

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LAWRENCE LESSIG,

Plaintiff,

v.

THE NEW YORK TIMES COMPANY,
ELLEN POLLOCK, DANIEL PAQUET,
and NELLIE BOWLES,

Defendants.

Civil Action No.:

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Introduction

1. This is a case about Defendants' publication of a sensationalized, false and defamatory "clickbait" Internet headline and lede in order to drive readers to their story and web site. In the midst of the Jeffrey Epstein human trafficking scandal, perhaps the most horrific and widely publicized pedophile scandal in American history, Defendants falsely published a headline and lede to a story of and concerning Plaintiff, Harvard Law School Professor Lawrence Lessig ("Lessig"), which represented to their readers that Professor Lessig was defending the clandestine acceptance and retention of money from Epstein by institutions of higher learning. More specifically, on September 14, 2019 Defendant, The New York Times Company (the "NY Times"), one of the most recognized news outlets in the world with an international reach spanning to 150 million monthly global readers, published the headline: "**A Harvard Professor Doubles Down: If You Take Epstein's Money, Do It in Secret.**" Defendants followed their

headline with the lede: “[Lessig] **defend[s] soliciting donations from the convicted sex offender Jeffrey Epstein.**”

2. Defendants’ story was met with mass outrage from campuses in Cambridge and Somerville, in Lessig’s nationwide social media following, by countless victims of sexual assault, and in the infinite depths of the “Twittersphere.” Within hours, Lessig became associated with the notoriety surrounding the Epstein scandal, and the community that quietly or silently tolerated such monstrosity.

3. Defendants’ story was based upon an essay that Lessig had published on Medium and two interviews conducted with Lessig. Defendants published their headline and lede despite their both being the *exact opposite* of what Lessig had written and despite being told expressly by Lessig pre-publication that they were contrary to what he had written. When Lessig brought the matter to Defendants attention post-publication, they refused to remove or edit their headline or lede to reflect the truth.

4. Lessig is a nationally prominent professor and legal scholar with a large social media following. At the time Defendants published their false and defamatory story he was poised to spearhead a national dialogue dedicated to developing best standards applicable to the acceptance and retention of donations from individuals and corporations who engage in wrongdoing. Defendants’ publication of their false and defamatory headline and lede has destroyed those efforts and has harmed Lessig’s reputation more generally.

5. Defendants’ actions here are part of a growing journalistic culture of *clickbaiting*: the use of a shocking headline and/or lede to entice readers to click on a particular article, irrespective of the truth of the headline. Defendants are fully aware that many, if not most, readers never read past the clickbait and that their takeaway concerning the target of the headline is limited to what

they read in the headline. As a result, the use of this tactic represents a uniquely troubling media practice as it relates to the harm to and destruction of the reputation of the target of the clickbait.

The Parties

6. Lessig is an individual residing in Brookline, Massachusetts. He is a renowned legal theorist and activist, most known for his contribution to intellectual property and copyright law as well as the study of democracy. Most recently, as the Roy L. Furman Professor of Law and Leadership at Harvard Law School, his work has focused on “institutional corruption,” including the corruption of Congress and the media. Highly decorated in his field, he has received national recognition as one of “Scientific American’s Top 50 Visionaries,” among other prestigious distinctions.

7. Defendant The New York Times, is a New York corporation with its principal place of business in New York, New York. As a global media organization, the Times has 4.7 million subscriptions and over 150 million monthly global readers. In 2018, NYTimes.com had an estimated monthly average of approximately 94 million online visitors in the United States and 134 million online visitors globally.

8. Defendant Ellen Pollock (“Ms. Pollock”) is an individual who resides in New York, New York. At times material hereto, Ms. Pollock was the Business Editor at the Times and acted within the scope of her employment at the Times in reviewing, and ultimately approving the headline of the article at issue here.

9. Defendant Dean Baquet (“Mr. Baquet”) is an individual who resides in New York, New York. At times material hereto, Mr. Baquet was the Executive Editor of the New York Times.

10. Defendant Nellie Bowles (“Ms. Bowles”) is an individual who resides in New York, New

York. At times material hereto, Ms. Bowles was a reporter for the Times and acted within the scope of her employment at the Times in writing the article at issue here.

Jurisdiction and Venue

11. The subject matter jurisdiction of this Court is properly based upon the presence of a federal question related to the First Amendment of the United States Constitution, and the existence of complete diversity between the parties and an amount in controversy which exceeds \$75,000.00, exclusive of costs and interest pursuant to 28 U.S.C. § 1331, § 1332. Personal jurisdiction over Defendants is lawful and proper here where Defendants each transact business in Massachusetts generally and/or engaged in tortious conduct which caused injury in Massachusetts.

12. The venue for this action properly lies in this district pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omission giving rise to the defamatory article was based on content gathered and produced in Massachusetts by Lessig. For example, Lessig gave an interview for the publication at issue from his home in Massachusetts and the content which the defamatory article discussed was derived from Lessig's article, "On Joi and MIT," which Lessig wrote and published in Massachusetts.

Facts

13. On or about September 8, 2019, Lessig wrote an article entitled "On Joi and MIT" in which he discussed Epstein's financial contributions to MIT's Media Lab. In the article, he wrote that it was wrong for MIT to accept Epstein's money, even if anonymously, but wrong for the MIT Media Lab's director to be "scapegoated" for his mistake.

14. At the time Lessig wrote the article, Joi Ito was the Director of the MIT Media

Lab.

15. Concerns about Ito's role at MIT were raised when it was revealed that he had, with MIT's knowledge and approval, solicited and accepted donations from Epstein, a convicted and registered sex offender.

16. Following the revelation that Ito solicited and accepted donations from Epstein, there was a demand from some in the MIT community that Ito be fired.

17. On September 6, 2019, Ronan Farrow published an article in The New Yorker about Ito and the money Epstein had contributed to MIT. That article suggested that Ito had acted independently of MIT, and contrary to MIT's direction.

18. Farrow's article triggered new calls for MIT to fire Ito.

19. On September 7, 2019, the day after Farrow's article was published, Ito resigned his position at MIT, as well as his directorship at the NY Times.

20. On September 8, 2019, Lessig published a 3,500-word article on the website, *Medium* ("the Medium Article") that addressed the events that had led to Ito's resignation. Three days later, he added an 800-word addendum. A copy of the Medium Article and addendum are attached hereto as Exhibits A and B, respectively.

21. Lessig's Medium Article generated a large response from the public.

22. In light of the attention the Medium Article received, NY Times reporter, Ms. Bowles contacted Lessig to ask whether he would be willing to be interviewed about the article, and for the interview to be published as a "Q&A" in the NY Times.

23. On September 10, 2019, Ms. Bowles interviewed Lessig for approximately an hour. The subject of the interview was the Medium Article, and the issues of accountability and responsibility within universities.

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