

**STATE OF MICHIGAN
IN THE 3RD CIRCUIT COURT FOR THE COUNTY OF WAYNE**

BURKE RAMSEY

Plaintiff,

Case No. _____-CZ

v.

Hon. _____

CBS CORPORATION, CRITICAL CONTENT, LLC,
JIM CLEMENTE, LAURA RICHARDS, A. JAMES
KOLAR, JAMES R. FITZGERALD, STANLEY B.
BURKE, WERNER U. SPITZ, and HENRY C. LEE,

JURY TRIAL DEMANDED

Defendants.

_____/

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_____/

COMPLAINT FOR DEFAMATION

There is no other pending or resolved civil action
arising out of the transaction or occurrences alleged in this Complaint.

NOW COMES Plaintiff, Burke Ramsey, and states his Complaint for Defamation against Defendants CBS Corporation, Critical Content, LLC, Jim Clemente, Laura Richards, James Kolar, James R. Fitzgerald, Stanley B. Burke, Werner Spitz, and Henry C. Lee (collectively, “Defendants”), showing the Court as follows:

INTRODUCTION

1. This defamation action is brought by Burke Ramsey to redress the permanent damage to his reputation resulting from Defendants’ false accusation that he killed his sister, JonBenét Ramsey.

2. This action arises out of the four-hour documentary, *The Case of: JonBenét Ramsey*, broadcast by CBS Corporation (“CBS”) on primetime television in two-hour shows that aired on September 18, 2016, and September 19, 2016 (“the Documentary”).

3. CBS aired the Documentary during a critical time in the fall schedule, as CBS was looking to gain viewers to launch its new primetime season.

4. Approximately 10.4 million people tuned in to view the September 18th show and approximately 8.24 million tuned in to watch the September 19th show.

5. Because CBS represented and promoted *The Case of: JonBenét Ramsey* as a documentary, viewers expected a presentation of factual information about real people, places, and events that was truthful.

6. CBS represented and promoted *The Case of: JonBenét Ramsey* as a documentary that would reveal the truth as to who killed JonBenét Ramsey—a question that has captivated the world for twenty years since her December 1996 murder in Boulder, Colorado.

7. CBS represented and promoted that the Documentary would reveal the truth by presenting to viewers “new witnesses,” “new evidence,” and “new theories.”

8. CBS further represented and promoted that for the Documentary, it had assembled a highly skilled team of seven “world renowned” investigators who would conduct a “complete reinvestigation starting right from scratch,” including a re-examination of crucial evidence.

9. The gist of *The Case of: JonBenét Ramsey* is that JonBenét’s brother, Burke Ramsey, killed his six-year old sister.

10. At the time of her death, Burke Ramsey was nine-years old.

11. The gist of *The Case of: JonBenét Ramsey* is false and defamatory *per se*.

12. Burke Ramsey did not kill his sister and had no involvement in her brutal murder.

13. As far back as 1998, law enforcement authorities responsible for the JonBenét Ramsey murder investigation have repeatedly, publicly and unequivocally cleared Burke Ramsey of any involvement in the death of his sister.

14. Law enforcement officials publicly declared that Burke Ramsey was not a suspect in a 1998 press release by former Boulder Police Chief Mark Beckner, in a 1999 press statement by special grand jury prosecutor Michael Kane, in a 1999 press release and a 2000 sworn affidavit by former Boulder District Attorney Alex Hunter, and in a 2003 press release and a 2008 letter by former Boulder District Attorney Mary Lacy.

15. CBS perpetrated a fraud upon the public—instead of being a documentary based on a new investigation by a so-called team of experts, *The Case of: JonBenét Ramsey* was a fictional crime show based primarily on a preconceived storyline scripted in a self-published and commercially unsuccessful book, *Foreign Faction*, written by Defendant James Kolar (“Kolar”) and published in 2012.

16. Defendants’ accusation that Burke Ramsey killed his sister was not based on truthful facts, new witnesses, new evidence, or new theories.

17. Defendants' accusation that Burke Ramsey killed his sister was based on a compilation of lies, half-truths, manufactured information, and the intentional omission and avoidance of truthful information about the murder of JonBenét Ramsey.

18. Defendants' accusation that Burke Ramsey killed his sister was negligently published and was published with actual knowledge of falsity and/or a reckless disregard of the truth.

THE PARTIES

19. Plaintiff Burke Ramsey ("Burke") is a resident of the State of Michigan.

20. Burke has continuously resided in Charlevoix, Michigan, since August of 2015, where he is currently employed as a software engineer.

21. Burke was born on January 27, 1987, in Atlanta, Georgia, and is 29-years-old.

22. At the time of his sister's death in December of 1996, Burke resided in Boulder, Colorado, with his sister and their parents, John Ramsey ("John") and Patsy Ramsey ("Patsy").

23. In December of 1996 and for a brief period thereafter, John and Patsy had a second home in Charlevoix, where the family would frequently visit on holidays and in the summer months.

24. In 2002, Charlevoix became Burke, John, and Patsy's permanent home.

25. Burke graduated from Charlevoix High School in 2005.

26. Burke graduated from Purdue University.

27. Burke has no history of criminal conduct, sexual abuse, drug abuse, alcohol abuse, or any type of violent behavior.

28. Burke is a private citizen and has never attained the status of public figure for purposes of filing and prosecuting a defamation action to seek redress for false attacks on his

reputation. Since the time of his sister's death until September of this year, Burke never voluntarily participated in any media or public interviews to discuss his sister's tragic murder.

29. In September of this year, following decades of silence and only after learning that CBS was planning to broadcast a JonBenét Ramsey show based on *Foreign Faction* in which it would accuse him of killing JonBenét, Burke exercised his right of reasonable response by granting one interview to Dr. Phil McGraw in which he denied any involvement in JonBenét's murder.

30. Defendant CBS is a Delaware corporation, with its principal place of business located at 51 West 52nd Street, New York, New York 10019.

31. CBS represents on its website that it "is a mass media company that creates and distributes industry-leading content across a variety of platforms to audiences around the world." *About CBS Corporation*, <http://www.cbscorporation.com/about-cbs/> (last visited Dec. 21, 2016). CBS "has businesses with origins that date back to the dawn of the broadcasting age as well as new ventures that operate on the leading edge of media." *Id.* CBS claims that it "owns the most-watched television network in the United States and one of the world's largest libraries of entertainment content, making its brand—the Eye—one of the most recognized in business." *Id.* The company's "operations span virtually every field of media and entertainment, including cable, publishing, radio, local TV, film, and interactive and socially responsible media." *Id.* Through one of its subsidiaries, CBS owns and operates a television station in Detroit, Michigan—WWJ-TV.

32. In calendar year 2015, CBS reported gross revenues of almost \$14 Billion (\$13,886,000,000) and net earnings of nearly \$1.5 Billion (\$1,413,000,000).

33. Defendant Critical Content, LLC (“Critical Content”), is a California limited liability company with its principal place of business located at 1040 North Las Palmas Avenue, Building 40, Los Angeles, California 90038.

34. According to its website, “Critical Content is a leading global independent content studio.” *About Critical Content*, <http://www.criticalcontent.com/about.html> (last visited Dec. 21, 2016). Critical Content, which was “[l]aunched in October of 2015, . . . focuses on unscripted and scripted programming for broadcast, cable and digital platforms.” *Id.* The company “currently has more than 60 projects in production for more than 30 different networks.” *Id.* Critical Contents’ series include *Limitless* (CBS), *Home Free* (FOX), *Catfish* (MTV), and *The Woodsmen* (History).

35. Previously known as Relativity Television, Critical Content reemerged from a 2015 bankruptcy filing with a reported \$100 Million (\$100,000,000) in new financing and no debt.

36. Critical Content’s relationship with CBS is well-established. Tom Forman, CEO of Critical Content and Executive Producer of the Documentary, previously ran a production company called Tom Forman Productions, which produced series and pilots airing on CBS. He is the former long-time producer of CBS’s *48 Hours*. Critical Content and CBS have recently partnered on CBS’s hit series *Limitless*. See <http://www.criticalcontent.com/>.

37. Defendant Jim Clemente (“Clemente”) is a resident of the State of California and played an acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

38. Upon information and belief, Defendant Laura Richards’ (“Richards”) is a resident of California and played an acting role in the Documentary as one of the seven “world

renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

39. Defendant James R. Fitzgerald (“Fitzgerald”) is a resident of the State of Virginia and played an acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

40. Defendant Stanley B. Burke (“Stanley”) is a resident of the State of Virginia and played an acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

41. Defendant Werner U. Spitz (“Spitz”) is a resident of the State of Michigan who has a place of business and conducts business in Wayne County. Spitz is a well-known television talking head who frequently interjects himself into high profile cases for publicity and profit. Spitz also played an acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

42. Defendant Henry C. Lee (“Lee”) is a resident of the State of Connecticut. Lee is a well-known television talking head who frequently interjects himself into high profile cases for publicity and profit. Lee also played an acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

43. Defendant A. James Kolar (“Kolar”) is a resident of the State of Colorado. Since he was the author of the book relied upon as a script for the Documentary, Kolar also played an

acting role in the Documentary as one of the seven “world renowned” investigators who would allegedly conduct a “complete reinvestigation starting right from scratch.”

44. Kolar was a police officer who was briefly employed by the Boulder District Attorney’s Office from 2004 to the Spring of 2006.

45. Kolar was hired by then Boulder DA Mary Lacy as an experienced agency administrator to help build an investigations unit.

46. Kolar had no significant experience in criminal homicide investigations and no cold case homicide experience, but claimed that as of July 2005, he was taking the place of former lead Ramsey investigator Tom Bennett, who had retired from the Boulder DA’s Office.

47. Prior to July 2005, Kolar had never been involved in the law enforcement investigation of the murder of JonBenét Ramsey.

48. In July 2005, Kolar acknowledged that he was unfamiliar with the JonBenét Ramsey investigative files and that it would take “some period of time” to become fully acquainted with the investigative files.

49. Subsequently, Kolar requested a meeting with then Boulder DA Lacy and key members of her team and much to the surprise of the Boulder DA, announced at the meeting his theory that Burke committed the murder and claimed that he had gone through the investigative files searching for any tidbit that might be used to support his theory.

50. The presentation by Kolar to members of the Boulder DA’s Office of his accusation against Burke has been described, among other descriptive terms, as “ludicrous,” “total smoke and mirrors,” and “speculation based on hearsay.”

51. Kolar’s employment at the Boulder DA’s Office ended shortly after his presentation in the Spring of 2006.

52. Kolar subsequently sought to personally profit from his rejected theory against Burke by writing *Foreign Faction*, which he self-published after the manuscript was rejected by traditional publishing houses.

53. Prior to 2016, Kolar also contacted several members of the mainstream media, including CBS, ABC, and NBC, seeking interviews and publicity for his book, but his promotional efforts were uniformly rejected.

54. Although Burke was aware of the self-publication of *Foreign Faction*, he did not sue Kolar for libel because (a) the book had no audience and received little or no publicity, (b) the accusations were ridiculous and had been rejected by law enforcement authorities and the mainstream media, (c) he did not wish to elevate Kolar or his book to a position of credibility they did not deserve, (d) the book was a miserable failure, and (e) its publication did not at that time cause any significant harm to Burke's reputation.

55. In May and June of 2016, Burke was shocked to learn of rumors circulating in the media community that CBS was planning to produce and broadcast a documentary based on *Foreign Faction*.

JURISDICTION AND VENUE

56. Defendants are subject to the jurisdiction of this Court with proper venue.

57. Defendants are subject to being sued in the State of Michigan based on the personal residence of Spitz and pursuant to the Michigan Long-Arm Statute for the other Defendants.

58. Sufficient contacts exist with respect to this action and the State of Michigan to satisfy the requirements of due process.

59. Defendants are subject to the jurisdiction of this Court pursuant to MCL § 600.705(2).

60. The Court maintains general jurisdiction over CBS and Spitz, and specific jurisdiction over all Defendants.

61. Venue is proper in this Court pursuant to MCL §§ 600.1621(a), 600.1627, and 600.1629.

62. Defendants reasonably anticipated being haled into court in Michigan to answer for the truth of their false and defamatory statements about Burke, a Michigan citizen.

63. CBS maintains an office and transacts business in Wayne County.

64. CBS has wide and regular circulation and viewership in Wayne County and Michigan.

65. Critical Content's television series have wide and regular circulation and viewership in Wayne County and Michigan.

66. CBS published the Documentary in Wayne County and throughout Michigan.

67. CBS owns, uses, and possesses real property in Wayne County.

68. Critical Content entered into an agreement with CBS to produce, market, and publish the Documentary, including in Wayne County and throughout Michigan.

69. Upon information and belief, Critical Content had an interest in the Documentary whereby it purposefully derived a benefit tied to the volume of viewership, including in Wayne County and Michigan.

70. Defendants centered the Documentary on Burke, who lives and works in Charlevoix County, Michigan.

71. Defendants expressly aimed their false and defamatory accusations at Burke, knowing he is a Michigan resident.

72. Defendants knew and intended that the Documentary would be published throughout the CBS network, which broadcasts in Wayne County and Michigan.

73. Defendants intended that their accusations in the Documentary be published throughout the CBS network, which broadcasts in Wayne County and Michigan.

74. It was the natural and foreseeable result of the Documentary that Defendants' false and defamatory accusations against Burke would be published and republished in Wayne County and Michigan, causing substantial and permanent harm to Burke in the state.

75. Defendants ambushed and attempted to interview Burke in Michigan in connection with the Documentary.

76. Defendants knew and intended that the brunt of the harm the Documentary caused to Burke would be felt in Michigan, the state where Burke lives and works.

77. Burke has suffered, is suffering, and will continue to suffer harm and original injury in Michigan from Defendants' tortious conduct in Wayne County and elsewhere.

78. Defendants purposefully derived a benefit from publishing their accusations against Burke, a citizen of Michigan.

79. CBS purposefully derived a benefit from the Documentary by broadcasting it in Wayne County and in Michigan on the station it owns, WWJ-TV. Those benefits included revenue from selling advertising for airing the show in Michigan.

FACTUAL ALLEGATIONS

PART ONE: BACKGROUND

A. The Undisputed Historical Record Established Years Ago that No Evidence Has Ever Existed to Support an Accusation that Burke Killed His Sister

80. On the night of December 25 or the early morning hours of December 26, 1996, while Burke was sleeping in his family's home in Boulder, Colorado, an unknown intruder brutally tortured, sexually assaulted, and murdered his sister, JonBenét.

81. For years, JonBenét's murder was the subject of a massive investigation by law enforcement officials in the State of Colorado, spearheaded by the Boulder PD and the Boulder County District Attorney's Office ("Boulder DA"), with some occasional assistance from the Federal Bureau of Investigation ("FBI"). With the passage of time, official investigative efforts have significantly lessened from the activity in the early years following her murder.

82. On December 26, 1996, outside the presence of his parents and unknown to them, Burke was interviewed by Boulder PD Detective Fred Patterson who concluded that Burke did not have any idea or knowledge about what had happened to his sister.

83. On January 8, 1997, Burke was interviewed with his parents' consent and outside of their presence by a psychologist, Dr. Suzanne Bernhard, who concluded in writing on her report to the Boulder PD that it was clear to her that Burke did not witness the murder of his sister.

84. On June 10, 11 and 12 of 1998, Burke was interviewed with his parents' consent and outside of their presence by Boulder PD Detective Dan Schuler.

85. As part of the investigation, a grand jury was impaneled in September of 1998 and dismissed in the fall of 1999.

86. The Boulder PD and the Boulder DA publicly exonerated Burke before, during, and after the grand jury investigation.

87. In early 1998, former Boulder PD Chief Mark Beckner stated during a news conference that Burke was not involved in the killing of JonBenét, was not a suspect in JonBenét's murder, and was not being looked at as a suspect.

88. Despite being fully aware of his comments, Defendants ignored and did not disclose Chief Beckner's 1998 comments during the Documentary.

89. In May of 1999, former Boulder DA Alex Hunter issued a press statement that publicly and officially stated that Burke was not a suspect in connection with the murder of his sister. It said, in part:

[A]lmost a year ago [Boulder] Police Chief Mark Beckner stated during a news conference that Burke was not a suspect and that we are not looking at him as a possible suspect. To this day Burke Ramsey is not a suspect.

90. Former Boulder DA Hunter's May 1999 exoneration occurred approximately eight months after he convened a grand jury and approximately five months before the grand jury investigation concluded.

91. Despite being fully aware of the press release, Defendants ignored and did not disclose DA Hunter's May 1999 statements during the Documentary.

92. The Boulder DA hired Michael Kane, Esq. ("Kane"), a prosecutor from Pennsylvania, as a Special Prosecutor to oversee the grand jury investigation.

93. On or about December 12, 1999, Kane publicly acknowledged in a statement to, and published by, the Harrisburg, Pennsylvania, *Sunday Patriot News* that there was no evidence developed in the investigation that supported an accusation that Burke killed JonBenét:

One of the more horrendous mistakes by the media, Kane said, was the story by a supermarket tabloid, *The Star*, that branded Burke as the killer. Earlier this

month, the Ramseys filed a \$25 million libel suit against the paper. Kane recalled that when the story first came out last May, it troubled the prosecution. And when the story began getting picked up by other newspapers, they knew they had to do something.

...

“Alex Hunter and I decided **there was no basis for that speculation and no evidence to support it**, and we issued a press release to put it to rest,” Kane said, “I think it’s horrible that a 12-year-old kid would have a finger pointed at him with **no evidence to support it** and have to see his picture on the cover of tabloids every time he’s in a supermarket saying that he killed his sister.”

(Emphasis added).

94. Kane’s December 1999 statements occurred approximately two months after the grand jury investigation concluded.

95. Despite being fully aware of his comments, Defendants ignored and did not disclose Kane’s December 1999 comments during the Documentary.

96. In a sworn affidavit dated October 12, 2000, former Boulder DA Alex Hunter reaffirmed under oath that Burke had never been a suspect in the investigation into his sister’s murder. A copy of said affidavit is attached hereto as Exhibit “A”. The affidavit stated, in part:

From December 26, 1996, to the date of this affidavit, no evidence has ever been developed in the investigation to justify elevating Burke Ramsey’s status from that of witness to suspect.

97. Despite being fully aware of his affidavit, Defendants ignored and did not disclose DA Hunter’s October 2000 affidavit during the Documentary.

98. In 2003, the United States District Court for the Northern District of Georgia painstakingly analyzed the evidence of JonBenét’s murder in connection with a contention that Patsy killed JonBenét. In a March 31, 2003, order entered on a motion for summary judgment, the Honorable Julie Carnes declared that “the weight of the evidence is more consistent with a theory that an intruder murdered JonBenét[.]” *Wolf Decision* at 1363.

99. Despite being fully aware of Judge Carnes' order, Defendants ignored and did not disclose the *Wolf Decision* during the Documentary.

100. On April 7, 2003, former Boulder DA Mary Kennan, *n/k/a* Mary Lacy, issued a press release stating, in part, "I agree with [Judge Carnes'] conclusion that 'the weight of the evidence is more consistent with a theory that an intruder murdered JonBenét than it is with a theory that Mrs. Ramsey did so.'" A copy of said press statement is attached hereto as Exhibit "B".

101. Despite being fully aware of the press release, Defendants ignored and did not disclose DA Lacy's April 2003 press release during the Documentary.

102. On July 9, 2008, former Boulder DA Lacy relied on newly discovered DNA evidence to exonerate the Ramsey Family (including Burke) in an open letter released to the public. DA Lacy declared that:

[N]ew scientific evidence convinces us that it is appropriate, given the circumstances of this case, to state that we do not consider your immediate family including you, your wife, Patsy, and your son, Burke, to be under any suspicion in the commission of this crime.

...

The Bode Technology laboratory was able to develop a profile from DNA recovered from the two sides of the long johns. The previously identified profile from the crotch of the underwear worn by JonBenét at the time of the murder matched the DNA recovered from the long johns at Bode. Unexplained DNA on the victim of a crime is powerful evidence. The match of male DNA on two separate items of clothing worn by the victim at the time of the murder makes it clear to us that an unknown male handled these items.

103. Although referenced by Defendants in the Documentary, Defendants misrepresented and failed to accurately disclose the basis for Boulder DA Lacy's exoneration of the Ramsey family.

104. CBS has, itself, many times supported Burke's innocence. Indeed, CBS has broadcast many reports regarding the exculpatory information establishing that Burke did not kill JonBenét. Examples of CBS's coverage of Burke's exonerations are attached hereto as Exhibit "C".

105. There was no evidence developed prior to or during the law enforcement investigation and the grand jury investigation that in any way links Burke to the killing of his sister or that caused the Boulder PD or the Boulder DA to consider him a suspect in the investigation of her murder.

106. Since the grand jury concluded in October 1999, and aside from law enforcement's intervening exonerations of Burke and the Ramsey Family, the only new and material evidence discovered in this case is the DNA evidence relied upon by former Boulder DA Lacy to exonerate the Ramsey family in 2008 and to again reiterate Burke's innocence.

107. Twenty years after JonBenét's death, the perpetrator of her brutal murder has never been identified, and no indictment has ever been filed by law enforcement prosecutors against any individual in connection with her death.

B. Prior Accusations Against Burke and Resulting Lawsuits

108. In late 1998 and early 1999, multiple members of the tabloid media published articles accusing Burke of killing JonBenét.

109. The articles published by the tabloid media in 1998 and 1999 are very similar to the accusations made by Defendants in the Documentary in 2016.

110. Like the accusations made by Defendants in the Documentary, the accusations in the tabloid media articles were false and defamatory.

111. In November of 1998, the supermarket tabloid *Globe* published articles stating that Burke killed JonBenét. These articles cited professed experts stating (a) that Burke may have been suffering from a rage disorder; (b) that based on reviewing video tapes of Burke as he was questioned about his sister's death, his "behavior seemed odd," "he was squirrely," and "he would hide his face, cower away, duck or look away and shrug" making clear "he was hiding something"; (c) that Burke was a disturbed child who killed his sister in connection with an act of sexual molestation; (d) that his parents "aided the then-9-year-old boy by covering up the heinous crime with a phony kidnapping story and ransom note"; (e) that Burke "showed signs of being disturbed when he smeared feces in his bathroom"; (f) that it had been "documented that he once accidentally hit his sister with a golf club"; and (g) that "[a]lthough his parents said he was in bed when Patsy first made a frantic call to police on Dec. 26, an enhancement of the 911 tape proved he was in the background, asking questions."

112. In May of 2000, Burke sued *Globe International, Inc.* and *Globe Communications, Corp.* in the United States District Court for the Northern District of Atlanta and *American Media, Inc.* in the State Court of Fulton County, Georgia, for libel in connection with the 1998 *Globe* accusations. Burke dismissed these lawsuits after reaching confidential settlements with the defendants.

113. In May and June of 1999, the supermarket tabloid *Star* published articles stating (a) "JonBenét Killed by Brother Burke"; (b) that Burke was the "prime suspect"; (c) that Burke was resentful of the attention JonBenét received; and (d) that JonBenét wet her bed and crawled in the bed with Burke who let loose his pent-up rage and lashed out at her physically.

114. In late 1999, Burke sued *American Media, Inc.* and *Star Editorial, Inc.* in the United States District Court for the Northern District of Georgia for libel in connection with the

1999 *Star* accusations. Burke dismissed this lawsuit after reaching a confidential settlement with the defendants.

115. In May of 1999, *The New York Post* essentially republished the false accusations contained in the *Star* articles referenced above.

116. In May of 2000, Burke sued NYP Holdings, Inc. *d/b/a* The New York Post in the United States District Court for the Southern District of New York for libel in connection with the republished *Star* accusations. Burke dismissed this lawsuit after reaching a confidential settlement.

117. In October and November of 1999, *Court TV* published press releases promoting its upcoming TV show *Who Killed JonBenét Ramsey: Prime Suspects*, which was broadcast in November of 1999. Thereafter, Burke sued AOL Time Warner Inc., Time Warner Entertainment Company, LP, Courtroom Television Network, LLC, and Liberty Media Corp. in the United States District Court for the Northern District of Georgia for libel in connection with the accusations in the press releases and for defamation for the accusations in the TV show that falsely conveyed that Burke was a suspect in connection with his sister's death. Burke dismissed this lawsuit after reaching a confidential settlement with the defendants.

118. Since the time of the above accusations against Burke in 1998 and 1999, no member of the tabloid media or the mainstream media has ever again accused Burke of being involved in—or suspected of—JonBenét's murder. That is, until CBS aired the Documentary.

119. No evidence suggesting Burke's involvement in JonBenét's death has ever been discovered, and because he is innocent, does not exist.

120. Defendants used their Documentary to accuse Burke of killing JonBenét approximately 17 years after similar accusations had been made by certain members of the tabloid media who were held accountable for those false accusations in legal proceedings.

121. While Defendants' false accusations against Burke echo the accusations made against him by supermarket tabloids years ago, the key difference is that this time, the accusation was published by the most respected member of the American broadcast media, CBS.

C. Key Facts About the Murder of JonBenét and the Law Enforcement Investigation

122. JonBenét was six-years-old when she was murdered.

123. At the time of his sister's murder, Burke was nine-years-old.

124. JonBenét competed in beauty pageants. In 1995, she held the title of Little Miss Colorado Sunburst and on December 6, 1996, appeared in the *Lights of December Parade* at the Boulder Mall.

125. On the night of December 25, 1996, the Ramsey family attended a Christmas dinner at the home of their friends Fleet and Priscilla White.

126. After the family returned home, John and Patsy put the children to bed and went to bed themselves soon after.

127. The family intended to rise early the following morning because they were flying to Charlevoix, Michigan, for a family vacation.

128. John and Patsy awoke at approximately 5:30 a.m. on the morning of December 26, 1996, to prepare for their trip to Charlevoix.

129. John and Patsy were not awakened during the night.

130. Burke was not awakened during the night.

131. Burke did not leave his bedroom during the night.

132. Shortly after waking up, Patsy went down two flights of stairs from her room to the main floor. On a step near the bottom of the stairs, she discovered a two-and-a-half-page handwritten ransom note stating that JonBenét had been kidnapped (the “Ransom Note”).

133. Patsy screamed and rushed to check JonBenét’s bedroom, which was empty.

134. John heard the scream and rushed to find Patsy.

135. John and Patsy checked on Burke, who appeared to them to be sleeping in his room.

136. Panicked and frightened, Patsy dialed 9-1-1 at approximately 5:52 a.m., breathlessly imploring the operator to send help (the “9-1-1 Call”).

137. After she hung up with 9-1-1, Patsy telephoned family friends, who promptly came to the Ramsey home.

138. Police arrived shortly thereafter, but failed to properly secure the crime scene, a failure that seriously compromised the crime scene.

139. The Ransom Note stated that the kidnappers would call between “8 and 10 a.m. tomorrow,” but the call never came.

140. To keep John occupied, Boulder Police Department (“Boulder PD”) Detective Linda Arndt instructed him to search the home for anything unusual. The home had previously been searched by Boulder PD officers and John’s family friend, Fleet White (“Fleet”).

141. John and Fleet began their search in the basement.

142. John and Fleet first searched the playroom and observed, among other things, a broken ground-level window and a suitcase beneath that window that was normally stored in a different place.

143. John eventually searched what is often called the “wine cellar” in the basement (the “Wine Cellar”) that served as a storage area. A Boulder PD officer had previously observed that the door to the Wine Cellar was locked from the outside and did not open the door to inspect the room. Fleet had previously opened the door to the Wine Cellar but did not turn on the light in the room.

144. John opened the door, turned on the light in the Wine Cellar and discovered JonBenét’s body. John cried out, shocked to discover the body of his young daughter.

145. Duct tape covered JonBenét’s mouth, her wrists were tied above her head, and she had a garrote embedded in her neck.

146. John scooped his daughter up in his arms and carried her body upstairs, crying out for help.

147. Detective Arndt observed JonBenét’s body and informed John that his daughter was dead.

148. JonBenét was strangled to death with a torture and bondage device known as a garrote.

149. The garrote was made from a nylon cord and a wooden handle fashioned from the middle of a paintbrush discovered in Patsy’s paint tray in the boiler room in the basement. The end of the nylon cord was tied to this wooden handle and, on the other end, was a loop with a slipknot, with JonBenét’s neck within the loop.

150. Until her autopsy, it was not visually apparent that JonBenét also suffered a massive blow to her head that fractured the right side of her skull—an injury that has been described as the equivalent to an injury resulting from a fall from the third floor of a building.

151. During the course of her brutal murder, the pathologist performing the autopsy discovered that JonBenét was sexually assaulted by being vaginally penetrated, including penetration with the broken wooden handle of a paintbrush.

152. JonBenét's body showed many signs of a struggle with her attacker.

153. JonBenét was brutally tortured, assaulted and murdered.

154. John and Patsy found themselves under suspicion by the Boulder PD in connection with the investigation into JonBenét's murder.

155. During the course of the investigation, John and Patsy sought repeatedly to cooperate with investigators, including signing more than one hundred releases for information requested by the police, and providing all evidence and information in their possession requested by the police.

156. John and Patsy gave the Boulder PD historical handwriting samples and supervised written exemplars.

157. John and Patsy gave hair, including pubic hair, and DNA samples to police.

158. Burke also gave a DNA sample to the police.

159. John, Patsy, and Burke each consented to multiple interviews by law enforcement.

160. Burke was interviewed regarding JonBenét's death on at least three occasions outside the presence of his parents.

161. On December 26, 1996, John gave the Boulder PD handwriting exemplars for himself and Patsy.

162. On December 26, 1996, John voluntarily provided police with a note pad Patsy had previously used in their home. Law enforcement subsequently determined that the Ransom Note was written on that pad.

163. Law enforcement consulted six qualified and highly respected experts in the field of handwriting analysis who performed extensive analysis of Patsy, John, and Burke's handwriting samples to the original Ransom Note.

164. All six experts conclusively eliminated John and Burke as authors of the Ransom Note.

165. None of the six experts concluded that Patsy wrote the Ransom Note. Although they could not determine with 100% certainty that Patsy did not author the Ransom Note, the handwriting experts' consensus was that the chances she wrote the Ransom Note were "very low":

During the investigation, the Boulder Police Department and Boulder County District Attorney's Office consulted at least six handwriting experts. . . . All six experts agreed that Mr. Ramsey could be eliminated as the author of the Ransom Note. None of the six consulted experts identified Mrs. Ramsey as the author of the Ransom Note. Rather, the experts' consensus was that she "probably did not" write the Ransom Note. On a scale of one to five, with five being elimination as the author of the Ransom Note, the experts placed Mrs. Ramsey at a 4.5 or a 4.0. The experts described the chance of Mrs. Ramsey being the author of the Ransom Note as "very low."

Wolf v. Ramsey, 253 F. Supp. 2d 1323, 1334 (2003) (the "*Wolf Decision*").

166. The Ramsey home was not secure on the night of December 25, 1996. They had not turned their security alarm on, and at least seven windows and one door were found unlocked on the morning of December 26, 1996. A door from the kitchen to the outside was found open.

167. On the ground level of the Ramsey home, there was a removable grate over three windows that opened into the playroom area of the basement.

168. The center window had a broken pane.

169. Law enforcement found scuffmarks and a suitcase positioned upright beneath the center window leading to the playroom area of the basement (the "Window").

170. The area around the Window showed clear evidence of a disturbance.
171. Leaves and white Styrofoam packing peanuts that had pooled in the Window area appeared to have been cleared from, or brushed to either side of, the Window sill.
172. A shard of glass was found on the suitcase beneath the Window.
173. Green foliage was found tucked under the movable grate over the Window well.
174. Leaves and debris consistent with that found in the Window area were found on the floor of the basement underneath the Window.
175. A leaf and white Styrofoam packing peanuts like those in the Window area were found in the Wine Cellar where JonBenét's body was found.
176. The end portion of the wooden handle and the cord used to construct the garrote were never found in the Ramsey home; i.e., the perpetrator removed these items from the home after killing JonBenét.
177. The duct tape covering JonBenét's mouth was never sourced to the Ramsey home.
178. Fiber evidence suggests that the cord and duct tape were, at one time, in the second-floor area of the home near JonBenét's bedroom.
179. Fibers consistent with those of the cord used to make the slip knots and garrote were found on JonBenét's bed.
180. Other items not belonging on the second floor of the Ramsey home were found there on the day after the murder.
181. A rope was found inside of a brown paper sack in the guest bedroom on the second floor.

182. Small pieces of the material of this brown sack were found in JonBenét's bed and in the body bag that was used to transport her body.

183. John and Patsy disclaimed ownership and knowledge of that rope.

184. A baseball bat not owned by the Ramseys was found on the north side of the house containing fibers consistent with fibers found in the carpet in the basement where JonBenét's body was found.

185. Brown cotton fibers found on JonBenét's body, the garrote handle, the duct tape, and the wrist ligatures were not sourced to and do not match anything in the Ramsey home.

186. Recently-made and unidentified shoeprints containing a "HI-TEC" brand mark were found in the basement imprinted in mold growing on the basement floor.

187. Neither John, Patsy, nor Burke owned any HI-TEC brand shoes at the time of the murder.

188. The DNA of an unidentified male was found under JonBenét's fingernails.

189. The DNA found under JonBenét's nails does not match John, Patsy, or Burke's DNA.

190. The DNA of an unidentified male was found in the crotch of JonBenét's underwear.

191. The DNA found in JonBenét's underwear does not match John, Patsy, or Burke's DNA.

192. The DNA found in JonBenét's underwear was likely from saliva.

193. An unidentified Caucasian pubic or auxiliary hair was found on the blanket covering JonBenét's body and does not match John, Patsy, or Burke.

194. The DNA of an unidentified male was found on the left and right sides of the waistband of the pajama bottoms worn by JonBenét at the time of her death.

195. The DNA found on JonBenét's pajama bottoms does not match John, Patsy, or Burke's DNA.

196. The DNA found on JonBenét's pajama bottoms was touch DNA.

197. The saliva DNA found on JonBenét's underwear is consistent with the touch DNA found on JonBenét's pajama bottoms.

198. The medical examiner found the cause of JonBenét's death was asphyxia by strangulation with the garrote associated with craniocerebral trauma.

199. The medical examiner found physical evidence that conclusively establishes that JonBenét was alive at the time she was asphyxiated.

200. There were physical findings on her body that strongly suggest that JonBenét struggled with her attacker and was conscious at the time she was garroted.

201. JonBenét's neck had fingernail abrasions and scrapes in the area where the garrote was embedded in her neck.

202. JonBenét had burn like marks on her face and back consistent with the application of a stun gun.

203. The autopsy report revealed that although no head injury was visible when JonBenét's body was found, she received a severe blow to her head shortly before or around the time of her death.

204. JonBenét was sexually assaulted shortly before her death.

205. Wood fragments from the paintbrush used to create the garrote were found in JonBenét's vagina.

206. JonBenét's hymen was injured during the sexual assault, causing her to bleed onto her underwear.

207. The city of Boulder recorded the 9-1-1 Call on a recycled tape that had previously been used to record unknown numbers of other 9-1-1 calls (the "9-1-1 Recording").

208. After Patsy hung up her wall phone from the call, the 9-1-1 Recording contains six seconds of inaudible background noise consistent with the sounds of computer keystrokes being made by the 9-1-1 operator.

209. Investigators sent the 9-1-1 Recording to the FBI and U.S. Secret Service for testing, but those agencies could not discern any conversations or voices from the background noise on the tape.

210. In 1997, investigators sent the 9-1-1 Recording to the Aerospace Corporation ("Aerospace") asking its technicians to decipher the unintelligible sounds at the tail end of the 9-1-1 Call.

211. Aerospace technicians claimed they heard the following at the tail end of the 9-1-1 Recording: (a) John saying, "We're not talking [speaking] to you"; (b) Patsy saying, "Help me, Jesus. Help me, Jesus"; and Burke saying, "[Well,] what did you find?" See, e.g., Steve Thomas, *JonBenét: Inside the Ramsey Murder Investigation* 14-15 (St. Martin's Press 2000); *Foreign Faction*, pp. 102-103.

212. Law enforcement developed two primary theories: that an intruder killed JonBenét or Patsy killed JonBenét. While under the umbrella of suspicion along with Patsy, investigators did not believe John killed his daughter after completing the initial investigation.

213. The Boulder PD officers handling the investigation had no experience in investigating homicides.

214. The Boulder DA subsequently hired the highly-respected Colorado homicide Detective Lou Smit (“Smit”) to review the case.

215. Smit concluded that JonBenét was murdered by an intruder who subdued her with a stun gun and then sexually assaulted, tortured, and brutally murdered her in the basement of the Ramseys’ home (“the Smit intruder theory”).

216. Former Boulder PD Detective Steve Thomas (“Thomas”), who was the lead detective on the case, was an undercover drug officer with zero homicide experience. Thomas was the leading public proponent of the Patsy-did-it theory, participating in media interviews and publishing a book setting forth his accusations against Patsy after he resigned from the Boulder PD. Thomas has testified that the Boulder PD theory was that Patsy accidentally struck JonBenét in a rage after discovering that she had wet her bed and thereafter staged a cover-up of her crime in which John quietly acquiesced after he discovered JonBenét’s body.

217. In June of 1998, Boulder PD presented their evidence to the Boulder DA.

218. In September of 1998, Boulder DA Alex Hunter convened a grand jury to investigate JonBenét’s death.

219. The grand jury investigation ended in October of 1999, without criminal charges or indictments being brought by the District Attorney’s Office against any individual.

220. Following the conclusion of the grand jury investigation, Boulder DA Alex Hunter held a press conference stating that “I must report to you that I and my prosecution task force believe we do not have sufficient evidence to warrant the filing of charges against anyone who has been investigated at this time.”

221. John and Patsy strongly believed that the Boulder PD investigation was seriously flawed from the outset of the investigation through the date the investigation was taken over in

December 2002 by former Boulder DA Mary Lacy *f/k/a* Mary Keenan with the agreement of then Boulder PD Chief Beckner.

222. In 2013, it was leaked to the media that the grand jury had voted to recommend that John and Patsy be indicted by the Boulder DA for “commit[ting] a child to be unreasonably placed in a situation which posed a threat of injury to the child’s life or health” and for “render[ing] assistance to a person with the intent to hinder, delay and prevent the discovery, detention, apprehension, prosecution, conviction and punishment of such a person knowing the person being assisted has committed and was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death.”

223. In the exercise of their professional and ethical duties as prosecutors, members of the Boulder DA’s Office did not believe that those recommended charges could be successfully prosecuted based on the evidence related to JonBenét’s death and, therefore, declined to sign any indictment.

224. Burke has never been suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death.

225. As made abundantly clear by the public statements of Boulder prosecutors familiar with all of the evidence developed in the case and presented to the grand jury, no evidence existed to support a finding that Burke killed his sister and, therefore, the grand jury did not vote to indict John and Patsy based on a belief that the evidence established that they engaged in a cover-up to prevent the discovery that Burke killed JonBenét.

PART TWO: THE PRODUCTION OF *THE CASE OF: JONBENÉT RAMSEY*

226. Upon information and belief, Defendants agreed to engage in a conspiracy to defame Burke, and CBS and Critical Content entered into a joint venture agreement to promote,

produce, and publish the Documentary. The Documentary was produced and structured to support the preconceived storyline that Burke killed JonBenét.

227. From the outset, Defendants understood and agreed that the Documentary would be intentionally produced and structured to support the accusation that Burke killed JonBenét before Defendants ever commenced the claimed “complete reinvestigation.”

A. CBS, Critical Content, and the Pseudo-Experts Agree to Film and Publish the Documentary

228. Upon information and belief, CBS originally intended to produce the Documentary in connection with the twentieth anniversary of JonBenét’s murder, and to do so in-house through its highly-respected show that specializes in true crime stories, *48 Hours*.

229. Upon information and belief, CBS abandoned its *48 Hours* production and joined forces in the late spring of 2016 with Critical Content, an outside entity, to produce the Documentary.

230. Upon information and belief, CBS’s in-house broadcast standards are substantially more rigorous than Critical Content’s.

231. Upon information and belief, CBS decided to work with an outside production company because CBS knew that the Documentary’s preconceived conclusion—that Burke killed JonBenét—would not pass CBS’s stringent broadcast review standards.

232. Upon information and belief, CBS and Critical Content originally agreed to produce and publish a three-part, six-hour documentary, but elected on the eve of the broadcast to cut the Documentary to just two-parts for a total of four-hours.

233. Upon information and belief, the third part of the Documentary examined and excluded suspects other than members of the Ramsey family, thereby supporting the

preconceived storyline that Burke was the killer and that this accusation was the only conclusion supported by the evidence.

234. Upon information and belief, CBS and Critical Content have an agreement through which they shared resources to film and publish the Documentary.

235. Upon information and belief, CBS and Critical Content entered into a joint venture agreement whereby they agreed to jointly produce and publish the Documentary: a single project for profit.

236. Upon information and belief, CBS and Critical Content agreed to a sharing of profits as well as losses in connection with the Documentary.

237. CBS and Critical Content contributed their skills and property to the Documentary.

238. CBS and Critical Content had a community interest and control over the Documentary, including a right of joint control.

239. Clemente, Richards, Fitzgerald, Kolar, Stanley, Spitz and Lee (collectively, the “Pseudo-Experts”) were acting as CBS’s and Critical Content’s employees and/or agents during the filming and publication of the Documentary.

240. All acts and omissions of the Pseudo-Experts were undertaken in the normal course and for the furtherance of CBS’s and Critical Content’s business, in furtherance and within the scope of CBS’s and Critical Content’s resource sharing agreement, and within the scope of their employment and/or agency.

241. Defendants knowingly agreed to participate in and further the Documentary’s production and unlawful purpose of falsely accusing Burke of killing JonBenét, including by participating in the filming of the Documentary.

242. The Pseudo-Experts all knowingly agreed to appear in the Documentary as actors and allow CBS and Critical Content to use their professional reputations and credentials to legitimize the false and defamatory accusation that Burke killed JonBenét.

243. The Pseudo-Experts all knowingly agreed to allow CBS and Critical Content to use their professional reputations and credentials to legitimize the false portrayal of the Documentary as a “complete reinvestigation starting right from scratch.”

244. From the outset of the production of the Documentary, the Pseudo-Experts knew that the Documentary would be scripted from Kolar’s self-published book and was never intended to be an independent reinvestigation of the murder.

B. Defendants’ Marketing of the Documentary

245. CBS planned, promoted and produced the Documentary to attract the largest number of viewers possible and then hook those viewers into watching later installments of its new true-crime series and its new fall lineup of TV shows.

246. Defendants represented and promoted that the Documentary would reveal JonBenét’s killer.

247. Defendants represented and promoted that *The Case of: JonBenét Ramsey* would be a documentary that presented factual information revealing “who did what to whom and when and how.”

248. Defendants represented and promoted that their team of seven “highly skilled” experts would “get to the truth about how she died” by presenting “new witnesses,” “new evidence,” and “new theories.” See, e.g., <http://www.laurarichards.co.uk/featured/official-trailer-the-case-of-JonBenét-ramsey/>.

249. When Defendants advertised that they would present “new witnesses,” Defendants’ advertisement shows their interview of 9-1-1 operator Kim Archuletta.

250. Ms. Archuletta’s interview in the Documentary is nearly identical to her interview with Kolar, which he published in *Foreign Faction* in 2012. See *Foreign Faction*, p 100.

251. Kim Archuletta was not a “new witness.”

252. When Defendants advertised that they would present “new evidence,” Defendants’ advertisement shows their purported enhancement of the 9-1-1 Call.

253. In 1997, Aerospace purportedly enhanced the 9-1-1 Recording and published a transcript virtually identical to the transcript in the Documentary. Aerospace’s 1997 transcript was published in the supermarket tabloids in 1998, by Steve Thomas in 2000, and Kolar in 2012. See, e.g., *JonBenét: Inside the Ramsey Murder Investigation*, pp. 14-15; *Foreign Faction*, pp. 101-102. These “transcripts” have always been the subject of dispute, with their accuracy being denied by members of law enforcement investigating the case and by John, Patsy, and Burke.

254. The purported analysis of the 9-1-1 Recording was not “new evidence” and was not the result of any advancements in technology: the analysis was performed in 1997.

255. When Defendants advertised that they would present “new theories,” Defendants’ advertisement shows a purported cobweb demonstration in the basement Window.

256. The Documentary’s cobweb theory and demonstration was not a “new theory,” as it was also taken directly from Kolar’s book, *Foreign Faction*. See *Foreign Faction*, pp. 234-239.

257. Clemente promoted the Documentary as fact, its theory as conclusive, and the case as resolved.

258. Clemente made the following claims published by *The Sydney Morning Herald*:

It explains who did what to whom and when and how.

That's why the case was inconclusive until today.

Cold case homicide investigations many times are at an advantage. People wouldn't talk before and now they'd talk to us. Technology has advanced. Criminal behavioral analysis has advanced. All these things coming together helped us find new evidence and helped us better understand the evidence from before. Our team got together, we argued it out, and we came up with one comprehensive theory.

Hopefully that documentary will build enough groundswell support to get the District Attorney's office to resolve the case.

See <http://www.smh.com.au/entertainment/tv-and-radio/JonBenét-ramsey-docuseries-will-name-new-suspect-says-retired-fbi-agent-jim-clemente-20160919-grjj11.html>.

259. Clemente made the following claims published by *Mirror*: “We all came to one complete theory that explains everything that happened,” and “[t]he world has heard so many false rumors. The people of the community need to know the truth so they can put pressure on the district attorney.” See <http://www.mirror.co.uk/tv/tv-news/JonBenét-ramsey-theory-explains-everything-8867093>.

260. Clemente also claimed on a CBS interview that “we are confident that the team of experts we put together will move this case forward so that there will be justice for JonBenét,” and “if you watch the show . . . we have some very strong conclusions about what happened that day to JonBenét Ramsey.” See <http://amp.cbslocal.com/video/category/interviews/3504304-jim-clemente-tom-forman-discuss-JonBenét-ramsey-docuseries/>.

261. In the same interview, Tom Forman promotes the Documentary's team of independent experts and their purported independent yet identical conclusion:

[A] team of the best investigators in the world—it's Henry Lee and Werner Spitz, these guys are world-class at what they do—spent the summer reinvestigating this case, and independently, each one of them reaches the same conclusion: that there is only one way this could have gone down.

262. When Fitzgerald was promoting the Documentary, he proclaimed “we solved it.” See <http://www.eonline.com/news/795944/the-case-of-JonBenét-ramsey-will-solve-the-murder-but-no-one-will-be-arrested-here-s-why>.

263. According to Fitzgerald, “[y]ou will learn a lot and you will be, I’m pretty sure, convinced who killed JonBenét Ramsey.” *Originally published at* <http://highlighthollywood.com/2016/10/burke-ramsey-sues-werner-spitz-for-150m-following-outrageous-JonBenét-death-accusations/>.

264. While Richards was promoting the Documentary, she stated that they “tested every hypothesis.” See <http://extratv.com/videos/0-98uf19sb/>.

C. Defendants Based the Documentary on *Foreign Faction*

265. *Foreign Faction* was the primary source for Defendants’ script.

266. Contrary to their representations to the public, Defendants did not present a Documentary and did not conduct a “complete reinvestigation starting right from scratch” based on true facts, “new witnesses,” “new evidence,” and “new theories.”

267. Defendants merely presented the sensational accusations of *Foreign Faction* and the long ago legally rejected accusations of the supermarket tabloids.

268. The sting of Defendants’ Documentary and the allegations supporting that sting were largely lifted straight from *Foreign Faction*, in which Kolar praised the assistance provided by his legal counsel, Thomas B. Kelley, of the firm of Levine Sullivan Koch & Schultz.

269. Mr. Kelley served as co-counsel for Globe International, Inc. and Globe Communications, Corp. in the successful libel litigation brought on behalf of Burke arising out of the November 1998 supermarket tabloid accusations against Burke that were strikingly similar to the accusations published in *Foreign Faction* and the Documentary.

270. Defendants knew that *Foreign Faction* was the basis for the Documentary but failed to disclose that fact to the public as it would have detracted from the compelling but false storyline that the Documentary was a complete reinvestigation by new experts.

271. Defendants knew that the majority of the falsehoods, half-truths, material witnesses, and theories presented in the Documentary were taken from *Foreign Faction* and did not, as represented to the public, result from a complete reinvestigation by new experts.

272. CBS knew that a Documentary rehashing stale theories from a commercially unsuccessful and self-published book would not capture the public's imagination and produce the ratings and profits sought by CBS. CBS needed the public to buy into the idea that the well-trodden Ramsey case was about to be blown wide open with JonBenét's killer being publicly revealed by a new reinvestigation, which would solve the twenty-year-old murder mystery.

273. To accomplish their goals of achieving ratings and profits, Defendants produced the Documentary to make the false accusations of *Foreign Faction* appear to be real.

274. Defendants created the illusion of a new real-time reinvestigation by using individuals with law enforcement credentials as actors to play the role of the Pseudo-Experts and support and act out the accusation of Kolar's book and the basis supporting its accusation.

275. Defendants' fraud on the viewers kicks off in the first three minutes of the Documentary when Clemente proclaims, "what we need to do is a complete reinvestigation starting right from scratch." At that exact moment, the television frame shows a copy of Kolar's *Foreign Faction* on the war room table—unintentionally revealing the script for the preconceived storyline of the Documentary. A copy of the television frame is attached hereto as Exhibit "D".

276. Defendants falsely marketed, promoted, and portrayed Clemente, Richards, Fitzgerald, Kolar, Spitz, and Lee as “independent” experts who were coming together for the first time in the Documentary and who independently reach the same conclusion.

277. Richards continued the fraud on the viewers when she states that she is “putting together this elite and renowned team” and “actually bringing these minds into one room. This has never been done before.”

278. In fact, Kolar had discussed his rejected theory with Fitzgerald and the FBI’s Behavioral Analysis Unit as early as 2006.

279. Fitzgerald, Clemente, and Stanley all previously worked for the FBI’s Behavioral Analysis Unit.

280. Upon information and belief, Fitzgerald had discussed Kolar’s theory with Richards, and Richards agreed to join a team to review the Ransom Note, prior to Richards “putting together this elite and renowned team.”

281. Upon information and belief, Kolar had discussed his theory and Spitz’s flashlight theory with Spitz prior to Richards “putting together this elite and renowned team.”

282. Kolar relied extensively on Spitz and Lee in writing *Foreign Faction*.

283. Upon information and belief, Defendants only hired Kolar as an actor to play the role of a “world-renowned” investigator because he was the author of *Foreign Faction* and had likely cut a deal to appear in the Documentary when he sold the publishing rights to CBS and Critical Content.

284. Defendants knew, before undertaking any purported “complete reinvestigation,” that Kolar would accuse Burke of killing JonBenét.

285. Defendants hired Clemente, Richards, Fitzgerald, Stanley, Spitz, and Lee because they were familiar with and/or collaborated on various aspects of Kolar's "Burke-did-it" explanation, well in advance of the Documentary and its purported "complete reinvestigation."

286. Defendants hired Fitzgerald, Clemente, and Richards because Defendants knew, before conducting any "complete reinvestigation," that they would accuse Burke of killing JonBenét and support Defendants' preconceived storyline.

287. Defendants hired Spitz and Lee because Kolar had previously relied on their theories to support his false accusation against Burke.

288. According to *Foreign Faction*, Kolar had spoken on many occasions with the FBI's Behavioral Analysis Unit, and Fitzgerald in particular, regarding his Burke-did-it-theory between 2006 and 2012. *See Foreign Faction*, pp. 364-367.

289. And according to Kolar, "Fitzgerald was very interested in [Kolar's] theory," "wanted to know if [Kolar would] be willing to come to Quantico to share it with members of his team," "[Fitzgerald] offer[ed] to put together a small team of forensic linguistic experts from around the nation to take another objective look at the ransom note," and that "[o]ne of his peers from the United Kingdom had volunteered to participate as well." *Id.* at 366-367.

290. Upon information and belief, Fitzgerald's purported team of forensic linguistic experts included Clemente, Richards, and Stanley.

291. Kolar even wrote a letter dated January 1, 2007, to Colorado Governor Bill Owens requesting that "consideration be given to inviting the FBI's Behavioral Analysis Unit to participate in the examination of this new evidence and case theory." *Id.* at 380-381.

292. Clemente, Fitzgerald, and Stanley are former co-workers.

293. Clemente, Fitzgerald, and Richards are current co-workers. The three of them are key employees at a production company called X-G Productions LA, Inc. (“X-G Productions”). X-G Productions consults on and produces fictional crime films and TV shows. *See* <http://www.xgproductions.com/>.

294. X-G Productions’ slogan is “authenticity.” *Id.*

295. X-G Productions’ expertise is to make fake crime stories seem real to television viewers.

296. X-G Productions works on an array of fictional crime shows and movies, including Criminal Minds, Blindspot, Quantico, Sleepy Hollow, NCIS, The Americans, Person of Interest, True Detective, Smokin’ Aces 2 Assassins’ Ball, The Closer, and King & Maxwell.

297. X-G Productions also employs Aliza Rosen (“Rosen”) as its Chief Content Officer.

298. The Documentary credits Clemente, Richards, and Rosen for its “Concept” and as its Co-Executive Producers.

299. Prior to the commencement of the phony reinvestigation, Defendants had their “concept” and the seven so-called “independent experts” who agreed to act out *Foreign Faction* under the guise of engaging in a legitimate reinvestigation: one “expert” who was the only person connected to the investigation to have suggested that Burke was the killer, one “expert” who was an FBI linguist known to have consulted on and supported Kolar’s theory for years, three “experts” who were the linguist’s past and current co-workers with whom he shared Kolar’s theory, and two “experts” relied on by Kolar to support his theory.

300. Defendants’ promotions and representations concerning the new, complete reinvestigation that would reveal the killer were hugely successful, as Defendants’ accusation

against Burke resounded loudly throughout the world. The media, in headline after headline, article after article, and social media post after social media post shouted: **CBS says Burke killed JonBenét**. No longer were the false accusations against Burke emanating from the netherworld of Ramsey conspiracy theorists or from the pages of the supermarket tabloids or from the pages of a self-published book rejected by law enforcement and the mainstream media. Now CBS—the most respected name in broadcast news and the network of Murrow, Cronkite, and Wallace—placed the full power and credibility of its brand and its reputation for integrity solidly behind the accusation that Burke killed his sister.

PART THREE: THE BROADCAST OF *THE CASE OF: JONBENÉT RAMSEY*

A. Defendants and Their Purported Fields of Expertise

301. At the beginning of the Documentary, Defendants introduce their team of so-called “world renowned” “experts”: Clemente, Richards, Fitzgerald, Kolar, Stanley, Spitz, and Lee—i.e., the Pseudo-Experts.

302. The Documentary describes Clemente as, among other things, a “Retired FBI Profiler,” an “expert in the areas of child sex crimes, child abductions, and child homicides,” and a former member of “the FBI’s Behavioral Analysis Unit.”

303. Clemente currently works for X-G Productions as a writer and co-producer of fictional crime series and films.

304. The Documentary does not disclose Clemente’s connection to X-G Productions.

305. The Documentary describes Richards as a “Criminal Behavioral Analyst” “trained by New Scotland Yard and the FBI.”

306. Richards currently works for X-G Productions as a co-producer of fictional crime series and films.

307. The Documentary does not disclose Richards' connection to X-G Productions and Clemente.

308. The Documentary describes Fitzgerald as a "Profiler," "Forensic Linguist," and "a former police officer too."

309. Like Clemente, Fitzgerald was also a member of the FBI's Behavioral Analysis Unit.

310. Fitzgerald currently works for X-G Productions as a co-producer of fictional crime series and films.

311. The Documentary does not disclose that Fitzgerald worked for the FBI's Behavioral Analysis Unit, his connection to X-G Productions, or his connections to Clemente and Richards.

312. Stanley was also a member of the FBI's Behavioral Analysis Unit.

313. The Documentary does not disclose that Stanley was a member of the FBI's Behavioral Analysis Unit or his connection to Clemente and Fitzgerald.

314. The Documentary describes Kolar as an "Investigator for the Boulder D.A." and "Chief of Telluride Marshall's Department."

315. According to his book, Kolar became familiar with the FBI's Behavioral Analysis Unit and Fitzgerald while corresponding with the FBI's Behavioral Analysis Unit regarding his Burke-did-it theory.

316. The Documentary does not disclose that Kolar authored *Foreign Faction* or his connections to the FBI's Behavioral Analysis Unit and Fitzgerald.

317. The Documentary describes Spitz as a "Forensic Pathologist" who consulted on the "JFK Autopsy" and "MLK Assassination."

318. Federal judges have referred to Spitz as “not useful or credible,” and his opinions as “simplistic and preposterous.” Spitz once provided dubious testimony about a man’s cause of death to support his paying client, even though his testimony explicitly contradicted his own treatise.

319. Spitz’s purported “factual conclusions” regarding the sequencing of injuries, cause, manner, and time of death were relied upon by Kolar to support his theory in *Foreign Faction*.

320. Spitz has a long history of using his résumé to interject himself into high profile cases for money and publicity.

321. The Documentary describes Lee as a “world renowned criminalist,” “Forensic Scientist,” and a “Pathologist.”

322. Lee’s purported “factual conclusions” regarding the meaning of the DNA evidence discovered on JonBenét’s body and clothing were relied upon by Kolar to support his theory in *Foreign Faction*.

323. Lee has a long history of using his résumé to interject himself into high profile cases for money and publicity.

324. The Documentary does not disclose that Kolar relied on Spitz and Lee in his book, *Foreign Faction*.

B. The False, Defamatory, and Malicious Gist of the Documentary

325. The false and defamatory gist of Defendants’ Documentary is that Burke killed JonBenét, and that gist also conveys to the viewers that Burke participated in a criminal cover-up of his act and lied to the police.

326. Defendants negligently published the Documentary and negligently published the accusation that Burke killed JonBenét.

327. Prior to publishing the Documentary and the accusation against Burke, Defendants had actual knowledge that Burke did not kill JonBenét or they published the accusation that Burke killed JonBenét with a reckless disregard for the truth.

328. Defendants made their false accusation against Burke with malice, in that Defendants predetermined the result of their Documentary, but nevertheless portrayed the Documentary as being a “complete reinvestigation” featuring “new witnesses,” “new evidence,” and “new theories.”

329. Defendants made their false accusation against Burke with malice, in that Defendants preselected their team of Pseudo-Experts because they had robust preexisting connections with each other, but were willing to be marketed and falsely portrayed as independent.

330. Defendants made their false accusation against Burke with malice, in that Defendants knew their team of Pseudo-Experts would accuse Burke before conducting a “complete reinvestigation,” but marketed and portrayed that their Pseudo-Experts “independently . . . reache[d] the same conclusion[.]”

331. Defendants supported their Burke-did-it accusation with a web of statements, recreations, and images, of which some were true but most of which were knowingly false, misrepresentative, and/or omitted and ignored accurate information.

332. The purpose of the Documentary was to generate ratings and profits at the expense of Burke, showing a wanton, reckless, and malicious disregard for the damage to Burke that was entirely foreseeable.

333. Defendants focused their purported “reinvestigation” on disputing aspects of the Smit intruder theory and focusing exclusively on Burke.

334. Defendants failed to meaningfully examine, and recklessly dismissed, explanations for JonBenét’s death other than the conclusion that Burke was responsible.

335. Defendants’ version of events is so improbable on its face that Defendants necessarily acted with a reckless disregard for truth or falsity in publishing it.

336. When Defendants published the Documentary, there were obvious reasons to seriously doubt the truth and credibility of any accusation that Burke killed JonBenét, and those reasons were easily ascertainable by Defendants, as they were part of the public record related to the murder investigation.

337. When Defendants published the Documentary, they knew that there was no direct evidence ever developed that supported an accusation that Burke killed JonBenét.

338. When Defendants published the Documentary, they knew that their accusation against Burke had no basis in fact.

339. When Defendants published the Documentary, they had actual knowledge that for almost two decades CBS had discussed and reported on information and evidence that exonerated Burke, including the DNA evidence and the public statements by the Boulder authorities that Burke was not a suspect and no evidence existed which supported speculation or accusations that he killed his sister.

340. In publishing the Documentary, Defendants purposefully avoided and ignored the overwhelming evidence that established that Burke did not kill his sister.

341. CBS’s strategy for purposefully avoiding and ignoring the truth included using a third-party production company, in a weak attempt to try and legally insulate itself from the

overwhelming evidence that Burke did not kill JonBenét and the conscious, intentional manipulation and misrepresentation of information in the Documentary undertaken by Defendants to support the false accusation against him.

342. CBS's use of a third-party production company—instead of an in-house team such as *48 Hours* or *60 Minutes*—was contrary to its usual practice in discussing and investigating true crime stories and was motivated by CBS's desire to avoid the truth and insulate itself from the falsity of its accusations, thus evidencing a reckless disregard for truth or falsity.

343. Upon information and belief, CBS, by and through its CEO Leslie Moonves and Glenn Geller, President of CBS Entertainment, was presented an opportunity by a trusted and well-respected member of the media to review a large notebook containing the exculpatory information regarding Burke prior to airing the Documentary, but they declined to even accept the opportunity to review the information from this known and trusted source.

344. When Defendants published the Documentary, they acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét by doing so in the face of verifiable denials by Burke, the Ramsey family, and numerous law enforcement officials who have steadfastly professed his innocence for over 18 years.

345. When Defendants published the Documentary, they acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét by failing to verify and investigate the serious charge it was levying against him.

346. Indeed, because the accusation that Burke killed JonBenét was not “hot news”—i.e., Defendants did not publish information that must be communicated immediately to prevent it from losing its newsworthiness—Defendants acted with a reckless disregard for the truth by

conducting a phony investigation (or lack thereof) that was grossly inadequate under the circumstances.

347. When Defendants published the Documentary, CBS acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét by relying on Critical Content. Critical Content is in the business of fiction and “reality” television, rather than the business of conducting legitimate investigations into twenty-year-old murders that have remained unsolved despite unparalleled scrutiny by law enforcement and investigative journalists.

348. When Defendants published the Documentary, they acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét, because they hired “experts” who were essentially “TV talking heads” with dubious experience, independence, and reputation, who were not reliable, unbiased sources or investigators.

349. When Defendants published the Documentary, CBS and Critical Content acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét by relying on Clemente, Richards, and Fitzgerald, whose current occupations are to make fake crime appear real on TV.

350. When Defendants published the Documentary, CBS and Critical Content acted with a reckless disregard for the truth of the accusation that Burke killed JonBenét by relying on Kolar and his self-published book *Foreign Faction*. Kolar’s Burke-did-it accusation had been widely rejected by the many public officials and members of the mainstream media to whom he shopped it, in large part because it was a nonsensical and unsupported accusation against an innocent young man based on lies and rampant speculation.

351. The egregious nature of Defendants' conduct is conclusively established by the fact that Defendants sought to hide their reliance on *Foreign Faction* from the public and the viewers of the Documentary.

352. When Defendants published the Documentary, they acted with a reckless disregard for the truth because they knew that the Documentary was not a complete reinvestigation that uncovered new evidence that could implicate Burke; nevertheless, Defendants knowingly published the accusation that Burke killed JonBenét, which contradicted the law enforcement findings that CBS has long reported.

353. When Defendants published the Documentary, they acted with a reckless disregard for the truth, because they premised their conclusion on factual assertions that were false, contrary to established evidence, and, in some cases, contrary to prior assertions made by their own Pseudo-Experts when they were briefly involved in the actual law enforcement investigation of JonBenét's murder.

354. When Defendants published the Documentary, they knowingly based their accusation against Burke on false assertions of fact.

355. When Defendants published the Documentary, they acted with a reckless disregard for the truth, because they knowingly omitted from the Documentary and recklessly ignored exculpatory information that definitively established Burke's innocence.

356. When Defendants published the Documentary, they had actual knowledge that because the actual evidence did not support the accusation that Burke killed JonBenét, the Documentary grossly manipulated, misrepresented, and distorted information.

357. When Defendants published the Documentary, they knowingly manipulated and distorted the results of the Documentary's demonstrations and re-creations to lend unwarranted support to their false accusation against Burke.

358. Upon information and belief, when Kolar self-published *Foreign Faction*, he sought out *48 Hours* to promote his book, but *48 Hours* declined to even interview him, rejecting his book's conclusion as absurd and not worthy of belief based on known evidence and information about the case.

359. Prior to Defendants' publication of the Documentary, Burke delivered a letter to CBS advising them of the falsity of their accusation and demanding that it not be published. A copy of said letter is attached hereto as Exhibit "E".

360. After the Documentary was broadcast, Burke promptly demanded that Defendants retract and correct the Documentary, including the false and defamatory conclusion, gist, and implication that Burke killed JonBenét. Burke further described and demanded retraction of various specific false and defamatory statements, as well as other statements the Documentary used to support the false and defamatory gist that Burke killed JonBenét. Copies of the retraction demands delivered to Defendants are attached hereto as Exhibit "F" and Exhibit "G".

361. Defendants refused to retract the false and defamatory gist and implication of the Documentary, as well as the many specific statements creating and supporting the false gist.

362. Defendants' refusal to retract the accusation that Burke killed JonBenét, despite being put on notice that it was false and defamatory, also evidences their reckless disregard for the truth.

363. Defendants' ultimate conclusion, implication, and gist—that Burke killed JonBenét—is comprised of several segments predesigned to bolster their accusation against Burke.

364. Nearly every segment, every statement, and every image in the Documentary is a building block designed to convince Defendants' audience that Burke killed JonBenét.

365. Defendants' false accusation against Burke is premised on a mountain of false, misrepresented, and omitted facts.

366. The false gist, lies, misrepresentations, half-truths, omissions, and distortions of each segment of Defendants' Documentary are hereinafter addressed in this Complaint.

367. The Documentary, itself, is expressly incorporated herein by reference.

368. A written transcription of the Documentary is attached hereto as Exhibit "H".

C. Defendants Falsely Convey that New Evidence Establishes that Burke Can Be Heard on the 9-1-1 Call

369. Defendants' Documentary begins its assault on Burke with a segment analyzing the 9-1-1 Call and 9-1-1 Recording.

370. To support their accusation against Burke, Defendants convey the false and defamatory gist that Patsy made the 9-1-1 Call as part of an elaborate attempt to cover-up that Burke killed JonBenét.

371. The Ramseys did not engage in a cover-up of JonBenét's murder.

372. This segment falsely conveys that Burke was in the kitchen with his parents at the time Patsy made the 9-1-1 Call.

373. Burke was not in the kitchen when the 9-1-1 Call was made.

374. This segment falsely conveys that Burke, John, and Patsy lied to the police about whether Burke was in the kitchen when the 9-1-1 Call was made.

375. To support their accusation against Burke, Defendants knowingly and falsely claim they used new technology to prove, for the first time, that Burke can be heard on the inaudible portion of the 9-1-1 Recording.

376. To support their accusation against Burke, Defendants knowingly and falsely claim that they are the first to interview and rely on 9-1-1 operator Kim Archuletta's explanation for the 9-1-1 Call and what transpired during those six seconds.

377. In truth, Defendants lifted these purported breakthroughs straight from *Foreign Faction* and stuck them nearly verbatim into the Documentary. See, e.g., *Foreign Faction*, pp. 100-102.

378. But before the Documentary stages its false reveal about Burke, Defendants begin their discussion of the 9-1-1 Call using a technique called forensic linguistics.

379. Forensic linguistics is, at best, an unreliable pseudo-science.

380. For example, the analysis begins by asserting that Patsy's 9-1-1 Call exhibits "extremely unusual" "behavioral things," because she said "We have a kidnapping" and "I'm the mother," and "she doesn't mention her daughter's name." Defendants have no basis for concluding these statements, or lack thereof, are "extremely unusual."

381. Defendants' false and fictitious forensic linguistic analysis begins with the Pseudo-Experts casting a shadow on Patsy.

382. At the outset, Defendants strongly imply that Patsy staged the 9-1-1 Call when Fitzgerald states, "Patsy thought the phone call was ended. The last thing she ever thought was somebody was still listening to her."

383. Defendants' false and fictitious forensic linguistic analysis ends with the Pseudo-Experts casting a shadow on Patsy for hanging up the phone when the call was over.

384. Defendants strongly imply that Patsy ended the call because she knew her daughter was dead. Defendants claim that callers usually stay on the line until the police arrive, because 9-1-1 is “a lifeline” that gives the callers hope. “And for that phone to be hung up, you’ve got to ask yourself why. . . . And if they’re legitimately hoping for their child to be taken care of, rescued, saved, whatever, if there is something else going on then you have a different set of parameters involved.”

385. But, when Patsy hung up the phone, the 9-1-1 Call had come to its logical conclusion. Patsy had answered all of the 9-1-1 operator’s questions. Then Patsy pleaded with the 9-1-1 operator to send over an officer, and the 9-1-1 operator repeatedly assured Patsy that an officer was coming. Only after those repeated assurances did Patsy end the call.

386. The Documentary then delves into the unintelligible sounds at the tail end of the 9-1-1 Recording. But this is well-trodden territory, and Defendants knew it.

387. Richards and Clemente repeat, nearly verbatim, Aerospace’s twenty-year-old transcript of the 9-1-1 Recording:

John: “We’re not talking to you.”

Patsy: “What did you do? Help me, Jesus.”

Burke: “Well, what did you find?”

388. Notably, Clemente also gives an alternative for what Patsy said: “Help me, Jesus. Help me, Jesus.” By doing so, he offers Aerospace’s interpretation as stated by Steve Thomas in his book and Kolar’s in his book.

389. Before and after restating Aerospace’s purported conclusions, the Pseudo-Experts falsely convey that this analysis is brand new and therefore justifies redirecting “the entire focus of th[eir] investigation” onto Burke:

Clemente: Most of the general public has never heard the enhanced version. We want to use today's technology to actually nail down what exactly was said and by whom in those final moments of that tape.

Clemente: Oh, wow. I think I hear a man say, "We're not speaking to you." I think that's John Ramsey's voice.

Clemente: I've never heard that before.

Richards: This is hugely significant.

Clemente: Oh, my god.

Richards: I mean this changes things because their account is that Burke was asleep at the time.

Richards: And we must remember that they did say in a statement that Burke was asleep. Why say he's asleep when he's clearly not. I believe we heard his voice on the 9-1-1.

Clemente: And that absolutely **changes the entire focus of this investigation** and we should keep that in mind as we evaluate the rest of this evidence. (Emphasis added.)

390. For dramatic effect, the Documentary depicts Clemente, Richards, and a purported sound technician decoding the unintelligible garble at the end of the 9-1-1 Recording.

391. Defendants knew, however, that this was a deceitful and dishonest dramatization of Aerospace's twenty-year-old disputed analysis. But to justify to the viewers why they are changing the focus of their reinvestigation to Burke, Clemente and Richards pretend they are just now discovering Burke's purported statement on the 9-1-1 Recording.

392. Throughout their deceitful dramatization, Defendants repeatedly imply Burke's guilt. For instance:

Richards: There were only four people in that house.

Clemente: Right, one of them was dead.

Richards: I believe we've heard John Ramsey's voice. We've heard Patsy's voice. So we know the only other person in the address at the time is Burke.

393. Defendants knew, contradicted, recklessly ignored, and failed to disclose that despite law enforcement efforts to analyze and enhance the 9-1-1 Recording, no consensus has ever been reached as to what, if anything, transpired during those six seconds.

394. In no uncertain terms, the Documentary's phony investigation into the 9-1-1 Call and Recording changes nothing about the longstanding investigation into the brutal murder and sexual assault of JonBenét.

395. The static at the tail end of the 9-1-1 Recording is just that, undecipherable static or noise, likely made by the computer keystrokes of the 9-1-1 operator.

396. At the end of the 9-1-1 Recording, John did not say "We're not talking to you"; and Defendants knew it.

397. At the end of the 9-1-1 Recording, Patsy did not say "What did you do? Help me, Jesus"; and Defendants knew it.

398. At the end of the 9-1-1 Recording, Burke did not say "Well, what did you find?"; and Defendants knew it.

399. As set forth above, even the FBI and U.S. Secret Service were unable to decipher any translation of the 9-1-1 Recording.

400. Yet Defendants proclaim that their use of new techniques established Burke's voice on the 9-1-1 Recording, and that this "newly discovered" factual finding justifies changing the focus of the investigation to direct it on Burke.

401. Further, the findings that Patsy said, "What did you do?" and that Burke asked "What did you find" on the 9-1-1 Recording are not only false, they are entirely inconsistent with and internally contradict the logic of Defendants' speculative version of events. Under Defendants' version of events, the Ramsey family was on the same page by the time they staged

the 9-1-1 Call. John and Patsy had already come to the end of their elaborate multi-hour staging of JonBenét's death at the time of the 9-1-1 Call, and police would be arriving any minute. Defendants' theory requires that after discovering Burke had killed JonBenét, John and Patsy's first communication with Burke was during the 9-1-1 Call. John and/or Patsy had already strangled JonBenét to death, inserted a broken piece of wood into her vagina, and drafted a two-and-a-half-page Ransom Note. It is illogical and inherently improbable that John and/or Patsy would have engaged in this elaborate cover-up to protect Burke, without knowing what he had done, and without Burke knowing what they had found and that they were covering up the fact that he killed his sister.

402. The conversation Defendants claim was discovered for the first time by them in their new investigation is errant nonsense.

403. The Documentary then stages an interview with 9-1-1 Call operator, Kim Archuletta.

404. Ms. Archuleta's very first statement to Clemente and Richards in the Documentary is a lie. She states, "I've always been under a gag order, so I've never really talked to anybody. Um, so my side of the story has never really been heard."

405. Ms. Archuletta goes on to state that "this is the first time that anyone's asked for my opinion . . . in twenty years."

406. In truth, Ms. Archuletta gave a virtually identical interview to Kolar in 2005. In that interview, Ms. Archuletta had already told her "side of story." *See Foreign Faction*, p. 100.

407. The statement that she was "under a gag order" is false, as no such order has ever existed or been entered by any court in any jurisdiction.

408. The Documentary’s interview with Archuletta rehashes the same details from her interview with Kolar in *Foreign Faction*. Yet, her interview in the Documentary is portrayed by Defendants as the first-time Ms. Archuletta has spoken publicly on this issue.

409. Defendants knew that Ms. Archuletta had already told “her side of the story” to others, yet they knowingly broadcast that lie to the public.

410. After Ms. Archuletta, Clemente, and Richards listen to the 9-1-1 Recording, Ms. Archuletta states, “I just remember having that sunken feeling like something wasn’t right.”

411. In *Foreign Faction*, Kolar maintains that “Archulet[t]a explained” that:

The telephone line had not disconnected immediately, and she had heard a definite change in the tone of Patsy Ramsey’s voice before the call was fully terminated. Archulet[t]a explained that the hysterical nature of Patsy Ramsey’s voice appeared to have dissipated, and she thought that she had been talking to someone nearby at her end of the telephone line.

412. Richards then asks Ms. Archuletta a leading question, guiding Ms. Archuletta to repeat the story she told Kolar. Richards asks, “Was there a shift in kind of tone from sort of being very hysterical to suddenly . . . something quite different?” Ms. Archuletta responds,

Right. What bothered me immensely, it sounded like she said “Okay, we’ve called the police, now what?” And that disturbed me. So I remained on the phone trying to hear what was being said—sounded like there were two voices in the room, maybe three different ones. I had a bad feeling about this. To me it seems rehearsed. Mm-hmm.

413. Richards asked this leading question, because she knew that this is what Ms. Archuletta purportedly told Kolar.

414. Neither the Documentary nor Ms. Archuletta explain when she has ever had a good feeling about hearing a desperate and breathless mother reporting the kidnapping of a child, or how she had the experience or training to evaluate whether a 9-1-1 call was rehearsed.

415. Nor does the Documentary ask Ms. Archuletta why the 9-1-1 Recording in no way supports the false statement that Patsy's tone changed at the end of the call. The 9-1-1 Recording speaks for itself. Patsy's voice never waivers from the distress of believing that JonBenét had been kidnapped.

416. Ms. Archuletta also asks a leading question: "I know they did an enhancement, right?" But Defendants continue their lie: "We did enhance the end of it." (Emphasis added).

417. Defendants knew that Ms. Archuletta's statements were not reliable or credible, and that her statements did not change Burke's status as a witness in 1996, 1997, 1998, 1999, 2000, 2003, 2008 or in 2012, and they certainly do nothing to change his status in 2016.

418. After the mock interview scene, the Documentary returns to its Pseudo-Experts to discuss the 9-1-1 Call.

419. Richards launches into a game of telephone, describing Ms. Archuletta's statements in a manner that both defies her actual statements in the mock interview and in the 9-1-1 Recording. As Defendants knew, Richards falsely claims that Ms. Archuletta "basically said that what she heard Patsy say was 'Okay, we called the police, now what?'"

420. During the 9-1-1 Call, Patsy never said anything resembling, "Okay, we called the police, now what?"

D. Defendants Falsely Claim that Patsy Wrote the Ransom Note

421. The Documentary next moves on to the Ransom Note that Patsy discovered on the morning of December 26, 1996.

422. To support their false accusation against Burke, Defendants falsely claim that Patsy wrote the Ransom Note to cover-up that Burke killed JonBenét.

423. The Ramseys in no way participated in writing the Ransom Note.

424. The six legitimate handwriting experts who analyzed the original Ransom Note and original handwriting exemplars of John, Patsy, and Burke, long ago rejected the theory that a member of the Ramsey family wrote the note.

425. Each of the six handwriting experts concluded that Burke and John did not write the Ransom Note, and the consensus of the six experts was that the chances that Patsy wrote it were “very low.”

426. As set forth in the *Wolf Decision*,

During the investigation, the Boulder Police Department and Boulder County District Attorney’s Office consulted at least six handwriting experts . . . All six experts agreed that Mr. Ramsey could be eliminated as the author of the Ransom Note. None of the six consulted experts identified Mrs. Ramsey as the author of the Ransom Note. Rather, the experts’ consensus was that she “probably did not” write the Ransom Note. On a scale of one to five, with five being elimination as the author of the Ransom Note, the experts placed Mrs. Ramsey at a 4.5 or a 4.0. The experts described the chance of Mrs. Ramsey being the author of the Ransom Note as “very low.”

Wolf Decision at 1334.

427. Defendants knew that if a Ramsey did not write the Ransom Note, an intruder committed the murder.

428. The fact that a stranger to the Ramsey family wrote the Ransom Note is fundamentally inconsistent with Defendants’ false accusation that Burke killed JonBenét.

429. Defendants not only knowingly disregarded the longstanding findings of the legitimate handwriting experts, but Defendants contradicted them.

430. In the four-hour Documentary, there is only one mention of the prominent handwriting expert evidence. In the Documentary’s interview with former Boulder PD Detective Steve Thomas, the leading proponent of the Boulder PD Patsy-did-it theory states:

I think [Patsy] was the author of that ransom note. . . . the ransom note . . . bore handwriting characteristics that some experts said were remarkably similar to

Patsy's . . . but . . . for some reason the district attorney wanted to create some parallel universe why it wasn't hers.' I find it preposterous.

431. The Documentary knowingly failed to disclose that Detective Thomas has published a book publicly accusing Patsy of the murder, claiming that the Boulder PD also believed that the evidence supported the conclusion that Patsy killed her daughter.

432. Defendants mislead their viewers and misrepresent the known evidence by knowingly and intentionally failing to disclose the legitimate experts' findings that the Ramseys did not write the Ransom Note.

433. Defendants misrepresent the handwriting experts' analysis in the same manner as Kolar did in *Foreign Faction*.

434. Rather than rely on the established and judicially recognized science of handwriting analysis which totally undermines Defendants' accusation against Burke, the Documentary relied on the junk science of "statement analysis" to analyze the Ransom Note and form a false, misrepresentative and unreliable basis for claiming that Patsy wrote the note.

435. By claiming that Patsy authored the Ransom Note, Defendants buttressed their false accusation that John and Patsy covered up the fact that Burke killed JonBenét.

436. The central figure in the Documentary's analysis of the Ransom Note is Pseudo-Expert Stanley.

437. Stanley purportedly teaches statement analysis at the FBI Academy.

438. None of the other Pseudo-Experts—including Clemente, Richards, or Fitzgerald—claim to be experts in statement analysis.

439. Defendants knew or recklessly disregarded that their Pseudo-Experts' analysis of the Ransom Note was unreliable pseudo-science and cannot be admissible evidence in a court of law.

440. The Pseudo-Experts' analysis of the Ransom Note borders on fantasy as the Pseudo-Experts wonder aloud why the note starts with "Listen carefully"—which would be appropriate for the spoken word—rather than "read carefully," given that the note had been written. This attempt at shallow observation does little more than show the Documentary is grasping for straws to fill airtime to support its false accusations, while recklessly avoiding the actual evidence.

441. Defendants rely on the multiple references to Hollywood films in the Ransom Note as evidence that it was written by Patsy. Yet Defendants fail to disclose that the author of the Ransom Note also likely lifted the line "listen carefully" from movies featuring kidnappings that were heavily referenced in the Ransom Note: (1) *Dirty Harry*, "Now listen to me carefully. Listen very carefully"; (2) *Nick of Time*, "I need you to listen carefully"; and (3) *Ruthless People*, "Listen very carefully!"

442. Notably, investigators searched the Ramsey home and did not find any of the movies referenced in the Ransom Note, nor did they find any evidence connecting the Ramseys to these films. Yet Defendants knowingly twisted the facts about the Ramseys and the films referenced in the Ransom Note. The Documentary said only that "the [Ramseys'] house was filled with movie posters." But Defendants knowingly fail to disclose that none of the movie posters or movies found in the Ramsey home matched the movies referenced in the Ransom Note.

443. Defendants also knew but failed to disclose that investigators had long ago recognized the Ransom Note's apparent references to movie dialogue.

444. Defendants only identify the following links between the Ransom Note and one scene in the movies *Dirty Harry* and in *Speed*:

a. In *Dirty Harry* the kidnapper says, “If you talk to anyone, I don’t care if it’s a Pekingese pissing against a lamppost, the girl dies.” The Ransom note mirrors and repeats this threat: “If we catch you talking to a stray dog she dies. If you alert bank authorities, she dies. If the money is in any way marked or tampered with, she dies. You’ll be scanned for electronic devices and if any are found she dies.”

b. In *Speed* the killer says, “Do not attempt to grow a brain.” Likewise, the Ransom Note states, “Don’t try to grow a brain John.”

445. Here is what Defendants knowingly omitted or recklessly disregarded:

a. The Ransom Note said, “The delivery will be exhausting so I advise you be rested.” Similarly, the ransom demand in *Dirty Harry* said, “It sounds like you had a good rest. You’ll need it.”

b. The Ransom Note said, “Speaking to anyone about your situation such as the police, FBI, etc will result in your daughter being beheaded. . . . You and your family are under constant scrutiny as well as the authorities.” Similarly, in the *Nick of Time*—in which a father attempts to recover his kidnapped daughter—the father is told: (1) “You talk to a cop; you even look at a cop too long and your daughter’s dead. . . . I’ll kill her myself. Cut the head off right in front of you.”; and (2) “Don’t forget. I’ll be watching you.” And in *Ruthless People*, the kidnapper says, “You will be watched at all phases of execution.”

c. Less than two months before JonBenét’s murder, a movie named *Ransom* was released—the plot of which is strikingly similar to the attempted kidnapping of JonBenét. In *Ransom*, the child of a wealthy businessman is kidnapped by a woman who worked for the family (and others). The kidnappers provide the father with

precise instructions for getting his son back, including putting specific denominations of money in a particular suitcase. The kidnappers also warn that they will kill the child if their instructions are not followed and that they are watching the family.

446. In short, the Ransom Note references a series of films, none of which were in the Ramseys' possession, and for which there is no record of the Ramseys having seen the movies.

447. The idea that Patsy—in the midst of covering up Burke's killing of JonBenét in the middle of the night by strangling and sexually assaulting her daughter—took the time to work in numerous Hollywood film references into a 3-page Ransom Note while carefully disguising her handwriting is so inherently improbable that it is not worthy of belief and certainly not a legitimate basis upon which to accuse Burke of killing his sister.

448. The Documentary then concludes that precisely 76% of the words in the Ransom Note are extraneous. The implication is that because a true kidnapper would have supposedly used an economy of words, the Ransom Note must have instead been written by a person trying sell a cover-up—i.e., Patsy.

449. The Documentary then knowingly falsely states that the only mistake in the Ransom Note is in the first paragraph, in which “business” is spelled with an extra “s,” “business.” The Ransom Note is in fact riddled with mistakes, including the following: (1) an omitted comma between the first two independent clauses in the final sentence of the first paragraph; (2) the phrase “adequate size attaché” is grammatically incorrect; (3) in the second paragraph, a comma was omitted after the phrase, “When you get home”; (4) in the second paragraph, a comma was omitted after the introductory phrase, “The delivery will be exhausting”; (5) in the first sentence of the third paragraph, the Ransom states “deviation of” rather than “deviation *from*”; (6) in the third paragraph, a comma was omitted after the first

independent clause, “You can try to deceive us”; and (7) the word “outsmart” was mistakenly spelled as two words, “out smart.”

450. Fitzgerald pointing to the misspelling of “bussiness” as a “purposeful mistake” is just another instance of grasping for straws as Fitzgerald and Defendants have no reliable, scientific basis or experience for concluding it is the result of a purposeful mistake. Clemente tries to pile onto this notion, by pointing out that other lengthy words are spelled correctly, including “[p]articular, enforcement, countermeasures.” But none of those words have a letter that appears once standing alone and again as an identical pair—e.g., buSineSS. Indeed, none of those three words has an identical letter pair, nor does the Ransom Note have any word other than “business” in which a single letter first stands alone and then is repeated as an identical pair. Defendants recklessly misrepresent an empty observation about a single typo as a meaningful insight supporting the accusation against Burke.

451. Defendants then observe that the Ransom Note is suspect because it is a “long letter” and thus exhibits “high risk behavior.” This observation actually undermines the notion that the Ramseys were engaged in a cover-up, as the Ramseys would have no incentive to draft a long letter that would leave more clues and increase the probabilities of being caught.

452. Defendants’ next claim that the Ransom Note was likely written by a woman (i.e., Patsy) because it states “listen carefully,” “when you get home,” and “do not particularly like you.”

Fitzgerald: Age is not always easy to determine, but I would certainly say this person’s an adult. No indication of sort of teenage slang, vernacular, so I would say we have someone, an adult, 30 or older. The last one and part of a linguistic profile is gender, and this can be one of the trickiest ones to determine. There are at least six examples of what I would call maternalistic language. The very first sentence is already circled. Can you picture a mother telling their young child, “Listen carefully, when you get home,” not when you get back to your house, not when you get to your residence, “when you get home.” “Do not particularly like you”—would a guy necessarily care if someone likes

them or not in this context? I find in the thousands of cases I have worked over the years, when someone puts a statement in like that, it turns out to be a female.

453. Clemente then asserts—without any basis whatsoever—sheer speculation that the Ransom Note was written after JonBenét was killed, not before her murder. The false implication is that someone in the Ramsey family wrote the Ransom Note.

454. Defendants then time how long it takes them to transcribe the Ransom Note and proclaim that “[a]ssuming this is done by an outside person who broke into the house for the purposes of a kidnapping”, the intruder “stayed in the house [twenty-one-and-a-half minutes] longer than they needed to.”

455. However, “the length of time that it took to practice and write the note could also conceivably undermine an notion that Mrs. Ramsey wrote it. Under plaintiff’s scenario, Mrs. Ramsey was working quickly to create a staged crime scene. . . . Given those time constraints, and presumably a desire to provide as little handwriting as possible for purposes of future analysis, she arguably would not have written such a long note.” *Wolf Decision* at 1361. This is even more persuasive in light of the several accurate quotations and references to dialogue from Hollywood films.

456. In sum, Defendants knowingly misrepresented—while largely omitting—the opinions of credible handwriting experts in favor of an unreliable statement analysis. They did so because the credible opinion of handwriting experts totally undermines their false accusation against Burke.

E. Defendants Falsely Cast Suspicion on Burke Based on Purported Behavior During the Hours After the 9-1-1 Call

457. Defendants cast a sinister shadow over the Ramseys’ behavior in the hours following the 9-1-1 Call.

458. Defendants purposefully cast a sinister suspicion on the Ramseys in order support their false and defamatory gist that Burke killed JonBenét.

459. Defendants cast their shadow by making false assertions of fact and illogical innuendos.

460. Defendants begin this segment by introducing former FBI Agent Ron Walker (“Walker”), whom Clemente and Richards describe as the only first responder who “went as a behavioral analyst,” who “knew what to look for,” and would “have the answers to some of the gaps we’ve got.”

461. Walker immediately claimed that “the ransom note was a red herring and that it was staging—so it’s even more important at that point for the detectives to maintain visual contact.”

462. Defendants claim that John was “out of pocket” from 10:30 a.m. to noon on December 26, 1996. This claim comes from Linda Arndt, a former Boulder PD detective who was the only officer stationed at the Ramseys’ home during that time period. The fact that the Boulder PD understaffed the Ramsey home does not mean that John was “out of pocket.” Rather, Linda Arndt failed to notice that John was in his study, worried sick over his belief that JonBenét had been kidnapped.

463. Piling on John, Defendants falsely state that John “reappears,” when in fact Defendants knew that John had never disappeared. Moreover, Defendants emphasize that John was agitated, as if this is suspicious behavior for a man who believes his daughter has been kidnapped.

464. Defendants falsely claim that John was instructed to “search the house top and bottom and we’re gonna start at the top,” but that John disregarded the instruction and “ma[de] a

beeline for the basement door.” John was not told to begin a search “at the top.” Rather, as Defendants knew, the phrase “top to bottom” is merely a common phrase for a thorough search.

465. In connection with this assertion, Defendants display the fictional image of a person instructing John to start at the top.

466. As to John’s discovery of JonBenét’s body, Walker boldly asserts that in “[v]irtually every staged murder case that I have seen, the perpetrator manipulates the arrival of friends or other family members who are then put in the situation where they actually discover the body or they are with the perpetrator as the body is discovered.” Clemente agrees: “They bring somebody along. They discover the body, but with a witness who can testify to their shock and awe and horror at what they find.”

467. Defendants cast suspicion on John because he “put [JonBenét’s dead body] on the floor” instead of the “living room couch,” “coffee table, or “chairs.” But Defendants knew that a Boulder PD detective had directed John to place her body on the floor.

468. The suitcase found beneath the Window has consistently been relied on as indicia that an intruder used it to exit the basement playroom. Defendants not only fail to reference this possibility, but instead assert that perhaps “the perpetrator [intended] to put the body in a suitcase and remove the body from the crime scene” or “conceal[] the body for a time.”

469. Defendants’ implication that John or Patsy would stick JonBenét’s lifeless body in a suitcase either to remove her from the scene or to conceal her body is inherently improbable on its face. Defendants ignore that under their version of events, John and Patsy staged the crime scene to look like it was committed by a perverted monster who tortured and strangled JonBenét with a garrote and sexually assaulted her with a piece of wood. Defendants do not question whether JonBenét’s body could have fit into the suitcase, but imply the possibility that John hid

JonBenét's body in a suitcase and subsequently removed her to stage the discovery of her body. Finally, Defendants knew, recklessly ignored, and failed to disclose that there was a shard of glass from the Window sitting on top of the suitcase.

470. Defendants openly assert that "[t]he statements that were made said that John called out that she was here before he turned the light on" and imply that he could not have seen JonBenét's body without the light on first. But Defendants knew and failed to disclose that John turned the light on before finding JonBenét, a fact confirmed by Fleet White in a statement he provided within a day of the murder.

471. Defendants hide from the viewers the fact that the Documentary's knowingly false portrayal of the events at the Ramsey home on December 26th mirror Kolar's portrayal in *Foreign Faction*.

472. Defendants hide from the viewers the fact that Kolar also relied on Ron Walker in *Foreign Faction*.

F. Defendants Stage a Demonstration of a Young Boy Bludgeoning a Pig Skin Clad with a Blonde Wig to Create the Image of Burke Killing His Sister

473. Defendants then conduct a segment with Spitz that culminates with a disgusting staged demonstration intended to plant in the viewers' minds the powerful and incriminating image of Burke killing his sister: Spitz commands a ten-year-old boy to, in effect, pretend he is bludgeoning JonBenét to death by using a flashlight to strike a pig skin skull covered with a blonde wig.

474. The segment with Spitz and the recreation of the bludgeoning was intended to convey one message and one message only to the viewer: Burke killed JonBenét with a vicious blow to the head with a flashlight.

475. In order to support Defendants' claimed version of events, this segment with Spitz conveys that John and Patsy garroted JonBenét.

476. The main proposition of this flashlight segment is lifted directly from *Foreign Faction*.

477. With no direct evidence establishing the murder weapon, Defendants recklessly state that the murder weapon used to kill JonBenét was the three D-cell Maglite flashlight (the "Flashlight") that had been found on the kitchen counter of the Ramsey home.

478. Defendants' false and defamatory conclusion that Burke killed JonBenét depends on the Documentary conning the viewer into believing that the Flashlight was the murder weapon. After all, not even Defendants could sell the absurd notion that Burke, at the tender age of nine, asphyxiated his sister with a garrote made of cut cord, slipknots, and Patsy's broken paintbrush handle.

479. But as Spitz and the other Defendants knew, the coroner who actually examined JonBenét's body found she was murdered by asphyxiation with a garrote found embedded in her neck at her autopsy.

480. Despite Defendants' aversion to the truth, even they cannot contest the undisputed physical and medical findings establishing that JonBenét was alive when she was asphyxiated with the garrote. So, Defendants falsely assert that she was bludgeoned and "brain dead" or "virtually dead" before being asphyxiated, but still technically alive at that time.

481. Defendants also concede that JonBenét had no visible head injury as a result of the blow with the Flashlight.

482. Defendants fail to confront the inherent improbability of the story they manufactured that requires concluding that John and Patsy discovered JonBenét while she was

still alive and without any visible head injury, but they quickly concocted their plan, found the materials, made the garrote, and choked what life remained out of their six-year-old daughter while sexually assaulting her.

483. Later in the Documentary—when accusing Burke of causing the purported stun gun injuries to JonBenét’s lifeless body with his toy train track—Kolar touches on the absurdity of Defendants’ accusation: “An adult would have been calling 9-1-1 for an ambulance” upon finding their child alive but unresponsive.

484. Further, Defendants knowingly fail to disclose that there were strong unmistakable signs that JonBenét was actually conscious when she was asphyxiated, including physical evidence that JonBenét struggled against the garrote, clawing at the ligature around her neck and leaving tell-tale fingernail marks.

485. JonBenét was alive and conscious when she was being tortured with a garrote.

486. But if JonBenét was conscious while being garroted, Defendants knew their audience would not accept that a family member—much less her nine-year-old brother—was responsible for the brutal physical and sexual assault.

487. Defendants knowingly and falsely stated that the fracture to JonBenét’s “skull preserved the appearance, the dimensions of the [Flashlight],” which “fits to perfection.”

488. The Documentary’s first false demonstration with a flashlight has Pseudo-Expert Clemente striking a thin wooden board with a flashlight to alleged recreate the physical damage to JonBenét’s skull from a blow delivered by the flashlight. The experiment has no scientific validity. This made-for-TV demonstration was staged and phony. In short, Defendants knowingly lied to the viewers by performing a fake experiment, all with the aim of convincing the viewers that Burke killed his sister.

489. Defendants then knowingly conduct a second false demonstration with a flashlight: only this time a ten-year-old child is instructed to use a flashlight to strike a purported skull covered by a pigskin and blonde wig.

490. Defendants knew that their demonstration with the child and the Flashlight had no scientific validity.

491. Defendants rigged this demonstration in an obvious attempt to recreate the image in the viewers' minds of Burke killing JonBenét. For example, after the boy strikes the wigged skull, the Documentary reveals the damage. Defendant Clemente falsely proclaims that the defect in the skull is "very similar to the type of break that we saw on JonBenét." The injury to JonBenét's skull was a rectangle with rounded edges, whereas the skull in the Documentary has a triangular hole. Yet Defendants falsely announce, "The demonstration was a convincing confirmation of the association of the Flashlight with that injury in the head" and there is "no doubt that this Flashlight or one exactly like it caused that injury."

492. Upon information and belief, Defendants staged several demonstrations of the pig skull being struck by the ten-year-old actor until they got a result that they felt would support their false accusation against Burke.

493. As Defendants knew, experts had previously determined that it took a tremendous amount of force to create the fracture in JonBenét's skull—more than a child could muster. Nevertheless, Defendants end the flashlight segment with the knowingly false conclusion that "it didn't take tremendous strength to" cause the injury to JonBenét's skull.

494. Defendants' accusation that Burke used the Flashlight to kill his sister, and then his parents covered it up, is false, and Defendants' demonstration designed to convey to the

viewers the image of Burke striking his sister's head with a flashlight was a false image manufactured by Defendants.

G. Defendants Overtly Misrepresent the Interviews of the Ramsey Family

495. In Defendants' quest to convince their unsuspecting audience of Burke's guilt, Defendants engage in a biased and unreliable statement analysis of John and Patsy's media statements.

496. In order to support the false and defamatory conclusion that Burke killed JonBenét and his parents covered it up, Defendants knowingly and falsely state that the Ramseys spoke to CNN before they gave interviews to the Boulder PD: "Within days of JonBenét's body being found, the Ramseys speak to CNN before they've even given interviews to the Boulder Police department."

497. Defendants' so-called statement analysis makes many of the same assertions that Kolar made in *Foreign Faction*.

498. As Defendants knew, John, Patsy, and Burke had all been interviewed by the Boulder PD, before CNN interviewed John and Patsy on January 1, 1997 ("CNN Interview").

499. The Boulder PD's interview of Burke on December 26, 1996, is a clear indicator of Burke's innocence. As Defendants knew, Boulder PD Detective Fred Patterson interviewed Burke one-on-one and concluded that Burke had no knowledge of what had happened to JonBenét—a conclusion that absolutely contradicts the notion that Burke killed JonBenét. Defendants nevertheless knowingly disregard the trained detective's conclusions and purposefully fail to disclose it to the viewers. It is inherently improbable that Burke—as a nine-year-old child—could deceive a trained detective within hours of killing his sister.

500. As Defendants knowingly fail to disclose, the Boulder PD interviewed John shortly after the murder, including on December 26th, 27th, and 28th.

501. As Defendants knowingly fail to disclose, the Boulder PD interviewed Patsy shortly after the murder, including on December 26th and 28th.

502. Defendants also knowingly fail to disclose that John and Patsy offered to sit for extensive interviews with the Boulder PD in the days just after JonBenét's murder. The Ramseys had asked that the interviews occur at their friends' home, because Patsy's doctor said she was too ill to sit for a long interview at the police station. The Boulder PD refused this offer, and even went one horrible step further: threatening to withhold JonBenét's body from the family until John and Patsy came down to the station.

503. Defendants engage in yet another phony analysis: this time having some of the Pseudo-Experts examine very limited, hand-selected, and highly edited segments of the CNN Interview.

504. When analyzing the CNN Interview, Defendants rely upon the pseudo-sciences of forensic linguistic analysis and statement analysis—neither of which were applied in a scientifically valid fashion.

505. Defendants knowingly fail to disclose that Patsy was heavily medicated during the CNN Interview. Mired in grief, Patsy had taken anti-anxiety medication and tranquilizers that altered her speech and demeanor.

506. Defendants begin their attack by slighting John for stating that he and Patsy want to know who murdered JonBenét, “[n]ot because we’re angry, but because we’ve got to go on.” Richards and Stanley deride John for showing grace rather than vitriol—implying that John was covering for Burke. The Documentary assumes that John would have been angry if an intruder

had truly murdered JonBenét, whereas John would not be angry if Burke had committed the murder. This is nonsensical.

507. The Documentary then latches onto Patsy's side-to-side head nod in response to the CNN interviewer's question, "Are you fully convinced that your daughter was kidnapped by some outsiders outside your family or circle of friends?" The question itself is a poor one, because at that point everyone knew that JonBenét had not been kidnapped. An affirmative answer to the question would technically be incorrect, because JonBenét was not kidnapped. And a negative answer would have inappropriately pointed the finger at the Ramseys' friends and family.

508. The Documentary's attempt to find meaning in Patsy's nodding head is an exercise in reckless fabrication. In nearly every clip the Documentary shows of the CNN Interview, Patsy is nodding her head from side-to-side, with an occasional pause or change to up and down. As even a layperson knows, people often shake their heads from side-to-side in the face of dismay and inconsolable grief. Defendants knew that Patsy's body language in response to the question about JonBenét's kidnapper was firmly in line with normal human behavior. But Defendants nevertheless knowingly and falsely used Patsy's head nod to imply that Burke killed JonBenét.

509. The Documentary next analyzes John and Patsy's press conference on May 1, 1997 ("Press Conference")—again with the purpose of knowingly and falsely implying that they were covering up for Burke.

510. Defendants' main criticism of the Press Conference is that John said he and Patsy "successfully accomplished" sitting through "their formal interrogation" by the Boulder PD. Pseudo-Expert Stanley accusatorily asks, "Why is that such an accomplishment to go and talk to

the police about the possible resolution of your daughter’s homicide?” The Documentary is so intent on sleight of hand that it cannot even truthfully depict the Ramseys’ formal interrogation by the Boulder PD. As Defendants knew, John and Patsy did not simply “go and talk to the police.” Rather, John and Patsy had to sit through a lengthy *interrogation* with a police department that was erroneously focusing its investigation on John and Patsy, rather than focusing on finding the actual murderer of their six-year-old daughter. No parents would relish sitting across from people wrongfully accusing them of killing their daughter, while the real killer roamed free. For John and Patsy, getting through the adversarial interrogation with their misguided accusers was an accomplishment—as it would have been for anyone.

H. Defendants’ Create a False Cobweb Demonstration to Discredit the Smit Intruder Theory

511. Defendants proceed with their steady onslaught on the truth by staging an overtly false demonstration about a cobweb in the Window that JonBenét’s murderer may have climbed through.

512. In this segment, Defendants begin their direct attack on the Smit intruder theory—lifting “evidence” and theories from *Foreign Faction*—thereby supporting the false and defamatory conclusion that Burke killed her.

513. Defendants falsely conclude and recklessly declare that “you can eliminate the outside intruder hypothesis.”

514. Defendants hid from the viewers the truth that the Window demonstration was taken straight from *Foreign Faction*.

515. The Window in question was the center window in the train room in the basement of the Ramseys’ home.

516. John had broken the Window earlier in 1996, after he locked himself out and was trying to get back into the Ramsey home.

517. A crime scene video shot shortly after JonBenét's murder shows the cobwebs and debris in the Window. There is a small cobweb in the bottom corner of the Window and bits of debris, such as leaves and Styrofoam packing peanuts.

518. Defendants knowingly and intentionally inflate the cobweb and debris until they bear no meaningful resemblance to the condition of the Window shortly after JonBenét's murder. The Documentary's cobweb is anchored from almost halfway across the sill to almost halfway up the right-side jamb, whereas the actual cobweb spans a much smaller distance. Crime scene photos of the actual condition of the Window are attached hereto as Exhibit "I"; photos of the Documentary's misrepresentative recreation of the Window are attached hereto as Exhibit "J".

519. Having stacked the cards, Pseudo-Expert Richards crawls in and out of the Window in a way that ensures she wrecks the cobweb and scatters the other debris. Defendants then conclude that it "makes no sense" that the murderer used the Window, because there was an intact cobweb in the Window and the debris was undisturbed.

520. Defendants' conclusions about the Window are blatant misrepresentations, as Defendants knew that the actual cobweb was small enough to remain undisturbed by a person climbing through the Window.

521. Defendants had actual knowledge of, knowingly contradicted, failed to disclose, and recklessly ignored facts about the Window that supported the Smit intruder theory, including the following: (1) there were at least eight unlocked windows and/or doors found in the Ramsey home on the morning of December 26th; (2) there was a new scuff mark on the wall under the Window that was likely caused by the intruder; (3) debris outside of the Window had been

pushed to either side of the Window, while debris in front of the other two windows remained intact, (*compare* Ex. I *with* Ex. J); (4) leaves and packing peanuts found outside the Window were located on the floor of the basement beneath the broken Window; (5) a leaf and packing peanuts like those found outside the Window were found in the Wine Cellar; and (6) the grate outside the Window well had been recently raised and lowered, as evidenced by fresh green foliage stuck underneath the grate, where it could not have grown naturally.

522. Defendants had actual knowledge of, knowingly contradicted, failed to disclose, and recklessly ignored other facts that supported the Smit intruder theory, including the following: (1) fibers consistent with those of the garrote were found in JonBenét's bed; (2) other items not belonging on the second floor were found there on the day after the murder, including a brown paper sack with a rope in it; (3) small pieces of the brown paper sack were found in JonBenét's bed; (4) unidentified and recent "HI-TEC" shoeprints in the basement that did not match any shoes owned by the Ramseys; (5) an unidentified Caucasian pubic or auxiliary hair not matching the Ramseys; and (6) a baseball bat that did not belong to the Ramseys found outside their home.

523. Defendants' purposefully false Window demonstration provides no evidence supporting the accusation that Burke killed JonBenét.

524. Moreover, in their attempt to shoot down the Smit intruder theory, Defendants pretend that the intruder's only possible point of entry and exit was the Window. Defendants, in fact, knew there were many unlocked windows and doors at the Ramsey home when JonBenét was murdered, providing at least eight possible points of unforced entry.

I. Defendants Falsely Assert that JonBenét Was Not Sexually Assaulted

525. Defendants falsely state that JonBenét was not sexually assaulted during her brutal murder, because a sexual assault totally undermines the accusation that Burke killed JonBenét by striking her on her head with the Flashlight.

526. Defendants lied about JonBenét being sexually assaulted with the broken piece of paintbrush used to fashion the garrote, because they knew their audience would not accept an accusation that John, Patsy, and/or Burke penetrated JonBenét's vagina with a splintered piece of wood as part of the killing or cover-up.

527. Defendants make their false assertion by expressly contradicting their own Pseudo-Expert's official opinion to law enforcement that the perpetrator sexually assaulted JonBenét with the wooden handle from which the garrote was made.

528. As Defendants knew, the evidence clearly demonstrated that JonBenét's murderer also sexually assaulted her: (1) there was blood on JonBenét's underwear and the entrance of her vagina; (2) JonBenét's hymen had been freshly broken, likely close in time to her death; (3) forensic pathologists that examined her found that she had been penetrated; and (4) fragments of wood that matched the garrote handle were found in her vagina.

529. In the 1990s, before he sold his services to participate in the Documentary, Pseudo-Expert Spitz examined evidence regarding JonBenét's vaginal injury. He found that the injuries to JonBenét's vagina showed she was sexually assaulted at or near the time of death. This information is not disclosed to the viewers.

530. In a dramatic reversal, Spitz leads Defendants' assault on the truth by either ignoring or erroneously discounting his own prior conclusion and the wealth of evidence proving that JonBenét was sexually assaulted by the person who murdered her.

531. The Documentary spends less than two minutes discussing whether JonBenét was sexually assaulted, because there is zero evidence that could possibly support Defendants' assertion that she was not sexually assaulted.

532. The Documentary discusses only a sliver of the evidence that JonBenét was sexually assaulted, but discounts and contradicts that evidence with absurd explanations.

533. First, the Documentary discusses wood that was found in JonBenét's genital tract. This piece of wood—particularly when analyzed with the other evidence—strongly suggests that JonBenét was sexually assaulted.

534. Defendants do not disclose that the wood found in her vagina was traced to the paintbrush handle that was used to make the garrote handle.

535. The Documentary attempts to dismiss the piece of wood by strongly suggesting that it found its way into her vagina due to a secondary transfer. Pseudo-Expert Lee states that the secondary transfer could have occurred when JonBenét's body was moved repeatedly or when a blanket was put on her.

536. The secondary transfer theory regarding the piece of wood is so inherently improbable and absurd as to be obviously false. As Defendants knew, the piece of wood was traced to the very same paintbrush that was used to make the garrote handle. Further, the secondary transfer theory assumes that wood from the paintbrush somehow crawled through JonBenét's pajamas, then through her underwear, and then up into her vagina, all because her body was moved or a blanket was placed on top of her. That is nothing short of nonsensical and demonstrates the lengths these "experts" were willing to go to in order to support their false accusation against Burke.

537. Spitz's claim that JonBenét was not sexually assaulted is particularly malicious, because he changed his opinion without identifying any new evidence or disclosing his prior opinion to the viewers.

538. Second, the Documentary discusses JonBenét's blood spot in her underwear. The blood spot, in conjunction with other evidence, is powerful proof that JonBenét was injured from the sexual assault.

539. The Documentary discounts the blood spot in the most cursory fashion. Lee falls back on his secondary transfer theory, paying no mind to the virtual absence of blood on other parts of JonBenét's body and the barriers the blood would have to get through to reach JonBenét's underwear. In short, Defendants' secondary transfer theory is so irrational and improbable that it is not worthy of belief, and it contradicts the undisputed evidence of her sexual assault.

J. Defendants Falsely Assert that Burke Caused the Stun Gun Injuries with His Train Toy

540. The false and defamatory gist of this segment is that Burke attacked JonBenét with his toy train track, inflicting wounds on her face and back that experienced investigators determined were likely caused by a stun gun.

541. Defendants use their toy train theory to undermine the Smit intruder theory.

542. Defendants had to assert that JonBenét was not attacked by a stun gun, because their audience would not believe the family would have needed to subdue her.

543. To continue undermining the Smit intruder theory, Defendants assert that JonBenét was already dead when these injuries were inflicted. This absurd accusation requires that after John and Patsy strangled JonBenét with the garrote, Burke snuck into the basement and

violently prodded her face and back with a train toy with sufficient force to cause the burn-like abrasions in question.

544. But even Defendants cannot keep track of their fabricated version of events. While Spitz is asserting that JonBenét was dead and without blood flow when the injuries were inflicted, Kolar and Richards are asserting that she was unconscious and so Burke was trying to wake her with his train toy.

545. Defendants stage yet another ridiculous demonstration in attempt to show no stun gun was used: Defendants use a stun gun on a two-hundred-and-fifteen-pound man for the knowingly false propositions (1) that JonBenét would not have been subdued by a stun gun and (2) that the JonBenét's wounds could not have been inflicted by a stun gun.

546. Defendants begin this segment of the Documentary by suggesting that the effect of the stun gun on a six-year-old girl would be "magnified" when compared to its use on a grown man.

547. As Defendants concede, there are different types of stun guns, and it is unclear if the stun gun Defendants use is representative of the stun gun used on JonBenét.

548. From this demonstration, however, Pseudo-Expert Richards concludes that the stun gun "does the actual opposite" from "subdu[ing]" or making "her unconscious." So, Richards asserts, the stun gun theory "just doesn't many any sense."

549. Spitz concludes from the demonstration on a grown man that "[i]f this were done to these kids, you would have a scream from this kid that would have gone through the entire building. Everybody in that house would have heard it."

550. Defendants have no basis to assert how JonBenét would have responded to being stunned, and they knew it.

551. That a grown man who is a paid actor in a controlled environment responded verbally and was not subdued or rendered unconscious is not probative of whether JonBenét would have been subdued or otherwise cowered in fear when a stranger stunned her in the dead of night.

552. Defendants further lack any basis for suggesting that if JonBenét was not subdued or rendered unconscious, she was not attacked with the stun gun.

553. Defendants also knew but failed to disclose that the appearance of a fresh stun gun injury on a living grown man is unlikely to exactly match the appearance of a stun gun injury on the dead body of a six-year-old girl.

554. Defendants had actual knowledge of, knowingly contradicted, failed to disclose, and recklessly ignored prior findings explaining, and photographs depicting, the similarities of JonBenét's stun gun injuries to those of other dead stun gun victims.

555. As Defendants knew, their unreliable stun gun demonstration proved nothing about the injuries JonBenét suffered when she was stunned.

556. Defendants then knowingly and falsely assert that instead of a stun gun, Burke injured JonBenét with his toy train track.

557. Defendants do so through the Pseudo-Experts' absurd discussion about JonBenét's wounds and the train tracks, which directly contradicted earlier segments.

558. Kolar states the accusation that:

a Sergeant at my office [in Telluride] said, "hey—I might have found something that could possibly be responsible for these injuries." He talked about the 'O' gauge track, and I asked Boulder PD to do some one to one photos with this as well as with the train tracks. These pins that connect the dots together, you can see that the scaled pictures of the two outside pins of the train tracks match exactly to the injuries on JonBenét. You've got this train room and pieces of track here in this room, and then there were pieces of train track in the crime scene video that were on the floor in Burke's room as well. I thought it was an

incredible discovery, to find a toy in the house that could have been responsible for these injuries.

559. Spitz then chimes in with the following consciously false assertion, despite Defendants' concession that JonBenét was alive when she was garroted:

If you look carefully at those two marks in her back, there is a central defect within each of the marks. That defect is from something penetrated through the skin. She was obviously without a blood circulation at the time

560. Richards and Kolar then knowingly and falsely state the Burke used a train track to try and wake JonBenét after he knocked her out:

Richards: So if we think that JonBenét took the blow to the head, she doesn't seem to be breathing or she's not conscious – then somebody using a piece of train track –

Kolar: Trying to see if they can get a response from her, waking JonBenét. Is this something an adult would try to use to get a response from an unconscious girl? An adult would have been calling 911 for an ambulance.

561. Spitz echoes Kolar and knowingly and falsely states, "I would have to conclude that it's either [the train track] or something like it."

562. Defendants cannot even keep their own stories straight, and their disregard for the truth is staring them in face. In the first episode of the Documentary, Defendants falsely concluded that JonBenét was virtually dead—her blood still circulating—when John and/or Patsy asphyxiated her with a garrote. Now in the final episode, Defendants claim either of the following: (1) that Burke killed her in the kitchen, ran down to the basement to fetch a train track, and then stabbed her with it when she was already dead—her blood was not circulating; or (2) that Burke nearly killed her, her parents then garroted her to death, her parents next defiled her body, and finally Burke repeatedly stabbed her dead body with the train tracks. Either scenario is inherently improbable on its face and fundamentally inconsistent with Defendants' other conclusions.

563. Like so many other details portrayed by Defendants as part of their new reinvestigation, Defendants merely echo Kolar's unsupported speculation in *Foreign Faction*. *Foreign Faction* asserts: (1) that "Spitz opined that the mark on her cheek had been caused by the imprint of a small object versus a deteriorating burn mark from a stun gun" (p. 246); (2) that the marks from a stun gun do "not match the injuries on the body of JonBenét" (p. 272); (3) that "it is [Kolar's] belief that JonBenét would have screamed bloody murder if [a stun gun] had ever been used on her" (p. 311); (4) that Kolar's colleague in Telluride, "Sergeant Harry Stephens" sent Kolar "a single piece of the 'O' gauge style train track, the same model of train and track depicted in the crime scene video of the basement play room" (p. 384); and (5) that Kolar thought "I think you just found the weapon used to inflict those marks on JonBenét" (p. 385). Even the purported scaled photographs used by Defendants to support their position are lifted from *Foreign Faction*. See pp. 385-386.

K. Defendants Falsely Claim that the DNA Evidence is Worthless

564. The false and defamatory gist of this segment is that new technology demonstrates that the foreign male DNA evidence found in JonBenét's underwear, and under her nails in 1997, and the foreign male DNA found on her pajama bottoms in 2008, is worthless, has nothing to do with the perpetrator of this crime, and should be ignored when searching for the killer.

565. The purpose of this segment is to undermine former Boulder DA Mary Lacy's 2008 exoneration of the Ramsey Family by DNA evidence, in order to further discount the Smit intruder theory.

566. At the time when Defendants published the Documentary, they knew that Lacy claimed the underwear DNA "matched" the pajama bottoms DNA.

567. In an attempt to find an innocent explanation for foreign male DNA found on the body of a murder victim, Defendants rehash stale theories and experiments about the DNA, but present them as fresh and based on technology that was previously unavailable to law enforcement.

568. Defendants, in fact, did little more than reenact the purported experiments Kolar discussed in *Foreign Faction*.

569. Defendants knowingly and falsely assert that both the unidentified male DNA found in JonBenét's underwear and the consistent DNA found on JonBenét's pajama bottoms came from the underwear manufacturer rather than JonBenét's murderer.

570. Furthermore, Defendants knowingly and falsely assert that the DNA evidence is useless because DNA from JonBenét's underwear could have transferred to her pajama bottoms from the underwear or because the items were laundered together.

571. Defendants begin the segment by asserting that the DNA experiments the Documentary will perform use technology that is superior to what law enforcement had used to analyze the JonBenét DNA samples. Pseudo-Expert Clemente announces that "DNA technology has evolved significantly since 1996. Today trace DNA, or what some people call touch DNA, can actually be found in multiple situations and you have to actually understand what is the significance in any particular case." The purpose of these statements was to imply that the Documentary would discover new DNA evidence.

572. Defendants in fact knew that in 2008, law enforcement analyzed touch DNA from JonBenét's long johns—i.e., law enforcement used evolved DNA technology.

573. Defendants nevertheless lied in order to support the knowingly false conclusion in this segment: that based on new technology, "District Attorney Lacy should not have exonerated

anybody based on just transferred DNA,” the “DNA recovered from the case sample should probably be ignored,” and the DNA evidence “is totally erroneous.”

574. Defendants had actual knowledge, knowingly contradicted, failed to disclose, and recklessly ignored that the presence of the unidentified male’s DNA in the JonBenét’s underwear should not be ignored.

575. Defendants had actual knowledge, knowingly contradicted, failed to disclose, and recklessly ignored that no reasonable investigator would “ignore” consistent samples of DNA found on separate garments of a sexually assaulted murder victim.

576. Lee begins his part of the DNA segment knowingly and falsely claiming “the [underwear] DNA maybe has no forensic value, maybe it just has some innocent explanation got there [sic]. It’s not a true piece of physical evidence to link somebody or to exonerate somebody. Come to my Institute of Forensic Science Center laboratory. Should test again for DNA. That can shed some light on the whole case.”

577. After Defendants state that they would use superior technology in their experiments, Defendants purport to demonstrate the existence of DNA samples on unopened packages of underwear.

578. Defendants knowingly and falsely conclude that the DNA evidence from JonBenét’s clothing “is totally erroneous,” because “certainly if somebody packaged [JonBenét’s underwear] in Thailand and sent it over here and left their DNA on it, they had nothing to do with this crime, they weren’t even in this country.”

579. When Defendants knowingly uttered their false and defamatory accusations against Burke, Defendants and their Pseudo-Experts knew that several years ago, an experiment was conducted to show that new “off-the-shelf” underwear may have human DNA from the

manufacturing process. Indeed, in *Foreign Faction*, Pseudo-Expert Kolar asserts that because of this prior experiment, the DNA in the JonBenét case “may have had nothing whatsoever to do with the death of JonBenét.” See p. 305.

580. In his 2012 book, Kolar states as follows:

[T]hat some random DNA tests had been conducted in ‘off-the-shelf’ children’s underwear to determine if trace biological DNA samples could be obtained from brand new clothing that had been shipped from the manufacturer. He indicated that DNA samples had been located in the articles of new clothing, but they had been approximately 1/10 the strength of the unknown sample found in JonBenét’s underwear. (p. 304).

...

Distal Stain 007-2, and other trace samples collected in this case, are mere artifacts of trace genetic materials that have no bearing on the investigation, and are of no material assistance in identifying the perpetrator(s) involved in this crime. They were in place long before the crime was committed. (p. 427).

...

“Cloth to cloth” transfer could be responsible for [the transfer of genetic material from her underwear to the leggings.] (p. 427).

581. Defendants knew that they lacked any reasonable basis for the Documentary’s statement that the DNA found on JonBenét’s underwear was from the manufacturing process.

582. In the Documentary, Defendants knowingly failed to disclose that JonBenét’s underwear was not manufactured in the same location as her pajama bottoms.

583. Defendants also falsely assert—referencing “some studies”—that the male DNA on JonBenét’s underwear innocently transferred to long johns through “cloth to cloth” transfer or through the laundry. Lee stated, “DNA can transfer from one garment that’s worn on top of another garment,” even through the “laundry sometimes.”

584. Defendants knowingly failed to disclose that the male DNA found on JonBenét’s underwear was from saliva, while the DNA found on her pajama bottoms was touch DNA.

585. Defendants knowingly failed to disclose the high degree of improbability that DNA from the inside of JonBenét's underwear could be transferred to the outside of her pajama waistband.

586. Further, Defendants knowingly failed to disclose the high degree of improbability that saliva DNA from the inside of JonBenét's underwear was transformed into touch DNA on the outside of her pajama bottoms.

587. At the time when Defendants uttered their false and defamatory accusations against Burke, they had no basis to conclude that JonBenét's new underwear was washed in the laundry with her pajama bottoms.

588. In sum, Defendants knew they lacked any scientific basis for concluding that the DNA found on JonBenét's underwear was "totally erroneous" and "should probably be ignored."

589. As Defendants knew, the presence of consistent unknown male DNA found on two separate garments—one a saliva sample and one a touch sample—is extremely compelling evidence that an intruder killed JonBenét.

L. Defendants Use Burke's Inability to Be Prosecuted Due to His Age as Evidence of His Guilt

590. Defendants falsely assert that John and Patsy were indicted for covering up Burke's crime.

591. Defendants falsely convey that the Boulder DA presented evidence to the grand jury that Burke killed JonBenét.

592. Yet, Defendants knew that the Boulder PD, the Special Prosecutor overseeing the grand jury proceedings, and the Boulder DA—the same DA that convened the grand jury—publicly exonerated Burke, both before and after the grand jury was convened, stating that there was no evidence to support an accusation that Burke killed his sister.

593. When they published the Documentary, Defendants knew that the indictments of John and Patsy (which were never signed by the Boulder DA and filed) contradict Defendants' accusation that the indictments evidence Burke's guilt.

594. Defendants read the proposed indictments against John and Patsy, the essence of which is that John and Patsy "commit[ted] a child to be unreasonably placed in a situation which posed a threat of injury to the child's life or health which resulted in the death of JonBenét Ramsey" and "render[ed] assistance to a person with intent to hinder, delay and prevent the discovery, detention, apprehension, prosecution, conviction and punishment of such a person knowing the person being assisted has committed and was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death."

595. Burke was not indicted, yet Defendants knowingly and falsely assert that his parents' proposed indictments implicate him as the murderer:

Normally, if they do an accessory charge which here is generally after the fact, it's usually somebody else. My opinion would be that there's a third person. The only third person that's left is Burke Ramsey [but] Colorado's minimum age for prosecution is ten. The science behind it, of course, would be that the child under ten is not psychologically able to commit a crime. . . . Burke was nine and eleven months . . . at the time of the crime.

596. Defendants intentionally fail to disclose that the entire indictment file has never been released; rather, only a small portion has been unsealed.

597. Defendants knowingly fail to disclose that their theory contradicts former Boulder PD Chief Beckner's pre-grand jury public exoneration of Burke in 1997.

598. Defendants knowingly fail to disclose that their theory contradicts former Boulder DA Hunter's public exoneration of Burke in 1999 during the grand jury proceeding.

599. Defendants knowingly fail to disclose that their theory contradicts Special Prosecutor Kane's December 1999 public exoneration of Burke approximately two months after the grand jury investigation concluded.

600. Defendants knowingly fail to disclose that their theory contradicts former Boulder DA Hunter's public exoneration of Burke in 2000.

601. Defendants knew that the Boulder DA did not present a theory to the grand jury that Burke killed JonBenét, yet they falsely convey to their audience that John and Patsy were indicted for covering up Burke's crime.

602. Defendants knowingly fail to disclose that the plain language of the indictments contradict their assertion that Burke killed JonBenét. The unfiled indictments against John and Patsy were for assisting a person they knew "was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death." Yet, Defendants knew that the Boulder DA, Boulder PD, and Special Prosecutor did not suspect Burke of committing the crime of Murder in the First Degree or Child Abuse Resulting in Death.

603. Finally, this accusation was also scripted from *Foreign Faction*. See p. 428 ("I believe each member of the Ramsey family, home on the night of the murder, may have been involved at least as an accessory after the fact. Burke, only nine years old at the time, could not have been prosecuted for any crime because, in Colorado, a child under ten years of age is presumed incapable of forming criminal intent. The statutes of limitations for the crime of accessory after the fact have long since expired").

604. Defendants knew that they lacked any reasonable basis for conveying that the grand jury believed Burke killed JonBenét.

K. Defendants Assert that Burke Did Not Display the Correct Response to Trauma

605. The Documentary takes a deceptive tour through an old law enforcement interview with Burke and the recollections of a longtime Ramsey critic and self-promoter who has sued the Ramseys; the false and defamatory gist of which is to cast Burke as a lying sociopath who killed JonBenét.

606. This segment conveys the false and defamatory gist that Burke killed JonBenét, lied to investigators regarding his involvement, and was therefore complicit in the cover-up of JonBenét's death.

607. The first part of this segment of the Documentary alternates between excerpts of a psychologist's interview of Burke several weeks after the murder and the Pseudo-Experts' disparaging comments regarding Burke's alleged suspicious response to JonBenét's death.

608. Defendants largely rely on Pseudo-Experts Clemente and Richards to interpret excerpts of Burke's interview.

609. Clemente and Richards are totally unqualified to perform a psychological analysis of a child based on a video interview and no legitimate psychologist would render any opinions based on excerpts from such an interview.

610. The Documentary begins by reminding the viewers that Clemente is an "FBI Profiler [and] an expert in the areas of child sex crimes, child abductions and child homicides," and that Richards is "a criminal behavioral analyst" that has "reviewed and advised on thousands of cases and [has] a Master's in Forensic and Legal Psychology."

611. Defendants show a reckless disregard for the truth by engaging in an unscientific analysis of Burke's behavior—masquerading as expert analysis—to accuse Burke of killing JonBenét.

612. Defendants first examine excerpts from Burke's January 1997 interview with a psychologist, Dr. Suzanne Bernhard (the "Bernhard Interview").

613. Defendants lift nearly every excerpt and interpretation of the Bernhard Interview from *Foreign Faction*. See, e.g., pp. 349-359.

614. Defendants first hand-selected excerpt is Burke responding in the affirmative to Dr. Bernhard asking, "So do you feel like you're pretty safe?" Kolar also relies upon this response in *Foreign Faction*. See p. 349.

615. Clemente and Richards then engage in a preconceived dialogue designed to imply Burke's involvement in JonBenét's death.

616. Finishing each other's sentences, Clemente and Richards agree that "the tone of it is completely off. His sister disappears in the middle of the night; she ends up dead in the basement and he doesn't worry about himself or worry that they may come back for him. . . . He was in the house at the time and he doesn't seem to be concerned at all."

617. Defendants' false implication is that Burke stated he felt safe because he knew that he killed JonBenét, rather than a stranger who remains at large.

618. Defendants recklessly disregard and knowingly fail to disclose that both the Boulder PD and Child Social Services were convinced from the interviews that Burke did not know what has happened to his sister when interviewed on December 26 and that Burke did not witness his sister's murder.

619. Defendants then play hand-selected excerpts of Burke stating that he has "secrets" and that although things have changed at his house a lot, he is "basically just going on." Kolar also relies on the "secrets" dialogue in *Foreign Faction*. See p. 350.

620. According to Defendants, his statement was not a proper response to what should be a “life-changing . . . event, even for a nine-year-old boy.”

621. Defendants’ consciously false and defamatory implication is that Burke would have had a more emotional response to JonBenét’s death if he had not been the one who killed her.

622. Defendants then select Burke’s response to Dr. Bernhard’s question, “What do you think happened?” Burke responded that he “know[s] what happened,” and Dr. Bernhard asks “you mean when she got killed?” Kolar also relies upon this excerpt of the Bernhard Interview in *Foreign Faction*. See p. 354.

623. Clemente then takes statements out of context and actually mischaracterizes Dr. Bernhard’s follow-up question as Burke’s answer. To implicate Burke, Clemente feigns incredulity: “Alright, hold up. So ‘I know what happened,’ right, ‘when she was killed,’ right? And he said, ‘I asked my dad where did they find the body.’” Dr. Bernhard said, “when she was killed,” not Burke. By the time Dr. Bernhard interviewed Burke, he should be expected to generally know what happened to JonBenét. Nevertheless, Clemente knowingly and falsely suggest that this is a quasi-confession.

624. According to Richards, this portion of the Bernhard Interview is significant because of “what [Burke is] not saying, what he would logically expect at that point is asking what happened to her.” Of course, the Bernhard Interview is taking place approximately two weeks after JonBenét’s death. By this time, Burke has a general understanding of what happened to JonBenét and would not be asking a child services investigator for confirmation of the techniques used to brutally murder his sister.

625. Defendants then continue playing the same excerpt, including Burke physically describing what may have happened to JonBenét. Defendants refer to it as “odd” that he would “reenact” the physical motion of JonBenét being stabbed in the head.

626. Defendants replay this excerpt multiple times in an intentionally false and defamatory attempt to convince their viewers that Burke is reenacting how he killed JonBenét.

627. As Defendants knew but intentionally failed to disclose, this was not a reenactment. Burke did not “act” in the first place, because Burke did not kill JonBenét.

628. Directly in the middle of Defendants playing hand-selected snippets of the Bernhard Interview, Defendants splice in a snippet of their interview with Judith Phillips. Ms. Phillips proclaims that “Burke had a bad temper. . . . He hit [JonBenét] with a golf club” in the face. Kolar also relies upon the alleged golf club incident in *Foreign Faction*. See p. 369,

629. Judith Phillips hardly knew Burke and had no firsthand knowledge of the alleged golf club incident, and Defendants knowingly failed to disclose that she lacked credibility on this subject.

630. Burke did not intentionally attack JonBenét with a golf club or otherwise intentionally hit her with a golf club.

631. Defendants spliced in Ms. Phillips’ statements to convey that Burke could have killed JonBenét in a fit of anger and that the physical demonstration was in fact a “reenactment” of Burke killing her.

632. Defendants knowingly failed to disclose to their viewers that Ms. Phillips lacks all credibility, that she has long accused Patsy of killing JonBenét, and that she has publicly stated that the golf club incident was an accident. Ms. Phillips has consistently taken advantage of

JonBenét's death for her personal gain—material facts that Defendants failed to disclose to the viewers.

633. Ms. Phillips has sold photographs of JonBenét to the tabloids for profit against the Ramseys' wishes, acted as a paid source for many tabloid stories, and even publicly accused Patsy of killing JonBenét because Patsy supposedly caught John molesting her on Christmas night.

634. According to Ms. Phillips, it is “karma” that John's oldest sister died in a car wreck in 1992, that Patsy was diagnosed with terminal cancer, and that JonBenét died. Ms. Phillips even insulted the Ramseys for their past success, claiming they were only wealthy because they were “in the right place at the right time.”

635. Defendants knowingly failed to disclose that the golf club incident was an accident, which *Foreign Faction* acknowledged. *See, e.g., Foreign Faction*, p. 369.

636. Defendants then briefly mention Burke's interview with former Boulder PD Detective Fred Patterson on December 26, 1996. Again, Defendants hold it against Burke that he was not the one asking questions while he was being interrogated by an adult: “He never asked Detective Patterson, who interviewed maybe an hour after JonBenét was found, if his sister had been found, what happened to her, you know, when they're going to get her back. Nothing about his sister.” Kolar similarly misrepresents this interview in *Foreign Faction*. *See* p. 346.

637. Defendants then knowingly and falsely accuse Burke of scatological behavior to further suggest that Burke suffered from an array of psychological problems: “There was a softball-sized ball of feces found in JonBenét's bed at some point” and “technicians found feces

spread on a box of candy that she had gotten the day before for Christmas.” Kolar also relies on these false assertions from untrustworthy witnesses in *Foreign Faction*. See, e.g., p. 370.

638. Defendants plagiarized the following specific examples relied on by Kolar in *Foreign Faction*:

- a. Burke did not display the appropriate response to JonBenét’s murder, (*see id.* at pp. 348, 358-359);
- b. Burke stated he felt safe in his home, (*see id.* at p. 349);
- c. Burke has secrets, (*see id.* at p. 350);
- d. Burke gave a physical demonstration of how JonBenét may have been murdered, (*see id.* at p. 354);
- e. Burke failed to ask Detective Patterson questions regarding JonBenét, which is evidence of his guilt, (*see id.* at p. 346); and
- f. Burke’s alleged scatological behavior is evidence of his guilt, (*see id.* at p. 370).

639. But as Defendants knowingly failed to disclose: (1) even Kolar admits in *Foreign Faction* that “more than this [behavioral indicia] was needed to prove any theory of [Burke’s] involvement,” and that such evidence is “of a highly speculative nature”; and (2) even Kolar admits that there are conflicted interpretations of Burke’s behavior in the aftermath of JonBenét’s death. See *id.* at pp. 351, 359, 423.

M. Defendants Set the Stage for Their Preposterous Theory that Burke Killed JonBenét for Taking His Pineapple

640. Defendants absurdly claim that Burke knew that the pineapple is the smoking gun for this crime, and that he then successfully deceived law enforcement as to his knowledge.

641. The false and defamatory gist of this section is that Burke killed JonBenét after becoming enraged when she took a piece of his pineapple without asking, lied to investigators, and was complicit in the cover-up of JonBenét's death.

642. Defendants attempt to support this preconceived gist by reviewing pre-selected excerpts from Burke's interview with Boulder PD Detective Schuler eighteen months after JonBenét's death (the "Schuler Interview").

643. Defendants use the Schuler Interview to set the stage for their knowingly false, defamatory, and purely speculative accusation that Burke killed JonBenét over a piece of pineapple and then stabbed her with his toy train track. These theories are taken straight from *Foreign Faction*. See, e.g., pp. 65, 343, 384-385.

644. Defendants go so far as to make the inherently improbable assertion that during the Schuler Interview, Burke is "aware that that piece of pineapple in JonBenét's stomach actually creates a major problem in terms of the timeline of when and how she was killed."

645. Defendants knowingly fail to disclose that they have no basis whatsoever to assert that Burke, at eleven-years-old, is playing a high-stakes game of cat and mouse with Detective Schuler.

646. In this segment, Defendants continue to cast a shadow over Burke's alleged improper behavior during interviews.

647. For instance, Clemente claims that Burke is "acting like a smart aleck here, like I'm smart and I'm proud of myself." Clemente's knowingly false and defamatory implication is that Burke is proud of himself for outsmarting law enforcement by hiding that he killed JonBenét.

648. Clemente also falsely accuses Burke of deception because he “oversell[s]” when he states “I always sleep really deeply and I can never hear anything.”

649. Defendants then use two topics raised by Detective Schuler as a springboard for two key aspects of their version of events: the purported pineapple in JonBenét’s lower intestine and Burke’s toy train track.

650. For instance, Defendants show an excerpt of Burke responding yes to Detective Schuler’s question about JonBenét liking pineapple, and then Defendants pounce. Defendants make the false and defamatory accusation that Burke lost his temper and bludgeoned JonBenét with a flashlight because she ate a piece of his pineapple.

651. Defendants then preface their wildly false and speculative conclusion by stating that the pineapple issue “might look quite innocuous and inconsequential but it also tells us a lot about what probably went on” that night.

652. Defendants knowingly and falsely claim that the pineapple “gives us a possible timeline,” because “the pineapple was ingested subsequently” to the Ramseys returning home from dinner at the Whites.

653. Defendants conjecture is particularly far reaching in this segment. Spitz extrapolates from his “three children” in order to accuse Burke of killing JonBenét:

Clemente: But it’s certainly reasonable to believe that JonBenét may have snatched one piece.

Spitz: Right, directly with her fingers. For estimating time of death, this is important.

Clemente: Isn’t it possible that JonBenét came down and saw that Burke was eating this, and took one piece? She didn’t touch the bowl, she didn’t touch the spoon—

Spitz: You know, I have three grandchildren myself. Kids will do that. They’ll go by and pick out a piece with their fingers.

654. To convince their audience that their rampant speculation is accurate, Defendants splice in a clip of a blonde girl stealing a piece of pineapple from a young boy, who, in turn, violently grabs the girl by the wrist.

655. Upon information and belief, Defendants had actual knowledge and failed to disclose that a Boulder PD analysis after the autopsy determined that JonBenét's small intestine had the remnants cherries, grapes, and pineapple—common fruit cocktail ingredients. Yet, because the presence of cherries and grapes completely undermines Defendants' series of events, Defendants consciously fail to share their knowledge with the viewer. Instead, Spitz merely asks "Did the pathology report indicate what the pineapple looked like, or the gastric contents?"

656. Further, Spitz is aware that the presence of the fruit cocktail in JonBenét's stomach does not establish a concrete timeline from which investigators may glean her time of death, and that the minimum amount of time it would require for the fruit to get to JonBenét's lower intestine undermines the theory that it "started the cascade of the rest of events that happened on the day she died."

657. Defendants also knowingly failed to disclose that the amount of time it would have taken the pineapple to travel to JonBenét's small intestine is fundamentally inconsistent with the Burke-did-it accusation.

658. Defendants then note that while Burke and Patsy's fingertips are on the bowl of pineapple, JonBenét's are not. This is explainable, Defendants speculate, because she must have only taken "one piece" but "didn't touch the bowl" or "touch the spoon."

659. Defendants have no factual basis for speculating that JonBenét took a piece of Burke's pineapple, much less that her fingerprints are not present on Defendants' purported smoking gun because she only "snatched one piece."

660. The fact JonBenét's fingerprints are not on the bowl of pineapple or the spoon is actually strong evidence that she did not eat the pineapple from the bowl.

661. Upon information and belief, Defendants knowingly failed to disclose that there was more than one piece of fruit in JonBenét's digestive tract.

662. Upon information and belief, Defendants knowingly failed to disclose that there was more than one type of fruit in JonBenét's digestive tract.

663. Defendants next use a clip of Burke affirming that he had an electric train set to Schuler as an opportunity to replace the stun gun with Burke's toy train. "It was an incredible discovery, to find a toy in the house that could have been responsible for these injuries. . . . An adult would have been calling 9-1-1 for an ambulance."

664. Pseudo-Expert Kolar then repeats his entirely speculative accusation, discussed above, that Burke used one of his train toys to inflict the supposed stun gun injuries on JonBenét. *See Foreign Faction*, pp. 384-385.

N. Defendants Pronouncement that Burke Killed JonBenét

665. After Defendants presented the limited "evidence" they could muster against Burke, Defendants announced the conclusion of their "complete reinvestigation" in rapid-fire succession.

666. The inescapable false and defamatory conclusion of this final segment is that Burke killed JonBenét.

667. Defendants began this segment with Clemente proclaiming their goal:

Now that we've been investigating for months, we've been working together as a team, I think we need to actually try to piece together everything that happened. Anybody who does a legitimate investigation will look at all the evidence and see where that evidence takes you. So we have to test every theory and the ones that remain, are the ones that are supported by the evidence.

668. Defendants first agreed quickly and with little examination—correctly—that neither John or Patsy killed JonBenét.

669. Defendants then declared that there was no intruder: “I don’t think the evidence that stands up to scientific or behavioral scrutiny indicates that somebody came in from outside that home and killed JonBenét.”

670. Defendants falsely attacked the intruder theory by proclaiming “that the DNA evidence in this case is totally erroneous” and there is “really no sexual assault here.”

671. Richards then invited Kolar to share what he believes happened that night, as though she did not already know: “James, I’m interested to know what exactly you think happened in the house that night.”

672. Kolar then stated the grand accusation against Burke—the same one from *Foreign Faction*:

My hypothesis was that I think the Ramseys came home around 9:30, 10:00 o’clock. I think JonBenét was asleep. I think John did carry her upstairs. Patsy remained downstairs with Burke and served him the tea and the pineapple. I think that accounts for the physical evidence as well as the latent prints. Then I think she got JonBenét up to make sure she used the toilet so she didn’t wet the bed that night. JonBenét was up, she may or may not have brushed her teeth. That stuff was out on the counter. And then I think she was up and awake enough, but she maybe was still hungry and went downstairs. In the meantime, Patsy continued packing for the Michigan trip. I think if Burke was upset about circumstances or Christmas presents, he probably would’ve been upset about her trying to snag a piece of pineapple. Out of anger he may have struck her with that flashlight.

673. Without further discussion, the remaining five Pseudo-Experts unanimously agreed with Kolar’s accusation that Burke killed JonBenét with the Flashlight over a piece of pineapple:

Spitz: “I think we all agree on that.”

Clemente: “Yeah.”

Fitzgerald: “Yes.”

Richards: “Absolutely.”

Lee: “Sure, yeah, I agree with that.”

Spitz: “Okay.”

674. As Kolar sets forth Defendants’ accusation, the Documentary flashes fictional reenactments designed to bolster and support Defendants’ false accusations.

675. Defendants openly and falsely accused Burke of fatally bashing JonBenét over the head with the Flashlight. And Defendants offered no other alternative for who may have murdered JonBenét. To the contrary, Defendants attempted to negate all other possibilities.

676. Consistent with their marketing, Defendants portrayed that they “solved it.”

677. Defendants then provide a motive for John and Patsy for a cover-up: “[Patsy] said she would have nothing left to live for if she lost Burke.”

678. Defendants then openly conclude, without clearly explaining any connection between John and Patsy and the cover-up, that John and Patsy covered up Burke’s crime:

Mixed motives make it pretty clear that both parents are involved.

...

And I think that’s what we have here in the language utilized as well as the crime scene itself, the body and everything else. Within an hour of this crime being committed, there’s probably a cover-up starting with whatever they did to the body and certainly the writing of this letter, the 9-1-1 call, everything that happened later. But I don’t think Burke was involved in the cover-up.

...

But as far as the cover-up itself, I would say primarily, it’s John and Patsy who were involved in that. I think the most likely probability is that adults in that family, John and Patsy Ramsey—and this is consistent with what the grand jury wanted to indict them for—staged this to look like a monster predator had come in their house and killed their daughter. It’s my opinion that the Ramsey family did not want law enforcement to resolve this case and that’s why it remains unsolved.

...

100% agree.

...

I think in the end this was about two parents [who] deeply cared for the daughter they lost and wanted to protect the child they had remaining.

679. Defendants' false accusation against Burke was accepted as true by millions of viewers who were convinced that it was based on a legitimate reinvestigation by legitimate experts and based on truthful and complete information broadcast by CBS.

680. The viewers did not know that the Documentary was a purposeful fraud, built around Kolar's Burke-did-it accusation. The Documentary was not a "complete reinvestigation" of JonBenét's murder by a panel of seven independent "experts." It was a fraudulent charade that merely repackaged Kolar's false accusations and decades of debunked theories in a manner intended to deceive the viewers into believing that the information was real. It was all a lie. But a lie that will haunt and harm Burke for the rest of his natural life.

CAUSES OF ACTION

COUNT I - DEFAMATION (ALL DEFENDANTS)

681. Burke reasserts and incorporates by reference paragraphs 1 through 680 of this Complaint as if fully restated herein.

682. Defendants negligently published the false and defamatory gist that Burke killed his sister, JonBenét.

683. In accusing Burke of killing his sister, Defendants falsely conveyed that Burke Ramsey was involved with his parents in a criminal cover-up and that Burke lied to police.

684. Defendants published and communicated the false and defamatory statements about Burke to third-parties and did so without privilege or authorization.

685. Defendants published the false and defamatory statements concerning Burke with actual malice—e.g., with actual knowledge of the statements’ falsity, and/or with reckless disregard for the falsity of the statements.

686. Defendants also published the false and defamatory statements concerning Burke with common law malice—e.g., in bad faith and/or with ill-will towards Burke.

687. Defendants’ false and defamatory statements concerning Burke Ramsey are defamatory per se, thereby causing serious and permanent harm to Burke’s reputation.

688. Defendants’ false and defamatory statements about Burke proximately caused him to be exposed to public hatred, contempt and ridicule and continues to so expose him.

689. Defendants’ false and defamatory statements about Burke were repeated and republished worldwide throughout the media and by countless private individuals. Examples of third-party republications are attached hereto as Exhibit “K”.

690. Defendants intended that their false accusations against Burke be republished.

691. The republications of their false and defamatory statements about Burke were reasonably foreseeable by Defendants at the time they published the statements.

692. The republications of Defendants’ false and defamatory statements concerning Burke were the natural and probable result of Defendants’ original publication of those false and defamatory statements.

693. As a direct and proximate result of Defendants’ false and defamatory statements regarding Burke, he has suffered and will continue to suffer damage and other harm, including economic damages, damages to his reputation, mental anguish, and special damages.

694. Defendants' conduct demonstrates that degree of willful misconduct and an entire want of care that raises a conscious indifference to the consequences of their actions.

695. Defendants published the Articles with constitutional actual malice, thereby entitling Burke to an award of punitive damages.

696. Burke is also entitled to an award of punitive damages to punish Defendants for their unlawful conduct and to penalize and deter them from repeating similar unlawful and egregious conduct.

697. Burke is entitled to recover exemplary and/or punitive damages, including because Defendants' are guilty of fraud, oppression, and malice in publishing the false accusation that Burke killed JonBenét.

COUNT II – CONSPIRACY TO DEFAME (ALL DEFENDANTS)

698. Burke reasserts and incorporates by reference paragraphs 1 through 697 of this Complaint as if fully restated herein.

699. Defendants and their Pseudo-Experts agreed to form and engaged in a conspiracy to create and publish the false and defamatory Documentary.

700. Defendants and their Pseudo-Experts preconceived the story line that Burke killed JonBenét.

701. Defendants and their Pseudo-Experts planned to accuse Burke of killing JonBenét under the guise of conducting a sham reinvestigation and claiming that the accusation was based on the evidence discovered in the reinvestigation.

702. Defendants and their Pseudo-Experts knowingly agreed to participate in the Documentary's fraudulent portrayal of a reinvestigation of the murder of JonBenét.

703. Defendants and their Pseudo-Experts knowingly agreed to present the ultimate conclusion of Kolar's *Foreign Faction*, and the supposed reinvestigation was a charade.

704. Defendants and their Pseudo-Experts knowingly agreed to an unlawful plan to accuse Burke of killing JonBenét.

705. Each of the Defendants knowingly and intentionally took a responsible part in the publication of the Documentary, including the false and defamatory statements conveying that Burke killed JonBenét.

706. Defendants and their Pseudo-Experts knowingly engaged in concerted action and made overt actions in furtherance of their unlawful plan to falsely accuse Burke of killing JonBenét.

707. Defendants and their Pseudo-Experts knowingly took concerted action and made overt actions in furtherance of their unlawful plan to mislead the viewers into believing that Burke killed JonBenét.

708. Defendants and their Pseudo-Experts, acting jointly and according to their preconceived and unlawful plan, knowingly and intentionally published false and defamatory statements imputing to Burke that he killed JonBenét, engaged in a criminal cover up with his parents and lied to the police.

709. Through the conspiracy, Defendants proximately caused Burke to be exposed to public hatred, contempt and ridicule and continue to so expose him.

710. As a direct and proximate result of Defendants' conspiracy and the false and defamatory gist regarding Burke, he has suffered and will continue to suffer damage and other harm, including economic damages, damages to his reputation, mental anguish, and special damages.

711. Burke is also entitled to an award of punitive damages to punish Defendants for their unlawful conspiracy and to penalize and deter them from repeating similar unlawful and egregious conduct.

712. Burke Ramsey is entitled to recover exemplary and/or punitive damages, including because Defendants by and through their conspiracy are guilty of fraud, oppression, and malice in publishing that Burke killed JonBenét.

COUNT III – JOINT VENTURE (CBS AND CRITICAL CONTENT)

713. Burke reasserts and incorporates by reference paragraphs 1 through 712 of this Complaint as if fully restated herein.

714. CBS and Critical Content entered into an agreement indicating an intention to undertake a joint venture in connection with the Documentary.

715. CBS and Critical Content jointly undertook to produce and publish the Documentary.

716. Pursuant to their joint venture agreement, CBS and Critical Content undertook the Documentary project for profit.

717. Pursuant to their joint venture agreement, CBS and Critical Content shared in the profits as well as losses in connection with the Documentary.

718. Pursuant to their joint venture agreement, CBS and Critical Content contributed skills and property in connection with the Documentary.

719. Pursuant to their joint venture agreement, CBS and Critical Content had a community interest and control over the Documentary, including a joint right of control.

720. CBS and Critical Content preconceived the story line that Burke killed JonBenét.

721. Pursuant to their joint venture agreement, CBS and Critical Content planned to accuse Burke of killing JonBenét under the guise of a sham reinvestigation and claiming that the accusation was based on the evidence discovered in the reinvestigation.

722. Pursuant to their joint venture agreement, CBS and Critical Content knowingly agreed to participate in the Documentary's fraudulent portrayal of a reinvestigation of the murder of JonBenét.

723. Pursuant to their joint venture agreement, CBS and Critical Content knowingly agreed to present the ultimate conclusion of Kolar's *Foreign Faction*, and the supposed reinvestigation was merely a charade.

724. Pursuant to their joint venture agreement, CBS and Critical Content knowingly agreed to accuse Burke of killing JonBenét.

725. Pursuant to their joint venture agreement, CBS and Critical Content knowingly and intentionally took a responsible part in the publication of the Documentary, including the false and defamatory statements imputing to Burke that he killed JonBenét.

726. Pursuant to their joint venture agreement, CBS and Critical Content knowingly and intentionally published false and defamatory statements conveying that Burke killed JonBenét, engaged in a criminal cover up with his parents and lied to the police.

WHEREFORE, Plaintiff, Burke Ramsey, respectfully requests that this Court enter judgment, jointly and severally, against Defendants, awarding Burke Ramsey compensatory damages in an amount not less than \$250 Million (\$250,000,000.00) and punitive damages to punish and deter Defendants in an amount not less than \$500 Million (\$500,000,000.00) and granting such other and further legal or equitable relief deemed appropriate.

Respectfully submitted,

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Dated: December 28, 2016

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims in this action triable by jury.

Respectfully submitted,

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