

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

BRADLEY J. EDWARDS and
PAUL G. CASSELL,

Plaintiffs/Counterclaim Defendants,

vs.

ALAN M. DERSHOWITZ,

Defendant/Counterclaim Plaintiff.

**DEFENDANT/COUNTERCLAIM PLAINTIFF ALAN M. DERSHOWITZ'S
MOTION FOR LEAVE TO AMEND COUNTERCLAIM AND FOR LEAVE TO
ASSERT CLAIM FOR PUNITIVE DAMAGES AGAINST
PLAINTIFFS/COUNTERCLAIM DEFENDANTS EDWARDS AND CASSELL**

Defendant and Counterclaim Plaintiff, Alan M. Dershowitz ("Dershowitz"), pursuant to Florida Rules of Civil Procedure 1.170(a), 1.170(e), 1.190(a) and 1.190(f) and Florida Statute § 768.72, hereby respectfully moves this Court for entry of an order granting Dershowitz leave to file his proposed Second Amended Counterclaim, attached as Exhibit A, which includes (a) two additional counts for defamation against Plaintiffs / Counterclaim Defendants Bradley J. Edwards ("Edwards") and Paul G. Cassell ("Cassell") (together, "Plaintiffs"); (b) additional, recently discovered facts in support of Dershowitz's defamation claims, as well as (c) a claim for punitive damages.

INTRODUCTION & EXECUTIVE SUMMARY

As set forth in Dershowitz's First Amended Counterclaim, Cassell and Edwards first falsely accused Dershowitz of sexually abusing [REDACTED] ("[REDACTED]") as a minor in a publicly filed pleading (the "Joinder Motion") in *Jane Doe #1, et al. v. United States*, Case

No. 08-cv-80736 (S.D. Fla.) (the “Federal Action”). The attorneys then alerted the press to the false and defamatory pleading and also made a number of extra-judicial statements to the press that either implied or, in some cases, unequivocally stated that the allegations against Dershowitz are true and that the attorneys had carefully investigated the allegations before filing the Joinder Motion. Based on this conduct, the First Amended Counterclaim asserts two counts of defamation.

The Court should now grant Dershowitz leave to file the proposed Second Amended Counterclaim, which expands on the factual allegations of Edwards’s and Cassell’s tortious conduct in several ways:

- *First*, the proposed Second Amended Complaint asserts an additional count for defamation based on the attorneys’ actions in asserting the unsubstantiated and irresponsible allegation that Dershowitz participated in and witnessed the abuse of “other minors” -- an independent act of defamation that is actionable separate and apart from the Joinder Motion’s false allegations regarding ██████. As with the attorneys’ conduct in including ██████ false allegations in the Joinder Motion, the outlandish and false accusations that Dershowitz participated in and witnessed the abuse of “other minors” are not privileged or protected because they were totally irrelevant to the Federal Action and were made in bad faith, with the intent to profit financially and/or to injure Dershowitz.
- *Second*, the proposed Second Amended Complaint seeks to add recently discovered facts in support of all Dershowitz’s defamation claims. In particular, the proposed pleading includes new factual allegations establishing that Edwards and Cassell made the false allegations against Dershowitz in the Joinder Motion for improper financial

gain. First, Edwards and Cassell intended to maximize publicity for [REDACTED] sensational allegations and secure a book, movie, and/or TV deal that would involve a payment to [REDACTED] and her attorneys. Second, Edwards and Cassell intended to create an example of the type of negative and reputation-destroying publicity that will result if and when [REDACTED] accuses others of sexual misconduct, with the goal of financial or other gain. In particular, Edwards and Cassell intended to approach a wealthy person, who the attorneys purposefully did *not* name in the Joinder Motion, to make [REDACTED] allegations privately and request a response from him which would include financial or other gain in exchange for avoidance of public disclosure of the allegations against him, notwithstanding that [REDACTED] had no colorable claim against him (even if her allegations were true) because the statute of limitations had long since run. Moreover, after the filing of the Joinder Motion, other counsel for [REDACTED] made precisely the intended approach to this wealthy individual. The proposed Second Amended Counterclaim also alleges additional instances of defamation by or on behalf of Edwards and Cassell, including the recent statement by their counsel in this defamation action to the press that the attorneys “believe” the false allegations about Dershowitz to be true.

- *Finally*, the proposed Second Amended Counterclaim asserts a claim for punitive damages against Edwards and Cassell. The Court should grant Dershowitz leave to add this claim because the evidence in the record and proffered below by Dershowitz provides a reasonable basis for the recovery of such damages – namely, that Edwards and Cassell acted with actual malice in making statements about Dershowitz that amounted to defamation per se. In other words, the allegations in the proposed

Second Amended Counterclaim, combined with the evidentiary proffer below, establish that the attorneys acted with knowledge that their defamatory statements about Dershowitz were false or with reckless disregard of whether they were false or not.

The proposed Second Amended Counterclaim states a number of viable claims against Edwards and Cassell under Florida law. Given the early stage of these proceedings, the attorneys could not possibly be prejudiced by any of the proposed amendments. Moreover, because Florida law requires leave to amend to be granted freely, and because Dershowitz has not abused the right to amend, it would be an abuse of discretion for the Court to deny Dershowitz's request.

LEGAL STANDARDS

A. Standard for Granting Leave to Amend

Under Florida Rule of Civil Procedure 1.190(a), where a party seeks leave to amend a pleading after amending once as a matter of course, “[l]eave of court shall be given freely when justice so requires.” Fla. R. Civ. P. 1.190(a). Where a counterclaim is compulsory in nature – *i.e.*, where the counterclaim arises out of the same transaction or occurrence that is the subject of the complaint – “refusal to grant leave to assert [the] counterclaim[s] would be an abuse of discretion.” *Fuente v. S. Ocean Transport, Inc.*, 933 So. 2d 651, 654 (Fla. 3d DCA 2006); *see also Kamareddine v. Demery*, 600 So. 2d 1311, 1312 (Fla. 3d DCA 1992) (“Denial of leave to file a compulsory counterclaim will generally be an abuse of discretion.”) (citation omitted); *Bill Williams Air Conditioning & Heating, Inc. v. Haymarket Coop. Bank*, 592 So. 2d 302, 307 (Fla. 1st DCA 1991) (“[D]enial of leave to file the [compulsory] counterclaim will almost always be found to be an abuse of discretion.”). “Amendments to pleadings are to be freely and liberally allowed in order that cases may be resolved on their merits, and doubts should be resolved in

favor of allowing amendment unless and until it appears that the privilege to amend will be abused.” *Linafelt v. Bev, Inc.*, 662 So.2d 986, 989 (Fla. 1st DCA 1995) (citation omitted).

Moreover, the “refusal to allow an amendment” of any kind “is an abuse of the trial court’s discretion ‘unless it clearly appears that allowing the amendment would prejudice the opposing party, the privilege to amend has been abused, or amendment would be futile.’” *Kay’s Custom Drapes, Inc. v. Garrote*, 920 So. 2d 1168, 1171 (Fla. 3d DCA 2006) (citation and quotation marks omitted). “Any doubt as to whether a motion for leave should be granted should be resolved in favor of the amendment.” *Santos v. Flores*, 116 So. 3d 518, 520 (Fla. 3d DCA 2013).

B. Standard for Punitive Damages

In order to assert a claim for punitive damages, a plaintiff or counterclaim plaintiff only needs to make a “reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages.” Fla. Stat. § 768.72(1). In other words, the party seeking to add a punitive damages claim needs only to make a reasonable showing of “intentional misconduct” or “gross negligence,” as defined below:

“Intentional Misconduct” means that the [counterclaim defendants] had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the [counterclaim plaintiff] would result and, despite the knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

“Gross negligence” means that the [counterclaim defendants’] conduct was so reckless or wanting in care that it constituted disregard or indifference to the life, safety, or right of persons exposed to such conduct.”

Fla. Stat. § 768.72 (2)(a)-(b).

“When a trial court is determining if a [counterclaim] plaintiff has made a ‘reasonable showing’ under section 768.72 for recovery of punitive damages, it is similar to determining whether a complaint states a cause of action” *Holmes v. Bridgestone/Firestone, Inc.*, 891

So. 2d 1188, 1191 (Fla. 4th DCA 2005). In that respect, when evaluating the sufficiency of evidence proffered in support of a claim for punitive damages, the court must view the evidence in a light most favorable to the moving party. *Estate of Despain v. Avante Grp., Inc.*, 900 So. 2d 637, 645 (Fla. 5th DCA 2005). A proffer is merely an offer of what evidence the plaintiff or counterclaim plaintiff proposes to present and is not actual evidence. *Id.* at 642. Florida rules provide that an evidentiary hearing is neither contemplated nor mandated by the statute in order to determine whether a reasonable basis has been established to plead punitive damages. *Id.* (explaining that a reasonable showing by evidence in the record would typically include depositions, interrogatories and requests for admissions).

ARGUMENT

Dershowitz's proposed Second Amended Counterclaim (a) asserts an additional count of defamation based on the attorneys' unsupported decision to accuse Dershowitz of abusing and witnessing the abuse of "other minors"; (b) includes additional factual allegations in support of Dershowitz's pending defamation claims, including newly discovered factual details regarding Edwards's and Cassell's improper financial motivations in filing the Joinder Motion and new instances of defamatory extra-judicial statements; and (c) asserts a claim for punitive damages. Because the standard for granting leave to amend is easily satisfied here, the Court must grant Dershowitz's motion to file the proposed Second Amended Counterclaim.

A. Dershowitz has not abused the privilege to amend.

Dershowitz has not abused the privilege to amend because this "motion for leave to amend was the first instance where [he] requested such relief." *Santos*, 116 So.3d at 520. Under his absolute right provided under Rule 1.190(a) and Florida case law, Dershowitz previously filed his First Amended Counterclaim (the operative counterclaim) as of right. *Boca Burger, Inc.*

v. Forum, 912 So.2d 561, 567 (Fla. 2005), *as revised on denial of reh'g* (Sept. 29, 2005). Therefore, this is the first time Dershowitz has requested leave to amend and only does so now based on facts and information recently discovered in discovery. Under Florida law, in order to deny a party's motion for leave to amend, there must be a *clear* abuse of the privilege to amend. *See Bouldin v. Okaloosa Cty.*, 580 So.2d 205, 207 (Fla. 1st DCA 1991). This high bar met is not met where a party has amended his original complaint before any responsive pleadings were filed, and then attempted to amend his complaint again after the opposing party filed its motion to dismiss. *See id.* ("This does not rise to the level of clear abuse of the privilege to amend."); *see also Dimick v. Ray*, 774 So.2d 830, 833 (Fla. 4th DCA 2000) (holding the trial court erred in finding abuse of the privilege where there was only one other prior amendment to the complaint before the party's motion for leave to amend). Rather, abuse is found where a party proposes a "virtual[ly] endless stream of amendments, all failing to state even a basic cause of action, such as [where] the plaintiff failed in four attempts to cure defects in his complaint." *Dimick* 774 So.2d at 833. Clearly, such abuse is not present in this case.

B. Plaintiffs will not suffer any prejudice by the proposed amendment.

Allowing Dershowitz's proposed Second Amended Counterclaim will not prejudice Edwards and Cassell because discovery has not yet concluded and trial is not yet scheduled. *See, e.g., Carib Ocean Shipping, Inc. v. Armas*, 854 So.2d 234, 236-37 (Fla. 3d DCA 2003) (citing cases demonstrating lack of prejudice even where amendment is sought "shortly before trial"). Florida courts typically deny requests to amend based on prejudice only where a party seeks to add new and different causes of action either during trial or after the conclusion of trial. *See Dimick*, 774 So.2d at 833 ("The prejudice . . . was obvious since the defendants had already fully prepared for, and in some instances, had actually completed the trial when the plaintiffs

sought to add different claims.”). Here, a trial has not even been set, and discovery is very much ongoing. Importantly, party depositions are still being conducted, with the continuance of Cassell’s deposition set for February and the start of Edwards’s deposition not even scheduled yet. Dershowitz’s deposition likewise has not yet been completed. “Furthermore, any prejudice which may be deemed to have existed ordinarily should be remedied, not by denial of the amendment, but by a continuance.” *Armas*, 854 So.2d at 236 n.2.

Finally, granting leave for Dershowitz to file his proposed Second Amended Counterclaim could not possibly prejudice Edwards or Cassell because the newly added count for defamation is based on false and outrageous allegations from the very same pleading that already is at issue in the operative First Amended Counterclaim. Moreover, in discovery to date, Cassell has already been questioned extensively at his uncompleted deposition about the allegations that Dershowitz participated in and witnessed the abuse of “other minors” and Edwards’s deposition has not yet been set. Thus, the preparations that have been conducted by the parties to date with respect to Dershowitz’s First Amended Complaint will have significant overlap with of the discovery that is relevant to Dershowitz’s proposed Second Amended Complaint.

D. Amendment would not be futile because the Second Amended Counterclaim states claims for relief under Florida law.

The requested amendment would not be futile as the claims in Dershowitz’s proposed Second Amended Counterclaim all present causes of action that are recognized by Florida law. *See Conklin v. Carroll*, 865 So. 2d 597, 600 (Fla. 2d DCA 2004) (reversing trial court’s decision denying leave to amend based on futility because Florida law recognizes the alleged cause of action).

Count II in the Proposed Second Amended Counterclaim states a viable claim for

defamation based on Edwards's and Cassell's conduct in asserting the false and irresponsible allegations that Dershowitz was "a participant in the abuse of [] *other minors*" and was an eye-witness to the abuse of "other minors." These allegations constitute separate, independent instances of actionable defamation by the attorneys, which is not protected the litigation privilege because the allegations are wholly impertinent to the issues in the Joinder Motion or the Federal Action more generally. Indeed, United States District Judge Kenneth Marra has already concluded – in an unchallenged order that is binding on Edward and Cassell in this action – that the allegations were "unnecessary," "immaterial," and "impertinent" because they lacked any connection to the issues in dispute in the Federal Action, and directed the "lurid" allegations to be stricken from the record as "sanction enough" for the attorneys.

Moreover, because this new count arises out of the same transaction and occurrence that is at issue in the attorneys' complaint in this defamation action, it is part of Dershowitz's compulsory counterclaim against Edwards and Cassell. As such, refusing to grant leave to assert such compulsory counterclaim would be an abuse of this Court's discretion. *See Fuente*, 933 So.2d at 654; *Kamareddine*, 600 So.2d at 1312 ("Denial of leave to file a compulsory counterclaim will generally be an abuse of discretion."); *Bill Williams*, 592 So.2d at 307 ("[D]enial of leave to file the [compulsory] counterclaim will almost always be found to be an abuse of discretion.").

Counts I, III, and IV of the proposed Second Amended Counterclaim likewise state claims for relief. As compared to the First Amended Counterclaim, the proposed amended pleading adds two types of new allegations. *First*, with respect to Count IV based on Edwards's and Cassell's extra-judicial statements, Dershowitz seeks to add new examples of defamatory conduct. Most notably, the proposed Second Amended Counterclaim alleges additional

statements made by or on behalf of Edwards and Cassell to the media and other third parties that adopt [REDACTED] false and defamatory allegations about Dershowitz without qualification, including a statement by Jack Scarola, the attorneys' counsel in this case, to the *Palm Beach Daily News* on behalf of himself and Edwards and Cassell that “[w]hether [REDACTED]’s statements are true or not — *and we believe them to be true* — it really doesn’t make a difference as to whether Brad Edwards and Paul Cassell reasonably believed them to be true.” This statement represents an additional independent instance of defamation that is actionable under Florida law.

Second, with respect to all of Dershowitz’s defamation claims, the proposed Second Amended Counterclaim adds new factual details supporting the bad faith motivations of Edwards and Cassell, providing further support for the inapplicability of the litigation privilege and the conclusion that the attorneys acted with actual malice. Since Dershowitz filed the First Amended Counterclaim as of right, Dershowitz has discovered additional facts showing that the attorneys included the false allegations about Dershowitz in the Joinder Motion for the improper purpose of financial gain. In particular, certain information suggests that Plaintiffs, [REDACTED], and [REDACTED] other counsel decided to name Dershowitz to create an “example” of the negative publicity that would result if and when [REDACTED] decides to publicly accuse other individuals who were deliberately *not* named in the Joinder Motion. Edwards, Cassell, [REDACTED], and [REDACTED] other attorneys specifically intended to use the “Dershowitz example” as part of an effort to induce at least one wealthy individual for financial or other gain to avoid being identified publicly even though [REDACTED] had no viable claim against him, even assuming her allegations were true, because the statute of limitations had long since run. Because the proposed Second Amended Counterclaim states viable claims for defamation and defamation-by-implication,

Dershowitz's motion for leave to amend should be granted.

- E. The Court should grant Dershowitz leave to add a claim for punitive damages because the evidence in the record and proffered by Dershowitz reasonably shows Edwards and Cassell were grossly negligent and acted with deliberate disregard of Dershowitz's interest in lodging these false allegations against him.**

To assert a claim for punitive damages – an amendment that should be granted freely under Rule 1.190(a) – Dershowitz need *only* make a “reasonable showing” that the counterclaim defendants were “grossly negligent” or acted with “intentional misconduct.” Fla. Stat. §768.72(2). The existing record and proffered evidence below clearly establish a “reasonable showing” that Edwards and Cassell were grossly negligent and acted with deliberate disregard of Dershowitz's interests in falsely accusing Dershowitz in publicly filed court documents of engaging in criminal conduct with ██████ and “other minors” and then in repeating these false accusations in written and oral correspondence with the media and others. Moreover, Dershowitz has a good faith basis to believe that the counterclaim defendants engaged in intentional misconduct as they made these statements.

Importantly, a counterclaim plaintiff may recover punitive damages in an action for per se defamation “even though the amount of actual damages is neither found nor shown, for in such a case, the requirement of a showing of actual damages as a basis of an award for exemplary damages is satisfied by the presumption of injury which arises from a showing of [defamation] that is actionable per se.” See *Lundquist v. Alewine*, 397 So.2d 1148, 1150 (Fla. 5th DCA 1981) (citation omitted). Put differently, “[w]hen a statement facially degrades a [counterclaim] plaintiff, brings [him] into ill repute, or causes similar injury with innuendo, the statement is defamatory per se” and therefore serves a predicate for punitive damages even in the absence of actual damages, assuming the counterclaim plaintiff makes the appropriate showing of actual malice in cases where the counterclaim plaintiff is a public figure or limited public

figure, or where the defamatory statement at issue involves an issue of public concern. *See Carroll v. TheStreet.com, Inc.*, No. 11-CV-81173, 2014 WL 5474061, at *16 (S.D. Fla. July 10, 2014) (citing *Mid-Florida Television Corp. v. Boyles*, 467 So.2d 282, 283 (Fla. 1985)).

As the Fourth District Court of Appeal has explained:

...[W]hen the claim is defamation per se, liability itself creates a conclusive legal presumption of loss or damage and is alone sufficient for the jury to consider punitive damages. [...] To sum up, Florida's unusually high protection of personal reputation derives from the common consent of humankind and has ancient roots. It is highly valued by civilized people. Our state constitution and common law powerfully support it. This is a value as old as the Pentateuch and the Book of Exodus, and its command as clear as the Decalogue: "Thou shall not bear false witness against thy neighbor." The personal interest in one's own good name and reputation surpasses economics, business practices or money. It is a fundamental part of personhood, of individual standing and one's sense of worth. In short, the wrongdoing underlying the punitive damages in this case has Florida law's most severe condemnation, its highest blameworthiness, its most deserving culpability. For slander per se, reprehensibility is at its highest.

Lawnwood Med. Ctr., Inc. v. Sadow, 43 So.3d 710, 727-29 (Fla. 4th DCA 2010), *review denied*, 36 So.3d 84 (Fla. 2010), and *cert. denied*, 562 U.S. 1135 (2011) (citation and footnote omitted).

Here, Plaintiffs' decision to draft, sign, and file a public pleading falsely accusing Dershowitz of sexually abusing underage girls facially degraded Dershowitz and tarnished his reputation with these reprehensible allegations, thus constituting defamation per se. Moreover, Dershowitz alleges in the Second Amended Counterclaim and will prove at trial that Plaintiffs made the false allegations with actual malice, i.e., with the knowledge that the allegations were false or with reckless disregard for their falsity. In such circumstances, "the requirement of a showing of actual damages as a basis of an award for exemplary damages is satisfied by the presumption of injury which arises from a showing of [defamation] that is actionable per se." *See Alewine*, 397 So.2d at 1150. Thus, Dershowitz has clearly satisfied Florida's statutory requirement of making a "reasonable showing" that Edwards and Cassell were "grossly negligent" or acted with "intentional misconduct" in defaming Dershowitz.

In addition to Dershowitz's allegations, the following represents existing record evidence as well as Dershowitz's proffer of evidence he proposes to present at trial showing that Edwards and Cassell engaged in "intentional misconduct," or at the very least were "grossly negligent" in defaming Dershowitz, which would support his claim for punitive damages:

- On April 7, 2015, Judge Marra expressly held that [REDACTED] "lurid" allegations about Dershowitz are "impertinent" to the issues in the federal proceeding and ordered them to be stricken from the record as "sanction enough" for the attorneys' conduct.
- When asked at the first session of his deposition to provide the attorneys' basis, on the date of the Joinder Motion filing, for including the allegation that Dershowitz participated in "the abuse of other minors," Cassell provided no evidentiary basis and instead stated the following:

And so, yes, I have 24 names in mind as possible sexual abuse victims that Dershowitz *may or may not have abused*. And I have not been able to pinpoint exactly what happened, because the people who would be in the best position to help me sort out what the names were, specifically Jeffrey Epstein, among others, have refused to cooperate and give me those names.

....

But I very much believe that there were going to be other girls who would come forward and swear under oath that Alan Dershowitz had sexually abused them in exactly the same [REDACTED] as he had sexually abused [REDACTED]

See Cassell Tr. Vol. I, at 36:20-37:1 and 60:5-10 (emphasis added).

- When questioned about his unequivocal extra-judicial statement to ABC that he and Edwards represented [REDACTED], the woman "was sexually abused by Prince Andrew and Alan Dershowitz" in the same email that the lawyers were "exploring options to tell [REDACTED] side of the story," Cassell turned his own words on their head by stating that he thinks the email shown to him "says that I'm the lawyer who is representing someone who has – has made those allegations." *See Cassell Tr. Vol. I, at 311:3-5.*
- Plaintiffs contend that deposition testimony of Jeffrey Epstein's house-man Juan Alessi from a separate but related proceeding, supports their decision to accuse Dershowitz of heinous criminal conduct in the Joinder Motion. However, Plaintiffs have repeatedly and deliberately mischaracterized Alessi's testimony. When taken in context, that testimony does not provide any support for the attorneys' false allegations against Dershowitz. Moreover, prior to filing the Joinder Motion, Plaintiffs made no effort to contact Alessi to inquire whether the statements they have

attributed to him are, in fact, true.

- Plaintiffs did not find a single person to corroborate ██████ allegations against Dershowitz prior to the December 31, 2014 filing of their Joinder Motion.
- Plaintiffs were on notice as early as the beginning of 2014 that certain of ██████ allegations involving purported sexual misconduct by others had been contradicted, which would have provided any reasonable lawyer with a basis to question her credibility and the veracity of her allegations against Dershowitz.
- Plaintiffs were not concerned with gathering supporting evidence supporting the allegations against Dershowitz before filing the Joinder Motion because their real purpose in the filing was to create an example of the adverse publicity and turmoil that would be inflicted on at least one wealthy individual against whom they planned to assert similar allegations.
- ██████ other counsel – with whom Edwards and Cassell have a common interest agreement – approached representatives of that wealthy individual; conveyed ██████ graphic and lurid accusations that the individual had sexually abused her as a minor and forced her to dress up in revealing lingerie; and asked for the wealthy individual to provide a response to the accusations, notwithstanding that the statute of limitations applicable to any claim ██████ may have had against the individual has long since passed.
- Emails produced reveal that Plaintiffs began alerting journalists to Joinder Motion almost immediately after filing the pleading and began shopping around for the best interview offer for ██████ that would get the most exposure from “sympathetic” media outlets. Further, Dershowitz also has a good faith basis to believe that these efforts began even *before* the filing of the Joinder Motion.
- The attorneys have made and continue to make statements to the press that imply and, in some cases, unequivocally state that the allegations about Dershowitz are true and that the attorneys conducted a thorough investigation into the allegations prior to filing the pleading, including the recent statement that “[w]hether ██████ [██████]’s statements are true or not — *and we believe them to be true* — it really doesn’t make a difference as to whether Brad Edwards and Paul Cassell reasonably believed them to be true.” (Emphasis added)

As discovery is ongoing, Dershowitz expects that more evidence will be revealed supporting that Edwards and Cassell defamed Dershowitz with actual malice. Even without additional evidence, however, the record and the proffered evidence cited above clearly amount a “reasonable showing” that Edwards and Cassell engaged in “intentional misconduct” or in the

very least, “gross negligence” in falsely accusing Dershowitz, so as to warrant the addition of a claim for punitive damages.

CONCLUSION

Dershowitz should be granted leave to file his proposed Second Amended Counterclaim, attached as Exhibit A, which includes (a) an additional count against Plaintiffs for an additional defamation against Dershowitz; (b) additional, recently discovered facts in support of Dershowitz’s defamation claims, as well as (c) a claim for punitive damages. The proposed Second Amended Counterclaim states a number of viable claims against Edwards and Cassell under Florida law. Given the early stage of these proceedings, the attorneys could not possibly be prejudiced by any of the proposed amendments. Moreover, because Florida law requires leave to amend to be granted freely, and because Dershowitz has not abused the right to amend, it would be an abuse of discretion for the Court to deny Dershowitz’s request.

Respectfully submitted,

s/ Thomas E. Scott

Thomas E. Scott, FBN 149100

Steven R. Safra, FBN 057028

COLE, SCOTT & KISSANE, P.A.

Richard A. Simpson (*pro hac vice*)

Mary E. Borja (*pro hac vice*)

Ashley E. Eiler (*pro hac vice*)

Nicole Audet Richardson (*pro hac vice*)

Counsel for Alan M. Dershowitz

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been electronically filed through the Clerk of Broward County by using the Florida Courts eFiling Portal and thus served by electronic mail [REDACTED] to: Jack Scarola, Esq, Searcy Denney Scarola Barnhart & Shipley, P.A., Counsel for Plaintiff, [REDACTED] [REDACTED] to: Joni J. Jones, Esq., Assistant Utah Attorney General, Counsel for Plaintiff Cassell, [REDACTED] Sa [REDACTED] to: Bradley J. Edwards, Esq, Farmer, Jaffe et al, [REDACTED] to: Paul G. Cassell, Esq.,; [REDACTED] to: Sigrid S. McCawley, Esq., Boies Schiller & Flexner, LLP, [REDACTED] [REDACTED] this 1st day of February, 2016.

By: s/Thomas E. Scott
THOMAS E. SCOTT
FBN: 149100

EXHIBIT A

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

BRADLEY J. EDWARDS and
PAUL G. CASSELL,

Plaintiffs/Counterclaim Defendants,

vs.

ALAN M. DERSHOWITZ,

Defendant/Counterclaim Plaintiff.

_____ /

DEFENDANT / COUNTERCLAIM PLAINTIFF
ALAN M. DERSHOWITZ'S SECOND AMENDED COUNTERCLAIM

EXECUTIVE SUMMARY

Counterclaim Plaintiff Alan M. Dershowitz (“Dershowitz”) asserts this Second Amended Counterclaim for defamation and punitive damages on knowledge, information and belief against Plaintiffs / Counterclaim Defendants Paul G. Cassell (“Cassell”) and Bradley J. Edwards (“Edwards”), based on the attorneys’ false and defamatory statements about Dershowitz made both in a court pleading and directly to the press and others, totally outside of any judicial proceeding.

As detailed below, Cassell and Edwards used a federal court pleading to accuse Dershowitz of engaging in criminal conduct by having sex with a minor, [REDACTED] [REDACTED] (“[REDACTED]”), and by participating in and witnessing the abuse of other, unnamed minors. The attorneys’ statements in the pleading are not privileged because they were totally irrelevant to the proceeding before the federal court. Indeed, United States District Judge Kenneth Marra

has held that the “lurid” allegations about Dershowitz were “unnecessary,” “immaterial,” and “impertinent,” and ordered them stricken from the record.

Moreover, Edwards and Cassell asserted the false accusations against Dershowitz in bad faith, with the intent to profit financially and/or to injure Dershowitz. Evidence adduced during discovery shows that the attorneys hoped to profit off of their decision to include [REDACTED] sensational allegations about Dershowitz in two primary ways. First, Edwards and Cassell intended to generate interest from media outlets, television producers, and/or book publishers willing to pay for more “lurid” details from [REDACTED] about being a “sex slave.” Second, the attorneys plotted to use Dershowitz as an example of the negative publicity that would befall other prominent individuals who [REDACTED] may name in the future, but whom the attorneys and [REDACTED] purposefully did not name in the pleading.

In particular, Edwards and Cassell, together with [REDACTED] and her other attorneys, had the goal of using the “Dershowitz example” as leverage in approaching at least one wealthy individual against whom [REDACTED] made allegations and requesting a response from him, for financial or other gain. [REDACTED] has asserted under oath that Jeffrey Epstein (“Epstein”) “arranged for many politically powerful, older men to have sex with underage girls—including me. Because these were crimes—and because some of these men were married—this gave Epstein the ability to blackmail these men and obtain political and other favors.” Ironically, Edwards and Cassell included the false allegations against Dershowitz in the federal court pleading to make an example of him that they (along with [REDACTED] and other counsel for [REDACTED], who are not parties to this case) could use in approaching one wealthy businessman – who they deliberately did *not* name in the federal pleading – to tell him about [REDACTED] allegations against him which she had the power to disclose publicly. The plan was to ask that individual for a

response to the allegations which would result in financial or other gain to avoid being publicly identified as someone who abused [REDACTED] as a minor, notwithstanding that [REDACTED] had no colorable claims against that individual because the statute of limitations had long since expired (even if her allegations of sexual abuse are true).

In furtherance of their improper financial goals, Edwards and Cassell initiated a massive media campaign against Dershowitz immediately after filing the defamatory pleading on the public docket. The attorneys alerted the press to the false and defamatory statements about Dershowitz and sent copies of the pleading to reporters. This extra-judicial conduct amounts to a re-publishing of the defamatory allegations in the pleading and therefore is separately actionable under Florida defamation law.

As part of their media crusade against Dershowitz, Edwards and Cassell have also accused Dershowitz of criminal conduct in direct and unqualified statements to the press and others, entirely separate from the pleading referenced above. Among other such statements, Cassell – on behalf of himself and Edwards – told ABC News in writing and without qualification that Dershowitz had sexually abused a minor. Specifically, in an email to ABC News that was produced in discovery, Cassell stated that he and Edwards represent “*the young woman who was sexually abused by Prince Andrew and Alan Dershowitz*” (emphasis added). Edwards and Cassell have also made other false and defamatory statements to the press and otherwise by asserting directly or by implication that Dershowitz, in fact, sexually abused [REDACTED]. Most recently, the attorneys’ counsel of record in this defamation case told the *Palm Beach Daily News* that he and his clients “believe [REDACTED] allegations to be true.” These statements were made wholly outside of the courtroom and are not possibly privileged,

particularly given the attorneys' bad faith intent in making them with the goal of profiting financially.

FACTUAL BACKGROUND

The Parties

1. Dershowitz is the Felix Frankfurter Professor Emeritus of Law at Harvard Law School. Dershowitz is a graduate of Brooklyn College and Yale Law School who joined the Harvard Law School faculty at age 25 after clerking for Judge David Bazelon and Justice Arthur Goldberg.

2. Dershowitz is one of many attorneys, including Ken Starr and Roy Black, who represented Jeffrey Epstein in connection with a criminal investigation conducted by federal and local law enforcement officials, including with respect to the negotiation of a Non-Prosecution Agreement entered into between Mr. Epstein and the United States Attorney's Office for the Southern District of Florida in 2007.

3. Cassell is a former United States District Court Judge for the District of Utah and is a law professor at the University of Utah. Cassell has appeared as counsel in several litigation matters that involve crime victims' rights, including in matters that have generated significant national media attention. Cassell has been admitted to practice *pro hac vice* in at least one case pending in federal court in Florida, which has generated substantial national publicity and which is defined below as the "Federal Action."

4. Edwards is a resident of the State of Florida and is an attorney in the State of Florida. Edwards formerly served as an attorney in the Broward County State's Attorney Office. Edwards has appeared as counsel in several litigation matters that involve crime victims' rights,

including the “Federal Action” defined below and other matters that have generated substantial national publicity.

The Federal Action

5. On July 7, 2008, Edwards initiated a civil lawsuit on behalf of “Jane Doe #1” against the United States of America (the “Government”) under the Crime Victims’ Rights Act, 18 U.S.C. § 3771 (the “CVRA”) captioned *Jane Doe #1, et al. v. United States*, Case No. 08-cv-80736-MARRA/JOHNSON (S.D. Fla.) (the “Federal Action”).

6. According to the “Emergency Petition” filed in the Federal Action (DE #1), Jane Doe #1 is an adult who allegedly “was a victim of federal crimes committed by Jeffrey Epstein” (“Epstein”) within the jurisdiction of the Southern District of Florida when Jane Doe #1 was a minor, including but not limited to sex trafficking of children by fraud; use of a means of interstate commerce to entice a minor to commit prostitution; and wire fraud. The Emergency Petition alleged that the Government had violated Jane Doe #1’s rights under the CVRA in connection with its plea negotiations with Epstein.

7. At a hearing held on July 18, 2008 (DE #15), the court in the Federal Action granted Edwards’s oral motion to join “Jane Doe #2” as an additional plaintiff in the Federal Action. Like Jane Doe #1, Jane Doe #2 alleges that she was a victim of federal crimes committed by Epstein when she was a minor and that the Government violated her rights under the CVRA.

8. Cassell filed a motion for limited appearance in the Federal Action as co-counsel on behalf of Jane Doe #1 and Jane Doe #2 on July 28, 2008 (DE # 16), which was granted on July 30, 2008 (DE #18).

9. On March 21, 2011, Jane Doe #1 and Jane Doe #2 filed a “Motion for Finding of Violations of the Crime Victims’ Rights Act and Request for a Hearing on Appropriate Remedies” (DE #48). That filing alleged that the actions of the Government in connection with its investigation of Epstein and the execution of the Non-Prosecution Agreement violated Jane Doe #1 and Jane Doe #2’s rights under the CVRA, including “the right to confer with prosecutors and the right to fair treatment.” Jane Doe #1 and Jane Doe #2 further argued that, in the event that the Court agreed that the Government committed one or more CVRA violations, the appropriate remedy would be to invalidate the Non-Prosecution Agreement.

10. By order dated September 26, 2011 (DE #99), the court held that the Federal Action could go forward under the CVRA but deferred a ruling, pending further factual development, as to whether the CVRA’s rights attached to Jane Doe #1 and Jane Doe #2 and whether the Government violated those rights.

COUNT I – DEFAMATION
(FALSE ALLEGATIONS IN JOINDER MOTION REGARDING ██████████)

11. Dershowitz re-alleges Paragraphs 1-10 of this Counterclaim as if fully set forth herein.

12. On December 30, 2014, Cassell and Edwards filed a pleading in the Federal Action titled “Jane Doe #3 and Jane Doe #4’s Motion Pursuant to Rule 21 for Joinder in Action” (DE #279) (the “Joinder Motion”). “Jane Doe #3” is a pseudonym used by ██████████, who has now admitted that she has no right to proceed anonymously and has public revealed herself.

13. In a section titled “[██████████] Circumstances,” the Joinder Motion alleges that ██████████ first met Epstein in 1999 and that Epstein “kept [██████████] as his sex slave from about 1999 through 2002, when she managed to escape to a foreign country.”

14. Later in the section titled “[REDACTED] Circumstances,” the Joinder Motion alleges that “Epstein also sexually trafficked the then-minor [REDACTED], making her available for sex to politically-connected and financially-powerful people.” In several paragraphs that have since been ordered stricken from the record, the Joinder Motion alleges as follows:

One such powerful individual that Epstein forced then-minor [REDACTED] to have sexual relations with was former Harvard Law Professor Alan Dershowitz, a close friend of Epstein’s and well-known criminal defense attorney. Epstein required [REDACTED] to have sexual relations with Dershowitz on numerous occasions while she was a minor, not only in Florida but also on private planes, in New York, New Mexico, and the U.S. Virgin Islands. In addition to being a participant in the abuse of [REDACTED] and other minors, Dershowitz was an eye-witness to the sexual abuse of many other minors by Epstein and several of Epstein’s co-conspirators. Dershowitz would later play a significant role in negotiating the NPA on Epstein’s behalf. Indeed, Dershowitz helped negotiate an agreement that provided immunity from federal prosecution in the Southern District of Florida not only to Epstein, but also to “any potential coconspirators of Epstein.” NPA at 5. Thus, Dershowitz helped negotiate an agreement with a provision that provided protection for himself against criminal prosecution in Florida for sexually abusing [REDACTED]. Because this broad immunity would have been controversial if disclosed, Dershowitz (along with other members of Epstein’s defense team) and the Government tried to keep the immunity provision secret from all of Epstein’s victims and the general public, even though such secrecy violated the Crime Victims’ Rights Act.

The only other purportedly “politically-connected and financially-powerful people” who Edwards and Cassell identified by name in the Joinder Motion as having had sexual relations with [REDACTED] were Prince Andrew, Duke of York (“Prince Andrew”); Ghislaine Maxwell (“Maxwell”); and Jean Luc Brunel (“Brunel”) – all of whom had previously been identified by name by [REDACTED] in media interviews. The Joinder Motion’s allegations about Prince Andrew have also now been stricken from the record because they should never have been included in the pleading.

15. Edwards and Cassell filed the Joinder Motion on the public docket in the Federal Action, without any accompanying motion to seal.

16. In the signature block of the Joinder Motion, Cassell self-identifies as being affiliated with the “S.J. Quinney College of Law at the University of Utah” (the “Law School”). Unlike in other pleadings submitted in the Federal Action (*e.g.*, DE #251), Cassell did not include a footnote with his signature on the Joinder Motion containing a disclaimer that “[t]he daytime business address indicated above is for identification purposes and does not imply institutional endorsement by the University of Utah of the legal positions advanced in this pleading.” By omitting the disclaimer from the Joinder Motion, Cassell by implication represented that the University of Utah somehow endorsed the positions advanced in that pleading.

17. The allegations in the Joinder Motion that Dershowitz sexually abused [REDACTED] are false. Dershowitz never had any contact, sexual or otherwise, with [REDACTED].

18. At the time they drafted, signed and filed the Joinder Motion, Edwards and Cassell knew that there was no factual basis for alleging that Dershowitz abused [REDACTED]. Alternatively, at the time they drafted, signed and filed the Joinder Motion, Edwards and Cassell showed a reckless disregard for the falsity of the allegations levelled against Dershowitz about [REDACTED]. Prior to filing the Joinder Motion, neither Edwards nor Cassell ever contacted Dershowitz to ask him about Dershowitz’s alleged sexual contact with [REDACTED] or about Dershowitz’s negotiation of the Non-Prosecution Agreement for Epstein to include a provision that protected himself against criminal prosecution in Florida for sexually abusing [REDACTED]. Nor did anyone acting on behalf of Edwards or Cassell contact Dershowitz about these allegations. Edwards and Cassell also knew or should have known that, prior to the filing of the Joinder Motion in December 2014 – and unlike the allegations included in the Joinder Motion about

Prince Andrew, Maxwell and Brunel – ██████ had never raised these allegations about Dershowitz to any governmental authority or in any court filing or media interview.

19. The false allegations in the Joinder Motion that Dershowitz sexually abused ██████ were defamatory per se in that they accuse Dershowitz of committing numerous and heinous criminal offenses constituting felonies and of engaging in conduct that, if committed, would be incompatible with the proper exercise of his profession as an attorney and law professor.

20. The false allegations in the Joinder Motion that Dershowitz sexually abused ██████ also were defamatory because they tended to expose Dershowitz to hatred, ridicule and contempt; tended to injure Dershowitz in his business and occupation as a lawyer and law professor; and tended to injure his sterling personal and professional reputations.

21. The false allegations in the Joinder Motion that Dershowitz sexually abused ██████ had no bearing on the issues in dispute in the pleading or in the Federal Action more generally. In particular, the false allegations are not pertinent to (a) whether ██████ was a “victim” of a federal crime perpetrated by Epstein, within the meaning of 18 U.S.C. § 3771(e); (b) whether ██████ was properly joined as an additional plaintiff to the Federal Action; (c) whether Jane Doe #1 and Jane Doe #2 are entitled to the production of certain documents by the Government in the Federal Action; (d) whether the Government complied with its obligations under the CVRA in connection with the Non-Prosecution Agreement; (e) whether Epstein’s alleged victims have rights under the CVRA or whether such rights were violated by the Government; or (f) the nature of the communications between and among Epstein, the Government and Epstein’s alleged victims during the plea negotiations.

22. On April 7, 2015, Judge Marra of the United States District Court for the Southern District of Florida confirmed, as a matter of law, the impertinence of the Joinder Motion's allegations about Dershowitz abusing [REDACTED]. In addition to denying [REDACTED] request to join the Federal Action, Judge Marra held that the "lurid" allegations included in the Joinder Motion about Dershowitz were "unnecessary," "immaterial," and "impertinent" to the Federal Action. Judge Marra ordered the allegations stricken from the record. Although Judge Marra held that the remedy of striking was "sanction enough," he also made a point of reminding [REDACTED] attorneys (*i.e.*, Edwards and Cassell) of their obligations under Rule 11 of the Federal Rules of Civil Procedure, which prohibits filings made for an improper purpose. In a supplemental order also issued on April 7, 2015, Judge Marra limited public access to the stricken materials.

23. Given the impertinence of the false allegations, Edwards and Cassell had no legally sound basis to allege in the Joinder Motion that Dershowitz abused [REDACTED]. Indeed, as demonstrated by Judge Marra's orders, the attorneys' inclusion of the allegations in the Joinder Motion hurt, rather than helped, [REDACTED] chances of success in joining the action.

24. Edwards's and Cassell's decision to level the false and outrageous allegations that Dershowitz sexually abused [REDACTED] as a minor was made in bad faith and was motivated by an improper purpose – specifically, the potential for financial gain through two potential avenues.

25. *First*, in including the false accusations that Dershowitz abused [REDACTED], Edwards and Cassell sought to publicize [REDACTED] sensational allegations about being a "sex slave" who was trafficked by Epstein to famous individuals. The attorneys had an ultimate goal of securing book, movie, and/or television deals that involved payments both to [REDACTED] and to her attorneys (including Edwards and Cassell). To this end, Edwards and Cassell deliberately chose to identify

Dershowitz by name, but only cryptically alluded to other “politically-connected and financially-powerful people,” so as to hold something back for ██████ to disclose in future tell-all exclusives. As set forth below, the attorneys embarked on their publicity campaign against Dershowitz immediately after the filing of the Joinder Motion by disseminating the defamatory pleading and attempting to capitalize on the resulting publicity to secure a high-profile interview for ██████ with a “sympathetic” national TV network.

26. *Second*, the attorneys – together with ██████ – decided to name Dershowitz (and Prince Andrew) in the Joinder Motion in order to have an illustration of the media attention that will result if and when ██████ chooses to accuse other “politically-connected and financially-powerful people” of sexual abuse in a public forum. In particular, the attorneys and ██████ asserted the false accusations against Dershowitz as part of a plan to assert claims of sexual abuse against a wealthy individual as to whom the statute of limitations has run with respect to any claim by ██████ for sexual assault. By naming Dershowitz and Prince Andrew in the Joinder Motion, Edwards and Cassell were hoping to create (and did, in fact, create) an illustrative example of how devastating it is to be accused of sexual abuse by ██████. Edwards and Cassell purposefully did *not* name this individual in the Joinder Motion. Then, other counsel for ██████, who are not parties to this case, approached this wealthy individual privately to make the allegations and to request a response which would result in financial or other gain to ██████ and her attorneys. In substance, Edwards and Cassell (as well as ██████ and other counsel for ██████, who are not parties to this case) intended to use the example of what happened to Dershowitz to seek to induce the wealthy businessman to act in avoidance of a similar, reputation-destroying fate that Dershowitz had endured even though ██████ had no

viable claim against the wealthy businessman (even if her allegations were true) because the statute of limitations had long since run.

27. Edwards's and Cassell's motivations in this regard are further confirmed by three recently discovered facts. *First*, ██████ other attorneys – who have a common interest agreement with Edwards and Cassell – met with attorneys for the businessman referenced above after the filing of the Joinder Motion. In that private meeting, ██████ other counsel detailed ██████ lurid and graphic accusations that the businessman had sexually abused her as a minor and forced her to dress up in revealing lingerie during their encounters, and requested a response from that individual to their allegations. Considering that the statute of limitations had long since run on any claim by ██████ against this individual, ██████ did not have even a colorable claim at the time of the meeting. *Second*, in a separate but related defamation suit filed by ██████ against Ghislaine Maxwell in the United States District Court for the Southern District of New York, ██████ and her attorneys did not identify the individual against whom they had privately made allegations of sexual misconduct in ██████ Fed. Rule Civ. P. 26(a)(1) initial disclosures as a person “likely to have discoverable information,” despite naming Epstein, Dershowitz, Prince Andrew, and a host of others. *Third*, a close friend of ██████ has stated that ██████ felt pressure from the lawyers to name Dershowitz as an alleged abuser, and that ██████ and the lawyers intended to obtain a large sum of money from the wealthy businessman referenced above.

28. Alternatively, by including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz abused ██████, Edwards and Cassell acted with ill will and personal and professional animosity towards Dershowitz and with the intent of injuring his reputation.

29. In these circumstances, neither the litigation privilege nor any other common law or constitutional privilege shields Edwards and Cassell from liability for including in the Joinder Motion the irrelevant, false and defamatory allegations that Dershowitz abused [REDACTED].

30. By including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz abused [REDACTED], Edwards and Cassell caused injury in fact to Dershowitz, who has suffered and continues to suffer substantial damages in an amount to be determined at trial, including but not limited to monetary losses in the form of lost clients and lost speaking engagements, as well as long-term injury to his professional reputation among his peers, potential clients and the general public.

31. By including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz abused [REDACTED], Edwards and Cassell acted willfully, wantonly and recklessly and intentionally disregarded Dershowitz's rights, warranting the imposition of punitive damages.

COUNT II – DEFAMATION
(FALSE ALLEGATIONS IN JOINDER MOTION REGARDING “OTHER MINORS”)

32. Dershowitz re-alleges Paragraphs 1-31 of this Counterclaim as if fully set forth herein.

33. As alleged above, the Joinder Motion not only falsely alleges that Dershowitz sexually abused [REDACTED], it also asserts the outrageous and unsubstantiated allegations (a) that Dershowitz participated in the abuse of “other minors” and (b) that Dershowitz “was an eye-witness to the sexual abuse of many other minors by Epstein and several of Epstein’s co-conspirators.”

34. The allegation that Dershowitz participated in the abuse of “other minors” was and is false. Dershowitz has never abused anyone.

35. The allegation that Dershowitz “was an eye-witness to the sexual abuse of many other minors by Epstein and several of Epstein’s co-conspirators” was and is false. Dershowitz has never observed anyone being sexually abused.

36. At the time they drafted, signed and filed the Joinder Motion, Edwards and Cassell knew that there was no factual basis for the allegations that Dershowitz abused “other minors” or witnessed the abuse of “other minors.” Cassell has now effectively conceded – by way of deposition testimony showing the total lack of any reasonable factual basis for the allegations – that the attorneys had no reasonable evidentiary basis to support the accusation that Dershowitz participated in or witnessed the abuse of “other minors.” Indeed, in truly appalling testimony,, Cassell asserted as a basis for the allegations against Dershowitz that he had in mind names of minors Dershowitz “may or may not have abused.”

37. Alternatively, at the time they drafted, signed and filed the Joinder Motion, Edwards and Cassell showed a reckless disregard for the falsity of the allegations that Dershowitz participated in the abuse of “other minors” and witnessed the abuse of “other minors” by Epstein and his co-conspirators. Prior to filing the Joinder Motion, neither Edwards nor Cassell ever contacted Dershowitz to give him an opportunity to respond to their false allegations against him. Nor did anyone acting on behalf of Edwards or Cassell contact Dershowitz about these outlandish allegations. During the course of discovery in this case, Edwards and Cassell have not produced a single witness or document that tends to support the outlandish and false accusations that Dershowitz participated in or witnessed the abuse of “other minors.”

38. The allegations that Dershowitz participated in and witnessed the abuse of “other minors” were defamatory per se in that they accuse Dershowitz of committing heinous criminal

offenses constituting felonies and of engaging in conduct that, if committed, would be incompatible with the proper exercise of his profession as an attorney and law professor.

39. The allegations that Dershowitz participated in and witnessed the abuse of “other minors” also were defamatory because they tended to expose Dershowitz to hatred, ridicule and contempt; tended to injure Dershowitz in his business and occupation as a lawyer and law professor; and tended to injure his sterling personal and professional reputations.

40. The allegations that Dershowitz participated in and witnessed the abuse of “other minors” were impertinent to the relief sought in the Joinder Motion and to the Federal Action more generally – a conclusion that has been established, as a matter of law, by Judge Marra’s order holding that the allegations are “unnecessary” and “impertinent” and striking them from the record as “sanction enough” for Edwards and Cassell. Whether or not Dershowitz abused “other minors” or witnessed the abuse of “other minors” (which he most certainly did not) has no pertinence to or connection with any issue in the Federal Action, nor does it have any bearing on whether ██████ is properly joined as a plaintiff in that proceeding.

41. By including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz participated in and witnessed the abuse of “other minors,” Edwards and Cassell acted in bad faith and with an improper financial purpose – namely, (a) to generate national and international media attention for the Federal Action, for themselves and for ██████, in the hopes of seeing financial benefits in the form of a book, movie, television or other paid media contract for ██████ to tell her story; and (b) to provide an example of the reputation-destroying publicity that would result if and when ██████ accuses others of sexual abuse, with the particular goal of approaching one wealthy individual privately to request a response to the

allegations in exchange for not naming him publicly, which would result in financial or other gain to [REDACTED] and her attorneys.

42. Alternatively, by including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz participated in and witnessed the abuse of “other minors,” Edwards and Cassell acted with ill will and personal and professional animosity towards Dershowitz and with the intent of injuring his reputation.

43. In these circumstances, neither the litigation privilege nor any other common law or constitutional privilege shields Edwards and Cassell from liability for including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz participated in and witnessed the abuse of “other minors,”

44. By including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz participated in and witnessed the abuse of “other minors,” Edwards and Cassell caused injury in fact to Dershowitz, who has suffered and continues to suffer substantial damages in an amount to be determined at trial, including but not limited to monetary losses in the form of lost clients and lost speaking engagements, as well as long-term injury to his professional reputation among his peers, potential clients and the general public.

45. By including in the Joinder Motion the irrelevant, defamatory and false allegations that Dershowitz participated in and witnessed the abuse of “other minors,” Edwards and Cassell acted willfully, wantonly and recklessly and intentionally disregarded Dershowitz’s rights, warranting the imposition of punitive damages.

COUNT III – DEFAMATION
(RE-PUBLISHING THE FALSE ALLEGATIONS IN THE JOINDER MOTION)

46. Dershowitz re-alleges Paragraphs 1-45 of this Counterclaim as if fully set forth herein.

47. Consistent with their improper financial motives, Edwards and Cassell embarked on an expansive media campaign against Dershowitz immediately after filing the Joinder Motion. Edwards and Cassell alerted one or more media outlets that the pleading had been filed, with the intent to generate publicity about their sensational and gratuitous allegations. Edwards and Cassell also sent copies of the Joinder Motion to many reporters, all in an effort to generate publicity for themselves and their client and to secure interview opportunities for [REDACTED].

48. Over the next several days, national and international media widely reported on the allegations asserted in the Joinder Motion and specifically focused on Dershowitz, whom Edwards and Cassell chose to identify specifically by name in contrast to the generic references to other unnamed “politically-connected and financially-powerful people” with whom [REDACTED] allegedly had sexual relations.

49. In alerting the press to the Joinder Motion and sending copies of the pleading to the press, Edwards and Cassell re-published the false, defamatory, and irrelevant allegations that Dershowitz sexually abused [REDACTED] as a minor and participated in and witnessed the abuse of “other minors.”

50. At the time they re-published the false, defamatory, and irrelevant allegations about Dershowitz, Edwards and Cassell knew the allegations were false or, in the alternative, showed a reckless disregard for the falsity of the allegations.

51. The allegations that Edwards and Cassell re-published by alerting the press to the filing of the Joinder Motion and sending copies of the pleadings to reporters were defamatory per

se in that the pleading accuses Dershowitz of committing heinous criminal offenses constituting felonies and of engaging in conduct that, if committed, would be incompatible with the proper exercise of his profession as an attorney and law professor.

52. The allegations that Edwards and Cassell re-published by alerting the press to the filing of the Joinder Motion and sending copies of the pleadings to reporters also were defamatory because the pleading tended to expose Dershowitz to hatred, ridicule and contempt; tended to injure Dershowitz in his business and occupation as a lawyer and law professor; and tended to injure his sterling personal and professional reputations.

53. Edwards's and Cassell's actions in re-publishing the false and defamatory allegations about Dershowitz constitute extra-judicial conduct that is not connected to the Federal Action and therefore is not possibly protected by the litigation privilege.

54. In re-publishing the Joinder Motion's false, irrelevant and defamatory allegations about Dershowitz, Edwards and Cassell acted in bad faith and with an improper financial purpose, as described above.

55. Alternatively, in re-publishing the Joinder Motion's false, irrelevant and defamatory allegations about Dershowitz, Edwards and Cassell acted with ill will and personal and professional animosity towards Dershowitz and with the intent of injuring his reputation.

56. In these circumstances, neither the litigation privilege nor any other common law or constitutional privilege shields Edwards and Cassell from liability for re-publishing the Joinder Motion's irrelevant, defamatory and false allegations about Dershowitz.

57. In re-publishing the Joinder Motion's false, irrelevant and defamatory allegations about Dershowitz, Edwards and Cassell caused injury in fact to Dershowitz, who has suffered and continues to suffer substantial damages in an amount to be determined at trial, including but

not limited to monetary losses in the form of lost clients and lost speaking engagements, as well as long-term injury to his professional reputation among his peers, potential clients and the general public.

58. In re-publishing the Joinder Motion's false, irrelevant and defamatory allegations about Dershowitz, Edwards and Cassell acted willfully, wantonly and recklessly and intentionally disregarded Dershowitz's rights, warranting the imposition of punitive damages.

COUNT IV – DEFAMATION & DEFAMATION BY IMPLICATION
(Extra-Judicial Statements To The Press & Other Third Parties)

59. Dershowitz re-alleges Paragraphs 1-58 of this Counterclaim as if fully set forth herein.

60. As part of their massive media campaign against Dershowitz to generate press and money for themselves and ██████████, Cassell and Edwards also have spoken and communicated both on and off on the record with numerous journalists and members of the media. In doing so, Cassell and Edwards have committed independent acts of defamation against Dershowitz, separate and apart from the outrageous, false and defamatory allegations included in the Joinder Motion that they drafted, signed and filed.

61. Most egregiously, Cassell and Edwards have stated to the media, without qualification, that Dershowitz committed the criminal conduct alleged in the Joinder Motion. Both Edwards and Cassell have made such statements, including statements made "off the record" in an effort to keep their defamation of Dershowitz secret.

62. On January 4, 2015, Cassell sent an email to Jacqueline Jesko at ABC – on behalf of himself and Edwards – that expressly accused Dershowitz of the criminal conduct alleged in the Joinder Motion. The email reads as follows:

Hi Jackie,

I represent, along with Brad Edwards in Florida, the young woman who was sexually abused by Prince Andrew and Alan Dershowitz. We are exploring options to tell her side of the story. Could you call me quickly about Nightline or related possibilities? Paul Cassell 801-xxx-xxxx

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law S.J. Quinney College of Law at
the University of Utah

This email thus repeats the false allegation that Dershowitz sexually abused [REDACTED] directly and without qualification.

63. In a report that first aired on January 16, 2015, and that is available online at [REDACTED] [REDACTED] reporter Bob Norman of Channel 10 News quotes Edwards as stating that “[t]he truth will come out” about [REDACTED] and her allegations against Dershowitz. Upon information and belief, Edwards and Cassell also told Mr. Norman that the allegations asserted against Dershowitz in the Joinder Motion were “true” – marking another instance where the attorneys re-asserted the allegations of criminal conduct against Dershowitz outside of the Joinder Motion in a direct and unqualified manner.

64. Edwards and Cassell have also told other third parties that the allegations asserted against Dershowitz in the Joinder Motion are “true.”

65. On December 18, 2015, the *Palm Beach Daily News* published an article that quoted Jack Scarola – Edwards’s and Cassell’s attorney in this defamation action – as stating, on behalf of his clients, that “[t]here is absolutely no evidence to support Dershowitz’s claims that Edwards and Cassell made up the story. Whether [REDACTED] [REDACTED]’s statements are true or not — *and we believe them to be true* — it really doesn’t make a difference as to whether Brad Edwards and Paul Cassell reasonably believed them to be true” (emphasis added). This statement constitutes another extra-judicial statement on behalf of Edwards and Cassell that

repeated the false allegations of criminal conduct against Dershowitz in a direct and unqualified manner, wholly outside of the context of either the Federal Action or this defamation action.

66. Cassell and Edwards have also made a number of statements to the media that imply falsely that Dershowitz sexually abused [REDACTED] and/or that the attorneys carefully investigated the allegations in the Joinder Motion and concluded that they were, in fact, true.

67. For example, on or about January 2, 2015, Edwards and Cassell issued the following statement to certain media outlets:

Out of respect for the court's desire to keep this case from being litigated in the press, we are not going to respond at this time to specific claims of indignation by anyone. As you may know, we are litigating a very important case, not only for our clients but crime victims in general. We have been informed of Mr. Dershowitz's threats based on the factual allegations we have made in our recent filing. *We carefully investigate all of the allegations in our pleadings before presenting them. We have also tried to depose Mr. Dershowitz on these subjects, although he has avoided those deposition requests.* Nevertheless, we would be pleased to consider any sworn testimony and documentary evidence Mr. Dershowitz would like to provide which he contends would refute any of our allegations.

The point of the pleading was only to join two of our clients in the case that is currently being litigated, and while we expected an agreement from the Government on that point, we did not get it. That disagreement compelled us to file our motion. We intend only to litigate the relevant issues in Court and not to play into any sideshow. We feel that is in our clients' best interest and consequently that is what we are doing.

We have every intention of addressing all of the relevant issues in the course of proper legal proceedings. Toward that end we have issued an invitation (a copy of which is attached below) to Alan Dershowitz to provide sworn testimony and any evidence he may choose to make available regarding the facts in our recent pleading that relate to him. The invitation has been extended by Jack Scarola, who is familiar with the issues. We would obviously welcome the same cooperation from Prince Andrew should he choose to avail himself of the same opportunity.

Paul Cassell and Brad Edwards, co-counsel for Jane Doe #3

(emphases added) ("invitation" omitted). At the very time this statement was issued, Edwards and Cassell were actively promoting [REDACTED] story to the press. Various national and

international media outlets re-published this extra-judicial statement by Cassell and Edwards, in whole or in part, including but not limited to *Business Insider*, *CNN*, *The Wall Street Journal*, *The Salt Lake Tribune*, *KSL Newsradio*, *The Huffington Post*, *DailyMail.com*, and *New York Daily News*.

68. Certain media outlets accurately and fairly paraphrased the extra-judicial statement released by Cassell and Edwards on January 2, 2015 as stating that Cassell and Edwards had carefully investigated the specific allegations asserted against Dershowitz in the Joinder Motion. For example, in an article first published on January 2, 2015 and available online at [REDACTED] [REDACTED] the *Wall Street Journal* wrote that, “[i]n a statement Friday, Mr. Cassell said the allegations in the motion were truthful, but declined to discuss what steps he and his co-counsel, Mr. Edwards, took to verify them.” Similarly, in an article first published on January 3, 2015 and available online at [REDACTED] [REDACTED], the *New York Times* wrote that “Mr. Cassell said in a statement on Saturday that the lawyers carefully investigated all of the allegations in their pleadings before presenting them.” Thus, Edwards’s and Cassell’s extra-judicial statement of January 2, 2015 had exactly the impact that they intended of leading a reasonable reader to conclude that they were representing that they had carefully investigated the specific allegations asserted against Dershowitz in the Joinder Motion.

69. Cassell also sent emails directly to journalists suggesting specific questions to ask Dershowitz in interviews about the irrelevant, false and defamatory allegations asserted against him in the Joinder Motion. For example, in an email to Paul Blake of the BBC dated January 3, 2015, Cassell listed out fifteen questions for Blake to ask Dershowitz, including (a) “[h]ave you

ever met a young girl, under the age of 18, in the presence of Jeffrey Epstein or on one of Jeffrey Epstein's properties?"; (b) "[d]idn't Jeffrey Epstein tell you that he repeatedly had sex with these underage girls?"; (c) in reference to the NPA, "[i]sn't it normal practice for federal prosecutors only to extend immunity to specifically named persons, not an open-ended group of 'any' co-conspirator[?]" ; (d) "[d]id you ever see young girls present at Little St. John's [Epstein's private island]?" ; and (e) "[d]id you ever see young girls, potentially under the age of 18, on Epstein's private plane?" The suggested questions falsely implied that Dershowitz's answers would or should be "yes"; in fact, however, the truthful answer to all of these questions was and is "no."

70. Also on January 4, 2015, Cassell sent an email to Santina Leuci of ABC and Rajini Vaidyanathan of the BBC on behalf of both attorneys that stated, in relevant part, as follows:

I have spoken to you both today, as a representative of a young woman I will call Jane Doe #3. *She was trafficked to Prince Andrew and others as [a] young girl.* My co-counsel is Brad Edwards, cc'd above, who is in direct contact with Jane Doe #3. I am not in a position to make any commitments for my client, but we would like to explore a sympathetic environment for her to tell her side of the story *against the attacks from Alan Dershowitz and Prince Andrew and Jeffrey Epstein (and perhaps others).* We are meeting tomorrow (Monday) morning to explore possibilities with our New York legal counsel.

(emphasis added). In mentioning that [REDACTED] was trafficked to "Prince Andrew and others" and then later specifically referencing Dershowitz by name, this email falsely implies that [REDACTED] was trafficked to Dershowitz. The email's reference to earlier conversations with the recipients also provides further confirmation that, immediately after the filing of the Joinder Motion, Edwards and Cassell began shopping [REDACTED] story to the major news outlets.

71. In another email date January 4, 2015, Cassell wrote to Brendan Pierson at Thomson Reuters on behalf of himself and Edwards that "[w]e look forward to reading any material that Mr. Dershowitz provides. It is not unethical to provide legal representation to the

victim of [an] international sex trafficking ring and to believe in the allegations such a victim makes – even when those allegations are made against powerful people.” This statement, made on behalf of both Edwards and Cassell, is yet another example of Edwards and Cassell making extra-judicial statements to the media whereby they independently re-asserted the allegations of criminal misconduct against Dershowitz outside of the context of the Federal Action.

72. In an article that was first published on January 6, 2015 and that is available online at <http://www.bbc.com/news/uk-30692699>, BBC News quotes Cassell and Edwards as stating that “[w]e have requested an opportunity to meet with the US Attorney’s Office for the Southern District of Florida so that we can seek their assistance in presenting evidence (including evidence possessed by the government) that will help Jane Doe #3 respond to these unfair attacks [by Dershowitz].”

73. On January 7, 2015, Scarola issued a statement on behalf of Edwards and Cassell via PR Newswire that states, in relevant part, as follows:

Mr. Dershowitz harshly attacks Mr. Edwards and Professor Cassell for not trying to talk to him before naming him in legal papers.

But, in truth, and as supported by numerous documents, on at least three occasions since 2009, Mr. Dershowitz was informed that he was a key witness in the litigation against Jeffrey Epstein and was requested to testify. We advised him at that time as follows:

‘Multiple individuals have placed you in the presence of Jeffrey Epstein on multiple occasions and in various locations when Jeffrey Epstein was in the company of underage females subsequently identified as victims of Mr. Epstein’s criminal molestations. This information is derived from both someone’s testimony and private interviews. Your personal observations regarding such circumstances would clearly not involve any privileged communications, and it is those observations that will be the primary focus of our questioning.’

Despite this notice to Mr. Dershowitz, he failed to respond or testify in any fashion. Mr. Dershowitz has not responded to multiple efforts to take his testimony beginning in 2009.

Upon information and belief, Edwards and Cassell authorized Scarola to make this statement and were involved in drafting the statement and/or approving its contents. Various national and international media outlets re-published portions of this extra-judicial statement made on behalf Cassell and Edwards, including but not limited to the *Palm Beach Daily News* and *Business Insider*.

74. In expressly stating in some statements and in implying in others that Dershowitz sexually abused [REDACTED], the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 of this Counterclaim—including but not limited to Cassell’s email to Ms. Jesko stating that “I represent, along with Brad Edwards in Florida, *the young woman who was sexually abused by Prince Andrew and Alan Dershowitz*”—were and are false and created a false impression. It is categorically false that Dershowitz had any sexual contact with [REDACTED].

75. In stating and/or implying that the allegations asserted against Dershowitz in the Joinder Motion are, in fact, true, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 this Counterclaim were and are false and created a false impression. The allegations levelled against Dershowitz in the Joinder Motion – *i.e.*, that he had sexual contact with [REDACTED]; that he participated in the abuse of “other minors”; that he witnessed sexual abuse of minors by Epstein and Epstein’s associates; and that he negotiated the Non-Prosecution Agreement for Epstein to include a provision that protected himself against criminal prosecution in Florida for sexually abusing [REDACTED] – are categorically false.

76. In stating and/or implying that Edwards and Cassell carefully investigated the allegations asserted against Dershowitz in the Joinder Motion prior to the filing of that pleading, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in

Paragraphs 60-73 of this Counterclaim were and are false and created a false impression. Neither Edwards nor Cassell ever contacted Dershowitz about the false and defamatory allegations levelled against Dershowitz in the Joinder Motion. Nor did Scarola or anyone else acting on behalf of Edwards or Cassell ever contact Dershowitz about these allegations. Edwards and Cassell also failed to otherwise conduct any reasonable investigation before including the false, defamatory and irrelevant allegations about Dershowitz in the Joinder Motion for the improper purpose of generating publicity and benefiting themselves at Dershowitz's expense.

77. In stating and/or implying that Edwards and Cassell or Scarola or anyone else acting on their behalves has attempted to depose Dershowitz about the allegations asserted against him in the Joinder Motion, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 of this Counterclaim were and are false and created a false impression. Neither Edwards nor Cassell ever attempted to depose Dershowitz about the allegations asserted against him in the Joinder Motion— *i.e.*, that Dershowitz had sexual contact with ██████; that Dershowitz participated in the abuse of “other minors”; that Dershowitz witnessed sexual abuse of minors by Epstein and Epstein's associates; and that Dershowitz negotiated the Non-Prosecution Agreement for Epstein to include a provision that protected himself against criminal prosecution in Florida for sexually abusing ██████. Nor did Scarola or anyone else acting on behalf of Edwards or Cassell ever attempt to depose Dershowitz about the allegations asserted against him in the Joinder Motion.

78. In stating and/or implying that Dershowitz failed to respond in any way to Scarola's deposition requests, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 of this Counterclaim were and are false and created a

false impression. Dershowitz responded to Scarola in two separate letters. In the first letter, Dershowitz asked Scarola to specify “what non-privileged information” Scarola would seek from Dershowitz in a deposition. In the second letter, Dershowitz stated that he “has never personally observed Jeffrey Epstein in the presence of underage females” and asked Scarola to provide him with any alleged basis for his unfounded belief to the contrary.

79. In stating and/or implying that multiple individuals have placed Dershowitz at the scene of one or more crimes committed by Epstein, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 of this Counterclaim were and are false and created a false impression. Dershowitz has never been in the company of Epstein at a time when underage females were also present and has never witnessed Epstein sexually abuse any minors or otherwise engage in criminal activity.

80. In stating and/or implying that the Government has information that substantiates the allegations asserted against Dershowitz in the Joinder Motion, the extra-judicial statements made by or on behalf of Edwards and Cassell referenced in Paragraphs 60-73 of this Counterclaim were and are false and created a false impression. The Government cannot possibly have information that substantiates the allegations levelled against Dershowitz in the Joinder Motion because those allegations are categorically false.

81. At the time the extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim were made by or on behalf of Edwards and Cassell, Edwards and Cassell knew those statements to be false and knew that those statements created false impressions.

82. Alternatively, at the time the extra-judicial statements referenced in Paragraphs 58-69 of this Counterclaim were made by or on behalf of Edwards and Cassell, Edwards and

Cassell showed a reckless disregard for the falsity of those statements as well as a reckless disregard for the false impressions created by those statements.

83. The extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim were defamatory *per se*, in that they stated and/or implied that Dershowitz has committed numerous and heinous criminal offenses constituting felonies and of engaging in conduct that, if committed, would be incompatible with the proper exercise of his profession as an attorney and law professor.

84. The extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim also were defamatory because they tended to expose Dershowitz to hatred, ridicule and contempt; tended to injure Dershowitz in his business and occupation as a lawyer and law professor; and tended to injure Dershowitz's sterling personal and professional reputations.

85. In making and/or causing others to make the false and defamatory extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim, Edwards and Cassell acted in bad faith and with an improper purpose – namely, to generate national and international media attention for the Federal Action and for themselves at the expense of injuring Dershowitz's sterling professional and personal reputations and also to the detriment of their own clients' best interests, which would have been better served by focusing on the relevant legal issues in the Federal Action.

86. Alternatively, in making and/or causing others to make the false and defamatory extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim, Edwards and Cassell acted with ill will and personal and professional animosity towards Dershowitz and with the intent of injuring Dershowitz's reputation.

87. In these circumstances, neither the litigation privilege nor any other common law or constitutional privilege shields Edwards and Cassell from liability for making and/or causing others to make the false and defamatory extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim.

88. By making and/or causing others to make the false and defamatory extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim, Edwards and Cassell caused injury in fact to Dershowitz, who has suffered and continues to suffer substantial damages in an amount to be determined at trial, including but not limited to monetary losses in the form of lost clients and lost speaking engagements, as well as long-term injury to his professional reputation among his peers, potential clients and the general public.

89. In making and/or causing others to make the false and defamatory extra-judicial statements referenced in Paragraphs 60-73 of this Counterclaim, Edwards and Cassell acted willfully, wantonly and recklessly and intentionally disregarded Dershowitz's rights, warranting the imposition of punitive damages.

COUNT V – PUNITIVE DAMAGES

90. Dershowitz re-alleges Paragraphs 1-89 of this Counterclaim as if fully set forth herein.

91. In engaging in the conduct alleged above, Edwards and Cassell engaged in intentional misconduct or, at a minimum, acted with gross negligence so as to warrant the imposition of punitive damages.

92. Edwards's and Cassell's conduct alleged above amounts to defamation *per se* that was undertaken with actual malice, which is sufficient, in and of itself, to warrant the imposition of punitive damages.

WHEREFORE, Defendant / Counterclaim Plaintiff Alan M. Dershowitz demands judgment against Plaintiffs / Counterclaim Defendants Bradley J. Edwards and Paul G. Cassell for compensatory damages, punitive damages, costs, pre- and post-judgment interest, and such other and further relief as the Court may deem appropriate under the circumstances.

WHEREFORE, Dershowitz further demands a jury trial on this Counterclaim.

Respectfully submitted,

s/ Thomas E. Scott

Thomas E. Scott, FBN 149100

Steven R. Safra, FBN 057028

COLE, SCOTT & KISSANE, P.A.

Richard A. Simpson (*pro hac vice*)

Mary E. Borja (*pro hac vice*)

Ashley E. Eiler (*pro hac vice*)

Nicole Audet Richardson (*pro hac vice*)

WILEY REIN LLP

Counsel for Alan M. Dershowitz

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been electronically filed through the Clerk of Broward County by using the Florida Courts eFiling Portal and thus served by electronic mail: [REDACTED] to: Jack Scarola, Esq, Searcy Denney Scarola Barnhart & Shipley, P.A., Counsel for Plaintiff, [REDACTED] [REDACTED] to: Joni J. Jones, Esq., Assistant Utah Attorney General, Counsel for Plaintiff Cassell, [REDACTED] [REDACTED] to: Bradley J. Edwards, Esq, Farmer, Jaffe et al, [REDACTED] to: Paul G. Cassell, Esq.,; [REDACTED] to: Sigrid S. McCawley, Esq., Boies Schiller & Flexner, LLP, [REDACTED] [REDACTED] this 1st day of February, 2016.

By: s/Thomas E. Scott
THOMAS E. SCOTT
FBN: 149100