

**CAUSE NO. 141-307474-19**

**VICTOR MIGNOGNA,**  
*Plaintiff,*

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**IN THE DISTRICT COURT**

v.

**141<sup>ST</sup> JUDICIAL DISTRICT**

**FUNIMATION PRODUCTIONS, LLC,  
JAMIE MARCHI, MONICA RIAL AND  
RONALD TOYE,**  
*Defendants.*

**TARRANT COUNTY, TEXAS**

**DEFENDANT JAMIE MARCHI’S MOTION TO DISMISS  
PURSUANT TO THE TEXAS CITIZENS PARTICIPATION ACT**

TO THE HONORABLE COURT:

Defendant JAMIE MARCHI (“Jamie”) moves this Court pursuant to TEX. CIV. PRAC. & REM. CODE §27.003 to dismiss all claims set out in the Plaintiff’s Petition in the above-styled and numbered cause, and in support of this motion shows:

**I. SUMMARY OF MOTION**

1. Plaintiff’s lawsuit is an unabashed ploy to quiet his victims and is the precise scenario the Texas Legislature sought to prevent when it enacted the Texas Citizens Participation Act in 2011. As established below, Plaintiff’s legal action must be dismissed because (a) Jamie’s complained-of statements are protected by her constitutional rights of free speech and association, (b) Plaintiff is a public figure, and (c) because Plaintiff cannot put forth clear and specific evidence of each element of each of his claims against Jamie. Jamie therefore asks the Court to dismiss Plaintiff’s claims against her in accordance with the Texas Citizens Participation Act, and to award Jamie her attorney’s fees, costs, and sanctions to send a message to abusers across Texas that they cannot use the Texas judicial system to intimidate their victims into silence.

## II. EVIDENCE IN SUPPORT OF MOTION

2. In support of this Motion, Jamie relies upon the following competent evidence, all of which is incorporated herein by reference:

DESCRIPTION OF EVIDENCE	ABBREVIATION	DATE	EXHIBIT
Declaration of Jamie Marchi	Marchi Dec.	07/05/19	A
Marchi Statement via Twitter	Marchi Stmt.	02/08/19	A-1
Demand for Preservation of ESI	Preservation Ntc.	03/08/19	A-2
Cease & Desist; Retraction Letter	C&D	04/12/19	A-3
Deposition of Victor Mignogna	Mignogna Depo.	06/26/19	B

Pursuant to TEX. R. CIV. P. 58, Jamie incorporates and adopts by reference the evidence attached to Defendant Funimation Productions, LLC's Motion to Dismiss Under the TCPA and to Defendants Monica Rial and Ronald Toye's Motion to Dismiss Pursuant to the Texas Citizens Participation Act.

## III. FACTUAL AND PROCEDURAL HISTORY

3. Jamie is a voice actor and writer who primarily works in the anime industry.<sup>1</sup> The term "anime" refers to hand-drawn and/or computer animation originating from or associated with Japan. In fact, "anime" is the Japanese word for "animation," but outside of Japan is used to describe animation from Japan or that closely mimics it in style and theme. Plaintiff is one of the most ubiquitous voice actors in the anime genre, credited with over 356 productions on the Internet Movie Database ("IMDB").<sup>2</sup> He also voiced the title character in Dragon Ball Super: Broly, the third-highest grossing anime film of all time in the United States.<sup>3</sup> Indeed, Plaintiff can hardly walk in to an anime convention without being immediately recognized.<sup>4</sup>

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<sup>1</sup> Marchi Dec. ¶2 (Ex. A).

<sup>2</sup> Mignogna Depo. p. 242, lines 14-17 (Ex. B).

<sup>3</sup> Mignogna Depo. p. 241, lines 13-17 (Ex. B).

<sup>4</sup> Mignogna Depo. p. 243, lines 3-7 (Ex. B).

4. In approximately 2011, Jamie worked as a voice actor for Funimation Productions, LLC (“Funimation”).<sup>5</sup> On one occasion while at Funimation’s headquarters in Flower Mound, Texas, Jamie was waiting in the lobby when Plaintiff Victor Mignogna (“Plaintiff”) approached her.<sup>6</sup> Considering that they knew each other (or at least Jamie thought she knew Plaintiff), and that it is a common greeting among creatives in the anime industry, Jamie gave Plaintiff a hug.<sup>7</sup> What Jamie did not, and could not, anticipate was what happened next. Commenting on Jamie’s hair, Plaintiff began running his hand through the back of Jamie’s hair, until his palm found the back of her skull.<sup>8</sup> Plaintiff splayed his fingers and moved his hand to the base of Jamie’s skull, after which he clenched his hand into a fist, grabbing her hair at the roots, and jerked his fist – yanking Jamie’s head backward.<sup>9</sup> Having control of Jamie, Plaintiff then pressed his lips to her ear and whispered something sexual to her.<sup>10</sup> Jamie doesn’t remember the specific words Plaintiff spewed at her that day, but she very much recalls the way she felt violated, out of control, and intimidated.<sup>11</sup> At all times during Plaintiff’s assault on Jamie, she did not consent to, nor want, such contact as was imposed upon her.<sup>12</sup> Shocked and stunned by what Plaintiff had done to her, Jamie never felt safe at Funimation again when Plaintiff was around.<sup>13</sup> Considering that Plaintiff was one of the most ubiquitous voice actors on the convention circuit, Jamie felt that nobody would even believe her if she told her story, let alone have her career survive.<sup>14</sup> Like countless victims before her, she kept her story to herself as a means of protecting herself from retribution or, worse, further trauma.<sup>15</sup>

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<sup>5</sup> Marchi Dec. ¶2 (Ex. A).

<sup>6</sup> Marchi Dec. ¶2 (Ex. A).

<sup>7</sup> Marchi Dec. ¶2 (Ex. A); Mignogna Depo. p. p. 218, lines 4-18 (Ex. B).

<sup>8</sup> Marchi Dec. ¶3 (Ex. A); *see* Mignogna Depo. p. 218, lines 4-18 (Ex. B).

<sup>9</sup> Marchi Dec. ¶3 (Ex. A); *see* Mignogna Depo. p. 218, lines 4-18 (Ex. B).

<sup>10</sup> Marchi Dec. ¶3 (Ex. A).

<sup>11</sup> Marchi Dec. ¶3 (Ex. A).

<sup>12</sup> Marchi Dec. ¶3 (Ex. A).

<sup>13</sup> Marchi Dec. ¶4 (Ex. A).

<sup>14</sup> Marchi Dec. ¶4 (Ex. A).

<sup>15</sup> Marchi Dec. ¶4 (Ex. A).

5. Rumors about Plaintiff had swirled in anime circles for years before Jamie's 2011 encounter with him, so much so that Plaintiff held a "rumor panel" at an anime convention years ago to address the various "rumors" plaguing him for much of his career.<sup>16</sup> At the beginning of 2019, Plaintiff's victims started speaking out about the pain Plaintiff had wrought upon them. Seeing the hatred and shame Plaintiff's followers attempted to hurl at Plaintiff's victims online, Jamie could no longer stay silent.<sup>17</sup> On February 8, 2019, Jamie bravely told the true story of her encounter with Plaintiff so many years before:

*Several years ago, I was in the lobby at my job when I was approached by a co-worker. This guy gave me the creeps already (he gave almost all the women at my job the creeps), but I always felt like I had to be nice to him anyway because of how revered he was in the industry; we hug a lot, and on occasion, will give a kiss on the cheek. But even for an affectionate environment, this felt off. I didn't say anything to him about it, though. It was just his fingers in my hair; I didn't think it was a big deal. At that point, he splayed his fingers, put his hand at the base of my skull, and made a fist. When he did this, he grabbed my hair close to the root, effectively preventing me from moving my head at all. He then jerked his fist, yanking my head backwards and towards him, and whispered something in my ear. I don't remember what he said specifically, but I do remember it being sexual in nature. This was not normal. This was not just a hug or a kiss on the cheek. I did not like it. I have no memory of getting out of his grasp, but I assume, "What the fuck are you doing" was part of my technique.<sup>18</sup>*

The full text of Jamie's statement is attached hereto as Exhibit A-1 and incorporated herein in full by reference. In it, Jamie opens up about the emotions and trauma that accompany such an encounter, while acknowledging that she had a generally less-intrusive experience than other women she heard from. Admittedly, she identifies Plaintiff by name, but she does so only as a means of reaching out to the uncounted women still reeling in silence from what they've been through and offering them solidarity in their recovery.<sup>19</sup>

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<sup>16</sup> Marchi Dec. ¶5 (Ex. A); Mignogna Depo. p. 199, line 11 – p. 200, line 15 (Ex. B).

<sup>17</sup> Marchi Dec. ¶5 (Ex. A).

<sup>18</sup> Marchi Stmt. (Ex. A-1).

<sup>19</sup> See Marchi Dec. ¶5 (Ex. A).

6. The public response to Jamie’s statement – like many other of Plaintiff’s victims – has been one of dichotomy. On the one hand, other of Plaintiff’s victims, Jamie’s fans and friends, and supporters of women’s right to be free from control or invasion by others have all been outspoken in their support of Jamie and her strength and courage. On the other hand, Plaintiff’s supporters have incited a remorseless revenge campaign aimed at disparaging, demeaning, and further objectifying Plaintiff’s victims. Jamie has been harassed online, ridiculed in the most misogynistic of ways, and had her physical safety threatened by Plaintiff’s fans.<sup>20</sup>

7. On March 8, 2019, Jamie received from Plaintiff a demand that she preserve all electronically stored information and other information relevant to the claims and defenses asserted in this matter.<sup>21</sup> Ironically, though, Plaintiff himself allegedly has a policy of immediately deleting his own electronically stored information and has done so even after anticipating litigation in this matter, and also swapped his old iPhone out for a new one just as this litigation was getting started.<sup>22</sup> Less than a month later, Plaintiff sent Jamie correspondence asking her to correct, clarify, or retract some of her tweets.<sup>23</sup>

8. Many of the statements complained of by Plaintiff in his April 12, 2019 take-down letter to Jamie neither refer to Plaintiff nor contain any statement(s) of fact, nor even rise to the level of an actionable publication:<sup>24</sup>

<b>DATE OF CITED TWEET</b>	<b>MISSING ELEMENTS</b>
02/06/2019 at 9:05 p.m.	- Reference to Plaintiff - Statement of Fact
02/07/2019 at 12:32 a.m.	- Reference to Plaintiff - Statement of Fact
02/07/2019 at [unknown time]	- Statement of Fact
02/08/2019 at 3:50 p.m.	- False Statement of Fact

<sup>20</sup> Marchi Dec. ¶6 (Ex. A).

<sup>21</sup> See Preservation Ntc. (Ex. A-2).

<sup>22</sup> Mignogna Depo. p. (Ex. B).

<sup>23</sup> C&D (Ex. A-3).

<sup>24</sup> C&D (Ex. A-3).

While some of the cited tweets admittedly contain strongly worded opinion commentary, none are false statements of fact made by Plaintiff with knowledge of their falsity or reckless disregard of whether or not they were true.<sup>25</sup> Certainly none were made with malice – only the intent to protect herself and others.<sup>26</sup> The sole statement by Jamie that contains any statement of fact referring to Plaintiff that is susceptible to truth or falsity was borne of her need to tell her truth about what Plaintiff did to her.<sup>27</sup>

9. While sworn under oath in his deposition, Plaintiff plainly admitted to assaulting Plaintiff in exactly the same manner as described by Jamie in her statement:

*And I'm like, oh, my gosh, I love your hair. And she's like, I know, I just got it – and I walked around the – the – the counter, and I was kind of standing there kind of flipping it and like oh, my gosh, it's really beautiful, I love it. And I – and I put my hand up in the bottom of it and I'm like, oh, this is great.<sup>28</sup>*

Though the camera veered slightly to the right just before, Plaintiff even gestured on camera about the tight grasp he had over Jamie:



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<sup>25</sup> See generally Marchi Dec. (Ex. A); see generally Mignogna Depo. pp. 247-251.

<sup>26</sup> Marchi Dec. ¶¶5-6 (Ex. A).

<sup>27</sup> Marchi Dec. ¶5 (Ex. A).

<sup>28</sup> Mignogna Depo. p. 218, lines 4-18 (Ex. B).

Plaintiff then had the audacity to interpret how he thought Jamie should have felt:

*It was not painful, it was not hurtful, it was not sexual, and it happened at least four or five years ago, maybe longer.*<sup>29</sup>

If Plaintiff objects to Jamie’s characterization of the hair-pulling incident, his appropriate course of action would be to not have pulled her hair in the first place. This is bolstered by Plaintiff’s own admission that individuals can perceive the same situation differently, and that Ms. Marchi could have perceived her hair being pulled differently than Plaintiff did.<sup>30</sup> **Nothing in this legal action or any other forum can change the fact that what Jamie reported in her statement really happened and that she has a constitutional right to speak out about it**, a right which is protected by – among other things – the TCPA.

#### IV. APPLICABILITY OF TCPA

10. Chapter 27 of the *Civil Practices and Remedies Code*, also known as the Texas Citizens Participation Act (“TCPA”), applies to this action. The purpose of the TCPA is to “encourage and safeguard the constitutional rights of persons to...speak freely...” TEX. CIV. PRAC. & REM. CODE §27.001(6).

11. Date of Filing of Legal Action. Plaintiff’s lawsuit, which is included in the definition of “legal action,” was filed on April 18, 2019. The TCPA applies to legal actions filed on or after June 17, 2011.

12. Constitutional Rights of Free Speech and Association. This legal action is based on, relates to, or is in response to Jamie’s exercise of her right of free speech – a right guaranteed to her under both the First Amendment to the United States Constitution and Article I, Section 8 of the Texas Constitution. The exercise of the right of free speech is defined as “a communication

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<sup>29</sup> Mignogna Depo. p. 218, lines 4-18 (Ex. B).

<sup>30</sup> Mignogna Depo. p. 254, lines 18-21; p. 255, lines 9-11 (Ex. B).

made in connection with a matter of public concern.” TEX. CIV. PRAC. & REM. CODE §27.001(3). Jamie’s constitutional right of free speech is implicated by Plaintiff’s lawsuit because, among other things, (a) Plaintiff is a public figure, and (b) Jamie’s complained-of statements implicate community well-being and community health and safety. Jamie’s statements were thus made in connection with a matter of public concern. *See* TEX. CIV. PRAC. & REM. CODE §27.001(7). Jamie’s statements were further protected by her right of association, to which Plaintiff’s legal action is also in response.

13. Motion Timely Filed. Jamie was served with process in this legal action on May 23, 2019. This motion is filed not later than the sixtieth (60th) day after the date of service and is therefore timely. TEX. CIV. PRAC. & REM. CODE §§27.003(a).

#### **V. DISMISSAL REQUIRED BY TCPA**

14. TEX. CIV. PRAC. & REM. CODE §27.005 requires the Court to dismiss this legal action if Marchi establishes by a preponderance of the evidence that the challenged claims are based on, relate to, or are in response to Jamie’s exercise of her right of free speech and/or right of association, and Plaintiff cannot establish by clear and specific evidence a prima facie case for each essential element of those claims.

#### **A. Jamie’s Statements Involved a Matter of Public Concern**

##### *1. Plaintiff is a Public Figure*

15. In addition to the evidence and argument stated herein, Jamie incorporates by reference the evidence and arguments in Defendant Funimation Productions, LLC’s Motion to Dismiss Under the TCPA (filed July 1, 2019) and Defendants Monica Rial and Ronald Toyé’s Motion to Dismiss under the Texas Citizens Participation Act (filed July 19, 2019). TEX. R. CIV. P. 58.



16. Plaintiff cannot in good faith deny that he is a public figure. There are two categories of public figure status under Texas law: general-purpose and limited-purpose. General-purpose public figures have achieved “such pervasive fame or notoriety that they become public figures for all purposes and in all contexts.” *WFAA-TV, Inc. v. McLemore*, 978 S.W.2d 568, 571 (Tex. 1998). Limited-purpose public figures, however, are public figures merely for a limited range of issues surrounding a particular public controversy. *Id.*

*a. Plaintiff is a General-Purpose Public Figure*

17. A “public figure” is a person with “general fame or notoriety in the community.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351-52 (1974).

18. Among other things, Plaintiff testified in his deposition that:

- a. He has a fan club, called the “Risembool Rangers,” who found his notoriety so compelling as to dub him with the title of “Fuhrer.”<sup>31</sup>
- b. He has been in movies, TV shows, and has voice acted for hundreds of Japanese anime films.<sup>32</sup>
- c. He has been a voice actor for almost 20 years and has been repeatedly hired over that time period because “somebody” must think he’s good at what he does.<sup>33</sup>
- d. Thousands of convention attendees come to see Plaintiff and/or meet him.<sup>34</sup>
- e. Allegations about Plaintiff’s homophobia, anti-Semitism, and sexual harassment are being discussed publicly.<sup>35</sup>
- f. The alleged Minnesota attorney who started Plaintiff’s quarter-million-dollar legal war chest reached out to Plaintiff without having ever known him before.<sup>36</sup>
- g. A lot of people have used Plaintiff’s face and name over the years for their own purposes without Plaintiff’s involvement.<sup>37</sup>

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<sup>31</sup> Mignogna Depo., p. 14, line 22 – p. 15, line 6 (Ex. B).

<sup>32</sup> Mignogna Depo., p. 23, lines 22 – 25 (Ex. B).

<sup>33</sup> Mignogna Depo., p. 26, lines 11-19 (Ex. B).

<sup>34</sup> Mignogna Depo., p. 24, lines 1-3; p.27, lines 6-8 (Ex. B).

<sup>35</sup> Mignogna Depo., p. 30, lines 13-16 (Ex. B).

<sup>36</sup> Mignogna Depo., p. 36, lines 9-20; p. 37, lines 22-24 (Ex. B).

<sup>37</sup> Mignogna Depo., p. 42, lines 15-21 (Ex. B).

- h. Plaintiff has approximately 113,000 Twitter followers.<sup>38</sup>
- i. Plaintiff also writes music and sings, and anyone who lives in the Dallas/Fort Worth Metroplex has likely heard a few of his “jingles” on the radio.<sup>39</sup>
- j. Plaintiff is allegedly so popular that he gets invited to conventions multiple times in a row, breaking common practice for most convention invitees.<sup>40</sup>

There are multiple other citations available, but in the interest of brevity, Jamie is confident that these admissions alone will foreclose any claimed argument by Plaintiff that he is not a general-purpose public figure.

*b. Alternatively, Plaintiff is a Limited-Purpose Public Figure*

19. The Texas Supreme Court relies on a three-part test in determining whether an individual is a limited purpose public figure: (1) the controversy at issue must be public both in the sense that people are discussing it and people other than the immediate participants in the controversy are likely to feel the impact of its resolution; (2) Plaintiff must have more than a trivial or tangential role in the controversy, and (3) the alleged defamation must be germane to Plaintiff’s participation in the controversy. *See WFAA-TV*, 978 S.W.2d at 571. Alternative to her argument that Plaintiff is a general-purpose public figure, Jamie argues that Plaintiff is a limited-purpose public figure. Specifically (i) there is ample evidence in the Court’s record that multiple people are discussing the statements about Plaintiff’s abuses, (ii) Plaintiff is the center of such controversy, has injected himself directly into it, and has far beyond merely a tangential or trivial role therein, and (iii) the statements of which Plaintiff complains are directly germane to Plaintiff’s participation in this controversy.

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<sup>38</sup> Mignogna Depo., p. 48, lines 216-21 (Ex. B).

<sup>39</sup> Mignogna Depo., p. 93, line 23 – p. 94, line 5 (Ex. B).

<sup>40</sup> Mignogna Depo., p. 101, lines 13-23 (Ex. B).

2. Jamie's Statements Relate to Health, Safety, and Community Well-Being

20. Texas courts recognize that when a statement concerns even just an individual's state of safety, the TCPA applies. *See, e.g., Bilbrey v. Williams*, NO. 02-13-00332-CV, 2015 WL 1120921 at \*8-9 (Tex. App.—Fort Worth Mar. 12, 2015, no pet.); *Backes v. Misko*, 486 S.W.3d 7, 18-20 (Tex. App.—Dallas Mar. 13, 2015, pet. denied). Not only do Jamie's statements relate to her own state of safety,<sup>41</sup> but she declared at the time of making them that her intent was to protect and acknowledge Plaintiff's other past and future victims:

*...Had I been able to speak up then, maybe less women would have had to experience what happened...*

*...But, in this moment, I want the others to who I know are out there to hear this: it wasn't just you. It's okay if you didn't say anything, to him or anyone else. You are not responsible for what happened. You do not have to be dismissive, ashamed, or afraid. Also, I hope if anyone ever goes through a similar experience, they will know from the start that their body is not up for debate. Their body is not property of the most popular person in the room. Their body is not responsible for a company, or a show, or an artform. Their body is most definitely not responsible for the reputation and livelihood of a predator.<sup>42</sup>*

Multiple Texas courts have held that statements about mental illness, domestic abuse, murder-for-hire ploys, and other situational statements were matters of public concern under the TCPA. *See generally Cavin v. Abbott*, 545 S.W.3d 47, 60-64 (Tex. App.—Austin 2017, no pet.); *Warner Bros. Entm't, Inc. v. Jones*, 538 S.W.3d 781, 797-798 (Tex. App.—Austin 2017, no pet.); *Backes v. Misko*, 486 S.W.3d 7, 17-20 (Tex. App.—Dallas 2015, pet. denied). Not only does Jamie's statement meet this standard inherently, she even stated at the time of publication that her intent was to tell the truth about her own experience and protect other of Plaintiff's victims, whether past or future. One struggles to think of a statement better classified as relating to health, safety, and community well-

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<sup>41</sup> Marchi Dec. ¶5-6 (Ex. A).

<sup>42</sup> Marchi Stmt. (Ex. A-1).

being. The Court’s record is replete with accounts of Plaintiff engaging in the same – or worse – behavior directed at other women.

21. The TCPA ultimately applies because Jamie’s complained-of statements are protected by her right of free speech. The TCPA defines that right as any communication made in connection with a “matter of public concern.” TEX. CIV. PRAC. & REM. CODE §27.001(7); *see also Adams v. Starside Custom Builders, LLC*, 547 S.W.3d 890 (Tex. 2018). As established above, the TCPA is irrefutably applicable to Plaintiff’s legal action.

### **B. Jamie Was Exercising Her Right of Association**

22. This Court must also dismiss Plaintiff’s legal action because it is based on, relates to, or is in response to Jamie’s exercise of her right of association. TEX. CIV. PRAC. & REM. CODE §27.005(b); *see MacFarland v. Le-Vel Brands, LLC* (Tex. App.—Dallas Mar. 23, 2017, no pet).. The exercise of the right of association is defined in the TCPA as “a communication between individuals who join together to collectively express, promote, pursue, or defend common interests.” TEX. CIV. PRAC. & REM. CODE §27.001(2). Texas courts broadly construe the TCPA’s reference to communications between individuals joining together to express, promote, or defend common interests. *See Fawcett v. Grosu*, 498 S.W.3d 650 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2016, pet. denied).

23. Again, Jamie’s statements were made in the exercise of her association with the broader anime community, fan community, and women who may in the past or future come into contact with Plaintiff. Jamie evinced this most strongly by sounding her call of empathy to Plaintiff’s prior victims and to those who may come after her.<sup>43</sup>

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<sup>43</sup> Marchi Stmt. (Ex. A-1).

**C. Plaintiff Cannot Provide Clear and Specific Evidence  
for each Essential Element of his Claims against Jamie**

24. Jamie has met her burden to show by a preponderance of the evidence that the TCPA applies to this legal action. The burden now shifts to Plaintiff to establish “by clear and specific evidence a prima facie case for each essential element of the claim[s] in question.” *See* TEX. CIV. PRAC. & REM. CODE §§27.003, 27.005(b)-(c). Plaintiff’s burden is far more than the simple “notice pleading” initially required in a Texas lawsuit; instead, Plaintiff must “provide enough detail to show the factual basis” for each element of his claims. *In re Lipsky*, 460 S.W.3d 579, 590-91 (Tex. 2015).

*1. Plaintiff Does Not Have Clear and Specific Evidence for His  
Defamation Claim against Jamie*

25. The elements of a defamation claim in Texas are well established. In order to survive this Motion, Plaintiff must put forth clear and specific evidence that (a) Jamie published a statement of fact, (b) the statement referred to Plaintiff, (c) the statement was defamatory, (d) the statement was false, (e) with regard to the truth of the statement, Jamie was acting with actual malice – if Plaintiff is a public figure, or negligently – if Plaintiff is a private individual; and (f) the statement caused Plaintiff pecuniary injury. *See In re Lipsky*, 460 S.W.3d 579, 593 (Tex. 2015). Because Plaintiff is clearly a public figure, he must show that Jamie acted with actual malice.

26. The Court’s record is rife with Plaintiff’s own admissions that he lacks evidence of more than one statement that even contains a statement of fact referring to him:

<b>DATE OF CITED TWEET</b>	<b>MISSING ELEMENTS</b>	<b>ADMISSION OF MISSING ELEMENT<sup>44</sup></b>
02/06/2019 at 9:05 p.m.	- Reference to Plaintiff - Statement of Fact	- p. 247, line 4 – p. 248, line 12 - p. 248, line 25 – p. 249, line 3
02/07/2019 at 12:32 a.m.	- Reference to Plaintiff - Statement of Fact	- p. 250, lines 4 – 24 - p. 250, line 25 – p. 251, line 2
02/07/2019 [unknown time]	- Statement of Fact	- p. 251, line 4 – p. 252, line 20

<sup>44</sup> Mignogna Depo. (Ex. B).

27. The only statement in the record that actually contains a statement of fact about Plaintiff is the one in which Jamie outcries with the truth about what Plaintiff did to her – a statement that is conspicuously missing from Plaintiff’s original and amended petitions. However, Plaintiff admitted to the truth of Jamie’s statement in his deposition.<sup>45</sup> At a minimum, Plaintiff is unable to summon clear and specific evidence of the *falsity* of any of Jamie’s statements. Plaintiff will also be unable to put forth clear and specific evidence that Jamie acted with malice. Her own statement – before involvement of counsel and which she wrote wholly on her own – clarifies that her intent was to protect herself and the public at large, and for no other reason.<sup>46</sup>

28. Finally, Plaintiff’s claim that any damages were caused by Jamie is, respectfully, ludicrous. Plaintiff confirmed that Jamie’s name was never mentioned by Funimation when it was conducting the investigation which led to termination of his contract.<sup>47</sup> Plaintiff also testified in his deposition that Jamie’s statements couldn’t have impacted termination of his contracts with conventions before the statements were published.<sup>48</sup> Plaintiff is unable to cite to any conventions cancelled *after* the date of Jamie’s statements and admits that he knows of no conventions that Jamie even reached out to.<sup>49</sup> As of his deposition, Plaintiff was on track for his typical annual number of convention appearances, having already appeared in 9 and professing attendance at 20-30 in any given year.<sup>50</sup> In short, other than allegedly hurt feelings – more likely disbelief at the resolve of his former victims – Plaintiff has incurred no damages as the result of any statement made or allegedly made by Jamie, and thus he cannot proffer clear and specific evidence of any.

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<sup>45</sup> Mignogna Depo. p. 218, lines 4-21 (Ex. B).

<sup>46</sup> Marchi Dec. ¶¶5-6 (Ex. A); Marchi Stmt. (Ex. A-1).

<sup>47</sup> Mignogna Depo. p. 257, line 17 – p. 258, line 5 (Ex. B).

<sup>48</sup> Mignogna Depo. p. 260, lines 1- 11 [up to “obviously.”] (Ex. B).

<sup>49</sup> Mignogna Depo. p. 257, lines 14 – 16 (Ex. B).

<sup>50</sup> Mignogna Depo. p. 223, lines 21-25 (Ex. B).

2. Plaintiff Does Not Have Clear and Specific Evidence for His  
Claim against Jamie for Tortious Interference with Existing Contracts

29. In order to survive this Motion, Plaintiff must put forth clear and specific evidence that (a) Plaintiff had a valid contract, (b) Jamie willfully and intentionally interfered with the contract, (c) Jamie's interference proximately caused Plaintiff's alleged injury, and (d) Plaintiff incurred actual damage or loss. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 207 (Tex. 2002). Jamie incorporates her argument and citations in Paragraph 28 above.

3. Plaintiff Does Not Have Clear and Specific Evidence for His  
Claim against Jamie for Tortious Interference with Prospective Relations

30. Plaintiff must prove with clear and specific evidence that (a) there was a reasonable probability that he would have entered into a business relationship with a third person, (b) Jamie intentionally interfered with the relationship, (c) Jamie's conduct was independently tortious or unlawful, (d) Jamie's interference proximately caused Plaintiff's alleged injury, and (e) Plaintiff suffered actual damage or loss, in order to sustain his claim against Jamie for tortious interference with prospective relations. *Coinmach Corp. v. Aspenwood Apt. Corp.*, 417 S.W.3d 909, 923 (Tex. 2013). Jamie incorporates her argument and citations in Paragraph 28 above.

4. Plaintiff Does Not Have Clear and Specific Evidence for His  
Claim against Jamie for Civil Conspiracy

31. In order to survive this Motion, Plaintiff must put forth clear and specific evidence that (a) Jamie was a member of a combination of two or more persons, (b) the object of the combination was to accomplish either (i) an unlawful purpose or (ii) a lawful purpose by unlawful means, (c) the members had a meeting of the minds on the object or course of action, (d) one of the members committed an unlawful, overt act to further the object or course of action, and (e) Plaintiff suffered injury as a proximate result of the wrongful act. *Chon Tri v. J.T.T.*, 162 S.W.3d 552, 556 (Tex. 2005).

32. Finding no reasonable guess as to the actual basis for this claim asserted by Plaintiff, Jamie looks to Plaintiff's live petition for guidance, but finds none there. Suffice it to say that Plaintiff can neither conjure a good faith argument, let alone produce clear and specific evidence, of each element of his unfounded claim for civil conspiracy. Moreover, Jamie again incorporates her argument and citations in Paragraph 28 above.

#### **VI. REQUEST FOR ATTORNEY'S FEES AND SANCTIONS**

33. Jamie is entitled to recover an award of sanctions, costs, reasonable attorney's fees, and other expenses incurred in conjunction with the dismissal. *See* TEX. CIV. PRAC. & REM. CODE §27.009. An award of attorney's fees to a successful movant is mandatory under the TCPA, and Jamie is entitled to her other expenses under principles of justice and equity. *See Sullivan v. Abraham*, 488 S.W.3d 294, 299 (Tex. 2016). Moreover, the Court must also award sanctions in order to deter other, similar actions where attempts are made to intimidate brave victims into silence where they have taken the forthright step of speaking out about what happened to them. *See* TEX. CIV. PRAC. & REM. CODE §27.009(2). Particularly where a quarter-million-dollar war chest has been gathered from other people to pay his legal expenses, Plaintiff has no reason to avoid specious lawsuits in the future without learning his lesson in this one.

#### **VII. STAY OF DISCOVERY**

34. Pursuant to TEX. CIV. PRAC. & REM. CODE §27.003(c), all discovery in this legal action is stayed until the Court has ruled on this Motion to Dismiss.

#### **VIII. CONCLUSION**

35. Gone are the days when aggressors could intimidate their victims into silence. Of the various rights afforded under the Constitution, the rights of free speech and association are certainly the dearest. And despite this, Plaintiff has seen fit to bully his victims by his abuse of this



Court's jurisdiction. When the Texas Legislature adopted the TCPA, it was precisely with legal actions such as Plaintiff's in mind – stopping them, in particular. After reviewing the evidentiary record on file and the briefing based on same, this Court must dismiss Plaintiff's action and claims against Jamie, for reasons Plaintiff was likely aware of well before filing. Yet Plaintiff has continued his harm by forcing Jamie and the other defendants to defend his dubious claims even this far. No more. It is incumbent upon this Court to find the TCPA applicable, that Plaintiff could not meet his burden thereunder, and to dismiss Plaintiff's claims accordingly. Costs, attorney's fees, and sanctions must also be assessed against Plaintiff in favor of Jamie as requested herein and as mandated by the TCPA. Key to granting such relief, perhaps more than anything else, is the truth and intent of Jamie's statements, which are as undeniable as they are instructive.

WHEREFORE, Jamie Marchi requests that this Court expedite the hearing of this Motion, dismiss with prejudice the Plaintiff's claims as specified in this Motion, and award sanctions, costs, and attorney's fees with respect to the challenged claims as to Defendant Jamie Marchi.

Respectfully submitted,

**JOHNSON & SPARKS PLLC**

By: \_\_\_\_\_

**SAMUEL H. JOHNSON**

State Bar No. 24065507

7161 Bishop Road, Suite 220

Plano, Texas 75024

972.918.5274 (phone/fax)

sam@johnsonsparks.com

**ATTORNEY FOR DEFENDANT JAMIE MARCHI**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that, in accordance with Rule 21a of the *Texas Rules of Civil Procedure*, a true and correct copy of the above and foregoing has been forwarded to all counsel of record on July 19, 2019.



---

**Samuel H. Johnson**

# **EXHIBIT A**

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,  
*Plaintiff,*

v.

FUNIMATION PRODUCTIONS, LLC,  
JAMIE MARCHI, MONICA RIAL AND  
RONALD TOYE  
*Defendants.*

§  
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§  
§  
§  
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§  
§

IN THE DISTRICT COURT

141<sup>ST</sup> JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

DECLARATION OF JAMIE MARCHI

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

Pursuant to TEX. CIV. PRAC. & REM. CODE §132.001, Jamie Marchi, Defendant in the above-styled and numbered cause, hereby states as follows:

1. My name is Jamie Marchi. I am an adult over the age of eighteen (18) years and am physically and mentally competent to testify to the matters set forth in this Declaration.

2. I am a voice actor and writer, primarily in the anime industry. In approximately 2011, I was in the lobby at Funimation Production, LLC’s (“Funimation”) building, where I was a voice actor at the time. I saw Plaintiff Victor Mignogna (“Plaintiff”) and said hello. Plaintiff walked over to me and we gave each other a hug, which is a relatively common greeting among voice actors who’ve worked together before. An uncommon greeting, though, is what Plaintiff did next.

3. While still standing in the Funimation lobby, Plaintiff started running his fingers through my hair. This behavior made me uncomfortable, but I did not object verbally because I thought it would end as quickly as it began. When Plaintiff’s hands reached the roots of my hair across the back of my head, he splayed his fingers and moved his hand to the base of my skull,

then clenched his hand into a fist. In so doing, Plaintiff grabbed my hair close to the root and then jerked his fist, which abruptly, unexpectedly, and painfully yanked my head backwards. Plaintiff then leaned slightly in, having already taken control of my head, and pressed his lips to my ear before whispering a sexual statement to me. I do not recall the specific words he said, but I know with certainty they were of a sexual nature directed at me. I felt helpless, out of control of my own body, and grossly intimidated by Plaintiff's unwanted and uninvited contact and words imposed upon me.

4. After escaping his grasp, I was shocked and stunned by what had just happened. I felt unsafe at my own workplace. I nevertheless dismissed the experience without reporting it to Funimation. Plaintiff is widely known in the anime world, has a loyal and broad following of fans, and on top of that he was one of the most ubiquitous voice actors on the convention circuit. I did not feel that I could go up against Plaintiff with a wide public persona and vast fanbase and still have my career survive.

5. In early 2019, women began coming out with the truth about their various experiences with Plaintiff – something that I'd heard or read for many years before from various women. I realized then that my experience was not unique, and I made the brave decision to publicly state the truth about what Plaintiff did to me. I thus wrote a statement via Twitter on February 8, 2019 so that other women who were victims of Plaintiff or other aggressors would know that they are not alone, and that they can stand up for themselves and speak out, and to confirm for all of us that our bodies are our own, and only we can decide what is done with them. A true and correct copy of my Twitter statement is attached hereto as "Exhibit A-1." I was the only author of my statement, and I still believe it was important to post as a means of showing solidarity and empathy with Plaintiff's (and other aggressors') other victims.

6. Since telling the truth about what Plaintiff did to me, I have been harassed, threatened, and lambasted by an army of in-person and online “trolls” at Plaintiff’s and his attorneys’ bidding. Despite the danger to my life and my family, I am steadfast in the need to speak the truth. I have not made these statements out of malice or any desire to hurt Plaintiff. I admittedly felt, and still feel, anger toward Plaintiff, and hurt at what he made me endure, and I hope his life experiences will teach him to behave differently. But my intent in my outcry was always to provide an opportunity for healing and encouragement for bravery for both myself and other victims.

7. I did not communicate with Funimation Productions, LLC regarding Plaintiff while it was investigating allegations about his conduct prior to terminating his contract. Likewise, I did not reach out to any convention or other production company to discuss Plaintiff or encourage – either expressly or implicitly – to reduce or terminate their business dealings with him as a result of the allegations against him.

8. Attached hereto as exhibits A-2 and A-3 are true and correct copies of correspondence I received from Plaintiff.


*My name is Jamie Marchi, my date of birth is October 8, 1977 and my address is 9411 Timberleaf Drive, Dallas, Texas, USA. I declare under penalty of perjury that the foregoing is true and correct.*


Executed in Dallas County, State of Texas, on the 18th day of July, 2019.

  
Jamie Marchi

# **Exhibit A-1**



**Jamie Marchi**   
@marchimark

Follow 

I stand with the victims. My experience is minor in comparison to many others; however, having realized this wasn't an isolated incident, I felt compelled to share.

Several years ago, I was in the lobby at my job when I was approached by a co-worker. This guy gave me the creeps already (he gave almost all the women at my job the creeps), but I always felt like I had to be nice to him anyway because of how revered he was in the industry. As we said hello, he stood to the side of me and started running his fingers through my hair. Now, I do work in an affectionate industry; we hug a lot, and on occasion, will give a kiss on the cheek. But even for an affectionate environment, this felt off. I didn't say anything to him about it, though. It was just his fingers in my hair; I didn't think it was a big deal. At that point, he splayed his fingers, put his hand at the base of my skull, and made a fist. When he did this, he grabbed my hair close to the root, effectively preventing me from moving my head at all. He then jerked his fist, yanking my head backwards and towards him, and whispered something in my ear. I don't remember what he said specifically, but I do remember it being sexual in nature. This was not normal. This was not just a hug or a kiss on the cheek. I did not like it. I have no memory of getting out of his grasp, but I assume, "What the fuck are you doing?" was part of my technique.

3:50 PM - 8 Feb 2019

Afterwards, I completely and utterly dismissed it as harassment. I dismissed the idea I had been forced to change my hair or my grip on it. I dismissed the idea of being forced to change my hair or my grip on it. I dismissed the idea of being forced to change my hair or my grip on it.

I never reported this event to the company. It didn't even occur to me that I should have. I had no idea how to report it. I can't say I would have reported it because of his fame. He was on the popular side of the company. He was the only one who knew me. He was the only one who knew me. He was the only one who knew me.

Look back on this moment and discuss it with my friends. I can see that my actions qualify as a crime. I can see that my actions qualify as a crime. I can see that my actions qualify as a crime.

Right now, I'm not sure if I should report it. I'm not sure if I should report it. I'm not sure if I should report it. I'm not sure if I should report it.

Nothing is more important than my safety. I'm not sure if I should report it. I'm not sure if I should report it. I'm not sure if I should report it.



Several years ago, I was in the lobby at my job when I was approached by a co-worker. This guy gave me the creeps already (he gave almost all the women at my job the creeps), but I always felt like I had to be nice to him anyway because of how revered he was in the industry. As we said hello, he stood to the side of me and started running his fingers through my hair. Now, I do work in an affectionate industry; we hug a lot, and on occasion, will give a kiss on the cheek. But even for an affectionate environment, this felt off. I didn't say anything to him about it, though. It was just his fingers in my hair; I didn't think it was a big deal. At that point, he splayed his fingers, put his hand at the base of my skull, and made a fist. When he did this, he grabbed my hair close to the root, effectively preventing me from moving my head at all. He then jerked his fist, yanking my head backwards and towards him, and whispered something in my ear. I don't remember what he said specifically, but I do remember it being sexual in nature. This was not normal. This was not just a hug or a kiss on the cheek. I did not like it. I have no memory of getting out of his grasp, but I assume, "What the fuck are you doing?" was part of my technique.

Afterwards, I completely and utterly dismissed this experience. I dismissed the way I had been touched. I dismissed having this man grab me. I dismissed having my head jerked back. I dismissed the inappropriate comment. I dismissed this entire encounter.

I never reported this event to the company. It actually didn't even occur to me that I should have. Although, if it had occurred to me, I can't say I would have reported him. This guy was worshipped by his fans. He was worshipped by the studios because of his fans. He was the most popular voice actor on the convention circuit. Everyone treated him with kid gloves because he was the one and only Vic Mignogna. Who was I? A nobody in comparison. I didn't matter, and I knew it. Risking being blacklisted from my work and conventions simply wouldn't have been worth it.

As I look back on this moment and discuss it with my family and friends, I can see that his actions qualify as simple assault. Would he have gone to jail had I pressed charges? I'm not sure. Why would people believe me over a man who holds bible studies in hotel lobbies? And even if they did, would they care about the truth if that meant tarnishing the reputation of their favorite voice actor?

In the last week or so, I've heard accounts of him doing this exact thing to half a dozen other women that I personally know. I am friends with these women, and we never told each other about our experiences. Some dismissed it, like me. Others felt too ashamed or scared to say anything. I struggle with the guilt I feel for having been so dismissive of his actions. Had I been able to speak up then, maybe less women would have had to experience what happened when they were unable to get out of Vic's grasp.

I'm speaking up now because I didn't even think about this event until I realized other women had experienced the same thing. I thought it was just me. And at first, I didn't want to say anything because my experience was not nearly as bad as what other people have suffered at the hands of this man. I wanted their stories to be heard first because they were the important ones. But, in this moment, I want the others who I know are out there to hear this: it wasn't just you. It's okay if you didn't say anything, to him or anyone else. You are not responsible for what happened. You do not have to be dismissive, ashamed, or afraid. Also, I hope if anyone ever goes through a similar experience, they will know from the start that their body is not up for debate. Their body is not property of the most popular person in the room. Their body is not responsible for a company, or a show, or an artform. Their body is most definitely not responsible for the reputation and livelihood of a predator.

## **Exhibit A-2**



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ATTORNEYS AT LAW

March 8, 2019

**VIA CERTIFIED MAIL AND EMAIL (mymarchi@gmail.com)**

Jamie Marchi  
9411 Timberleaf Drive  
Dallas, TX 75243-6123

**RE: Vic Mignogna**

**DEMAND FOR PRESERVATION OF ELECTRONICALLY STORED INFORMATION**

Dear Ms. Marchi:

Please be advised that Ty Beard and Beard, Harris, Bullock Hughes have been retained to represent Mr. Vic Mignogna regarding allegations of defamation, tortious interference with business relations and civil conspiracy. Please be advised that you need to protect and preserve all electronically stored data currently in your possession. This electronically stored data is an important, irreplaceable source of discovery and/or evidence in this matter. This notice requests preservation of all information from your computer systems (including hard drives), cell phone systems, PDA's, email systems, software systems, and other removable electronic media as well as the computer systems (including hard drives), cell phone systems, PDA's, email systems, software systems, and other removable electronic media which are in your possession. This includes, but is not limited to, email and other electronic communications, word processing documents, spreadsheets, data bases, calendars, telephone logs, instant messages, video files, picture files, any files associated with your google accounts, yahoo accounts or outlook accounts, text messages, internet usage files, social networking sites, and network access information. Failure to comply with this request could result in spoliation issues.

Please note that litigation is reasonably likely. Accordingly, you have a duty (even without a court order) to preserve information that is relevant to the potential dispute over termination of Vic's relationship with FUNimation and Roosterteeth and damage to his reputation and career, including, without limitation, information relating to: (i) Vic's work for FUNimation and Roosterteeth, (ii) the circumstances surrounding termination of his relationship with FUNimation and Roosterteeth, (iii) the history of, basis for, and decision to publish tweets related to Vic Mignogna since January 18, 2019, (iv) all information related to investigations by FUNimation or Sony and Roosterteeth into allegations that Vic engaged in "any kind of harassment or threatening behavior being directed at anyone" and the "testimony, proof, [and]

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evidence” given therein including the investigations referenced in numerous tweets by yourself, (v) and any and all communications between yourself and FUNimation, yourself and Roosterteeth and yourself and any persons who have made allegations that Vic engaged in “any kind of harassment or threatening behavior directed at anyone” and the “testimony, proof [and] evidence” provided through said communications and (vi) any and all communications between yourself and Vic Mignogna referencing any allegations that Vic engaged in “any kind of harassment or threatening behavior being directed at anyone including yourself” and the “testimony, proof, [and] evidence” provided.

This duty extends not only to tangible items but also to electronically stored information (“ESI”). ESI should be afforded the broadest possible definition and includes, without limiting, documents, spreadsheets, presentations, calendars, diaries, communications, recordings, photographs, logs, data and databases, backup and archival files, and other data, files and records that are electronically, magnetically or optically stored on current or former computer systems and other media and devices (including cell phones, tablets, online repositories and messaging systems) used by yourself. ESI resides not only in areas of electronic, magnetic and optical storage media you may consider reasonably accessible but also in areas you may deem not reasonably accessible; your obligation to preserve potentially relevant evidence extends to both of these sources of ESI. ESI includes both system metadata (i.e., information describing the history and characteristics of other ESI) and application metadata (i.e., information that is automatically included or embedded in electronic files).

Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. You must also intervene to prevent the loss or destruction of potentially relevant ESI due to routine operations or individual actors and employ proper techniques and protocols suited to protecting ESI such as (i) initiating a “litigation hold” for potentially relevant ESI, (ii) identifying and modifying or suspending features of systems and devices that, in routine operation, cause the loss of potentially relevant ESI, (iii) securing and preserving items required to access or search ESI such as passwords, keys, and other authenticators, as well as hardware and peripherals required to access the ESI, and (iv) informing your employees, contractors, officers, directors and agents of the obligation to preserve potentially relevant ESI (and the ability to access or search same) and taking steps to prevent their hiding, destroying or altering potentially relevant ESI. Item (iv) may involve preservation of potentially relevant ESI on home or personal devices – as well as online or browser-based accounts or services – used by yourself and agents if they forwarded, created, viewed or stored potentially relevant ESI using such devices, accounts or systems.

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Without limiting or diminishing your obligation to preserve potentially relevant ESI (or limiting or diminishing your obligation to preserve documents, tangible things and other potentially relevant evidence), you are requested to preserve potentially relevant ESI with a “created” or “last modified” date of January 1, 2017 or later.

Thank you for your attention to this matter. If you have questions or concerns, please feel free to contact myself or Beard, Harris, Bullock Hughes. during normal business hours.

Highest Regards,

Ty Beard

cc: Client

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## **Exhibit A-3**



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April 12, 2019

**VIA Certified Mail (7017 1450 0000 6520 0435) and Email  
(mymarchi@gmail.com)**

Jamie Marchi  
9411 Timberleaf Drive  
Dallas, Texas 75243-6123

RE: Vic Mignogna; Request for correction, clarification, or retraction pursuant to Texas Civil Practice & Remedies Code (“CPRC”) §§73.052 et seq.

Dear Ms. Marchi:

As you are aware, my firm, Beard Harris Bullock Hughes, has been retained to represent Mr. Vic Mignogna regarding false, misleading and unsubstantiated statements about him represented as fact. This is a demand specifically relating to the publication of status posts and “tweets” via your personal social media accounts including @rontoye containing statements that defame Mr. Mignogna.

The bullet list below sets forth examples of your online statements that defame Mr. Mignogna.

- On February 6, 2019 at 9:05 p.m. on Twitter, you stated, “Yes, I want his head. I want his balls. I want him to feel an ounce of the pain he’s cause others and then fucking choke on it. I want you to take his dick out of your ears so you can actually hear reality. But, you know, that’s just me.” This statement is not only defamatory and false but purely malicious. You have not personally witnessed any of the alleged incidents that you claim Mr. Mignogna committed to cause pain to

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others. You imply he has committed some type of criminal offense worthy of castration yet have zero facts to validate what led to this threatening, hateful tweet you made toward another human being.

- The Twitter statement on February 8, 2019 at 3:50 p.m. where you told, “Your story” is attached due to the lengthy nature of this tweet. The defamatory parts of this tweet include the statement that “he gave almost all the women at my job the creeps.” Clearly false as he had been working at this company for 15 years and had friends. Your claim that he whispered something “sexual in nature” to you is purely fantasy and is false because you can’t remember what he said. You imply that he yanked your head backwards which implies he committed some type of crime and as you put it “his actions qualify as simple assault.” You emphatically state that he committed a crime, which is defamatory and false. You indicate half a dozen women you personally know came forward with accounts, yet you never witnessed a single “account” personally to be able to comment, which means this statement is false. Furthermore, you call Mr. Mignogna “a predator.” This is defamatory and false because there has never been a criminal action against Mr. Mignogna where a court determined that he was a predator to anyone. This just implies that he is the worst kind of criminal and he clearly, as evidenced by thousands of fans who respect and admire him, is not the truth.

- On February 7, 2019 at 12:32 a.m. you tweeted, “What would Jesus do? Light him on fire and send him to hell.” This statement besides being blasphemous is defamatory and it too is false. There is not a single place in the Bible where Jesus states that he would “light someone on fire and send him to hell.” Jesus spread the message of love for everyone, not vindictiveness and defamation.

- The Twitter statement in the same thread as the previous tweet’s state, “Fighting back does not, in any way, shape or form, make me as bad as Vic.” This statement is defamatory and false because Mr. Mignogna, is not a bad person, but you imply that he is a bad person akin to a criminal.

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These specific statements published by you are defamatory because they allege that Mr. Mignogna has committed sexual assault and is a sexual predator, and they go so far as to endorse these allegations as being based on truth, even though no inquiry was ever made into the truth or falsity of those allegations in a forum designed to seek the truth. This campaign that you are championing against Mr. Mignogna has resulted in loss of employment by Mr. Mignogna and Mr. Mignogna having numerous conventions cancel convention appearances by Mr. Mignogna.

Demand is made that you immediately cease disparaging and defaming Mr. Mignogna to anyone in any manner. Further, demand is hereby made that you immediately remove any defamatory or disparaging comments posted anywhere on the internet, including Twitter, Facebook, the ANN website, Tumblr, and YouTube to include all Twitter posts attached to this letter. Demand is further made that you publish a retraction of these defamatory statements.

Please be aware that Mr. Mignogna takes this matter very seriously and failure to immediately comply with this demand will result in a lawsuit. Mr. Mignogna will use any and all means available to him under the law and/or in equity to protect his rights. This includes, but is not limited to, seeking the recovery of actual monetary damages and punitive damages suffered as result of the canceled conventions, contracts, future contracts and the loss of earnings. Based upon what currently exists, we believe that Mr. Mignogna has claims against you individually for defamation, defamation per se, tortious interference with contract, business disparagement, and intentional infliction of emotional distress.

You are under a continuing obligation to preserve the requested data related to Vic Mignogna that exists or may come into existence after the date of this letter.

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Thank you for your attention to this matter. Please confirm receipt of this notice and intention to comply. If you have any questions or concerns regarding anything contained in this letter, please feel free to contact myself or Beard, Harris, Bullock & Hughes.

Sincerely,

Ty Beard

Cc: Client

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**Jamie Marchi** ✓

@marchimark

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Replying to @AlishaNico @Rialisms

Yes, I want his head. I want his balls. I want him to feel an ounce of the pain he's cause others and then fucking choke on it. I want you to take his dick out of your ears so you can actually hear reality. But, you know, that's just me.

9:05 PM - 6 Feb 2019

40 Retweets 664 Likes



202

40

664



Tweet your reply



**matthew naico** @MatthewNaico · Feb 10

Replying to @marchimark @AlishaNico @Rialisms

Someone needs to chill and memeber this isn't Salem 1692

This media may contain sensitive material. Your media settings are configured to warn you when media may be sensitive.

View



2

37



**Mr. Pickle** @kurogale · Feb 9

Replying to @marchimark @AlishaNico @Rialisms

What is she on about?

2

1

18



**matthew naico** @MatthewNaico · Feb 10

Witch hunt mostly



**Jamie Marchi** ✓

@marchimark

Follow

I stand with the victims. My experience is minor in comparison to many others; however, having realized this wasn't an isolated incident, I felt compelled to share.

Several years ago, I was in the lobby at my job when I was approached by a co-worker. This guy gave me the creeps already (he gave almost all the women at my job the creeps), but I always felt like I had to be nice to him anyway because of how revered he was in the industry. As we said hello, he stood to the side of me and started running his fingers through my hair. Now, I do work in an affectionate industry; we hug a lot, and on occasion, will give a kiss on the cheek. But even for an affectionate environment, this felt off. I didn't say anything to him about it, though. It was just his fingers in my hair, I didn't think it was a big deal. At that point, he splayed his fingers, put his hand at the base of my skull, and made a fist. When he did this, he grabbed my hair close to the root, effectively preventing me from moving my head at all. He then jerked his fist, yanking my head backwards and towards him, and whispered something in my ear. I don't remember what he said specifically, but I do remember it being sexual in nature. This was not normal. This was not just a hug or a kiss on the cheek. I did not like it. I have no memory of getting out of his grasp, but I assume, "What the fuck are you doing?" was part of my technique.

Afterwards, I completely and utterly dismissed this experience. I dismissed the way I had been touched, I dismissed having this man grab me. I dismissed the head jerked back. I dismissed the inappropriate. I dismissed this entire encounter.

I never reported this event to the company, it just didn't even occur to me that I should have. Although it had occurred to me, I can't say I would have reported. This guy was worshipped by his fans. He was worshipped by the studios because of his fans. He was the most popular voice actor on the convention circuit. Even treated him with kid gloves because he was the only Vic Mignogna. Who was I? A nobody in comic didn't matter, and I knew it. Risking being blacklisted my work and conventions simply wouldn't have it.

When I look back on this moment and discuss it with my far friends, I can see that his actions qualify as simple assault. Would he have gone to jail had I pressed charges? Not sure. Why would people believe me over a man who has a bible studies in hotel lobbies? And even if they did, they care about the truth if that meant tarnishing the reputation of their favorite voice actor?

In the last week or so, I've heard accounts of him doing something to half a dozen other women that I personally know. I am friends with these women, and we never told each other about our experiences. Some dismissed it, others felt too ashamed or scared to say anything. I struggle with the guilt I feel for having been so dismissive. Had I been able to speak up then, maybe let other women have had to experience what happened when I was unable to get out of Vic's grasp.

When speaking up now because I didn't even think about it until I realized other women had experienced the same thing. I thought it was just me. And at first, I didn't want to say anything because my experience was not as bad as what other people have suffered at the hands of a man. I wanted their stories to be heard first because theirs were the important ones. But, in this moment, I want to speak up for the girls I feel for having been so dismissive. It's okay if you didn't say anything, to him or to me. You are not responsible for what happened. You do not have to be dismissive, ashamed, or afraid. If anyone ever goes through a similar experience, know from the start that their body is not up for grabs. Their body is not property of the most popular person in the room. Their body is not responsible for a company, or a show, or an artwork. Their body is most definitely not responsible for the reputation and livelihood of a predator.

3:50 PM - 8 Feb 2019

1,332 Retweets 5,003 Likes

631 1.3K 5.0K

Tweet your reply

**Shannon McCormick** @sadogre · Feb 8

Replying to @marchimark  
Got yr back

99

**Justin Briner** @justinbriner · Feb 8

Replying to @marchimark  
Thank you for your courage. You inspire me to be stronger. ❤️

12 9 618

1 more reply

**J Michael Tatum** @JMichaelTatum · Feb 8



Several years ago, I was in the lobby at my job when I was approached by a co-worker. This guy gave me the creeps already (he gave almost all the women at my job the creeps), but I always felt like I had to be nice to him anyway because of how revered he was in the industry. As we said hello, he stood to the side of me and started running his fingers through my hair. Now, I do work in an affectionate industry; we hug a lot, and on occasion, will give a kiss on the cheek. But even for an affectionate environment, this felt off. I didn't say anything to him about it, though. It was just his fingers in my hair; I didn't think it was a big deal. At that point, he splayed his fingers, put his hand at the base of my skull, and made a fist. When he did this, he grabbed my hair close to the root, effectively preventing me from moving my head at all. He then jerked his fist, yanking my head backwards and towards him, and whispered something in my ear. I don't remember what he said specifically, but I do remember it being sexual in nature. This was not normal. This was not just a hug or a kiss on the cheek. I did not like it. I have no memory of getting out of his grasp, but I assume, "What the fuck are you doing?" was part of my technique.



Afterwards, I completely and utterly dismissed this experience. I dismissed the way I had been touched. I dismissed having this man grab me. I dismissed having my head jerked back. I dismissed the inappropriate comment. I dismissed this entire encounter.

| I never reported this event to the company. It actually didn't even occur to me that I should have. Although, if it had occurred to me, I can't say I would have reported him. This guy was worshipped by his fans. He was worshipped by the studios because of his fans. He was the most popular voice actor on the convention circuit. Everyone treated him with kid gloves **because he was the one and only Vic Mignogna**. Who was I? A nobody in comparison. I didn't matter, and I knew it. Risking being blacklisted from my work and conventions simply wouldn't have been worth it.

As I look back on this moment and discuss it with my family and friends, I can see that his actions qualify as simple assault. Would he have gone to jail had I pressed charges? I'm not sure. Why would people believe me over a man who holds bible studies in hotel lobbies? And even if they did, would they care about the truth if that meant tarnishing the reputation of their favorite voice actor?

In the last week or so, I've heard accounts of him doing this exact thing to half a dozen other women that I personally know. I am friends with these women, and we never told each other about our experiences. Some dismissed it, like me. Others felt too ashamed or scared to say anything. I struggle with the guilt I feel for having been so dismissive of his actions. Had I been able to speak up then, maybe less women would have had to experience what happened when they were unable to get out of Vic's grasp.

I'm speaking up now because I didn't even think about this event until I realized other women had experienced the same thing. I thought it was just me. And at first, I didn't want to say anything because my experience was not nearly as bad as what other people have suffered at the hands of this man. I wanted their stories to be heard first because they were the important ones. But, in this moment, I want the others who I know are out there to hear this: it wasn't just you. It's okay if you didn't say anything, to him or anyone else. You are not responsible for what happened. You do not have to be dismissive, ashamed, or afraid. Also, I hope if anyone ever goes through a similar experience, they will know from the start that their body is not up for debate. Their body is not property of the most popular person in the room. Their body is not responsible for a company, or a show, or an artform. **Their body is most definitely not responsible for the reputation and livelihood of a predator.**



**Jamie Marchi**   
@marchimark



What would Jesus do?  
Light him on fire and send him to hell.

12:32 AM · 2/7/19 · Twitter Web Client

**60** Retweets **614** Likes





**Mario Tainaka** @SlaveOfSuzumiya · 4h ✓

I want his head, and I want him to suffer for what he did to my friend. Not just her but every other voice actor or actress he's harassed. This has been Going on for over a decade he needs to face the music



1



6



**JoJo [The World 🌐]** @jojo\_dam... · 4h ✓

I agree that he needs to face the music but by getting angry and letting ourselves be consumed by rage towards a man who's already finished, we're no better than he is.



2



1



**Jamie Marchi** ✓ @marchimark · 2h ✓

I beg to differ. It's time to get angry. It's time to stand up. It's time to let our rage motivate us into making a change. Fighting back does not, in any way, shape, or form, make me as bad as Vic. That logic is why only 1 out of 3 victims come forward.



3



19



**Mario Tainaka** @SlaveOfSuzumiya · 2h ✓

^



# **EXHIBIT B**

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

**1**

NO. 141-307474-19

VICTOR MIGNOGNA,	)	IN THE DISTRICT COURT
	)	
Plaintiff,	)	
	)	
VS.	)	TARRANT COUNTY, TEXAS
	)	
FUNIMATION PRODUCTIONS,	)	
LLC, JAMIE MARCHI, MONICA	)	
RIAL, and RONALD TOYE,	)	
	)	
Defendants.	)	141st JUDICIAL DISTRICT

-----  
ORAL AND VIDEOTAPED DEPOSITION OF  
VICTOR MIGNOGNA  
JUNE 26, 2019  
-----

ORAL AND VIDEOTAPED DEPOSITION OF VICTOR MIGNOGNA, produced as a witness at the instance of the DEFENDANTS, and duly sworn, was taken in the above-styled and numbered cause on June 26, 2019, from 10:05 a.m. to 5:39 p.m., before Claudia White, CSR in and for the State of Texas, reported by machine shorthand, at the 141st Judicial District Court, 100 North Calhoun Street, 1st Floor, Fort Worth, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 132281

**CSI GLOBAL DEPOSITION SERVICES**  
**972-719-5000**

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

2

A P P E A R A N C E S

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**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

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FOR THE VIDEOGRAPHER:

Mr. John Franks

ALSO PRESENT: (Appearing via Zoom)

Ms. Jamie Marchi  
Mr. Ronald Toye  
Ms. Monica Rial

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

**6**

1                   THE VIDEOGRAPHER: And we're going on the  
2 record in the videotaped deposition of Mr. Victor  
3 Mignogna. Today's date is June 26th, 2019. The time is  
4 10:05 a.m.

5                   At this time, will counsel please state  
6 their appearances for the record, and then the court  
7 reporter will swear in the witness.

8                   MR. BEARD: Ty Beard for the Plaintiff.

9                   MR. ERICK: Casey Erick for Defendants  
10 Monica Rial, Ron Toye.

11                  MR. LEMOINE: Sean Lemoine for the  
12 Defendants Monica Rial and Ron -- Ron Toye.

13                  MR. VOLNEY: John Volney for Funimation.

14                  MR. JOHNSON: Sam Johnson for Jamie Marchi.

15                  MR. BEARD: Go ahead and announce.

16                  MS. CHRISTIE: Carey Christie for Vic  
17 Mignogna.

18                  MR. LEMOINE: And then we have appearing by  
19 Zoom, which is a teleconference, we have Ethan Minshull  
20 from Wick Phillips and Andrea Perez from Kessler  
21 Collins. And, also, Ms. Marchi and Mr. Toye, and I  
22 think Ms. Rial, are joining by Zoom.

23                               And do you want to do the --

24                  MR. BEARD: Yeah. We're on the record?

25                  MR. LEMOINE: Yeah.

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

**10**

1 --

2 MR. LEMOINE: Yeah, I thought that's --

3 MR. BEARD: I was -- I was a thousand miles  
4 away.

5 MR. LEMOINE: That's what I thought. All  
6 right. Are we otherwise ready?

7 (Oath administered.)

8 THE REPORTER: This will be taken under the  
9 Texas Rules of Civil Procedure?

10 VICTOR MIGNOGNA,  
11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. LEMOINE:

14 **Q. Would you state your name for the record.**

15 A. Victor Joseph Mignogna.

16 **Q. Mr. Mignogna, would you identify the woman with  
17 the black shawl and gray shirt. Who is she?**

18 A. Her name is Lisa Hansell.

19 **Q. And what does she do for a living?**

20 A. For a living?

21 **Q. Yeah. Do you know?**

22 A. She does several things, but among other  
23 things, she does makeup work and production work.

24 **Q. And when you say makeup work and production  
25 work, is that in some kind of --**

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

12

1 Maryland.

2 Q. And how long were you a police -- and how long  
3 were you a police officer, a year?

4 A. Roughly two years, on and off.

5 Q. And when you -- when you say on and off, were  
6 you some kind of auxiliary police officer?

7 A. Well, no, I -- well, I was a -- I was a  
8 seasonal officer, went through a -- the - the necessary  
9 degree of training and sworn in, powers of arrest, etc.

10 Q. Were you allowed to carry a pistol?

11 A. Yes, sir. And -- I'm sorry.

12 Q. Go ahead.

13 A. And then at some point they realized that I had  
14 a background in film and television and they asked me to  
15 -- to start making PSAs and commercials for  
16 pedestrian-related, citizen-related videos to help  
17 educate the -- the -- the public. That's why I meant on  
18 and off. I -- I started doing the video stuff toward  
19 the end.

20 Q. When did you stop being a police officer?

21 A. It was just a couple of years, so, I guess, you  
22 know, roughly -- again, I -- I don't remember the years,  
23 specifically, but a couple of years.

24 Q. And why did you cease being a police officer?

25 A. It was never a career move, it was a -- it was

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

14

1           A.   Fifty-six.

2           Q.   Do you ever go by any nicknames?

3           A.   Vic.

4           Q.   Is that it?

5           A.   Yes.

6           Q.   What about the Fuhrer, ever be -- ever go by  
7 the nickname the Fuhrer?

8           A.   No.

9           Q.   Have any --

10                   MR. BEARD:   Excuse me --

11           Q.   (BY MR. LEMOINE)   Are you aware of --

12                   MR. BEARD:   -- Counsel, could you say that  
13 louder?

14                   MR. LEMOINE:   The Fuhrer.

15                   MR. BEARD:   The Fuhrer?

16                   MR. LEMOINE:   Yeah.

17                   MR. BEARD:   As in Adolph Hitler?

18                   MR. LEMOINE:   I don't know.

19                   MR. BEARD:   Is that how it's spelled?

20                   MR. LEMOINE:   Yes.

21                   MR. BEARD:   Okay.   Sorry.

22           Q.   (BY MR. LEMOINE)   Are you aware of there being  
23 any group of people out there in -- in -- in the world  
24 that refer to you as the Fuhrer?

25           A.   Yes.

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

15

1           **Q. And who refers you -- as you to the Fuhrer?**

2           A. Many years ago, members of my fan club, the  
3 Risembool Rangers, thought that it would just be fun,  
4 since it was kind of a nickname of the fan club, that  
5 they were kind of Risembool -- that they were Rangers,  
6 and somebody made it up as a joke. I had nothing to do  
7 with it. It was short-lived. I didn't make it up, I  
8 didn't condone it, it was just a -- something some fan  
9 made up.

10           **Q. Do you know if your mother ever referred to you**  
11 **as the Fuhrer?**

12           A. Not to my knowledge.

13           **Q. And when you say short-lived, short-lived like**  
14 **how long, few days, few weeks?**

15           A. I don't even know. I haven't heard that  
16 reference in a very long time until you just said it.

17           **Q. I take it that when the -- the Risembool**  
18 **Rangers started referring to you as the Fuhrer, you --**  
19 **you understood the inappropriateness of something like**  
20 **that, correct?**

21           A. I didn't really have any feeling about it.

22           **Q. Well, can you associate for me any other human**  
23 **being that's been called the Fuhrer besides Adolph**  
24 **Hitler?**

25           A. Not to my knowledge.

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

23

1           A. Thirteen, twelve, thirteen.

2           **Q. When was your first paying job in the movie or**

3           --

4           A. I have no --

5           **Q. -- TV production?**

6           A. I have no recollection.

7           **Q. How long would you say that you've been in the**  
8 **public spotlight?**

9           A. Being in the public spotlight is kind of  
10 subjective, you know, like what one person would  
11 consider celebrity or whatever, I don't --

12          **Q. Okay.**

13          A. I -- I -- I couldn't answer that.

14          **Q. That's fair. Let me -- let me -- let me do it**  
15 **this way. Do you consider yourself to be a celebrity?**

16          A. No.

17          **Q. Okay. Why not?**

18          A. Because I don't.

19          **Q. You've been in movies before?**

20          A. Yes.

21          **Q. You've been on TV shows?**

22          A. Yes, sir.

23          **Q. You have voice acted for, what, hundreds of**  
24 **Japanese anime films?**

25          A. Yes, sir.

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

24

1           Q. You go to conventions where thousands of people  
2 show up?

3           A. Yes, sir.

4           Q. You've taken -- over the course of your, let's  
5 say last 20 years, you've probably taken pictures with  
6 over 10,000 people; is that fair?

7           A. I don't know an exact number.

8           Q. Well, I mean, is it more or less than 10,000?

9           A. I couldn't answer. I couldn't tell you.

10          Q. Well, how many people --

11          A. I haven't kept count. Sorry.

12          Q. Well, do you think it's more than 100?

13          A. Sure.

14          Q. All right. What's the last convention you went  
15 to?

16          A. I was at an event last weekend in Dublin,  
17 Ireland.

18          Q. How many people did you take pictures with  
19 there?

20          A. I didn't count.

21          Q. More than 100?

22          A. Probably not.

23          Q. Do you consider yourself to be a celebrity in  
24 the American voice actor community?

25          A. I don't feel like it's for me to say whether



**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

26

1           A.   Yes.

2           **Q.   Why?**

3           A.   My reputation, in general, is important to me.

4                       MR. LEMOINE:   Object as nonresponsive.

5           **Q.   (BY MR. LEMOINE)   Is your reputation as a voice**  
6 **actor important to you?**

7           A.   Of course.

8           **Q.   Okay.   Why?**

9           A.   Because it reflects on me as a person, it  
10 reflects on me as a professional in a field.

11          **Q.   And -- and do you feel like you have a positive**  
12 **reputation as a voice actor in your field?**

13          A.   I believe I do.

14          **Q.   And how long have you had that, what you would**  
15 **call, positive reputation?**

16          A.   Well, I've been a voice actor for almost 20  
17 years, so I can only assume that since I've been hired  
18 repeatedly for, you know, over 20 years, that somebody  
19 must think I'm relatively good at what I do.

20          **Q.   And over the last 20 years, have you attended**  
21 **conventions or Japanese anime films?**

22          A.   Yes, sir.

23          **Q.   Is that a -- is that how -- part of how you**  
24 **make a living?**

25          A.   Sorry?

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

27

1           Q.   Is that part of how you make a living?

2           A.   Certainly.

3           Q.   And I assume these conventions are open to the  
4 public?

5           A.   Yes, sir.

6           Q.   And lots of people come and watch or meet you  
7 at these conventions?

8           A.   Yes, sir.

9           Q.   What's the largest number of people that you  
10 think you've ever spoken to at one of these conventions?

11          A.   I have no idea.

12          Q.   More than 20?

13          A.   Sure.

14          Q.   More than 100?

15          A.   Probably.

16          Q.   More than 500?

17          A.   That's the point at which I wouldn't -- I  
18 wouldn't be able to comment specifically.

19          Q.   Are you usually in a room of the same size that  
20 we're in right now?

21          A.   The sizes of the rooms vary.

22          Q.   Are they bigger or smaller than the room we're  
23 in?

24          A.   They vary.

25          Q.   Well, on average, are they bigger or smaller

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

30

1    **people that hire in your line of work?**

2           A.  No, I don't believe so.

3           **Q.  Other than Ms. Rial and Ms. Marchi, anyone else**  
4   **that's done anything to hurt the -- your credibility in**  
5   **the voice acting industry?**

6           A.  I'm sure.

7           **Q.  Can you identify any of them, as you sit here**  
8   **right now?**

9           A.  No, sir, not -- not by name.  Many of them are  
10   screen names, you know, on a computer, you don't know  
11   who they are, you don't know where they live, you know,  
12   you -- you can't know, really.

13          **Q.  You would agree with me that the allegations**  
14   **surrounding your alleged homophobia, anti-Semitism, and**  
15   **sexual harassment are being discussed publicly, correct?**

16          A.  They are being discussed publicly, yes.

17          **Q.  And because of that public discussion, that's**  
18   **hurting your credibility, isn't it?**

19          A.  Yes, sir.

20          **Q.  And it's not just Mr. Toye and Ms. Marchi and**  
21   **Ms. Rial that are discussing that; is that correct?**

22          A.  Yes, sir.

23          **Q.  Are you suing anybody else, as we sit here**  
24   **today?**

25          A.  No, sir.

**DEPOSITION OF VICTOR MIGNOGNA**  
**June 26, 2019**

33

1           **Q. And you have no idea -- do you know who runs**  
2 **that account?**

3           A. Do I know who funds the account?

4           **Q. Runs the account.**

5           A. Oh. I believe it was set up by a gentleman  
6 named Nick Rekieta.

7           **Q. How do you spell Rekieta?**

8           A. I don't know. R-E-K-E --

9                           MR. BEARD: I-E.

10          A. -- E-I-T-A -- I-E -- I-E-T-A.

11          **Q. (BY MR. LEMOINE) All right. Do you know Mr.**  
12 **Rekieta?**

13          A. I'd never met him until, for the first time, a  
14 couple of weeks ago.

15          **Q. Where did you meet him at?**

16          A. I met him at an anime convention in Houston.

17          **Q. Is he your attorney?**

18          A. No, sir.

19          **Q. Has he ever represented you?**

20          A. No, sir.

21          **Q. Have you ever communicated with Mr. Rekieta by**  
22 **email, text, any type of application on your phone?**

23          A. Briefly.

24          **Q. About what?**

25          A. He wrote me back in, probably, February. I

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1 didn't know who he was, it was unsolicited, and I did  
2 not reply. And then it was brought to my attention that  
3 there was a gentleman on the internet who was making  
4 videos and -- and being very supportive of -- of my  
5 situation. And when they told me his name, I went back  
6 into my email and looked up to see if that was the  
7 person that had contacted me, and it was. And so I sent  
8 him an email and thanked him for his support.

9           **Q. Is that the only exchange that you-all had or**  
10 **have you-all had continuous email, text message?**

11           A. Occasionally.

12           **Q. Did you talk about this litigation?**

13           A. Briefly.

14           **Q. Do you know what his cell number is?**

15           A. No, sir.

16           **Q. Is it stored in your phone somewhere?**

17           A. Yes, sir.

18           **Q. When's the last time you got a text message**  
19 **from Mr. Rekieta?**

20           A. I don't recall.

21           **Q. Have you done anything to delete any**  
22 **communications off your, either email or phone, or other**  
23 **electronic devices, from Mr. Rekieta?**

24           A. Well, I -- I have a routine of, once I finish a  
25 conversation with somebody, I delete it because I don't

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1           A. I don't know.

2           Q. Do you have some type of administrator that  
3 would help you with that, that handles --

4           A. No.

5           Q. So Mr. Rekieta communicates with you in  
6 February of 2019, for the first time, and at some point  
7 you reach back out to him and you-all have a  
8 conversation.

9                               Who came up with the idea of the GoFundMe  
10 campaign?

11          A. Mr. Rekieta.

12          Q. And what was the purpose of the GoFundMe  
13 campaign?

14          A. You'll have to ask Mr. Rekieta.

15          Q. What did Mr. Rekieta tell you the purpose of  
16 the GoFundMe campaign was?

17          A. He said that he believed that the people who  
18 supported my position wanted to help in any way they  
19 could. And he said he was going to provide them a way  
20 to do so, if they chose to.

21          Q. And you told him that was okay with you?

22          A. No. I did not give him permission. He had  
23 already done it.

24          Q. Okay. Did you -- did he ask for permission  
25 after he did it?

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1           A. No, sir.

2           **Q. All right. You do realize that people have put**  
3 **hundreds -- over \$100,000 into that GoFundMe account?**  
4 **Did you know that?**

5           A. If -- if that's the number you're telling me,  
6 then I believe you. Voluntarily. I -- I believe. I  
7 don't think anyone's been compelled to do anything.

8           **Q. Did you ask Mr. Rekieta to set up this GoFundMe**  
9 **campaign?**

10          A. No, sir.

11          **Q. It was a complete shock to you when it**  
12 **occurred?**

13          A. Define complete shock.

14          **Q. Well --**

15          A. That sounds rather, you know --

16          **Q. Well, how about this: How many GoFundMe**  
17 **campaigns have been set up for your benefit, without**  
18 **your knowledge, in your lifetime?**

19          A. None that I'm aware of.

20          **Q. So this is the first?**

21          A. As far as I know.

22          **Q. And Mr. Rekieta wasn't a friend of yours when**  
23 **it was set up, was he?**

24          A. No, sir.

25          **Q. All right. So would you agree with me that**

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1 over, as you say, would go to a charity, a charitable  
2 cause.

3 Q. And who picked the charitable cause?

4 A. I don't remember.

5 Q. Does it strike you as odd that there's someone  
6 out there raising money in your name and you can't tell  
7 me how that money is being spent?

8 A. No, sir.

9 Q. Do you feel no responsibility to make sure --

10 A. No, sir.

11 Sorry.

12 MR. LEMOINE: Objection.

13 A. I apologize.

14 Q. (BY MR. LEMOINE) Thank you. So you feel no  
15 responsibility to the --

16 MR. BEARD: Objection, form.

17 Q. (BY MR. LEMOINE) -- tens or thousands of  
18 people that are putting money into this GoFundMe  
19 campaign to make sure you know how the money is being  
20 spent?

21 MR. BEARD: Objection, form.

22 Q. (BY MR. LEMOINE) Are you -- you struggling  
23 with that question?

24 A. No, sir. I'm --

25 Q. Are you going to answer it?



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1     **didn't start it?**

2                     MR. BEARD:  Objection, form.

3             **Q.  (BY MR. LEMOINE)  Fair point?**

4             A.  I have no knowledge of Mr. Rekieta being a con  
5     artist.

6                     MR. LEMOINE:  Objection, nonresponsive.

7             **Q.  (BY MR. LEMOINE)  If Mr. Rekieta is a con**  
8     **artist and he is just taking money and doing whatever**  
9     **with it that is coming from your fans, not your problem?**

10                    MR. BEARD:  Objection, form.

11             A.  I have nothing to do with it.

12             **Q.  (BY MR. LEMOINE)  Okay.  So not your problem,**  
13     **right?**

14             A.  Correct.

15             **Q.  All right.  Anybody else that you let use your**  
16     **face and your name to collect money from your fans, that**  
17     **you don't --**

18             A.  Not that I'm aware of.  But I can assure you a  
19     lot of people are using -- have used my face and my name  
20     for their own purposes over the years and I don't have  
21     anything to do with them.

22                    MR. LEMOINE:  Object as nonresponsive.  
23     There's no question on the table.

24             **Q.  (BY MR. LEMOINE)  Exhibit 11, the photo, that**  
25     **is a photo of you?**

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1           Q. All right. I want to look on the left-hand  
2 side, second column down. It says: A friend expressed  
3 a desire to set up a GoFundMe for legal expenses. I  
4 approved his kind offer and am so grateful, but I am not  
5 managing it, nor will I personally receive any of it.

6                         First question, the friend that expressed  
7 that desire is Nick Rekieta?

8           A. Yes, sir.

9           Q. And you would agree with me that when he  
10 expressed that desire, you approved it?

11          A. As I mentioned, he had already done it.

12                         MR. LEMOINE: Objection, nonresponsive.

13          Q. (BY MR. LEMOINE) Does --

14          A. He did not express a desire to do it, he  
15 expressed that he had already done it.

16          Q. Okay. So when you tweeted this out to your  
17 people, you didn't say -- or on -- to all of your  
18 followers -- how many do you have?

19          A. Twitter followers?

20          Q. Twitter followers.

21          A. Roughly, 113,000.

22          Q. Okay. So when you -- when you made this tweet  
23 on February 20th, 2019 to all these people, you didn't  
24 say, Mr. Rekieta, or my friend, set this up without  
25 asking me, but -- but I was okay with it?

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1 months.

2                                   And when it got to the point where I had  
3 lost so much, I -- I realized that the -- my only  
4 recourse was legal recourse. I wasn't looking for  
5 money, I wasn't asking for anything but to be left alone  
6 and -- and to -- you know, to be allowed to -- to have  
7 my career and my work.

8                   **Q. All right.**

9                                   MR. LEMOINE: I'm going to object as  
10 nonresponsive.

11                   **Q. (BY MR. LEMOINE) Tell me how, in 2018, how did**  
12 **you make money? How did you generate a living? What**  
13 **were things that you did?**

14                   A. I -- I do voice acting. I write music for,  
15 like, ad agencies, commercials, private individuals. I  
16 do graphic design work. I act on camera and I do event  
17 appearances.

18                   **Q. Is one -- is one of those more lucrative than**  
19 **the other on a given -- in every year?**

20                   A. They're all over the place. They fluctuate.

21                   **Q. So it just depends?**

22                   A. Yes, sir.

23                   **Q. And then when you say you write music, does**  
24 **that mean you sing and -- and write, or just write**  
25 **music?**

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1           A. No, sir. I play the piano and I sing, and I  
2 write and I produce.

3                     If you guys live in -- in this area, you  
4 probably have heard a couple of my jingles on the radio,  
5 so --

6           **Q. How many conventions, for these anime**  
7 **conventions, how many of those do you attend a year?**

8           A. It varies. It fluctuates from year to year.

9           **Q. So you're not consistent?**

10          A. No, sir.

11          **Q. And do you typically have a contract with these**  
12 **conventions, a written agreement?**

13          A. Sometime -- sorry. Sorry. Sometimes.

14          **Q. It just depends?**

15          A. Yes, sir.

16          **Q. And --**

17                 A. Some of them -- if I may, some of them are run  
18 by people that I've known for a while, and they're just  
19 like, hey, do you want to come to my show? Okay.

20          **Q. Is that something you schedule out months,**  
21 **years in advance?**

22                 A. It -- again, it varies. Sometimes months in  
23 advance, sometimes a year in advance, sometimes weeks in  
24 advance, if I'm free.

25          **Q. Do you get paid by the convention to show up?**

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1           A. What do you mean what happened? May I ask what  
2 you mean?

3           **Q. You said the same day it was released, this**  
4 **started. What -- what happened?**

5           A. The social media attacks began and, like I  
6 said, this has happened in the past, you know, so --

7           **Q. All right. Prior -- prior to 2019, have you**  
8 **ever been banned from a convention?**

9           A. Not to my knowledge.

10          **Q. And prior to 2019, have you ever been asked not**  
11 **to come back to a convention?**

12          A. Not to my knowledge.

13          **Q. Prior to 2019, have you ever not gotten an**  
14 **invitation to a convention that you attended a year**  
15 **before?**

16          A. Well, that's not unusual at all. Because once  
17 the convention has you as a guest, they don't typically  
18 bring the same people back every year because of the  
19 number of people in the industry. In fact, I'm  
20 actually -- I'm actually an exception because I -- I --  
21 I -- I do -- I -- I do get invited back often to the  
22 same events, so I -- if somebody doesn't invite me back,  
23 there's nothing really unusual about that.

24                       MR. LEMOINE: All right. Object as  
25 nonresponsive.

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1 I guess, Gray Haddock was one of the people on the email,  
2 I expect Koen was on it, there were probably four or  
3 five. And it was sent to me and it basically said,  
4 Effective immediately, we will no longer be requiring  
5 your services.

6 **Q. Was there any explanation?**

7 A. You know what, yeah. It said, Pursuant to  
8 section something or other, or, paragraph something or  
9 other. And I wrote them back and said, I'm really sorry  
10 to hear this. Can you please send me the portion of the  
11 contract that you're -- that you're citing? Like,  
12 what -- in other words, what, why, what did I do?

13 And I never got a response. Well, I didn't  
14 get an intended response. I got a response from  
15 someone -- one of the people on the thread, on the  
16 Rooster Teeth email, who clearly didn't mean to send it  
17 to me, and it said, quote, I'm sure we're all in  
18 agreement, but no one is to reply to Vic.

19 I don't think they meant to send that to  
20 me. But I never heard back from anybody and I never  
21 attempted to contact anybody.

22 **Q. Okay. So as far as you know, or sitting here**  
23 **today, you don't really know why Rooster Teeth**  
24 **terminated you?**

25 A. No, sir.

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1           Q.   No one has ever talked to you about it?

2           A.   No, sir.

3           Q.   And no one has ever said that it was because of  
4 anything that any of the Defendants did?

5           A.   No, sir.

6           Q.   Do -- and do you know if you produced these  
7 communications that Rooster Teeth sent you, to your  
8 attorneys?

9           A.   Yes, sir.

10          Q.   And do you know if your attorneys ever reached  
11 out and talked to Rooster Teeth about why you were  
12 terminated?

13          A.   Yes, I believe he did. I believe he attempted  
14 to contact their legal counsel.

15          Q.   And do you know if they responded?

16          A.   They did respond, but I don't remember the  
17 details of it.

18          Q.   Okay.

19          A.   If I remember correctly, they -- they -- there  
20 wasn't really much of anything, any kind of a response.

21          Q.   Did -- Mrs. Marchi or Mrs. Rial or Mr. Toye  
22 work for Rooster Teeth, to your knowledge?

23          A.   Ms. Rial does.

24          Q.   Okay. And do you know if she's an employee or  
25 an independent contractor?

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1 reported to them of two twin ladies who I had met  
2 several times at conventions and had invited to my room.

3 Q. Okay. So before I start asking you questions  
4 --

5 MR. BEARD: Counsel, can we take a  
6 30-second break?

7 MR. LEMOINE: Off the record.

8 THE VIDEOGRAPHER: We're going off the  
9 record at 1:34.

10 (Break taken from 1:34 p.m. to 1:39 p.m.)

11 THE VIDEOGRAPHER: And we're back on the  
12 record, the time is 1:39.

13 Q. (BY MR. LEMOINE) All right. So as I -- as I  
14 recall your testimony, the three separate incidences  
15 that Ms. Denbow wanted to discuss with you --

16 A. Yes.

17 Q. -- of those three, one of them is -- is Mrs.  
18 Rial, correct?

19 A. Yes.

20 Q. The other two instances, are those women who  
21 have publicly accused you of anything, meaning it's out  
22 on -- they've given statements to magazines or otherwise  
23 disclosed their names?

24 A. Not to my knowledge.

25 Q. All right. You know who these -- you know



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1           A. If you say so. I don't remember dates, like,  
2 specifically, but, yes.

3           **Q. Okay. And then along the way, you are losing**  
4 **convention invites, would you agree with that?**

5           A. Yes, sir.

6           **Q. Was there any other business besides**  
7 **invitations to cons that you lost, that you can point**  
8 **to?**

9           A. Well, I mean, the -- there were at least seven  
10 or eight recurring roles at Funimation that I had been  
11 playing for many, many years, I lost those, and any  
12 future recording sessions of those shows. I lost the  
13 recurring character that I was playing for Rooster  
14 Teeth. And I'm sure there are, you know, other  
15 repercussions, you know, ripples that I might even never  
16 know about.

17           **Q. And the Rooster Teeth termination, we don't**  
18 **know why that occurred, we just know it occurred,**  
19 **correct?**

20           A. Yes, sir.

21           **Q. And then the Funimation termination, we don't**  
22 **know why that occurred either?**

23           A. Well, we can only assume, based on the -- the  
24 three stories that -- the three incidents that Tammi --  
25 Tammi?

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1           **Q. Yes, Tammi Denbow.**

2           A. Yes, sir. That Tammi asked about.

3           **Q. Are you familiar with --**

4                     MR. BEARD: Excuse me, Counsel.

5                     MR. LEMOINE: Sure.

6           **Q. (BY MR. LEMOINE) Are you -- are you --**

7           A. Yes, sir. Go ahead.

8           **Q. Are you familiar with something called rumor**  
9 **panels?**

10          A. No. In what context, sir?

11          **Q. In the context of panel discussions at cons**  
12 **that are, I guess, called rumor panels.**

13          A. No, sir. I did a panel many, many years ago at  
14 a convention about rumors about me, because I wanted to  
15 dispel them. They were baseless and without substance,  
16 and I -- and I knew that people had questions and I  
17 wanted to address them.

18          **Q. Is that the only rumor panel that you've ever**  
19 **done?**

20          A. Yes, sir.

21          **Q. Do you know what con that was at?**

22          A. No, not offhand. It was a long time ago.

23          **Q. And -- and what was the purpose of the -- the**  
24 **rumor panel?**

25          A. As I said, I -- I knew that there were rumors

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1 and gossip online, and I knew that fans had questions  
2 about it, and I wanted to dispel the rumors.

3 **Q. All right. I'll show you what we're going to**  
4 **mark as Exhibit 21.**

5 **(Exhibit 21 marked.)**

6 **Q. (BY MR. LEMOINE) I'll represent to you**  
7 **Exhibit 21 is a post on the internet I pulled off, or**  
8 **somebody pulled off, with a date of 4/20/2010,**  
9 **references a Tekkoshoccon rumor panel.**

10 A. Which is in Pittsburgh. Tekkoshoccon is in  
11 Pittsburgh.

12 **Q. All right. Does that one refresh your**  
13 **recollection, that that's what the rumor panel that you**  
14 **did was at the Tekkoshoccon in Pittsburgh?**

15 A. Yes, sir. I suppose, yes. I only did one, and  
16 I didn't remember the panel -- the convention, and this  
17 says Tekkoshoccon, in which I know is a Pittsburgh  
18 convention, so I can -- I'm going to assume that's --  
19 that's the one.

20 **Q. All right. Are you aware of any other voice**  
21 **actors that have done rumor panels?**

22 A. I don't know. There are hundreds of voice  
23 actors do hundreds of panels at hundreds of conventions.  
24 I don't know what their schedules are. I don't know  
25 what they do.

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1     **dinner, Plaintiff forced Defendant to speak with**  
2     **Plaintiff's long-time fiancée on the telephone and**  
3     **Plaintiff spoke with his fiancée as if nothing happened.**

4                     **Do you recall that?**

5             A.   No, sir.

6             **Q.   And your fiancée at the time would have been**  
7     **Ms. Specht?**

8             A.   Michele Specht.

9             **Q.   Now, prior to today, have you seen that**  
10    **description from Ms. Rial in -- in any --**

11            A.   I'm sorry, say that again, sir.

12            **Q.   Prior to today, have you seen or heard that**  
13    **description from Ms. Rial online or anywhere?**

14            A.   I -- I know of the story that she posted online  
15    back when she originally posted it.  But I -- I -- there  
16    are more details here than there were in her original  
17    story.  Like, I don't believe -- on the online story,  
18    she didn't say anything about when or where, she didn't  
19    say anything about Stan Dahlin, she didn't say anything  
20    about putting her on the phone.  By the way, I -- well,  
21    I -- I just don't even understand a lot of it, so --

22            **Q.   Have you ever grabbed Mrs. Rial's hair -- Ms.**  
23    **Rial's hair and pulled it back and whispered in her ears**  
24    **before?**

25            A.   Whispered what?

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1           **Q. I don't know.**

2           A. Neither do I.

3           **Q. I'm not asking for what you whispered, I'm**  
4 **asking if you --**

5           A. Well, you asked if I did. I don't recall  
6 whispering anything.

7           **Q. And do you recall grabbing her by the back of**  
8 **her hair and pulling her hair?**

9           A. I -- well, I -- I -- I recall doing that, not  
10 in a violent or hurtful way, but in a playful way.

11                       Ms. Rial used to be a hairdresser. She's  
12 always kind of changing her hairstyles over the years  
13 and coloring cool colors and -- and I -- and I always  
14 used to comment on how much I loved her hair or her new  
15 hairstyle.

16                       It's really disingenuous to use the term  
17 pulling hair, too, because it sounds -- it just has a  
18 connotation of being somehow violent, and it -- it was  
19 never that.

20           **Q. But you did put your hands on her and pull her**  
21 **hair?**

22           A. Yes, sir.

23           **Q. And you've done that more than once?**

24           A. No. I -- I did not pull her hair. And, again,  
25 we were friends, it was all in casual interaction, and I

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1 was never -- if she had ever told me don't -- please  
2 don't do that again, I wouldn't have ever done it again.

3 **Q. And is that something you've done with other**  
4 **women in the past, where you pull their hair just**  
5 **playfully as part of just who you are?**

6 MR. BEARD: Objection, form.

7 A. I would -- I would definitely say it has  
8 probably happened before in -- in playful interaction  
9 with people, but not very often.

10 **Q. (BY MR. LEMOINE) Let me show you what we're**  
11 **going to mark as Exhibit 16.**

12 (Exhibit 16 marked.)

13 **Q. (BY MR. LEMOINE) Is Exhibit 16 a true and**  
14 **correct copy of a tweet that you sent out on**  
15 **February 13th, 2019?**

16 A. Yes, sir.

17 **Q. If you look at the third paragraph, it talks**  
18 **about your colleagues and that there was animosity that**  
19 **you didn't know existed.**

20 **Who are you referencing there? Who are**  
21 **your colleagues?**

22 A. I am -- I am referencing any of the voice  
23 actors who not only posted, but those who liked or  
24 supported the people that did, people that, for the last  
25 15 years of my work at Funimation, have seen me in the

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1 And I -- I didn't -- I didn't want any of that. I  
2 didn't ask -- I did not ask for any of this. I didn't  
3 start any of it. I was living my life, and suddenly out  
4 of no where this stuff starts. I merely responded to  
5 it.

6 **Q. And have you posted that type of statement**  
7 **anywhere else since then?**

8 A. I have said that statement several times in  
9 events that I've attended since this, publicly, and  
10 there -- I'm -- I'm quite certain there are many videos  
11 online of me encouraging people to be kind and positive  
12 and -- and, you know, be known for -- for being a  
13 purveyor of good as opposed to negativity.

14 **Q. What is it that Jamie Marchi has done to defame**  
15 **you?**

16 A. Wow. Well, apart from mischaracterizing a very  
17 casual, brief interaction in public and the lobby at  
18 Funimation, she publicly posted that and then went on to  
19 say that she wanted my head on a stake and wanted my  
20 balls in a sling and has -- has posted many, many  
21 extremely vitriolic comments.

22 **Q. And how is that defamatory?**

23 A. Because she's a voice actress in my industry,  
24 and people will tend to give her more credence because  
25 they think, oh, well, she knows him. She -- you know,

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1 she must -- her -- her -- her words must carry more  
2 weight than some -- some fan, you know, some  
3 miscellaneous fan out there.

4 **Q. So what was it exactly that she**  
5 **mischaracterized or took out of context?**

6 A. She mischaracterize -- my memory of -- of the  
7 event with Jamie was that I had come in to record one  
8 day at Funimation, and I was in the lobby and she was  
9 there, and she had just changed her hair somehow. She  
10 had -- she was wearing it differently or she had cut it  
11 somehow. Probably as far away as I am from Casey, and  
12 she said, Hey, Hon. And I'm like, oh, my gosh, I love  
13 your hair. And she's like, I know, I just got it -- and  
14 I walked around the -- the -- the counter, and I was  
15 kind of standing there kind of flipping it and like, oh,  
16 my gosh, it's really beautiful, I love it. And I -- and  
17 I put my hand up in the bottom of it and I'm like, oh,  
18 this is great.

19 It was not painful, it was not hurtful, it  
20 was not sexual, and it happened at least four or five  
21 years ago, maybe longer.

22 And if I may say, I saw Jamie in the lobby  
23 at Funimation in January of this year, literally a week  
24 to 10 days before this social media thing started, and  
25 she's like, Hey, Hon, and went over and hugged her and



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1    said hello.

2                                She and I have had, as far as I've known, a  
3    very casual, friendly relationship for many, many years,  
4    and I was astounded by her account online.

5                **Q.   And the account online is that you pulled her**  
6    **hair?**

7                A.   And that I pulled her hair and that I -- that I  
8    whispered something sexual in her ear, which absolutely  
9    is not true.  I do not, have not, ever had any sexual  
10   interest in Jamie.

11               **Q.   Ms. Marchi certainly wouldn't be the first**  
12   **woman whose hair you've pulled?**

13               A.   No.  We've established that.  But I would take  
14   issue with the word pulling hair.  That sounds like  
15   something you do in a fight with somebody, and that is  
16   not the intent ever.  Nor do I believe they took it that  
17   way at the time.

18               **Q.   Are there any conventions that you can point**  
19   **to, as you sit here today, that you had an actual**  
20   **contract with that were terminated as a result of this**  
21   **firestorm?**

22               A.   Yes.

23               **Q.   All right.  Which ones are they?**

24               A.   Phoenix Comicon.  I'm fairly certain I had a  
25   contract with a couple of Informa shows.  And my

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1 Fantasy, a large number. I kind of just don't even keep  
2 track anymore.

3 **Q. When you go to these cons, do you usually do**  
4 **panels by yourself or are you with people?**

5 A. Both.

6 **Q. Is it unusual for you to do a panel by**  
7 **yourself?**

8 A. No. But it's also not unusual to do them with  
9 others.

10 **Q. And what about most recently when you were in**  
11 **Ireland, did you do panels by yourself or with others?**

12 A. I paneled -- I did panels by myself. Often,  
13 I'll do a -- often, I'll do a panel on a particular  
14 show, and if there are other voice actors there that  
15 were part of that show, you know, we'll do a Fullmetal  
16 panel with me or Kaitlyn and -- and Aaron. Or if there  
17 are multiple people that are at the convention who were  
18 in that show, or if it's a Dragon Ball panel, you know,  
19 we would do a panel if there are multiple voice actors  
20 there from Dragon Ball.

21 **Q. How many cons have you done in 2019?**

22 A. Nine, thus far.

23 **Q. Do you typically average between 30 and 40 a**  
24 **year?**

25 A. No, I -- I think I average closer to 20 or 30.

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1 up and -- and puts pressure or -- or a -- an animation  
2 company like Funimation or Rooster Teeth calls up and  
3 puts pressure on a convention, you know, they can  
4 certainly sway the conventions having me.

5 Q. (BY MR. LEMOINE) All right. As you sit here  
6 today, you don't know of any instances where Funimation  
7 or Rooster Teeth put pressure on a convention not to  
8 hire you or allow you to come, do you?

9 A. Not yet.

10 Q. All right. And other than Kameha Con, are you  
11 aware of any other conventions that any of the  
12 individual Defendants reached out to that chose not to  
13 let you come, or cancelled the contract with you?

14 A. You know, Sean, I'm thinking now there was one,  
15 and I can't remember the name. Can I have a second?

16 Q. Sure.

17 A. No, I don't yet have any specific information  
18 to that effect.

19 Q. Are you familiar with a website called  
20 prettyuglyliar.net?

21 A. I've heard of it.

22 Q. Have you ever gone on and looked at it?

23 A. No, sir.

24 Q. Why not? Well, take it -- let me strike that.

25 What have you heard about it?

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1     **that tweet went out?**

2             A.   April?

3             **Q.   I'm sorry, January 2016.**

4             A.   No.  No.  Like I said, my belief is that --  
5     that that date was chosen to piggyback on the popularity  
6     of the Broly movie.  There has been a recurring theme  
7     here.  Over the years, any time I am announced as part  
8     of a new, big new show or playing a role, there are  
9     always a handful of people that want to jump on that  
10    publicity and -- and get some attention for themselves.

11            **Q.   And -- and by get attention to themselves, you**  
12    **mean people post anonymously that you -- you harass**  
13    **people or do inappropriate things?**

14            A.   Yes.

15            **Q.   And so they want to get attention for**  
16    **themselves --**

17            A.   Yes.

18            **Q.   -- through an anonymous avatar, I guess?**

19            A.   Yes.  For the same reason they don't want to be  
20    listed right now, because they want the attention, they  
21    want people to click on, ooh, I like your post, and, oh,  
22    look how many people liked my post, but they don't --  
23    you know, they certainly don't want the accountability.  
24    And whenever any supporters have been pressed for any  
25    evidence or substance, well, a friend told me that they

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1     **regularly use?**

2           A. No, sir. And the only reason I've ever used  
3 them is because fans encouraged me to do them as a way  
4 to interact with the fans.

5           **Q. Right. And your Twitter account, if I'm -- if**  
6 **I remember correctly, is verified; is that right?**

7           A. That -- I -- I think so. That means that they  
8 -- they basically verify that you're you?

9           **Q. That's right.**

10          A. I think it's true. There's a dot or something;  
11 is that right?

12          **Q. Yeah, there's a blue circle with a little white**  
13 **checkmark inside --**

14          A. Okay.

15          **Q. -- next to your -- your name.**

16          A. I believe you.

17          **Q. Did you -- do you remember what you did to get**  
18 **that account verified?**

19          A. No, I don't.

20          **Q. Okay. Do you know if you did anything?**

21          A. I don't remember doing anything. In fact, when  
22 somebody said something about being verified, I'm like  
23 -- I literally said, how does that work, like how -- how  
24 do you do that?

25          **Q. Do you use a publicity firm that might have**

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1 themselves kind of a PR couple firm, but I don't know if  
2 they actually have a name. You know what I mean? I  
3 don't know if they're an official thing --

4 **Q. Right.**

5 **A. -- but --**

6 **Q. I think I understand.**

7 **And you are the voice -- is it Broly or**  
8 **Broly?**

9 **A. Everybody says something different. I've**  
10 **always thought it was Broly.**

11 **Q. Okay.**

12 **A. But some people say Broly, so --**

13 **Q. And I understand that film, Dragon Ball: Broly,**  
14 **was the third highest grossing anime film in the United**  
15 **States. Does that sound right to you? Were you pretty**  
16 **pleased with that success level?**

17 **A. Yeah. It was -- sorry.**

18 **Q. Uh-huh.**

19 **A. It was a privilege. I was really proud to be a**  
20 **part of it. I mean, I played this character for 15**  
21 **years and he would be in video games and stuff. And**  
22 **when I would do events, fans would always say, oh, I**  
23 **love Broly, he's my favorite character in Dragon Ball.**  
24 **When are they ever going to do anything more with him?**  
25 **And I would always say, I don't know, wouldn't that be**

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1 fun? And then when this movie was announced, you know,  
2 I was -- I was real excited about it.

3 **Q. Uh-huh. That's a big deal, you know, third**  
4 **highest grossing. And I assume that brings with it a**  
5 **pretty significant fan base?**

6 A. I already had -- I think they already existed.

7 **Q. Okay.**

8 A. I -- I -- I think. I don't -- again, I don't  
9 do any analytics or count this or that.

10 **Q. Uh-huh.**

11 A. But I -- I -- I think my overall body of work  
12 over the years has -- you know, has been pretty well  
13 received.

14 **Q. Okay. Yeah, your IMDb page says that you've**  
15 **been in over 356 productions. Does that sound --**

16 A. See, I -- I don't even know. I -- I mean, I  
17 said over 300, and I didn't even know.

18 **Q. Right.**

19 A. I -- I don't keep track. After a while, you  
20 just do them.

21 **Q. Do you ever have that situation where people --**  
22 **you know, if you're at the airport or Starbucks or**  
23 **whatever, do fans recognize you out --**

24 A. No.

25 **Q. -- in public?**

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1           A. No, and I think that's one of the interesting  
2 things about voice acting.

3           **Q. Uh-huh.**

4           A. You know, you just -- you're not recognized.

5           **Q. How about when you're at the conventions?**

6           A. Well, I mean, there, yes, because people come  
7 there specifically to celebrate anime.

8           **Q. Okay.**

9           A. And because of the internet, you know, you can  
10 look up, you know, people's faces and stuff and find out  
11 who somebody is who played this character or that.

12          **Q. What is Risembool?**

13          A. Risembool was the town that my character and  
14 his brother came from in Fullmetal Alchemist.

15          **Q. Okay.**

16          A. So it was literally just a --

17          **Q. Your fans?**

18          A. It was -- yeah, the -- two -- two women started  
19 the Risembool Rangers. I -- I didn't start a fan club,  
20 I didn't ask anybody to start a fan club. A couple of  
21 fans contacted me and said, We want to start a fan club  
22 for you. I'm like, really? Okay. How fun, right? And  
23 they came up with the name based on the anime.

24          **Q. Okay. So it was based off of your prior work?**

25          A. Yes, one of the characters that I played.



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1 through with you the statements that your -- your cease  
2 and desist letter addressed --

3 A. Okay.

4 Q. -- by Ms. Marchi. And the first one I want to  
5 look at is -- is February 6th, 2019, at 9:05 p.m. And  
6 there are some quotes in the letter, but if you'll turn  
7 back to the --

8 A. Wow.

9 Q. -- fifth page, there's an image of the actual  
10 tweet. And I just -- I want to give you a minute to  
11 look at it.

12 A. Okay.

13 Q. All right. Is your name mentioned anywhere in  
14 this tweet?

15 A. No, sir.

16 Q. Okay. What -- what in here is there to let you  
17 know that it references you?

18 A. Well, who is she responding to? Do we have the  
19 previous tweet? Clearly, she's responding to someone,  
20 right?

21 MR. JOHNSON: Object, nonresponsive.

22 Q. (BY MR. JOHNSON) I'm just asking, based on  
23 what you can see on -- on the page, is there anything  
24 that would let -- let someone know that it's actually  
25 referencing you?

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1           A. On this page alone?

2           **Q. Correct.**

3           A. No, I don't see any -- I do not see my name  
4 here.

5           **Q. Okay. What -- what are the statements of fact**  
6 **-- if we assume that this is about you, what are the**  
7 **factual statements that are made about you in this**  
8 **tweet? Something that could independently be verified**  
9 **by someone, if you read through it?**

10          A. Well, this tweet alone?

11          **Q. Uh-huh.**

12          A. Nothing.

13          **Q. Okay.**

14          A. But there -- she tweeted before this, when she  
15 initially tweeted her account of something.

16                       MR. JOHNSON: Object, nonresponsive.

17          **Q. (BY MR. JOHNSON) We'll -- we'll get to her**  
18 **other tweets.**

19          A. Okay.

20          **Q. I'm only asking about this one, so --**

21          A. No, there -- there -- there's nothing in -- in  
22 here except a lot of anger, that I can see.

23                       MR. JOHNSON: Object, nonresponsive.

24          A. I'm sorry, what was your question?

25          **Q. (BY MR. JOHNSON) The question is just what in**

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1    this particular tweet on February 6th is a statement of  
2    fact about you?

3           A.   Nothing.

4           Q.   Okay.  And then in -- in your letter -- sorry  
5    to make you flip back and forth.

6           A.   Sure.  No worries.

7           Q.   But in the paragraph that goes from the first  
8    page to the second page, that your lawyer wrote, it says  
9    that this tweet implies that you committed some type of  
10   criminal offense.

11                           Do you see anything in this particular  
12   tweet that gives that impression that -- that a criminal  
13   offense was committed?

14           A.   No, sir.  But it's -- you have to take the  
15   context of the entire thing.

16                           MR. JOHNSON:  Object, nonresponsive after  
17   no, sir.

18           A.   I -- I -- I said, no, sir.  I'm sorry, that was  
19   -- yeah, that was my response, sorry.

20           Q.   (BY MR. JOHNSON)  You're fine.  That's my job  
21   to clean it up.

22           A.   Okay.

23           Q.   All right.  That's all my questions about  
24   that -- that tweet.  I'm going to skip ahead from the  
25   order that they're addressed in in the letter to the

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1 next one chronologically, which was on February 7th,  
2 2019. And that is on the last -- I'm sorry, page 11.

3 A. Okay.

4 Q. Do you see that tweet, it's -- it says What  
5 Would Jesus Do?

6 A. Page 11? Oh, goodness.

7 Q. Yeah, the 11.

8 A. I looked down here and I saw one, slash, one  
9 and thought it was 11.

10 Q. No problem.

11 A. So sorry.

12 Q. Uh-huh.

13 A. Eight. Am I -- am I blind? Seven -- page 8 is  
14 the last page I have here.

15 Q. It's the one before that, sorry.

16 A. Okay.

17 Q. Give yourself a moment to read that.

18 A. Okay.

19 Q. And my questions might sound familiar to you.  
20 The first one is, is your name stated in this tweet?

21 A. No, sir.

22 Q. Is there any direct reference to you, that you  
23 can see?

24 A. No, sir.

25 Q. If we assume that this tweet was about you,

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1    **what is the statement of fact about you in here?**

2           A.  No statement of fact about me in this tweet.

3           **Q.  Thank you.  I want to go to the last page in**  
4    **this, and there's no date here.  But there's another --**  
5    **it's a little harder to tell, I can't tell.  I think**  
6    **it's a tweet, also.  But there's one that's attributed**  
7    **to Ms. Marchi.  Do you see that on this page, as well?**

8           A.  Here?

9           **Q.  The third one down.**

10          A.  Yes.

11          **Q.  Yes.  Give yourself a moment to read that.**

12          A.  Okay.

13          **Q.  All right.  What is the statement of fact about**  
14    **you in this particular tweet, as you read it?**

15          A.  The only thing that I can see is where she  
16    says, Fighting back does not in any way, shape or form  
17    make me as bad as Vic.  I would say that tends to create  
18    a statement of fact that I'm a bad person.

19          **Q.  Is that the only statement of fact that you see**  
20    **in there?**

21          A.  Yes, sir.

22          **Q.  Do you see anything in that tweet that implies,**  
23    **as you read it, that you are a bad person, akin to a**  
24    **criminal, or that there's any reference to criminal**  
25    **activity in this tweet?**

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1           A. Not in this tweet, no.

2           Q. Thank you. All right. And then the last one  
3 is -- that I want to talk about is, is the one, it's on  
4 February 8th, and it's -- it's -- I think might be the  
5 one you had in mind a few moments ago, the -- the one  
6 that I'm going to refer to as Ms. Marchi's statement.

7           A. Okay.

8           Q. So if I use that term, this is what I'm  
9 referring to.

10          A. Yes, sir.

11                   MR. BEARD: Counsel, we're going to be here  
12 tomorrow. The jury didn't come to a decision so we're  
13 in here tomorrow morning.

14                   MR. JOHNSON: Okay. Thanks.

15          Q. (BY MR. JOHNSON) So -- and -- and I'm -- I'm  
16 wanting -- have you seen this tweet before? It's --  
17 it's pretty lengthy. Do you recall having read it  
18 before today?

19          A. I'm pretty sure I read it. Somebody said --  
20 somebody called me, a friend, and said, Jamie Marchi  
21 just tweeted. And I'm like, Jamie, what about? And  
22 I -- and then I -- I read it, or somebody, like,  
23 Screencapped it and sent it to me.

24          Q. Okay. I actually want to walk back to -- to  
25 the second page of -- of this exhibit, the -- the actual

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1 letter your attorney wrote for you. If you'll go to the  
2 second page, there are a few statements that they point  
3 out that I just want to work through with you.

4 A. Okay.

5 Q. They -- they point out the statement that --  
6 that's made, that you, quote, Gave almost all the women  
7 at my job the creeps, unquote. Do you see that in  
8 there?

9 A. I do.

10 Q. Okay. And then there's the statement that --  
11 at -- at the time of the incident, Ms. Marchi's writing  
12 about, that you whispered something sexual in nature to  
13 her?

14 A. Correct.

15 Q. All right. Do you have any evidence, that  
16 you're aware of, that Ms. Marchi did not actually  
17 believe these statements to be true at the time she  
18 wrote them?

19 A. At the time she wrote them or at the time they  
20 happened?

21 Q. At the time she wrote them.

22 A. I can't answer for her. I don't know what's in  
23 her mind. I -- I can't say whether she believes it's  
24 true or whether she was joining in to pile on. I don't  
25 know.





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1 **earlier --**

2           A. I have -- I -- I had no indication that -- I  
3 had no indication when it happened or in the years that  
4 followed that we've been friends and interacted that  
5 I -- that there was anything offensive or painful about  
6 it. In my mind, my recollection, it was very casual,  
7 playful interaction as happens all the time in the  
8 hallways of Funimation.

9           **Q. But you would agree that she certainly could**  
10 **have perceived it differently than you?**

11           A. Sure.

12           **Q. Is it your testimony today that you did not say**  
13 **something sexual into Ms. Marchi's ear at that moment**  
14 **that you're grabbing her hair?**

15           A. Yes. Sorry.

16           **Q. You're good.**

17           A. Yes, it is, absolutely.

18           **Q. Do you recall if you said anything into her**  
19 **ear?**

20           A. I don't recall that I said anything. If I did,  
21 it was literally something about, ooh, I love your hair,  
22 or, love it, it's awesome. You know, it was that kind  
23 of a thing.

24           **Q. Okay. Other than the statements that we've**  
25 **discussed today, are there any other statements by Ms.**

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1   **Marchi about you that are statements of fact that you**  
2   **allege to be defamatory in nature, that -- that you're**  
3   **aware of?**

4           A.   At present that I'm aware of, no.

5                         MR. BEARD:   What is the number of this  
6   exhibit?

7                         MR. JOHNSON:   This was Exhibit 22.

8           **Q.   (BY MR. JOHNSON)   I know you've talked today**  
9   **about Defendants having reached out to conventions and**  
10   **encouraging them to end their relationship with you or**  
11   **cancel a contract.**

12                         **Sitting here today, are you aware of any**  
13   **conventions that Jamie reached out to for that purpose?**

14           A.   I'm going to answer and you're going to say  
15   nonresponsive.

16                         MR. JOHNSON:   Objection, nonresponsive.

17           A.   See there, we just saved ourselves six or seven  
18   seconds.   I have been told by several convention  
19   organizers who had booked me to be at their show that  
20   they were not inclined to cancel me until voice actors  
21   started coming out.   Because they -- they weren't going  
22   to give a lot of credence to just a bunch of people on  
23   the internet, you know.

24           **Q.   (BY MR. JOHNSON)   Uh-huh.**

25           A.   But -- but when the voice actors came out, and

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1 we all know who the voice actors were that came out, so,  
2 I mean, it's kind of an assumption, they didn't call me  
3 and say, Jamie Lynn Marchi and Monica Rial, you know  
4 what I mean, contacted us, but they did tell me that it  
5 was the public comments by the voice actors that led  
6 them to ultimately cancel me.

7 **Q. So it was the public comments, not -- not**  
8 **necessarily a direct contact by a particular voice actor**  
9 **to the convention?**

10 A. I don't know.

11 **Q. Okay.**

12 A. I don't know if there was any direct contact or  
13 not.

14 **Q. So sitting here today, you don't know of any**  
15 **conventions that Jamie directly reached out to, correct?**

16 A. Not yet, no. Not at present.

17 **Q. And then I think it was Ms. -- Ms. Denbow at**  
18 **Funimation that you were communicating with while they**  
19 **were conducting their investigation; is that correct?**

20 A. Tammi Denbow, I think she's with Sony, not with  
21 Funimation.

22 **Q. Okay. Thank you for -- for clarifying that.**

23 A. I'm pretty sure; is that right?

24 **Q. And I believe you testified earlier that she**  
25 **mentioned some of the people who had outcried --**

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1           A. Yes, sir.

2           Q. -- to Sony or to Funimation?

3                         Did she ever mention Jamie during that  
4 **process?**

5           A. No, sir.

6           Q. Looking at your original petition filed in this  
7 lawsuit, just tracking that timeline, did you read the  
8 original petition in this case --

9           A. This one?

10          Q. -- what your -- what your lawyer filed to  
11 **initial -- initiate the lawsuit?**

12          A. No, sir.

13          Q. Okay. I'm just going to --

14          A. It probably would have looked very -- like,  
15 what is this, Latin? I mean, you know, I just kind of  
16 trust him to do what he does.

17          Q. I hear you. Well, I want to walk through a  
18 **timeline with you --**

19          A. Okay.

20          Q. -- and I want to see if this sounds about  
21 **correct, as far as your terminations from certain**  
22 **conventions earlier this year.**

23                         On January 18th of this year, the Phoenix  
24 **Fan Fusion Convention canceled your appearance --**

25          A. Yes, sir.

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1           **Q. -- there?**

2           A. That was the first one.

3           **Q. And then January 29th, I think was roughly when**  
4 **Funimation terminated your contract with them?**

5           A. 20 -- again, I think, what did we say, 27, 28,  
6 26, 27?

7           **Q. Late January?**

8           A. Yes, sir.

9           **Q. Okay. January 30th, Anime NYC and Anime**  
10 **Milwaukee canceled your appearances there; is that**  
11 **right?**

12          A. I don't -- I'm sorry.

13          **Q. That's okay.**

14          A. I don't remember the dates.

15          **Q. Late January, does that sound about right? I'm**  
16 **not trying to trick you, I'm just --**

17          A. I know you're not, and I'm not trying to be  
18 evasive.

19          **Q. Right.**

20          A. I was a mess. I don't remember.

21          **Q. Okay.**

22          A. I don't remember dates of these things. I knew  
23 they were happening and it was kind of a --

24          **Q. Uh-huh.**

25          A. You know, it was a -- a cumulating thing.

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1           Q. I guess my question is, if the first public  
2 statement by Jamie on Twitter, which -- which you allege  
3 to be defamatory, obviously, Ms. Marchi and I would not  
4 agree with that, but if the first one is dated  
5 February 6th, I'm trying to figure out how that could  
6 have impacted these conventions' decisions prior to the  
7 date of her tweets that -- that the cease and desist  
8 letter referenced.

9           A. It didn't impact the conventions prior to her  
10 -- to her -- her state -- her public statement,  
11 obviously. But there were, certainly, events that  
12 canceled me after, and there are presumably events and  
13 production companies who might have been -- have had me,  
14 and when they saw these things, they decided not to.

15                       MR. JOHNSON: Object, nonresponsive after  
16 the word obviously.

17           Q. (BY MR. JOHNSON) Did you ever have any  
18 conversations with Chuck Huber about Jamie's online  
19 posts or tweets?

20           A. Yes.

21           Q. What were those conversations?

22           A. He contacted me shortly after she had posted.  
23 And he said that -- he's like, I -- Jamie was my writing  
24 partner and I've always had a great relationship with  
25 her and I -- you know, I don't know why she would say

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1                   THE WITNESS: Thank you, John.

2                   MR. LEMOINE: Nothing further.

3                   MR. JOHNSON: We'll reserve.

4                   MR. BEARD: Pass the witness.

5                   You're done.

6                   THE VIDEOGRAPHER: And we're going off the  
7 record at 5:39 p.m.

8

9                   (Deposition concluded at 5:39 p.m.)

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1 Deposition officer at the time said testimony was taken,  
2 the following includes counsel for all parties of  
3 record:

4 Mr. Ty Beard, Esq., Attorney for Plaintiff  
5 Mr. J. Sean Lemoine, Esq., Attorney for Defendant  
6 Monica Rial and Ronald Toye  
7 Mr. Sam Johnson, Esq., Attorney for Defendant  
8 Jamie Marchi  
9 Mr. John Volney, Esq., Attorney for Defendant  
10 Funimation

11 I further certify that I am neither counsel for,  
12 related to, nor employed by any of the parties or  
13 attorneys in the action in which this proceeding was  
14 taken, and further that I am not financially or  
15 otherwise interested in the outcome of the action.

16 Further certification requirements pursuant to Rule  
17 203 of TRCP will be certified to after they have  
18 occurred.

19 Certified to by me this 1st day of July, 2019.

20

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\_\_\_\_\_  
Claudia White, Texas CSR #8242  
Expiration Date: 5/31/21  
Firm Registration No. 526  
CSI Global Deposition Services  
4950 N. O'Connor Road, Suite 152  
Irving, Texas 75062  
(877) 784-0004 fax (972) 650-0225  
production@courtroomsciences.com

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1                   FURTHER CERTIFICATION UNDER RULE 203 TRCP

2                   The original deposition was/was not returned to the  
3 deposition officer on \_\_\_\_\_;

4                   If returned, the attached Changes and Signature  
5 page contains any changes and the reasons therefor;

6                   If returned, the original deposition was delivered  
7 to Mr. Sean Lemoine, Custodial Attorney;

8                   That \$\_\_\_\_\_ is the deposition officer's  
9 charges to the Defendants for preparing the original  
10 deposition transcript and any copies of exhibits;

11                   That the deposition was delivered in accordance  
12 with Rule 203.3, and that a copy of this certificate was  
13 served on all parties shown herein on and filed with the  
14 Clerk.

15                   Certified to by me this \_\_\_\_\_ day of  
16 \_\_\_\_\_, 2019.

17

18



19

\_\_\_\_\_  
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Texas CSR #8242  
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