.S. policy, was treated in a similar fashion by their editors.

9. To achieve the objective of establishing an independent forum for journalism, Parry created the Consortium for Independent Journalism, a non-profit organization that publishes Consortium News and CN Live!

10. Consortium News does not receive or accept funding from any government, corporation or advertiser but is funded by its readers and interested private donors.

11. Consortium News's current editor-in-chief, Joe Lauria, is a veteran journalist with decades of experience in major media organizations with his first professional appointment being a position with *The New York Times* in 1975. In 1990 he began reporting on international affairs from the United Nations in New York for the *Daily Mail* and the *Daily Telegraph* in Britain, and later for *The Boston Globe* and *The Wall Street Journal* in the U.S. Lauria has also been an investigative reporter for the *Sunday Times* of London "Insight" team and has made numerous media appearances on the BBC World Service, CNN, the PBS NewsHour, C-Span and ABC's *Good Morning America*.

12. Lauria has received journalism awards from the Center for Public Integrity and the United Nations Correspondents Association and is co-editor of a book, *A Political Odyssey: The Rise of American Militarism and One Man's Fight to Stop It*,

with the late, former U.S. Senator Mike Gravel, who had been a member of the Consortium News board.

13. Consortium News's board members include journalist and filmmaker John Pilger, who was a correspondent for *The Daily Mirror* and a columnist at *The New Statesman*, Pulitzer Prize winner Christopher Hedges and other respected journalists along with the late Daniel Ellsberg.

14. Consortium News is today an organization of journalists, academics, freelance writers, former intelligence agency professionals and government advisors who have worked at the highest and most respected levels of public life.

15. CN's deputy editor Corinna Barnard is a former *Wall Street Journal* and Dow Jones Newswire editor. CN's columnists include a former Asia editor for *The International Herald Tribune*; a professor of Middle East politics at the University of California; and two former Central Intelligence Agency officials, one of whom delivered Oval Office briefings to Presidents Ronald Reagan and George H.W. Bush; the other led the capture of al-Qaeda militant Abu Zubaydah.

16. Consortium News also operates a webcast called CN Live!, the executive producer of which, Cathy Vogan, is an award-winning film-maker and former lecturer at the University of Paris VIII, the European School of Visual Arts, Ecole du Frenois in Lille, and the Kunsthochschule in Cologne and has taught at tertiary institutions in Australia including the University of NSW, the Australian Film, Television and Radio School, the University of Western Sydney and Sydney Film

School. She has also trained staff and consulted on behalf of Apple Australia at the Australian Broadcasting Corporation and other major networks around the country.

17. Defendant NewsGuard Technologies, Inc. (NewsGuard) is a private for profit corporation operating in New York and is in the business of providing what it self-declares to be “brand safety” validation services for its approximate, upon information and belief, forty thousand (40,000) subscribers who pay \$4.95 monthly to receive “ratings” as to the “safety” of news and other content produced by organizations whose articles appear on computer searches; institutional, governmental and other clients also pay for subscription services.

NEWSGUARD’S COERCIVE AND DEFAMATORY PRACTICES

18. NewsGuard provides, among other services, what it calls “Nutrition Labels” for rating the “trust”, reliability and ethics of news organizations:

Each site is rated using nine basic, apolitical criteria of journalistic practice. Based on the nine criteria, each site gets a trust score of 0-100 points and a detailed “Nutrition Label” review explaining who is behind the site, what kind of content it publishes, and why it received its rating — with specific examples of any trust issues our team found.

<https://www.newsguardtech.com/solutions/newsguard/> (last downloaded August 7, 2023).

19. NewsGuard states that it provides coverage in this manner for “all the news sources that account for 95% of online engagement.” *Id.*

20. NewsGuard has historically attached to a subscriber’s web search a red flag and warning that a given news site 1) fails to meet journalistic standards, 2) fails

to make corrections of false facts and 3) purveys false information, among other references.¹

21. Such labels appear on any NewsGuard subscriber's screen whenever a search discloses an article published by the targeted news provider.

22. NewsGuard provides this same service on public and private library computers where the library has subscribed to NewsGuard's service, as well as for corporate and governmental subscribers.

23. NewsGuard arbitrarily attaches such ratings to the *entire* production of a news organization, even where NewsGuard has taken issue with only one or a small number of the organization's productions. This means that any article produced by a targeted news entity will have attached to it the NewsGuard red flag and label even if NewsGuard never read the tagged article or if NewsGuard had no dispute with the particular article. In other words, NewsGuard, based on its disagreement with the content of a single article or a handful of articles concerning a limited subject, has put in motion a deliberate and intentional system by which an *entire* news organization's output and production is tagged as spreading false content, false claims, false information and failing to meet journalistic standards.

¹ NewsGuard recently shifted to a blue flag or symbol in place of the red flag. During the period of the events described in this complaint, NewsGuard generally used the red flag symbol. Upon information and belief, aside from the change in color no other change has occurred in NewsGuard's publication, review, labelling or ratings methodology.

24. NewsGuard also issues periodic reports to its subscribers continuing similar information.

25. NewsGuard has also signed a contract with Microsoft that has attached the service as an option for Microsoft customers.

26. NewsGuard carries out its business model by a coercive practice of contacting a targeted news organization, claiming that a given article contains false information and demanding that the targeted organization withdraw or correct the offending material to avoid the red flag and warning; if the organization does not agree to withdraw or correct the material, NewsGuard goes forward with publication of its red flag and warning that contain NewsGuard's statements that the organization fails to meet journalistic standards, fails to correct errors and publishes false information and similar references.

27. As to a news organization that has refused to yield to NewsGuard's pressure, the published warning will typically consist of language as follows:

“Proceed with caution: This website generally fails to maintain basic standards of accuracy and accountability.” See **Exhibit A** hereto.

28. News organizations that refuse to make the changes demanded by NewsGuard are labelled and tagged in their entire online production.

29. News organizations are thus coerced by force into withdrawing or modifying their published material and, if they fail to yield to such demands, have the

red flag label and its accompanying statements appended by NewsGuard to any search that discloses the targeted entity's name.

NEWSGUARD'S DEFAMATION OF CONSORTIUM NEWS

30. NewsGuard defamed plaintiff Consortium News on or about August 11, 2022 and on different dates thereafter by attaching to subscriber search results the red flag and warning described above.

31. The red flag is attached to search results going back to 1999 on subscriber search engines as per Exhibit A, a page from a Google search as to "Robert Parry Consortium News". See document appended to Exhibit A, hereto.

32. When the cursor is placed over the red flag (changed in later versions to blue), a screen is produced by NewsGuard covering virtually the entirety of the subscriber's search result with defamatory material, as follows; see document appended to Exhibit A, hereto.

33. As can be readily seen from the overlay appended to Exhibit A, NewsGuard's "Nutrition Label" overlays the search list where the Consortium News article appeared and contains the following defamatory statements about Consortium News, calling it

"A website that covers international politics from a left-wing, **anti-U.S.** perspective **that has published false claims about the Ukraine-Russia war and other international conflicts**". See document appended to Exhibit A [emphasis added].

34. The NewsGuard “Nutrition Label” is directly defamatory of Consortium News, telling subscribers:

“Proceed with caution: This website fails to adhere to several basic journalistic standards”. *Id.*

35. On the “Nutrition Label”, NewsGuard enhances the defamatory material as to Consortium News by placing a red “X” next to certain “credibility” items, as shown in **Exhibit A**; the red “X” is understood to mean, and is intended to mean, that Consortium News fails to meet such standards.

36. As seen on **Exhibit A**, placement of the red “X” is a statement by NewsGuard that Consortium News *does* “repeatedly publish false content”, that it fails to “regularly correct[] or clarify[] errors” and that it fails to “Gather [] and present[] information responsibly”. See “”Nutrition Label” re Consortium News, appended to **Exhibit A**.

37. These are statements of fact that are false and defamatory *per se* or are defamatory by casting Consortium News in a false light.

38. NewsGuard has attached such labelling and the defamatory content to any Consortium News article ***regardless of whether or not NewsGuard has read or reviewed the article or search item and in the absence of any claim by NewsGuard of any falsity or other defect in the particular article or search item.***

39. NewsGuard’s label, red flag and defamatory content also appear on any individual article or on any volume of Consortium News that appears on a search

result covering any subject, as shown by the annexed search on DuckDuckGo, **Exhibit A** *hereto*, that attaches such labeling to the entirety of ‘Consortium News - Volume 27, Number 236’, irrespective of any particular content of any article. Such labelling is appended by NewsGuard to *any* search that produces any Consortium News article, video or other search result associated with CN.

40. By the use of such system and business model, NewsGuard labels the entirety of CN’s 20,000-plus archive with the defamatory statements that CN fails to “adhere to several basic journalistic standards”, that CN’s journalism is not performed “responsibly”, that CN publishes false content, that it promotes “false content” and fails to regularly correct errors, statements that malign and defame Consortium News in its professional business.

41. Similarly, the entirety of CN’s production is labelled in this same manner by NewsGuard on a Twitter search. **Exhibit A**, *hereto*.

42. Even when CN Editor-in-Chief Lauria’s name comes up on a search result identifying his professional association, the NewsGuard red warning label and mark appears. *Id.*

43. The NewsGuard warning appears on any and all subjects published on Consortium News, as shown by the document appended to **Exhibit A** in which the NewsGuard warning appears on the following searches: 1) a CN article reviewing a film probing the role of British foreign policy in the Manchester terror attack; 2) an article on “Lithium Power Politics” referring to the politics behind the extraction of a

mineral used in cell phones and other devices; 3) an article on U.S. and Israeli attitudes towards the Iran nuclear deal. *See generally* documents appended to Exhibit A.

44. NewsGuard makes no claim to have read, reviewed or considered any of the CN's 20,000-plus articles with the exception of five (5) articles, see *infra* at ¶47, *et seq.*, concerning the Ukraine and Syrian wars.

45. Nevertheless, NewsGuard is applying the red flag, labelling and defamatory content to *all* Consortium News output going back to 1999 on any and all subscriber search results; Consortium News has approximately 20,000 published articles in its archive that appear on internet searches and all are subject to the defamatory tagging described above. It is a major part of CN's business to have this archive available on the internet to any interested viewer or reader.

46. Similarly, NewsGuard is labelling all CN Live! webcast segments with the red warning label and the defamatory content described above *even though NewsGuard has never said it downloaded or accessed any segments from CN Live!* nor has NewsGuard informed CN of any concerns or issues it sees with any CN Live! segments.

NEWSGUARD'S CLAIMS THAT CN PUBLISHES "FALSE" MATERIAL ARISE FROM FIVE (5) ARTICLES PUBLISHED IN FEBRUARY AND MARCH 2022

47. NewsGuard's sole and singular basis for these defamatory statements and for the targeting and labelling of *all* Consortium News production arises from

NewsGuard's disagreement with statements of opinion in five (5) CN commentaries published in February and March 2022 in connection with the Ukraine government, the Ukraine-Russia war and the issue of "false flag" deaths in Syria.

48. NewsGuard first brought its claims that CN publishes "false" information to CN on March 25, 2022 when NewsGuard's employee Zachary Fishman informed CN that NewsGuard was reviewing CN about, among other matters, "its publication of false content". See Email of Zachary Fishman to infor@consortiumnews.com, dated March 25, 2022, annexed to **Exhibit C**, hereto.

49. The examples of the "false content" NewsGuard claims CN published appear in a second email by Fishman to CN Editor-in-Chief Joe Lauria dated March 28, 2022, **Exhibit C**, and are summarized below:

NEWSGUARD'S CLAIMS THAT CN PUBLISHED FALSE INFORMATION AS TO "GENOCIDAL TENDENCIES" IN UKRAINE

50. In NewsGuard's March 28, 2022 email, Fishman stated that CN has published "false or misleading claims" in a March 2022 CN article entitled "A Proposed Solution to the Ukraine War". In that article the CN author stated, *inter alia*:

"The government of Ukraine has denied human rights and political self-determination to the peoples of the Donbass. Some 13,000 people have died during the eight years since the 2014 coup, according to the United Nations. The Ukrainian government has overtly genocidal policies toward Russian minorities."

See Email of Zachary Fishman to info@consortiumnews.com, dated March 28, 2022 [emphasis in NewsGuard original email]; **Exhibit C**, hereto.

51. In the March 28, 2022 email, NewsGuard claims that CN's report of "overtly genocidal policies" of the Ukrainian government is "false" because of NewsGuard's belief that three entities — the International Criminal Court, the UN High Commissioner for Human Rights and the Organization for Security and Co-operation in Europe (OSCE) — "have found no evidence of a genocide in Donbas". Email of Fishman to info@consortiumnews.com, March 28, 2022; **Exhibit C**.

52. However, in the email NewsGuard acknowledged that the ICC "found that the acts of violence allegedly committed by the Ukrainian authorities in 2013 and 2014 **could constitute an 'attack directed against a civilian population,'**", in other words, a "genocidal tendency", just as CN's writer reported.

53. NewsGuard's claim that the March 2022 article by CN contained "false content" is thus based on a difference of viewpoint as to whether or such killings represent "genocidal tendencies", **not any presentation by CN of "false content" or "false" facts.**

54. Accordingly, the red flag and "Nutrition Label" published by NewsGuard stating that CN publishes "false" facts and misinformation, that CN fails to correct errors and that CN does not meet journalistic standards or gathers information responsibly, is defamatory.

NEWSGUARD'S STATEMENT AS TO CN'S REPORT OF A U.S. ORGANIZED COUP IN UKRAINE

55. In the Fishman email, NewsGuard identifies as a “false” fact the following statement (in bold type below) from the February 2022 CN article “Ukraine: Guides to Reflection”:

“Hence, the inflation of Russian behavior in Ukraine (**where Washington organized a coup against a democratically elected government** because we disliked its political complexion) and Syria (where Russia’s intervention is at the request of the established government while the U.S. commitment to occupying parts of it has no legal basis).”

Exhibit C, Email of Zachary Fishman to info@consortiumnews.com, March 28, 2022 [emphasis in NewsGuard original email]; see **Exhibit D**, Article, “Ukraine: Guides to Reflection”, *Consortium News*, February 1, 2022; <https://consortiumnews.com/2022/02/01/ukraine-guides-to-reflection/> (last downloaded August 7, 2023).

56. Although Fishman acknowledged in the March 28 email that, “**The U.S. supported the Maidan revolution** that ousted then-Ukraine President Viktor Yanukovich in 2014”, see **Exhibit C** [emphasis added], he claims that CN’s commentary is “false” because there is no evidence that the coup was “organized” by the U.S. *Id.*

57. Based on this statement, NewsGuard issued the red flag and label against Consortium News.

58. But Consortium News made no misstatement of fact: NewsGuard’s claim of “false content” is merely a difference of interpretation as to whether or not the

coup was “organized” by the U.S. or whether the U.S. merely “*supported* the Maidan revolution”, a distinction not of fact but of inference; accordingly, the NewsGuard label and red flag stating that CN publishes “false content” is defamatory.

59. In an effort to avoid the red flag and label, CN Editor Lauria pointed out to NewsGuard that CN’s article was supported by the BBC’s report of a leaked 2014 telephone call between U.S. Assistant Secretary of State Nuland and Geoffrey Pyatt, then U.S. ambassador to Ukraine, in which the two discussed who will make up the new government weeks *before* Yanukovich was overthrown, that the U.S. would be “midwifing” a new government, of the role Vice President Joe Biden would play, and the U.S. was setting up meetings with Ukrainian politicians to facilitate the new government. BBC wrote of the leaked call:

“[T]his transcript suggests that the US has very clear ideas about what the outcome should be *and is striving to achieve these goals.*”

Exhibit E, Article, “Ukraine crisis: Transcript of leaked Nuland-Pyatt”, BBC News, February 7, 2014; <https://www.bbc.com/news/world-europe-26079957>, (last downloaded August 8, 2023).

60. As shown by the BBC article, and many others that have been published, CN’s commentary that the U.S. had “organized” a coup was an opinion derived from a reasonable interpretation of known facts and of recent history and is not, and cannot be described as the publication of “false content”, as NewsGuard has stated in its defamatory red flag and “Nutrition Label”.

61. Accordingly, Newguard's red flag, warning and associated statements that CN publishes "false content", that CN fails to correct errors and that CN fails to adhere to proper journalistic standards, is defamatory.

NEWSGUARD'S CLAIM THAT CN "FALSELY" REPORTED THAT UKRAINE'S GOVERNMENT WAS "INFESTED" BY NAZIS

62. As further basis for its defamatory statement that CN publishes "false" information, NewsGuard pointed to a second CN article published in March 2022. This was another opinion piece headed "PATRICK LAWRENCE: Imperial Infantilism", discussing the Ukraine-Russia war. In this article, the CN writer stated in connection with the Ukraine-Russia war that "... NATO is now arming a **Nazi-infested regime...**" See **Exhibit C**, Email of Zachary Fishman to info@consortiumnews.com, dated March 28, 2022 [emphasis in NewsGuard original email].

63. Similarly, NewsGuard took issue with a February 2022 CN article by writer John Pilger that stated that the "coup regime, **infested with neo-Nazis**, launched a campaign of terror against Russian-speaking Donbass, which accounts for a third of Ukraine's population." **Exhibit C**, Email of Fishman to info@consortiumnews.com, March 28, 2022 [emphasis in NewsGuard original email]; see "Pilger: War in Europe & the Rise of Raw Propaganda", *Consortium News*, February 17, 2022, **Exhibit F**.

64. NewsGuard claims this is “false content” but, in the Fishman email, NewsGuard admits that “Radical far-right groups in Ukraine **do represent a 'threat to the democratic development of Ukraine,**’ according to a 2018 Freedom House report.” Email of Fishman to info@consortiumnews.com, March 28, 2022; **Exhibit C**, hereto [emphasis added].

65. Despite making this concession, NewsGuard claims that CN’s commentary that the coup regime is “infested with neo-Nazis” is a “false” fact because the radical far right has only obtained a very small percentage of the vote and had “no plausible path to power”. *Id.*

66. Obviously, this is not a basis for defaming Consortium News as the purveyor of “false content” since the question of the power of the far-right in government is a matter of inference and opinion and is not a “false fact” or “false content” published by CN. For example, the Atlantic Council in 2018 addressed this same matter and called the low turnout for radical parties a “red herring” because, “It’s not extremists’ electoral prospects that should concern Ukraine’s friends, but rather the state’s unwillingness or inability to confront violent groups and end their impunity.” See **Exhibit G**, “Ukraine’s Got a Real Problem wit Far-Right Violence (And No, RT Didn’t Write This Headline)”, *Atlantic Council*, June 20, 2018; <https://www.atlanticcouncil.org/blogs/ukrainealert/ukraine-s-got-a-real-problem-with-far-right-violence-and-no-rt-didn-t-write-this-headline/> (last downloaded August 10, 2023).

67. In other words, reasonable people (and news organizations) can differ about a subject such as the presence of neo-Nazis in Ukraine or its government without being defamed as spreading “disinformation, “misinformation”, “false content” or failing to meet journalistic standards, as NewsGuard has said about Consortium News.

68. In fact, the Pilger article describes beatings and assaults on gays, Jews and elderly Russians by “neo-fascists” and quotes a respected authority, the late Professor Stephen Cohen, about the similarities between the World War II -era Ukrainian Nazis and the more recent wave of “neo-fascist” assaults in Ukraine:

“The pogrom-like burning to death of ethnic Russians and others in Odessa reawakened memories of Nazi extermination squads in Ukraine during World War II. [Today] storm-like assaults on gays, Jews, elderly ethnic Russians, and other ‘impure’ citizens are widespread throughout Kyiv-ruled Ukraine, along with torchlight marches reminiscent of those that eventually inflamed Germany in the late 1920s and 1930s ...

“The police and official legal authorities do virtually nothing to prevent these neo-fascist acts or to prosecute them. On the contrary, Kyiv has officially encouraged them by systematically rehabilitating and even memorializing Ukrainian collaborators with Nazi German extermination pogroms, renaming streets in their honor, building monuments to them, rewriting history to glorify them, and more.”

John Pilger: War in Europe & the Rise of Raw Propaganda, February 17, 2022; <https://consortiumnews.com/2022/02/17/war-in-europe-the-rise-of-raw-propaganda/> (last downloaded August 7, 2023); **Exhibit F**, hereto.

69. In addition, Congress in 2018 adopted a spending bill that banned all aid to the Azov Battalion because the Ukrainian militia was known for attracting neo-Nazis

and was integrated into the Ukrainian armed forces. “Congress bans arms to Ukraine militia linked to neo-Nazis”, *The Hill*, March 27, 2018; <https://thehill.com/policy/defense/380483-congress-bans-arms-to-controversial-ukrainian-militia-linked-to-neo-nazis/> (last downloaded August 9, 2023).

70. And in March 2022, at the same time as the Consortium News articles, CNN reported that the Azov Battalion was a significant Nazi presence, had been integrated into Ukraine’s military structure and was a key element of its defense against Russia. See “A far-right battalion has a key role in Ukraine’s resistance. Its neo-Nazi history has been exploited by Putin”, CNN, March 30, 2022; <https://www.cnn.com/2022/03/29/europe/ukraine-azov-movement-far-right-intl-cmd/index.html>; (last downloaded August 9, 2023).

71. Many other news outlets (such as the BBC and NBC) have reported on the extensive infiltration of neo-Nazis into Ukrainian society and government (NBC reported that the neo-Nazi Svoboda party in 2014 received nearly one-quarter of the seats in the cabinet; see e.g. <https://www.nbcnews.com/storyline/ukraine-crisis/analysis-u-s-cozies-kiev-government-including-far-right-n66061>); such reports are too numerous to cite in this complaint.

72. Here, again, NewsGuard’s “label” that Consortium News publishes “false content” is defamatory since CN was merely publishing a statement of opinion as to

the role of neo-Nazis in modern Ukraine, supported by a well-known scholar's views, the U.S. Congress and major news organizations.

73. Accordingly, NewsGuard's red flag and warning label that CN publishes false content, that it fails to correct errors and does not practice proper journalistic standards, is defamatory.

NEWSGUARD'S CLAIMS OF "FALSE CONTENT" IN A CN ARTICLE AS TO THE BOMBING IN DOUMA, SYRIA

74. In the Fishman email, NewsGuard claims that CN published false or misleading information in a March 2022 article entitled "Caitlin Johnstone: International Law Becomes Meaningless When Applied Only to US Enemies" in which the CN writer stated that

"The OPCW is now subject to the dictates of the U.S. government, as evidenced by **the organisation's coverup of a 2018 false flag incident in Syria** which resulted in airstrikes by the U.S., UK and France during Bolton's tenure as a senior Trump advisor."²

Exhibit C, Email of Zachary Fishman to info@consortiumnews.com, March 28, 2022 [emphasis in NewsGuard original email].

75. NewsGuard stated in the Fishman email that the CN article is false because there was no evidence that this was "a 'false flag incident,' or that the OPCW was deliberately covering up such an incident, let alone that such a cover-up was dictated by the U.S. government." Email of Fishman to info@consortiumnews.com, March 28, 2022; **Exhibit C**, hereto.

² OPCW refers to the Organisation for the Prohibition of Chemical Weapons.

76. Here, again, what NewsGuard has labelled the publication of “false” facts is merely a difference of opinion and NewsGuard’s red label and associated content are defamatory.

77. NewsGuard itself admits that the CN article was based on an article in *The Nation* whose headline actually said that OPCW had been covering up the true facts, *just as CN reported*: “The American media is ignoring leaks from the Organization for the Prohibition of Chemical Weapons that suggest **a whitewash** [referring to the Douma bombing]”. *The Nation* also stated that

“a series of leaked documents from [OPCW] raise the possibility that **the Trump administration bombed Syria on false grounds and pressured officials at the world’s top chemical weapons watchdog to cover it up.**”

See **Exhibit H**, Article, “Did Trump Bomb Syria on False Grounds?”, *The Nation*, July 24, 2020; <https://www.thenation.com/article/world/opcw-leaks-syria/> (downloaded last on August 7, 2023) [emphasis added].

78. As did Consortium News, *The Nation* also reported that the OPCW report was a “whitewash”:

“Two OPCW officials, highly regarded scientists with more than 25 years of combined experience at the organization, **challenged the whitewash from inside**. Yet unlike many whistle-blowers of the Trump era, they have found no champion, or even an audience, within establishment circles in the United States.” *Id.* [emphasis added].

79. As this analysis shows, Consortium News’s report of a cover-up by OPCW was not a “false” fact or “false content” but was a reasonable inference of opinion drawn from the known facts, including the report by *The Nation* of a “Whitewash” by

OPCW of a false false flag incident, *precisely what CN reported*. See <https://consortiumnews.com/2022/03/17/caitlin-johnstone-international-law-becomes-meaningless-when-applied-only-to-us-enemies/> (last downloaded August 10, 2023);

Exhibit I, hereto.

80. Accordingly, NewsGuard’s red warning label that CN publishes false facts, that it fails to correct errors and that it does not practice proper journalistic standards, is defamatory.

COUNT I
(Common Law Defamation, Libel and Slander)

81. Plaintiff repeats and re-alleges each and every allegation set forth above as if more fully set forth below.

82. As set forth above, NewsGuard has defamed, libeled and/or slandered Consortium News.

**NEWSGUARD’S DEFAMATORY STATEMENTS WERE ARBITRARY, MALICIOUS,
WANTON AND/OR IN RECKLESS DISREGARD OF THE TRUTH**

**NewsGuard Intentionally and Knowingly Published False Statements that CN Does Not
Regularly Correct Errors**

83. NewsGuard knowingly and intentionally published false statements that CN did not regularly correct errors or omissions.

84. This deliberate falsity arose in connection with NewsGuard’s having given a red “X” in its label as to Consortium News next to the journalistic standard marked “Regularly corrects or clarifies errors.” See document appended to **Exhibit A**. By giving the red “X” at such reference point, NewsGuard was stating to its subscribers that Consortium News does NOT meet the journalistic standard that it “regularly corrects or clarifies errors.”

85. This was a knowingly false statement that was contrary to NewsGuard's own knowledge as shown by Fishman's admission in his May 10, 2022 email to Joe Lauria that Consortium News has a "**regular pattern of issuing corrections.**" Email Fishman to info@consortiumnews.com, May 10, 2022; document appended to **Exhibit C** [emphasis added].

86. Specifically, Fishman admitted and acknowledged that CN does, in fact, regularly make corrections, as he stated to Lauria:

3. I have found additional corrected articles from the past year since I first asked you for additional examples, **and they pretty clearly demonstrate to me a regular pattern of issuing corrections.**

Email Fishman to info@consortiumnews.com, May 10, 2022, **Exhibit C** [emphasis added].

87. As such, NewsGuard's red "X" to indicate to subscribers that CN does not regularly correct or clarify errors was not only false but was contrary to NewsGuard's own knowledge, conduct that was intentional, arbitrary, wanton, performed with malice and with reckless disregard for the truth.

NewsGuard Intentionally Acted to Defame, Libel or Slander Consortium News

88. NewsGuard acted with the preformed intent to publish defamatory statements that CN published false content.

89. This was evident from NewsGuard's first contact with CN in which Fishman stated that he was inquiring about CN's "publication **of false content.**" **Exhibit G**, Email Zachary Fishman to info@consortiumnews.com, March 25, 2022 [emphasis added].

90. NewsGuard thus acted with the premeditated intent and purpose of defaming, libeling or slandering CN even before it had requested and considered CN's response to NewsGuard's March 25 and 28 emails.

NewsGuard Recklessly Labels All Consortium News Articles and Production as False and Failing Journalistic Standards

91. NewsGuard's actions demonstrate malice, wantonness, arbitrariness or recklessness in that NewsGuard has labelled each and every CN article or video with the red warning label and with the statement that CN publishes false information, fails to correct errors and fails to meet journalistic standards.

92. Such statements are appended to each and every CN article or production that appears on any subscriber search, even though NewsGuard has only reviewed a small number of articles, such as the five (5) articles identified in NewsGuard's email from Zachary Fishman of March 28, 2022.

93. NewsGuard has identified no other CN articles in which it claims CN published false information or failed to meet journalistic standards and has reviewed only a tiny fraction of CN's 20,000-plus archive.

94. Nevertheless, NewsGuard has tagged *all* of CN's 20,000-plus articles or other works with its red flag warning and label with statements that CN publishes false content, fails to correct errors, does not act responsibly and does not adhere to journalistic standards.

95. Such conduct is a part of NewsGuard's business model in which it labels and targets *the entirety of a news organization's production* even though NewsGuard has read

only a tiny fraction of such materials and has asserted no claim of falsity or other deficit against such other materials.

96. Such practices demonstrate that NewsGuard's intention is to punish a news organization that does not retract its views on NewsGuard's demand by defaming the entirety of a news organization's output and its reputation for honesty and integrity.

97. NewsGuard has not read or reviewed the entirety of Consortium News's production and has, therefore, failed to check the accuracy of its claims that CN's archives and articles are the product of "false" information, a failure to correct errors and a breach of journalistic standards.

98. By placing the red flag warning (or the blue warning in later instances), appended to works that NewsGuard has not read, NewsGuard has acted to defame, libel and slander CN's entire production and its writers, recklessly and without regard to the truth.

99. Similarly, NewsGuard has never asserted that it has downloaded or accessed any CN Live! segments and has, therefore, failed to check the accuracy of its labelling of all of CN Live! productions as the product of "false content", misinformation, a failure to correct errors and a breach of journalistic standards.

100. NewsGuard has imposed the red flag and label and falsely labelled Consortium News to be a purveyor of "false" information, misinformation, "false content", and failing to meet journalistic standards because of NewsGuard's disagreement with the conclusions and opinions of Consortium News's writers, not because of "false content" or false facts.

101. A news organization and its journalists lives only on its reputation and the actions of NewsGuard have the inevitable effect of damaging and injuring CN's reputation in the news production, opinion and journalism industry.

102. NewGuard has labelled Consortium News as "anti-U.S." a statement that maligns the loyalty and patriotism of its staff, editors, board members and writers, most of whom are American citizens, loyal to their country and proud of its traditions of free speech and a free press; to criticize or critique American policy does not render one "anti-U.S." but is the highest form of citizenship. By labelling Consortium News in this manner, NewsGuard has committed additional liable, defamation and/or slander.

103. The conduct set forth in this Complaint is intentional, knowing, arbitrary, wanton, malicious and/or a reckless disregard of the truth.

Defamation, Libel and/or Slander Per Se

104. Such actions of NewsGuard, as set forth in this complaint, directly and deliberately reflect on Plaintiff's performance as a news organization, injure plaintiff in its trade, business or profession of providing news, opinion and journalistic works and are statements that plaintiff's actions are ethically incompatible with the proper conduct of plaintiff's business as a news organization.

105. As such, defendant is liable to plaintiff for defamation, libel and/or slander *per se*.

106. Defendant is without any privilege or authorization to engage in said defamatory acts.

107. As set forth earlier, such acts by NewsGuard were intentional, knowing, deliberate, wanton, arbitrary and with actual malice and reckless disregard of the truth.

WHEREFORE plaintiff demands judgment for damages in the minimum amount of \$75,000, as follows:

1. Monetary damages consisting of nominal damages and/or unspecified compensatory damages;
2. Punitive or exemplary damages in a minimum amount of Seven Million, Five Hundred Thousand Dollars (\$7,500,000);
3. Injunctive relief barring NewsGuard from continuing said practices as to Consortium News;
4. Interest, costs, reasonable attorneys fees and such other relief as to the Court may seem just and proper.

Respectfully submitted,

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