

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

Case No.: 16-2015-CA-005978
Division: CV-H

JOEL D. KLENCK

Plaintiff,

v.

AMERICAN SCHOOLS OF ORIENTAL
RESEARCH, ARK SEARCH LLC,
AMY LOUISE BEAM, RICHARD
CARL BRIGHT, ERIC H. CLINE,
GRETCHEN M. FOUCHECOURT,
MICHAEL S. HEISER, LIBERTY
UNIVERSITY, ONE.COM, JOHN
RANDALL PRICE, ANDREW TSAI,
DON ROSS PATTON, ANDY CHI KIT
WONG.

Defendant(s).

AMENDED COMPLAINT

Plaintiff, Joel David Klenck (“Klenck”), provides this Amended Complaint. Because the Court requested that Plaintiff separate each Defendant and their associated counts, Plaintiff incorporates by reference all exhibits and appendices from Plaintiff’s original complaint filed around September 20, 2015. Plaintiff sues Defendants for from two to eight civil violations.

INTRODUCTION AND BACKGROUND

Since 2008, several Defendants raised and funneled money to a convicted felon and an individual associated with terrorism in eastern Turkey, to establish and promote a fraud—the digging of a hole in the ice that Defendants advertised as an excavation for Noah’s Ark. These

fraudulent activities may have associated with terrorist attacks in eastern Turkey and the disappearance of Defendants' associate. Majority of the Defendants attacked Plaintiff, or other scientists, who advocated for the protection, conservation, and research of a recently discovered archaeological site on Mount Ararat, with features and artifacts similar to other prehistoric locales in the region. Defendants falsely imprisoned Plaintiff, an archaeologist and early advocate for the archaeological site, or stole his personal information, attempted to blackmail him, filmed a secret video of him, published defamatory and invasive information on the internet, sent out emails directing subscribers to this information, established and advertised derogatory websites, translated this material into several languages, and attacked Plaintiff on the internet, at his former graduate institution, at a professional archaeological conference, in the media, at potential places of employment, and amongst his family members while suppressing Klenck's data about the Ararat archaeological site. In these efforts, Defendants destroyed Plaintiff's reputation, esteem in his neighborhood and family, and standing in his profession. The results of Defendants' attacks: Klenck was refused employment, found it difficult to secure contracts, contracts involving Plaintiff were breached, he was ridiculed and mocked worldwide, monies were taken from Plaintiff's bank by identity thieves, he was refused parental interaction because Plaintiff's child saw Defendants' internet materials, was reported as a "scam-artist" by a neighbor, Klenck's trees were cut down in his backyard, and Defendants' made a petition to prevent Klenck from obtaining future employment as an attorney focusing in historic preservation. Despite this persecution, Plaintiff continued to advocate for the protection, conservation, and research of the Ararat archaeological site, a locale harmed by melting glaciers and looting (App. A, B, C, D, & E). Other archaeologists and lay persons have verified features and artifacts at this archaeological locale (App. F, G, & H). Plaintiff

alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. This is an action for damages in excess of \$1,500,000.00, exclusive of attorney's fees and costs.

2. Plaintiff, Joel David Klenck, is a professional archaeologist and a resident of Florida, with his principal place of business in Jacksonville, Florida.

3. Defendant Amy Louise Beam is a U.S. citizen, but resides and travels mostly in, Iraq, Republic of Georgia, and Barbados.

4. Defendant Liberty University is a private, non-profit, university located in Lynchburg, Virginia.

5. Defendant John Randall Price or alias J. Randall Price is a U.S. citizen and agent of Liberty University, who resides in Virginia, and is employed as a professor by Liberty University

6. Defendant Michael S. Heiser is a U.S. citizen and an agent of Liberty University, who resides in Lynden, Washington, and is employed by Liberty University as an adjunct professor at the Liberty University's Distance Learning Program.

7. Omitted due to pending agreement of the parties.

8. Omitted due to pending agreement of the parties.

9. Omitted due to pending agreement of the parties.

10. Defendant Gretchen Marie Fouhecourt is a U.S. citizen, who resides in Jacksonville, Florida.

11. Defendant Richard Carl Bright is the managing member of Ark Search LLC and a U.S. citizen, who resides in Dunedin, Florida.

12. Defendant Don Ross Patton, alias Don R. Patton, is a member of Ark Search LLC and a U.S. citizen, who resides in Hot Springs National Park, Arkansas.

13. Defendant Chi Kit Andy Wong, also known by his alias “Howtindog,” was born in Hong Kong and gained Canadian citizenship when his family migrated to Vancouver, Canada. Defendant Wong works at The University of Hong Kong as executive officer, and resides in Hong Kong.

14. Defendant “Andrew Tsai” is alias for 蔡昇達, who is a citizen of Taiwan, the owner of an internet store, 恩典蜜蜂事業, was a graduate student at Regent College, and currently resides in Miaoli County, Taiwan.

15. Defendant Eric Harris Cline, alias Eric H. Cline, is a professor at George Washington University and a U.S. citizen, who resides Maryland. Cline was the former co-editor of the Bulletin of the American Schools of Oriental Research (“BASOR”).

16. Defendant The American Schools of Oriental Research (“ASOR”) is a non-profit organization with its headquarters in Boston University, in Massachusetts, dedicated to the preservation of historic properties in the Near East or Middle East.

17. Defendant Ark Search, LLC, is a Wyoming limited liability company with its nerve center and headquarters in Dunedin, Florida.

18. Defendant One.com is a corporation located in Copenhagen, Denmark, with its U.S. headquarters and registered agent in Virginia.

19. This Court has jurisdiction over this action and the Defendants pursuant to Florida Statute §48.193, and the matter in controversy exceeds \$15,001.00, exclusive of interest and costs.

20. Venue is proper in this Court because the Plaintiff and Defendant Gretchen M.

Fouchecourt both reside in Duval County and the defamatory statements alleged in this Complaint were published in Duval County.

FACTUAL ALLEGATIONS

A. Rarity of Organic Remains in Archaeological Sites, Neolithic Sites at High Elevations in Eastern Turkey, and Reported Removal of Artifacts from an Archaeological Site on Mount Ararat.

21. Because of decomposition and weathering, unburnt organic artifacts such as wood, animal skin, grains, textiles, and other vegetal remains survive poorly in most archaeological contexts. Michael B. Schiffer, *Formation Processes of the Archaeological Record* 163-198 (Albuquerque, Univ. of N.M. Press, 1st ed. 1987).

22. Organic artifacts from archaeological sites on mountains and high-altitude landscapes exhibit better preservation because permanently frozen ground, colder temperatures, and reduced oxygen levels inhibit decomposition processes, weathering, scavenging fauna, agricultural processes, and human looting, especially if the archaeological materials and features are incased in ice. Matthew A. Stirn, *Why All the Way Up There?: Mountain and High Altitude Archaeology*, 14 (2) Soc’y for Am. Archaeology *Archaeological Record*, Special Issue: *Mountain & High-Altitude Archaeology* 7, 7-10 (2014).

23. “In recent years the worst destruction [of archaeological sites] has occurred through looting. In many countries it has become a flourishing industry; [local populations] rob sites and sell their finds to antiquities dealers, who ship items mainly to the Americas and Europe.” Robert J. Wenke, *Patterns In Prehistory: Humankind’s First Three Million Years* 30 (Oxford, Oxford Univ. Press 2d ed. 1984); accord Peter B. Campbell, *The Illicit Antiquities Trade as a Transnational Criminal Network: Characterizing and Anticipating Trafficking of Cultural Heritage*, 20:1 *Int’l Journal of Cultural Prop.* 89 (2013); Bojan Dobovšek, Noah

Charney, and Sasa Vucko, *Art Crime Archives*, 2:1 *Journal of Art Crime* 25, 26 (2009) (noting statistics comes from FBI, Carabinieri, and Interpol data).

24. Melting of glacial ice is a recent worldwide phenomenon enhancing the ability of archaeologists [and looters] to search for archaeological sites on mountains and at high altitudes. Craig M. Lee, Robert L. Kelly, Rachel Reckin, Ira L. Matt, & Pei-Lin Yu, *Ice Patch Archaeology in Western North America*, 14 (2) *Soc’y for Am. Archaeology Archaeological Record*, Special Issue: Mountain & High-Altitude Archaeology 15, 15 (2014) (“Global warming is melting perennial ice patches at . . . high elevations, resulting in the release of ancient . . . archaeological materials that, until recently, were in cryogenic-like stasis.”); Andrew Curry, *The Big Melt: The race to find, and save, ancient artifacts emerging from glaciers and ice patches in a warming world*, 66 (5) *Archaeology* 52-60 (2013).

25. Since the 1970s, the glacial ice near the summit of Mount Ararat has receded between 30% and 50% allowing unimpaired views of the ground once permanently covered by ice and snow. Ex. 1 & 2.

26. The beginning of farming communities, sedentary villages, and domestication of plants and animals, from the Pre-Pottery/Aceramic Neolithic period (9,800 to 6,800 BC), is thought by some scholars to first originate in the mountains of eastern Turkey, with early sites at Cayönü, Cafer Höyük, Boytepe, and Çınaz located at over 800 meters (“m.”) above sea level; and Tırşin at approximately 3,000 m. above sea level. Mehmet Özdoğan, *Concluding Remarks, in Neolithic in Turkey: The Cradle of Civilization* 225, 233-234 (Mehmet Özdoğan and Nezi̇h Başgelen eds., Istanbul, Arkeoloji Ve Sanat Yayınları 1999); *cf. Id.* Ufuk Esin, *The Neolithic in Turkey: A General Review*, at 14 (noting Aceramic Neolithic A & B dating “from about 9,800

[to] . . . 6,800 BC [and] from about 6,800-3,700 BC, . . . the Pottery Neolithic and Chalcolithic cultures.”).

27. Aynur Özfirat completed a series of archaeological surveys on Mount Ararat or Ağrı Dagi. One recorded site, K73/2, had an elevation of 2,350 m. above sea level. Aynur Özfirat, *Ağrı Dagi Arkeolojik Yuzey Arastirmasi, in Gunesin Dogdugu Yer: Dogubayazit Sempozyumu*, 89, 91 (Oktay Belli ed., Istanbul, Yayin Haklari 2004).

28. Distinct from formal scientific endeavors, Ed Davis, a lay person in 1943 reported the removal of artifacts from a Mount Ararat locale by an Armenian-Kurdish family at an elevation more than 3,500 meters above sea level that included wood pieces from general architecture, dried beans, unprocessed vegetal materials with stems still attached, ceramic vessels with stains from residue in their interior, pots, bowls, oil lamps, resin or bitumen material, sinew-like cords, shells and nuts, stone hammers, wood pegs, wood vessels, and artifacts made of animal stomachs. Don Shockey, *Agri Dagh, Mount Ararat: The Painful Mountain* 4-17 (Fresno, Pioneer Publ'g Co.).

B. Homicide, Terrorism, and Civil Violations: Murat Sahin, Amy Louise Beam, and Murat Camping; Disappearance of Donald Mackenzie; Defendant's Fraudulent Noah's Ark dig.

29. Murat Camping, a tourism company located in the enclave of Bayazit, in eastern Turkey, was established by the brothers Murat Sahin and Sayim Sahin.

30. Around 2003, Murat Sahin was convicted of murder and malicious wounding. With his cousin, Murat Sahin cut the ear off of Çetin Tasdemir, a brain-damaged man that refused to pay 2 Turkish Lira for two beers at the Murat Camping Restaurant. Later, when Cetin's family approached Murat Sahin, Murat shot and killed Cetin's father, Yavuz Tasdemir, and also wounded Mehmet Çetin Kaya, an unrelated bystander who was drinking tea, by

shooting his jaw off with a shotgun round. Because Murat Sahin and other family members denied responsibility for the crimes, the Turkish Court divided the fifty-year prison sentence for murder between the family members. Murat then claimed to the Defendants that Murat's incarceration was because of prejudice against Christians and that Murat was preventing an assassination attempt of Bright over his Noah's ark explorations.

Murat Sahin was convicted of homicide by a Turkish court prejudiced against Christians. He was defending himself against an assassination attempt ordered because he was helping a Christian ([defendant] Dick Bright). He returned fire and an innocent bystander was killed.

Patton's Answer, ¶ 30.

31. Murat Sahin was born on April 14, 1970, and resides in the neighborhood of Isakpasa Sarayi, in Dogubayazit, in Ağrı Province, in eastern Turkey. Sayim Sahin is a citizen of Turkey, and was born on February 2, 1966. Sayim Sahin also resides near his brother Murat Sahin, in the neighborhood of Isakpasa Sarayi, in the city of Dogubayazit, in Ağrı Province, in eastern Turkey. Both Murat and Sayim are co-owners of Murat Camping.

32. Around April 24, 2010, Murat Sahin was released from prison.

33. Between September 28, 2010, and October 14, 2010, Donald Mackenzie disappeared and his body was never found. Ex. 3, 4 & 5. Donald Mackenzie was interested in finding a newly discovered "Noah's ark" site on Mount Ararat reported by a Turkish, Kurdish, and Chinese contingent (see below) but did not cite any interest in the alleged Noah's ark dig established by the Defendants. *Id.*

34. Derrick Mackenzie, Donald's brother, arrived in Dogubayazit two years after Donald's disappearance. Upon information and belief, a Sahin brother claimed he "knew Donald very well" (Ex. 3, p. 8) because the Sahin brothers and Defendants regularly disparaged the other

site as an “ice cave” with wood “from an old sailing ship at the Black Sea”—the same verbiage that Derrick quotes (Ex. 3, p. 3, 8; Ex. 35, p. 34, 35, 46; and Ex. 101, p. 2). Further, individuals associated with the Sahin brothers produced Donald’s belongings claiming these items were found on Mount Ararat two months before Derrick’s arrival (Ex. 3, p. 6). Conversely, Derrick reported “it was strange that the jacket Donald would normally wear on the mountain was still in . . . [Donald’s] van. Ex. 3, p. 9. It is unknown if Derrick knew Murat Sahin was released from prison for homicide five months before the disappearance of Donald Mackenzie or that the Sahin brothers were receiving large sums of money from Defendants’ dig for Noah’s ark.

35. In October, 2008, Defendants Randall Price, Richard Bright, and Don Patton formed a partnership and asked donors to provide them \$56,000.00 “to get the permission to carry out the expedition” to find Noah’s ark based the advice of a “shepherd.” Ex. 6, p. 3. Price asked donors to send monies through Word of the Bible Ministries, which would be routed to Ark Search, LLC, and then to Murat Camping. *Id.* at p. 5.

36. In July and August, 2009, Price and the members of Ark Search, LLC, asserted their “excavation of two sites” and the discovery “of two very large organic man-made anomalies lying under the glacier in the eastern plateau [of Mount Ararat].” Ex. 7, p. 4. But after digging “a test hole to 18 feet” in the ice near the summit of Mount Ararat and finding no “man-made anomalies,” Price still requested \$75,000.00 from donors with a matching gift of the same amount [\$150,000.00 total] noting, “We are quite certain . . . a discovery will be made in these areas. *Id.* at p. 5.

37. During the Summer of 2010, Price and the members of Ark Search, LLC, claimed, “. . . we were only 30 feet from . . . a 200 foot-long man-made shaped object” but

displayed no human artifacts or architecture. Ex. 8, p. 2.

38. During the Fall of 2010, Price and the members of Ark Search, LLC, criticized the wealth of cultural material discovered from another site on Mount Ararat (see below) and then asserted, “[Price] . . . obtained the first scientific data of the existence of a large man-made structure beneath the glacier . . . near the summit of Mt. Ararat,” but produced no evidence of any cultural assemblages or features. Ex. 9.

39. During the Summer of 2011, Price reported to his donors that due “to the need to maintain security for the team” he was “unable to share” with them “exciting new information” but then thanked the donors for their gifts “in the high hundreds of thousands of dollars.” Ex. 10, p. 1 & 3.

40. During the Winter of 2012, Price reported to his donors that he had “several teams” on Mount Ararat from August through December but that Turkish authorities demanded that he “not publish details about the expedition.” Ex. 11, p. 2. Price confirmed Ark Search, LLC, dug a “square (which is 34 feet down)” through the ice, made ice-core samples to “a depth of 50 feet down” but that “the structure lies deeper than . . . originally understood.” *Id.* at pp. 4 & 5. Again, Price produced no evidence of human artifacts or architecture but stated to his donors that Ark Search, LLC, “received new data essential to success,” that “one more year” was necessary, but that the data was “restricted in what information [could] be released.” *Id.* at 6.

41. During the Summer of 2013, Price reported: “We are restricted from giving details that would compromise the safety and security of our teams.” Price notes more specialized equipment and professional personnel were added to the team. Price claimed “a great deal of data has been collected . . . to analyze . . . excavation results” but produced no cultural

assemblage or features. Ex. 12, p. 8.

42. During the Summer of 2015, Price notes Ark Search LLC was working on Mount Ararat for “the past seven years” but was “restricted from reporting any details” because of its “privileged position.” Price requested that donors “cover the expenses.” Price also mentioned a film “Finding Noah” would be “distributed in 500+ theaters” in October, 2015. Again, Price displayed no human artifacts or architecture from the purported Noah’s ark dig. Ex. 13, p. 12.

43. On June 19, 2012, an attorney from the Turkish government’s Department of Tourism or TURSAB sent an email to Plaintiff stating that Murat Camping (operated by Murat Sahin, Sayim Sahin, and Amy Beam) was not registered at TURSAB, did not have a license required for a tourism company in the Republic of Turkey, and was prosecuted under Article 30/1 of Act 1618, for operating a travel agency without a license. Ex. 14.

44. On November 28, 2014, Amy Beam was expelled from Turkey because the Turkish government’s counter-terrorism and intelligence services confirmed her associations with the Kurdistan Worker’s Party or Partiya Karkerên Kurdistanî (“PKK”), a terrorist organization. Ex. 15-20.

45. Upon information and belief, the annual dollar amounts Defendants paid to Murat Sahin, Sayim Sahin, and Amy Beam was between “tens of thousands of dollars” and “a million dollars” each year because Beam mentioned these as required amounts to search for Noah’s ark. Ex. 21 & 22. Also, Price noted actual income from donors for the ark dig was at the “high hundreds of thousands of dollars” in 2011. Ex. 10. In addition, members of the film crew working for the Defendants in 2015 were held at gun-point while a PKK leader demanded a sum of “\$600,000.00” to search for the ark. Ex. 23, pp. 3 & 5. As Defendants collected in the “high

hundreds of thousands of dollars” in 2011, this same year the PKK stage 61 attacks in Turkey, killing 88 people, and wounding 216. Ex. 10; 20, p. 2.

46. In 2015, film crews, who produced the film “Finding Noah,” were led to different areas of Mount Ararat where Randall Price, Liberty University students, and others performed a dig for the ark but “didn’t find the elusive ark.” Ex. 23, p. 5.

47. From 2008 through 2015, Liberty University acknowledged Price was conducting an ark excavation for Liberty University, within the scope of his employment, using Liberty University positions, students, and trademark. On September 9, 2008, Liberty University reported that Price began teaching classes in 2007, was appointed to executive director of the Center for Judaic Studies in 2008, and was “on an expedition in search of Noah’s Ark.” Ex. 24 (“[Price] is scheduled to make the ascent of Mount Ararat on Saturday and return to LU on Sept. 25.”). On December 1, 2010, Liberty University offered internet browsers an “investigative report” authored by Price and Patton about an archaeological site discovered by an international group. Ex. 25; *see* Ex. 35. On December 1, 2011, Liberty University announced its “SOR [Liberty University’s School of Religion] faculty” member, Price, presented a paper entitled, “Report of the 2011 Ark Search LLC Expedition and Excavation on Mt. Ararat.” Ex. 26. On March 17, 2015, Liberty University noted in its “Spotlight on Dr. Price”: “. . . since 2008, [Price] has led expeditions in Turkey for Noah’s Ark, climbing Mount Ararat six times and narrowing the search with ground penetrating radar and satellite imagery.” Ex. 27 & 28. In 2015, Liberty University News Service reported, “Since 2008, Price has led expeditions in Turkey to search for Noah’s Ark, climbing Mount Ararat six times and narrowing the search with ground penetrating radar and satellite imagery.” Ex. 29. During the Noah’s ark searches and excavations, Price used

Liberty University students. *See* Ex. 8, p. 1; 11, p. 3. Defendants Ark Search, LLC, Richard Bright, Liberty University, Don Patton, and Randall Price, from March 16, 2012 to the current date, caused a web page to be established and materials published and republished during 2013, 2014, and 2015, on www.noahsarksearch.com, which featured Price's positions at Liberty University, Liberty University's trademark, a letter or statement from Liberty University's "Distinguish Research Professor" and "Ark Search LLC Senior Archaeologist" Randall Price, as well as defamatory and privacy invasion material against Plaintiff. Ex. 30-33. These Defendants admit they were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Defendants admit that ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47.

C. Efforts by Plaintiff to Protect, Preserve, and Facilitate Research on the Ararat Archaeological Site; Defendants' Attacks on Plaintiff and Site.

48. As a young man, Ahmet Ertegrul, a Turkish citizen of mostly Kurdish ethnicity, learned the approximate locale of the Mount Ararat site, where a Kurdish-Armenian family had repeatedly removed archaeological artifacts, because Ertegrul was related through his mother to the family. *See* ¶ 28. The removal of artifacts from the Ararat site began in 1917. Most of the artifacts were smuggled into the Republic of Georgia by various persons. Ertegrul has estimated there are approximately 140 artifacts—not including seeds and other vegetal material—that have been removed from the site since 1917. The Plaintiff has photographed more than 82 purported artifacts from this total.

49. In 1975, Ertegrul discovered several wood pieces in the area of the Ararat

archaeological site. Beginning in 2001, Ahmet Ertegrul attempted to look for intact remains of the Ararat site, between 2,800 to 5,000 meters above sea level, on greater Mount Ararat, by systematically entering every glacial crevice and burrowing into all locales that indicated previous excavations into the Ararat archaeological site.

50. In July, 2008, Ahmet Ertegrul entered intact wood structures preserved in ice more than 4,200 meters above sea level and observed and photographed architectural features, pottery, basalt bowls, implements made of wood, vessels made of non-ceramic material, decomposing wood planks covered by bitumen or resin material, and vegetal material mostly comprising legumes.

51. During 2008, Ertegrul rejected requests by Defendant Price to join his expedition because of Price's arrogant demeanor. Further, Ertegrul and a Chinese religious group found Price's analysis of artifacts unprofessional because Price did not use standard archaeological procedures but described the artifacts as being "possibly pre-Flood" [before the flood of Noah] or after "the biblical Ark." *See* Ex. 35, p. 46. In comparison, Turkish Professors Oktay Belli and Ahmet Özbek analyzed the Ararat finds in lieu of conventional archaeological time periods and geological processes although they believed the Ararat site was a unique and significant archaeological site, and the foundation of the ark legend.

52. From 2008 until current, Defendant Price began using the services of Murat Camping. At this time Sayim Sahin was the manager of Murat Camping because his brother, Murat Sahim, was serving time in a Turkish prison for murder.

53. The Ertegrul and Sahin families belong to different families and clans in eastern Turkey and are competitors in providing guided tours up Mount Ararat.

54. During 2008 and 2009, Ertegrul and team of Turkish citizens, comprising both Turkish and Kurdish ethnicities, took a group of citizens from Hong Kong to the Ararat archaeological site. The citizens from Hong Kong represented Noah's Ark Ministries International, a subsidiary of The Media Evangelism, Ltd., a religious organization.

55. On April 25, 2010, the Hong Kong group with the Turkish climbing team held a press conference, with Professors Oktay Belli and Ahmet Özbek, and Muhsin Bulut, Director of the Turkish Cultural Ministry in the Agri Province, and released pictures and videos of expeditions of a "wood structure" some interpreted as the remains of Noah's ark. Ex. 34.

56. After Murat Sahin was released from prison, on April 24, 2010, the Defendants Murat and Sayim Sahin, Price, Patton, Bright, and Beam began to defame individuals associated with the Turkish/Chinese discovery and degrade the Ararat archaeological site as Price attempted to conceal a Noah's ark dig supported by the defendants. Ex. 11, p. 1 ("NOTE: Please do not post this expedition report to any website. This is for our email subscriber list only!").

57. Price and Patton tried to systematically degrade the significance of the archaeological site using interviews with the Sahin brothers, Sahin relatives, and employees and contract worker for Murat Camping. Price and Patton falsely alleged in a Fall, 2010, "investigative report" the Ararat archaeological site had . . .

- a. "clumps of weeds" (p. 26), when in fact the vegetation was dead and wood decomposing, a characteristic of an archaeological site;
- b. "straw" (p. 26), when in fact at high altitudes encased in ice archaeological remains can be in a elevated state of preservation (See ¶ 30, Lee, et al. (2014) "Global warming is melting perennial ice patches at . . . high elevations, resulting in the release of ancient . . . archaeological materials that, until recently, were in cryogenic-like stasis.");
- c. "cobwebs" (p. 26), when in fact spiders are found at 6,700 meters above sea level. Fred R. Wanless, *Spiders of the family Salticidae from the upper slopes of Everest and Makalu*, 3(5) Bull. Brit. Arachnol. Soc. 132, 136 (1975).
- b. "flooded annually and re-frozen" (p. 26), when in fact the most elevated loci at the Ararat site

are not flooded;

c. “subject to violent movement within a glacier” (p. 26), when in fact parts of the Ararat site are as much as 10 meters beneath the surface of the glacier and are not subject to glacial activity;

d. “subject to falling rocks” (p. 26), when in fact the Ararat archaeological site is found under meters of rocks and glacial ice;

e. “just off Federation Way (Trail)” (p. 34), when in fact the site is further distant;

f. wood was from the “Black Sea” from an “old ferryboat” (p. 34, 35), when the wood was found *in situ* in the archaeological site characterized by ancient building techniques such as waddle (bound tree stems), vertical wood planks covered with adobe mud, and shaped logs supported by stones foundations—not the building techniques of a modern ferryboat;

g. “building started 2 years ago [from Fall, 2010],” (p. 34), when in fact Ertegrul’s photographs were dated to July, 2008, and already feature large intact structural remains on Mount Ararat;

h. “30 people . . . worked for a period of two weeks every year” (p. 35), when in fact this was a false statement--only a few persons with Ahmet Ertegrul dug into previously formed passageways to access subterranean passages leading to the Ararat archaeological site;

i. “took ash and rubbed it on the wood” (p. 35), when in fact the site’s wood were decomposing or covered in parts with bitumen or resin that was flaking away.

j. “stone bowls, seeds, and a rock . . . put into places in the structure” from Iran (p. 36), when in fact all ceramic vessels, lithic vessels, vegetation, mostly characterized by legumes, have archaeological analogues in Turkey.

k. “Hale Ibrahim Sahin” stated the site was a “hoax” and “fraud” (p. 36), when in fact Hale is the uncle of Murat and Sayim Sahin and the Sahin clan profited from the Noah’s ark dig established by Randall Price and the other defendants.

l. Patton’s mention that “large and small crevasses were everywhere” at the site (p. 37), when in fact Patton’s photographs show only natural divides in the glacier and the Ararat archaeological site is further distant.

m. Patton shows back-pack-sized, “light fresh wood,” that is covered with varnish in a natural crevasse (pp. 39-42); which is different from the large Cyprus planks showing notches formed by stone adzes at the Ararat archaeological site (App. C, Figures 78, 80-84, 86).

n. “a movie set” (p. 37); when in fact cameras filmed an actual archaeological site.

Ex. 35.

58. In 2010, Plaintiff initiated contact with members of NAMI because Klenck believed the Ararat site might represent an archaeological site of scientific value because of its antiquity and preservation of organic artifacts in ice at locales more than 3,000 meters above sea level.

59. Plaintiff sought to independently verify the authenticity and dimensions of the Ararat archaeological site and whether the site indicated additional unexplored contexts.

60. On August 22, 2011, Plaintiff began correspondence with Defendant Beam to climb Mount Ararat to determine if the Ararat sites featured by NAMI and TME were visible and to determine the extent of the archaeological site. Klenck did not know Beam's relationship with the other defendants. Klenck did not disclose all matters concerning himself due to the disappearance of Donald Mackenzie, after Mackenzie expressed interest in finding the site.

61. After a series of emails with Defendant Beam, on September 5 and 6, 2011, Plaintiff and Beam formed a contract, as both parties signed their email names, for Beam to provide services to Klenck, through Murat Camping, to climb Mount Ararat in consideration for Klenck's monies totaling 450 Euro (around U.S. \$714). Beam and Murat Camping's services included a "government climbing permit for Mt. Ararat." Ex. 37, p. 2; 38, p. 2. Beam acknowledged Klenck's payment on September 6, 2011. Ex. 39.

62. On September 8, 2011, Defendant Beam emailed Plaintiff a revised itinerary that included a "government climbing permit for Mt. Ararat." Ex. 40 & 41, p. 2. On the attachment, Defendant Beam requested from Plaintiff: "Please send full name, address, email, mobile phone, blood type if known, profession, emergency contact info, and copy of photo page of your passport." Ex. 41, p. 1. Plaintiff responded with all information Beam requested including a scanned photograph of his U.S. Passport and travel itinerary. On September 12, 2011, Beam requested another larger passport photograph from Plaintiff. Ex. 42. Plaintiff sent another photograph of his U.S. Passport to Beam, which Beam acknowledged as "good." Ex. 43.

63. On September 14, 2011, after Plaintiff arrived at Murat Camping, Klenck directly witnessed Defendant Patton at Murat Camping with much supplies and equipment. Klenck enquired about the equipment and was told that Patton and others were involved in "a dig for

Noah's ark," "for several years," "found nothing," which "brought a lot of money" to Murat Camping. Klenck also enquired about Donald Mackenzie and was told that the Murat Camping staff saw Donald Mackenzie at the Murat Camping Restaurant before Donald disappeared.

64. On September 15, 2011, Klenck hiked up Mount Ararat to Camp #1, an elevation around 2,800 meters above sea level. On September 16, 2011, Plaintiff began hiking before others in the group and climbed to Camp #2, around 4,000 meters above sea level.

65. Between September 16 to 21, 2011, (and thereafter) Plaintiff confirmed the locations of the Ararat archaeological site, observed evidence that supported the sites authenticity, and confirmed that the expanse of site was much larger than Ertegrul or the Chinese contingent had communicated. The evidence that Klenck directly observed contradicted defendants' public statements that the Ararat archaeological site was a hoax. Plaintiff also identified other potential locales that Ertegrul had not explored or discovered. After Plaintiff's confirmation of the site, Plaintiff employed measures to ensure the Ararat archaeological site remained concealed.

66. During his ascent up Mount Ararat on September 15, 2011, and after this, Plaintiff also spoke to other individuals who related that a portion of the monies given by tourists to Murat Camping were delivered to members of the PKK, or Kurdistan Workers' Party, and that Defendant Beam advocated for the PKK. Beam's support of the PKK is also evidenced in Beam's statements and articles published on the internet. Various publications by Beam describe the Turkish government as treacherous and the PKK as martyrs, saviors, and helpers, with Beam tweeting statements by PKK leadership. Ex. 44-46, p. 2 (Beam: "It is the PKK and the Kurds who have saved you. They feed you. They give you clothes and shelter from their own pockets

without one dollar of government help.”).

67. Upon his return to Murat Camping around 8:00 PM, on September 17, 2011, Defendants Beam and Bright, and Murat Sahin, brought Plaintiff into a room and shut the door behind Klenck, surrounded Klenck, and prevented Plaintiff's departure. Without Plaintiff's consent or knowledge, Beam, Bright, and Murat Sahin filmed Klenck using a concealed camera. These Defendants interrogated Klenck about his associations with Mr. Ertegrul, NAMI/TME, and asked about the location of the site. Because Klenck knew defendants made false assertions that the Ararat archaeological site was a hoax, reportedly associated with Donald Mackenzie before his disappearance, paid a portion of their proceeds to the PKK, and were involved in a “dig for Noah's ark,” Plaintiff stated the site was a hoax and denied knowing Ertegrul or members of NAMI/TME. Beam then confronted Plaintiff by showing Klenck's personal diary that Beam had removed from Plaintiff's luggage revealing Klenck's associations with Ertegrul and NAMI and refused to return his possessions. Beam and Murat Sahin threatened that Klenck had to tell them everything about his involvement with the Ararat archaeological site, pay them thousands of dollars, or the Defendants would take Klenck to the gendarme or military police. Plaintiff refused to pay additional monies to Defendants, refused to discuss the Ararat archaeological site, and asked to go to the military police.

68. At the gendarme (military police) station Beam accused Plaintiff of climbing Ararat illegally, being an archaeologist, a spy, and having Kurdish friends that competed with Murat Camping. At the station, the officer asked if the Plaintiff had a permit to climb Mount Ararat. Plaintiff told the officer that Plaintiff paid Amy Beam for a permit to climb Mount Ararat. The officer asked if Plaintiff was a spy or archaeologist. Klenck replied that he was not a

spy but he was an archaeologist.

69. The officer questioned Amy Beam if she was a legal worker in Turkey and had a license to lead tours in Anatolia. Beam admitted she had no permit to work in Turkey, no license to provide tours in Anatolia, and no permit to lead ascents up Mount Ararat.

70. The officer then told Beam that it was not a crime to be an archaeologist, research prehistoric sites, or have friends that competed with Murat Camping. The officer then demanded that Amy Beam and Murat Sahin return all the personal items they had taken from Plaintiff and drove Klenck to another hotel away from Murat Camping. Amy Beam yelled an expletive at Plaintiff as Beam left the gendarme station. After this, Murat Sahin showed up at the hotel and returned all Plaintiff's personal items. However, Amy Beam photocopied Plaintiff's personal material before Murat Sahin returned the documents to Klenck.

71. On October 21, 2011, Defendant Beam published a video on YouTube.com that exhibited Beam's personal attacks on Klenck. Here, Beam stated that Plaintiff was a fraud, supported a hoax, and was not an expert—as well as Plaintiff's personal and private information: U.S. Passport, private physical address, private phone number, private email address, private correspondence, U.S. military service, flight itineraries, travel receipts, boarding passes, private diary pages, private non-filed legal papers, and other personal information.

72. In November 9, 2011, Plaintiff sent Beam a Cease-and-Desist letter to remove the material Beam had posted on the internet because the material was defamatory, private, and showed images of Klenck's personal material and videos of Klenck that were stolen from the Plaintiff's belongings or obtained through concealed cameras. This video recording was made without Klenck's knowledge or permission. Ex. 47. Beam did not respond or remove the videos.

Instead, Beam published Klenck's Cease-and-Desist letter on the internet while mocking the Plaintiff.

73. Later in 2011, upon the request of the Plaintiff, YouTube.com agreed to remove all materials Beam posted on its site after Plaintiff cited Beam's defamatory content and privacy and appropriation violations.

74. On December 15 and 16, 2011, Plaintiff published two short articles on the internet confirming the existence of the Ararat archaeological sites, the approximate size, the dating of the site, and its excellent preservation at high-altitudes on Mount Ararat. App. A.

75. On January 10, 2012, Beam republished a video slideshow of the Plaintiff on the internet, at <http://www.mountainarattrek.com/ark/arkfraud3.htm>, using servers by Media Temple. Ex. 48. The slideshow displayed defamatory material: "he is a fraud," and Plaintiff's private information: U.S. Passport, private physical address, private phone number, private email address, private correspondence, U.S. military service, flight itineraries, boarding passes, private diary pages, private non-filed legal papers, and other personal information. Ex. 49. Beam acknowledged that Beam took this information from Plaintiff's luggage while Plaintiff was climbing Mount Ararat and then copyrights the documents encouraging readers to copy the information. *Id.*

76. On March 25, 2012, Beam republished a scroll-through document on the internet, at <http://www.mountainarattrek.com/ark/arkfraud3b.htm>, on servers at Media Temple, displaying defamatory material that Plaintiff was a "fraud" (Ex. 50 & 51, pp. 3-4), images of secret videos and private information such as Plaintiff's U.S. Passport (Ex. 50 & 51, pp. 4, 9), birth date (*Id.* at 4), private physical address (*Id.* at 11), private phone number (*Id.* at 11),

financial information (*Id.* at 37), private email address (*Id.* at 5), private correspondence (*Id.* at 5-6), U.S. military service (*Id.* at 33), flight itinerary (*Id.* at 9), boarding passes (*Id.* at 9), private diary pages (*Id.* at 15-22), private non-filed legal papers (*Id.* at 38), and other personal information without Klenck's knowledge or consent. Beam noted she retrieved this information from Plaintiff's luggage while Plaintiff was climbing Mount Ararat and states, "Viewers are granted license and invited to download, embed, and redistribute this video." *Id.*, p. 3, 14.

77. On March 26, 2012, Beam republished the secret video taken of the Plaintiff during his interrogation by Beam, Bright, and Murat Sahin, on the internet, at <http://www.mountainarattrek.com/ark/arkfraud2.htm>, using servers by Media Temple. Ex. 52. This video was filmed using a concealed camera without Plaintiff's knowledge or consent. Ex. 53. Beam used the video to support the notion that Klenck agreed the Ararat archaeological site was a hoax, despite that Beam removed portions of the video where Beam and Sahin tried to blackmail Klenck. As noted in ¶ 69, Klenck denied the authenticity of the site during his interrogation by the Defendants because Klenck believed Defendants were reportedly associated with Donald Mackenzie before his disappearance, paid a portion of their proceeds to the PKK, and were involved in a fraudulent "dig for Noah's ark." Plaintiff also desired to conceal the location of the Ararat archaeological site from the Defendants because antiquities are used to fund terrorism. *See* ¶ 86; Ex. 64-65.

78. On March 21, 2012, Plaintiff emailed and mailed a request for Media Temple to take down the internet material posted by Beam based on the defamatory content and privacy and appropriation violations. Subsequently, Media Temple removed all of Beam's material from the internet concerning the Plaintiff. Ex. 54.

79. Defendant Beam then republished all previously mentioned internet materials (Paragraphs 76 to 78) using same or different website names, on websites and servers by One.com, with its U.S. headquarters and registered agent in Virginia.

80. During January, 2013, Plaintiff published a series of articles on the internet describing the different types of artifacts at the Ararat archaeological sites. App. B.

81. In March, 2013, Plaintiff emailed and mailed to Turkish, international, and academic archaeological authorities a 108-page Preliminary Report on the Ararat archaeological site describing the areas and loci (smaller contexts or features), methods to access the site, dimensions of the features, an analysis of the archaeological assemblages with archaeological comparisons from relevant periods, dating of the sites, and the site's environmental and cultural contexts. App. C (Note: Locations of archaeological contexts are blocked to maintain the security of the Ararat site).

82. After delivering the Preliminary Report to archaeological authorities, Plaintiff received notification in March, 2013, that the local magistrate in Dogubeyazit, Turkey, in 2011, cited multiple individuals including Amy Louise Beam and the Plaintiff for spying on political and military affairs (Article 332/1) and attached a disqualification of rights: refusal of employment, voting, or managing a company in Turkey (53/1-2). The government also cited Murat Sahin and Sayim Sahin for spying on political and military affairs (Article 332/1), encouraging other persons to commit offenses (39/1), and attached a disqualification of rights (53/1-2). Plaintiff was on Mount Ararat for archaeological purposes (not for political or military affairs), paid a climbing permit fee of \$50.00 to Amy Beam, in a tourism area frequented by other climbers. *See* Ex. 35, p. 39-42 (Defendant Patton's photographs himself in a gorge near

Base Camp #2). The Turkish Embassy in Washington, D.C., emailed Plaintiff that he formerly had one-year ban (2011-2012) to re-enter Turkey that likely expired. Ex. 55. By contrast, Plaintiff learned that Murat Sahin and Sayim Sahin were incarcerated in the winter of 2012, subjected to a large fine for not having the required TURSAB permits, and Amy Beam was expelled from Turkey for an extended period and resided in the Republic of Georgia. *See* Ex. 14. The Turkish government also stated that investigations on the Sahin brothers and Amy Beam were continuing—culminating with Beam’s expulsion from Turkey in 2014 for her associations with the PKK. Ex. 15-20; 44-46.

83. On August 7, 2013, Plaintiff emailed a request for One.com to take down the internet material published by Beam based on the defamatory content, privacy invasions, and wrongful appropriation violations. One.com refused Plaintiff’s request. This refusal was after Plaintiff followed the procedures instructed by abuse@one.com to notify One.com of violations of One.com’s own policies to remove defamatory, privacy invasion, or wrongful appropriation content. One.com violated its own published standards and industry standards practiced by others in the industry including Youtube.com and Media Temple. Ex. 56.

84. On November 22, 2013, at 4:45 PM, Plaintiff presented a summary of his analysis of the Ararat archaeological site at a fully attended lecture at the annual conference of the American Schools of Oriental Research in Baltimore, MD. App. E.

85. Prior to the Klenck’s presentation, on August 9, 2013, Defendant Wong tried to attack Plaintiff’s character and degrade the Ararat site saying the lecture was about “Noah’s ark” to the section director, Gary Rollefson. The section director responded to Wong and Wong placed these emails on the internet. Ex. 57-60. Plaintiff had to call the Rollefson stating Plaintiff

was trying to present the evidence of an archaeological features and assemblages at a high-altitude on Mount Ararat. The section director then castigated Wong for trying to exercise a vendetta against the Plaintiff, Wong denied the accusation while continuing to publish the emails on a members-only Facebook.com account. Ex. 61.

86. Upon information and belief, Eric Cline agreed with Defendants Amy Beam and others to publicly denigrate Klenck and degrade the Ararat archaeological site as a hoax during Klenck's ASOR presentation, on November 22, 2013, when Klenck stressed the need to protect, preserve, and research the Ararat locale affected by glacial melting and threatened with looting App. D. This agreement was evidenced because Cline and another female stood up and yelled that the Ararat archaeological site was "the Chinese site," and an "ice cave"—the same wording used by the Sahin brothers, Beam, Price, and Patton, to denigrate the site. Ex. 3, p. 3; 35, p. 46; 105, p.2. Further, publicly available information shows that Cline had previously worked with Defendants Amy Beam and Richard Bright, around November 2, 2012, on a television program about finding Noah's ark, released a year before the ASOR Conference. Ex. 62 & 63. Also, Cline demanded at the ASOR meeting that Klenck show the exact location of the unprotected Ararat site. This demand showed collusion with other Defendants because at least one Defendant had reported associations with the Kurdistan Workers' Party ("PKK"), evidenced by Beam's expulsion from Turkey in 2014. Ex. 15-20. Furthermore, antiquities in this region are used to fund terrorism. Ex. 64 & 65. Also, it is common knowledge among archaeologist to not reveal the location of unprotected archaeological sites because local populations may loot the sites. Cline's co-editor, Rollefson, states:

"It is frequently the case that archaeological discoveries inspire the imagination of local population that there is "treasure" to be found in an archaeological site, and precious information has often been destroyed by locations of sites (or parts thereof) based on gossip,

rumor, and even irresponsible publication (by local journalistic organs and even official antiquities organizations). In each cases (whether in the Near East, eastern Asia, or Arizona), it is often the case that the exact location of archaeological sites is withheld from public (and even local authority) information).

Ex. 60; *cf.* ¶23.

87. The custom for archaeologists and archaeological organizations is to aid scholars and facilitate their research in the protection, conservation, and reporting of archaeological sites. The American Schools of Oriental Research has similar mission statements: “initiate, encourage and support research into, and public understanding of, the cultures and history of the Near East from the earliest times”; “fostering original research . . . and explorations”; “maintaining the highest ethical standards of scholarship and public discourse.” Ex. 66 & 67. After Cline verbally accosted Klenck during Plaintiff’s presentation of the Ararat site, on November 22, 2013, ASOR’s Board of Trustees unanimously promoted Cline to co-editor of its Bulletin. Ex. 68, p. 4. Before Klenck’s presentation of the archaeological data from the Ararat site, ASOR forbade anyone from recording Plaintiff’s lecture. After the presentation, ASOR refused to release Plaintiff’s video-presentation, filmed by ASOR the next day, repeating Beam’s assertion that Klenck did not have a permit to climb Mount Ararat. Despite that Plaintiff paid for a permit from Beam, but Beam and Murat Camping did not have the TURSAB license to conduct tourism in Turkey (Ex. 14), Klenck emailed ASOR (Ex. 69), around January 30, 2014, pleading with ASOR’s leadership to display his lecture and warn them about the Defendants’ reported ties to the PKK (Ex. 15-20); involvement in a fraudulent Noah’s ark dig (Ex. 6-13), lack of tourism license (Ex. 14), and associations with Cline (Ex. 62-63). ASOR did not respond and did nothing to help the Plaintiff safeguard the Ararat archaeological site.

88. On December 27, 2013, Beam published material on One.com servers, at http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf, stating that Plaintiff is a “liar,” “pathological liar, and “sociopath.” Ex. 70 & 71, p. 2. Beam states Plaintiff “posted on a blog site named MackQuigley Report (created November 15, 2011, possibly by Klenck himself),” and that Plaintiff’s photographs of “chick peas” were tiny white pellets, seeds from the market, or hail stones.

89. On December 27, 2013, Defendants Beam and Andrew Tsai published defamatory material about Plaintiff translated into traditional and simplified Chinese, on Beam’s website, at http://www.mountainararattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf, using One.com internet systems. Ex. 72 & 73. The site states that the Plaintiff is a “liar” and “fraud” among other defamatory statements and directs visitors to Defendants’ other websites, such as those of Carl Wieland and CMI, Beam’s secretly filmed video of the Plaintiff, and Beam’s websites with Klenck’s private information. *Id.* at 2-4.

90. On January 2, 2014, Defendants Beam and Wong published defamatory material about Plaintiff translated into traditional and simplified Chinese, on Beam’s website at <http://mountainararattrek.com/>, using One.com internet systems. Ex. 74 & 75. The site states that Plaintiff is a “fraudulent ‘expert’” among other defamatory material and directs visitors to websites of other Defendants in this court action, such as those of Carl Wieland and CMI, the secretly filmed video of the Plaintiff, and Beam’s websites with Klenck’s private information. *Id.* at 2-3.

91. On March 2, 2012, Michael S. Heiser, an Adjunct Professor at Liberty University, published a website stating that Heiser was sent an email mail by Amy Beam. Heiser published

the material on the internet, on March 24, 2012, directing others to the internet pages established by Beam. Ex. 76-78; *see* ¶ 82.

92. On May 10, 2012, Carl Wieland, an employee of Creation Ministries International (“CMI”), wrote an article disparaging Klenck, published the article on CMI’s website, Creation.com, directing readers to Beam’s internet pages showing Beam’s defamatory content and privacy and appropriation violations about the Plaintiff. Ex. 79, p. 10; 80.

93. On May 22, 2012, Defendant CMI sent an email message to thousands of its members with links to Wieland’s article and links to Beam’s defamatory content and privacy and appropriation violations of the Plaintiff. Ex. 81, p. 2.

94. Beam in turn posted CMI and Carl Wieland’s article disparaging Klenck on her list of internet publications against the Plaintiff, at <http://www.mountainararattrek.com/ark>, on January 25, 2012, using One.com website systems. Ex. 82. Further, Beam published CMI and Wieland’s article on January 25, 2012, before CMI published Wieland’s article on its own website (May 10, 2012) or sent notifications to CMI’s email members (May 22, 2012). The article remains on Beam’s website with other statements by Beam that Plaintiff is a “fraud,” a “fraudulent “expert”” with a “Manual slide show” of Klenck private materials. Ex. 83.

95. On November June 5, 2012, Plaintiff sent a Cease-and-Desist letter, dated June 4, 2012, to Defendant Gary Bates, the CEO of CMI-U.S. and CEO of CMI-International requesting that CMI remove Wieland’s article from the internet and the links to Beam’s pages displaying defamation, privacy violations, and appropriation. Ex. 84 & 85.

96. On June 15, 2012, Wieland responded to Plaintiff’s email to Gary Bates and stated, “Please take this as the ministries formal response,” copied in “all Board members Board

members, CMI-Australia, plus to CMI-US c/Gary Bates,” and refused to remove the article from CMI’s website or the links to Beam’s internet sites. Wieland asserted that Klenck to provide his information on the Ararat archaeological site to CMI and to adjudicate the case in an ecclesiastical court. Wieland also noted, “I assumed that any suing would be under US law. But whether you include CMI-US in your pursuit of this matter or not is immaterial, as we (CMI-Australia) would be very happy to bear the legal costs for CMI-US.” Ex. 86.

97. On October 27, 2012, CMI published on its Creation.com website Simplified and Traditional Chinese translations of Wieland’s CMI article with links to Beam’s defamatory content and privacy and appropriation violations of Plaintiff. Ex. 87 & 88.

98. Upon information and belief, Fouchecourt send private information concerning Klenck to Beam. This information was sent by Fouchecourt to Beam, who in turn relayed the information to Defendant Wong. Beam and Wong then published scores of defamatory comments, appropriated Plaintiff’s likeness, and featured Klenck’s private information and defamatory content on social media sites such as Facebook.com. Ex. 89. Beam and Wong then posted private information sent by Fouchecourt to members-only websites on Facebook.com further disparaging the reputation of the Plaintiff. Ex. 90-92.

D. Plaintiff’s Injuries: Rejection from Employment Positions, Financial Distress, Reputation at *Alma Mater*, Loss of Consortium, Reputation in Neighborhood, Attacks on Home, and Prevention of Future Employment.

99. Despite being over-qualified, Plaintiff was rejected for a tenure-track archaeology position at Florida Central University.

100. Although being greatly over-qualified for an adjunct professor position that only

required an M.A., Plaintiff was rejected for a one-class-per-week position at a Junior College in Naples, FL.

101. Because of the Defendants' internet postings, a counselor of Plaintiff's child stated on August 6, 2013, that the negative internet postings influenced Plaintiff's child:

Counselor Regarding Child: "... also stated that [child] was not willing to continue with SKYPE talks. Please let me know if this is connection enough between actual face-to-face time? ... [I]t is my impression that [child] has conducted [sic] his own, quite thorough, research online about you ... Teens are very talented with the internet these days."

102. Klenck's next-door neighbor, in Duval County, Florida, told a homestead inspector for Plaintiff's homestead exemption that Plaintiff was a "scam-artist." In addition, other third parties: persons and entities in Duval County and other locales in Florida read Defendants' defamatory materials against the Plaintiff.

103. Around December 15, 2013, Klenck's trees were cut down in his back-yard. Ex. 93.

104. Defendant Beam contacted the Director of Archaeology at Harvard University, the Plaintiff's alma mater, to disparage the Plaintiff. Ex. 94, p. 4.

105. To mitigate his losses due to the Defendants constant attacks because Plaintiff's advocacy for the Ararat archaeological site, Klenck pursued archaeology contracts and employment across the globe while acquiring his Juris Doctor degree focusing on historic preservation, antiquities, and art law. Despite Klenck efforts to pursue employment and contracts, Klenck could only acquire what usually constituted less than minimum-wage salary while an internet search of his name brought mentions of "fraud," "hoax," "pathological liar," and "sociopath" (Ex. 71, p. 2) and the top rung after a Google search of "Joel Klenck" displays

Beam's slideshow of defamatory statements, private materials, and appropriations of the Plaintiff. Ex. 51, *see* ¶ 108.

106. With his meager income, that primarily paid child support, Klenck hired an internet specialist to mitigate the damage caused by the Defendants to his reputation on the internet, to bring positive postings at the top of the pages when potential employers searched his name. But the Defendants thwarted Plaintiff's attempts to improve his internet reputation because the Defendant's imbedded links to Beam's disparaging websites and then cross-linked their own demeaning links about the Plaintiff on each other's websites.

107. After completing all the information required by the Florida Board of Bar Examiners, upon information and belief, Defendant Fouchecourt notified Beam that Plaintiff was attempting to acquire his attorney's license because this information was not common knowledge. Fouchecourt delivered the information to Beam, and Beam posted a petition on websites to send disparaging comments about the Plaintiff to the Florida Bar to prevent Klenck from getting his license and attempt to improve his income. Ex. 95.

108. Today, Google searches on the internet show Defendants continued injury to Plaintiff as the first page of a search on "Joel Klenck" or "Joel David Klenck" shows Beam's defamatory statement of "Joel Klenck's fraud" and Plaintiff being "a liar" and Beam's slide show displaying defamatory statements, invasions of privacy, and appropriation violations of the Plaintiff (Ex. 51); CMI, Bates, and Wieland's defamatory article toward Plaintiff in English, simplified Chinese, and traditional Chinese directing readers to Beam's websites (Ex. 79 & 88); and Ark Search LLC, Liberty University, Bright, Patton, and Price's website showing links to Bright and Beam's secret video of Plaintiff and Beam's other websites displaying defamatory

and private materials and appropriation violations (Ex. 33, 51, 53, 83). Ex. 96 & 97.

E. Subsequent Surveys of the Ararat Site by Archaeologists and Lay Persons.

109. On May 30, 2012, two Dutch archaeologists: Jeroen Rensen and Tine Rassalle surveyed and recorded one archaeological loci in a gorge on Mount Ararat more than 4,000 meters above sea level and reported shaped wood planks with mortise-and-tenon joints. Rensen and Rassalle received their Bachelors and Masters degrees in archaeology from the University of Leiden specializing in Near Eastern Archaeology and Field Archaeology. Rensen is currently the Assistant Collection Manager at the National Museum (Rijksmuseum) of Antiquities, in Amsterdam, in the Netherlands. Rensen and Rassalle's recommendation:

“The ultimate goal, for us, would be the total excavation of the [Ararat] site. That is, to open up the entire site and excavate it like any other site. Set out a grid of 5 by 5 meter squares and start digging from the top. Get more archaeologists (or students) involved and handle the area like you would do any other site.”

App. F, p. 6.

110. In March, 2014, Rensen ascended Mount Ararat a second time and recorded: “[I]n a fissure within the icecap under 10 meters of rock, ice and snow we found well-preserved wooden remains and pottery too.” App. G.1, p. 1. Rensen added:

“A location, . . . at approximately 4000 meters was visited and documented, . . . It was verified that within a fissure in the glacier wooden planks had been placed against the sides to form what appeared to be walls. Snow and ice that had formed in the fissure made it difficult to see but at least one floorboard was partly uncovered . . . Furthermore, two pottery vessels were encountered lying on the floor . . . It was deemed unwise at that time to remove the ice by force in fear of damaging the vessels and losing valuable information.”

App. G.2, p. 4/11.

111. During Rensen's second ascent, in March, 2014, the survey team's physician, Dr.

Marcel Verheyen, noted the impossibility of forging the archaeological site because of the site's enormity, remoteness, difficulty to access, and depth beneath the permafrost and rocks layers.

"That is absolutely impossible [that wood and artifacts were deliberately planted]. The mountain's terrible terrain is rather inaccessible, let alone to carry beams of wood. You need to be there and see it with your own eyes, before you put forward any hypothesis. I am 100% sure that it is impossible to plant such a structure there."

App. G.1, p. 1.

112. From November 8 to 9, 2014, professional archaeologist and ASOR trustee, Sheila T. Bishop, ascended Mount Ararat and surveyed an archaeological loci on Mount Ararat, 4,000 meters above sea level. Bishop began her career as an archaeological assistant in 1996 surveying fourteenth century graves in Armenia. Bishop's fieldwork continues as an archaeologist, fundraiser, and sponsor for projects including the Jezreel expedition and Mount Zion excavations. In 2013, Bishop was elected to the Board of Trustees for ASOR. Accompanying Bishop during the 2014 survey at the Ararat site, Phillip E. Williams notes in his field journal:

"He helps adjust my climbing belt and attaches crampons to my large snow boots. That will be needed for the icy descent through the long passage to the underground structure. After about 20 or 30 minutes, Sheila [Bishop] and the other climbers exit the entrance. Now feeling well and fully aware of my surroundings, I move into position to descend into the passage. As we make our way down and through the long snow-covered ice tunnel, I notice the passage turning toward a level floor. I loose [sic] one of my crampons along the descent. The floor now turning level, it doesn't much matter. Shining our flashlights to my left, I see several pieces of worked wooden boards sticking out from the floor and wall. I take off my gloves so as to operate the camera. I use my other hand as a measure. For some miles before reaching High Camp until I notice those first well-finished wooden boards, aside from what we had brought, I had seen nothing on this mountain but rocks, snow, and ice. Ahead and behind us and on every side lay a monotonous menagerie of smooth-sided broken rocks either completely or partially covered by snow and ice. As we shine our lights further down the passage where we are walking, that scene suddenly changes. As our flashlights survey the end of the tunnel, I see a long passage between two walls that narrows towards the top. The wall to our left slants outward as it reaches the floor with worked wooden pieces sticking out here and

there. I am astonished by the very high, very straight, and very long wall to our right. Wide horizontal boards are visible behind a thick coating of ice. The wall appears bowed slightly inward as one looks towards the bottom. What seems to be a wooden floor covered with ice is remarkably level all along the passage. The walled passage extends as far as our flashlights can reach into the darkness.”

App. H, p. 5.

113. At the end of his preliminary report of the 2014 expedition to the Ararat locales,

Williams’ concludes:

“ . . . our eyes have seen, our hands have touched, our cameras have recorded a wooden structure of what appears several large floors buried under many tons of volcanic rock and ice above 4000 meters on the . . . side of Greater Mount Ararat . . . It is hardly of recent fabrication. It could never have been constructed *in situ* at this deep and dangerous site where we visited it. It is deserving of the most serious archaeological and scientific study.”

Id. at p. 7.

114. After Bishop returned from surveying the Ararat site, on November 9, 2014, Bishop traveled to the ASOR’s Board of Trustees meeting on November 23, 2014. Ex. 98. Despite Bishop’s attempts to facilitate the research, conservation, and protection of the Ararat site, after Bishop had directly verified the Ararat locales, ASOR reportedly took no action. But ASOR published a joint podcast, on April 4, 2014, with ASOR executive Andrew Vaughn and Defendant Eric Cline, on the Ararat archaeological site, in a “Friends of ASOR Podcast.” Ex. 99. Here, ASOR and Cline directly refer to Plaintiff’s ASOR lecture entitled: “Prehistoric Monumental Wood Structure” Ex. 99, 2:41. In the Podcast, ASOR (Vaughn) asks Defendant Cline if the Ararat site represents a “Prehistoric Monumental Wood Structure” and Cline responds: “Whatever they found it’s not prehistoric monumental wood.” Ex. 99, at 2:41. In the Podcast, ASOR and Cline ask and provide statements that from their sources in Turkey, the Ararat archaeological site is a “hoax,” represents modern wood “from the Black Sea,” and does

“not [represent] prehistoric monumental wood.” Ex. 99, 2:21, 2:41, and 3:17. Also, on the Podcast, Cline states that advocates for the preservation of the Ararat site “refuse to [let the site] be part of the scientific process” and demands the exposure of the location of the site despite that this archaeological locale is unprotected and Cline has relationships with defendants, who have criminal histories, associations with terrorism, in a region where antiquities are used to fund terrorism. Ex. 99, 5:00; ¶ 30, Ex. 15-20, 44-46, 64-65. Also, U.S. Federal and state statutes and custom instruct archaeologists not to reveal the location of sites under threat. *See* 54 U.S.C.A. § 300103 (“... shall withhold from disclosure to the public information about the location ... of a historic property if ... that disclosure may ... (2) risk harm to the historic property; ...”); *see also* ¶ 86 (Professor Rollefson: “. . . it is often the case that the exact location of archaeological sites is withheld from the public (and even local authority) information).” [sic]).

115. Despite being banned from Turkey for ties with the PKK, Cline’s associate, Amy Beam and the other Defendants continue to advertise Noah’s ark searches on the internet (Ex. 100, p. 2: “We lead legitimate Noah’s Ark searches annually on Mount Ararat”) while degrading the Ararat archaeological site as “some wood in an ice cave” and defaming the Plaintiff as a “fraud” supporting a “hoax” among other false statements. Ex. 101, p. 2; 102.

116. Because of the privacy invasion material on the internet published by the Defendants, Plaintiff has had to change his bank cards and checking account numbers two times because identity thieves stole Plaintiff’s identity and removed monies from Plaintiff’s bank account. Further Plaintiff has had to change or shift the majority of his communications to a new cell phone number, physical address, and electronic mail address. Also, Plaintiff has received numerous emails perpetrating frauds, numerous computer viruses and has had to replace his

computer, have experts erase his hard drive on five (5) occasions, close down two electronic mail addresses in their entirety, add lengthy passwords to all his email accounts, and replace a server on a corporate email address because persons or entities accessed Plaintiff's email and erased or removed documents from Plaintiff's electronic mail account.

DEFENDANT AMERICAN SCHOOLS OF ORIENTAL RESEARCH (“ASOR”)

117. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant ASOR. Tracking the language of Fla. Stat. § 48.193(1)(a), ASOR is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

118. ASOR regularly operates, conducts, and engages in business in the State of Florida including, but not limited to, ASOR committee on publications meetings, business meetings, CAP affiliated projects, regional associations, annual meetings, donor interactions, regional societies, directorships of excavations, interactions with Florida universities, academic programs, sourcing of archaeologists, sourcing of volunteers, and executive committee meetings. *Id.*, at § 48.193(1)(a)(1).

119. ASOR committed the tortious acts of defamation and conspiracy to defame within the State of Florida by publishing a defamatory podcast on the World Wide Web. *Id.*, at § 48.193(1)(a)(2).

120. ASOR caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff in Maryland and Massachusetts while ASOR regularly solicited memberships, fellowships, journal subscriptions, donations, attendance at its conferences, and ASOR's books and other goods from Florida residents and engaged in service activities such as conferences and associations in Florida. These goods, services, and products were used or consumed within Florida in the ordinary course of commerce, trade, or

use. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

121. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that ASOR's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper Holding Corp. v. Estate of Cutchin ex rel. Engle*, 955 So. 2d 598, 601 (Fla. 2d DCA 2007).

COUNT I: DEFAMATION

122. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner v. Flanagan*, 629 So. 2d 113, 115 (Fla. 1993); *Thomas v. Jacksonville Television, Inc.*, 699 So. 2d 800, 803 (Fla. 1st DCA 1997). A defamatory communication is a statement that "could" or "possibly have" a defamatory or harmful effect where the statement's "gist" or "sting" is defamatory by reference to the entire context. *Rubin v. U.S. News & World Report, Inc.*, 271 F.3d 1305, 1306 (11th Cir. 2001); *Green v. Times Pub. Co.*, 130 So. 3d 724, 7330 (Fla. 3d DCA 2014). The Second Restatement of Torts defines damages "either presumed or proved" including nominal, general, special, and emotional or bodily harm and injury. Restatement (Second) of Torts Sec. 558 (1977). In addition, slander *per se* is actionable on its face and general damages are presumed, but slander *per quod* requires additional definition of words to show defamatory meaning and plaintiff must allege and prove special damages. *Hoch v. Rissman, Weisberg, Barrett*, 742 So. 2d 451, 457 (Fla. 5th DCA 1999,

rev. denied, 760 So. 2d 948 (Fla. 2000). “[A]llegedly defamatory material about a Florida resident placed on the Web and accessible in Florida constitutes an ‘electronic communication into Florida’ when the material is accessed (or “published”) in Florida.” *Internet Solutions Corp. v. Marshall*, 39 So. 3d 1201, 1206 (Fla. 2010). “A defamatory statement does not become actionable . . . until it is published or communicated to a third person; statements made to the person alleging the defamation do not qualify.” *Am. Ideal Mgmt., Inc. v. Dale Village, Inc.*, 567 So. 2d 497, 498 (Fla. 4th DCA 1990); *Granda-Centeno v. Lara*, 489 So. 2d 142, 143 (Fla. 3d DCA 1986); *Am. Airlines Inc. v. Geddes*, 960 So. 2d 830, 833 (Fla. 3d DCA 2007). In some instances, a statement of opinion may be a false statement of fact if the statement is expressly stated or implied from an expression of opinion. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 110 S. Ct. 2695, 111 L. Ed. 2d 1 (1990); *Fla. Med. Ctr., Inc. v. New York Post Co., Inc.*, 568 So. 2d 454 (Fla. 4th DCA 1990). The statute of limitations for defamation is two years. Fla. Stat. §95.11(4)(g).

124. Here, publications occurred because Defendant ASOR stated to third parties at the ASOR conference in Maryland on November 22, 2013, and in an ASOR podcast published on April 4, 2014, on the World Wide Web, that the Ararat archaeological site was a “hoax,” an “ice cave,” a recently manufactured “Chinese site,” represented modern wood from the “Black Sea,” that it was wrong for site’s advocates to not reveal the location of the site to the general public, and that Plaintiff was advocating a hoax. ¶¶ 86, 114, Ex. 99, App. D.

125. The ASOR podcast published on the World Wide Web was received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouhecourt in Duval County,

Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. pp. 2, 29, ¶¶ 99-103, 105-108, 114, Ex. 99.

126. ASOR's statements were false because the Ararat site is a factual archaeological site and Plaintiff advocated for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

127. Defendant ASOR acted "with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person" because ASOR is a premier archaeological organization in the Near East, Plaintiff showed Defendant prior to ASOR's defamatory actions that the wood architecture and artifacts at the Ararat archaeological site conform to other archaeological sites in eastern Turkey, having radiocarbon dates older than 100 years of age, and it is published and common knowledge, particularly among archaeologists, that archaeological sites are found in eastern Turkey at high elevations and on Mount Ararat (Ağrı Dagi). *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, App. C, pp. 65-66, App. D (ASOR Presentation), pp. 2.

128. Defendant's false statements caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of ASOR publications at the Maryland archaeological conference and publication of ASOR's podcast on the World Wide Web, the latter received by third parties in Duval County and other locales in Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108, 114, Ex. 94, p. 4, 99.

129. ASOR's statements were defamatory by stating that the Ararat archaeological site the Plaintiff was attempting to protect and preserve was a hoax and a fabrication would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax would infer gross ineptitude or other negative implications.

130. Defendant's defamatory acts against the Plaintiff that occurred during and after the ASOR conference, on November 22, 2013, and in the podcast published on the World Wide Web, on April 4, 2014, were within the two-year statute of limitations for defamation from the filing of this suit on September 20, 2015. ¶¶ 84, 86-88, 114, Ex. 99, App. D.

131. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASOR and that he be awarded (i) mandatory injunctions, to enjoin Defendant ASOR to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

132. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful

means, which results in damage to the plaintiff. *Rivers v. Dilliards Dep't Store, Inc.*, 698 So. 2d 1328, 1333 (Fla. 1st DCA 1997). A claim of conspiracy to defame requires plaintiff to allege a common plan or scheme or actions in concert. *Hoch v. Rissman*, 742 So. 2d 451, 460-61 (Fla. 5th DCA 1999). Conspiracy may be proven by circumstantial evidence when the influence sought to be created by this evidence outweighs reasonable inferences to the contrary. *Diamond v. Rosenfield*, 511 So. 2d 1031, 1034 (Fla. 4th DCA 1987). Civil conspiracy can exist as an independent tort if the plaintiff can demonstrate a peculiar power of coercion possessed by the conspirators by virtue of their combination that an individual would not possess, particularly “a malicious motive and coercion through numbers and economic influence.” *Churruca v. Miami Jai-Alai, Inc.*, 353 So. 2d 547, 550 (Fla. 1977); *Wilcox v. Stout*, 637 So. 2d 335, 336 (Fla. 2d DCA 1994). A cause of action for civil conspiracy usually exists if the basis for the conspiracy is an independent wrong or tort would constitute a cause of action done by one person. *Cedar Hills Props. Corp. v. E. Fed. Corp.*, 575 So. 2d 673, 676 (Fla. 1st DCA 1991), *rev. denied*, 589 So. 2d 290 (Fla. 1991); *Kurnow v. Abbott*, 2013 Fla. App. LEXIS 9368, at *6-7 (Fla. Dist. Ct. App. 1st Dist. June 13, 2013); *cf. Beck v Lipkind*, 681 So. 2d 794, 795 (Fla. 3d DCA 1996) (Holding a cause of action for defamation is necessary to predicate to a cause of action for conspiracy to defame). Regarding persuasive authority, Federal case law requires a “plus factor” in civil conspiracy suits—either a strong motive to conspire or acting against self-interest. *Twombly v. Bell Atlantic Corp.*, 313 F. Supp. 2d 174, 179 (S.D.N.Y. 2003) (District Judge Lynch opining that plaintiffs in civil conspiracy cases should plead a “plus factor . . . that the parallel behavior would have been against individual defendants’ economic interests absent an agreement, or that defendants possessed a strong common motive to conspire.”). The statute of limitations for civil

conspiracy is four years. Fla. Stat. §95.11(3)(p); *Young v. Ball*, 835 So. 2d 385 (Fla. 2nd DCA 2003).

134. Here, the additional element is that Defendant ASOR engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, prior to the Plaintiff’s presentation on November 22, 2016, ASOR representatives forbade anyone from recording Plaintiff’s presentation on the Ararat archaeological site. ¶ 87. Second, immediately after Plaintiff’s presentation, ASOR representatives, specifically Defendant Cline and another female, stated the site represented a hoax: a “Chinese site,” and “ice-cave,” that Plaintiff did not have a “permit” mimicking statements by other Defendants. ¶ 86, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5. Second, after ASOR filmed a shorter version of Plaintiff’s presentation the next day, on November 23, 2016, ASOR refused to release the presentation on the World Wide Web. *Id.* at ¶ 87.

135. The additional element that Defendant ASOR engaged in “common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff is also evidenced by ASOR’s Podcast. Here, Defendant ASOR published the podcast on April 4, 2014, on the World Wide Web, and in Duval County, Florida. ¶ 114, Ex. 99. Here, Defendants ASOR (Vaughn) and Cline referred to Plaintiff’s ASOR lecture entitled “Prehistoric Monumental Wood Structure . . . ,” coordinated efforts to record and publish a joint Podcast, and stated the Ararat archeological site was a “hoax,” represented modern wood “from the Black Sea,” did “not [represent] prehistoric monumental wood,” and that this information was from Turkey, which parroted statements and location of Defendants. ¶ 114, Ex. 99, 2:21, 2:41, 3:17, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5.

136. Here, Plaintiff cites circumstantial evidence that Defendants agreed and acted in concert to defame Plaintiff at the ASOR conference. First, two defendants in this suit, Richard Bright and Amy Beam, previously worked with an ASOR associate (Defendant Cline) in a television program about Noah's ark. ¶ 86, Ex. 62 & 63; *Diamond*, 511 So. 2d at 1034. Second, ASOR's defamatory statements toward the Plaintiff s that Plaintiff advocated a "hoax," "Chinese site," "ice cave"—copy the wording used by the Sahin brothers and other Defendants in this suit, namely Amy Beam, John Randall Price, and Don Patton. Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5. Third, ASOR cites that its sources are "from Turkey," the location of Defendants in this suit. ¶ 114, Ex. 99, 3:17.

137. Here, regarding the Federal "plus factor[s]" in civil conspiracy, Defendant ASOR possessed a "strong motive to conspire" to defame the Plaintiff because the presence of actual wood constructions on Mount Ararat from prehistoric periods conflicted with Defendant's assumption of the Ararat site being a pseudo-science project or hoax, despite that large sites from Neolithic periods (9,800-6,800 BC) and later were discovered in eastern Turkey. *Twombly*, 313 F. Supp. 2d at 179; ¶¶ 26-27.

138. ASOR's defamation of the Plaintiff and denigration of an archaeological site was "against self-interest" because ASOR is a professional organization dedicated to the preservation of cultural sites. *Twombly*, 313 F. Supp. 2d at 179; ¶¶ 16, 87; Ex. 66 & 67. However, here, Defendant ASOR did not review the information produced by the Plaintiff or by another of its Board of Trustees (Sheila Bishop) but ignored and worked to suppress the archaeological data from the Ararat site (¶¶ 86-87, 112-114), defame the Plaintiff (¶¶ 86-87, 114), and supported other defendants such as Price and Beam, who acquired donor monies to dig a hole in the ice,

which Price and Beam advertised as a Noah's ark dig or "legitimate Noah's Ark searches." ¶¶ 35-42, 45-47, 101, p. 2. Here, ASOR disregarded data on a rare well-preserved archaeological site and instead worked with other defendants to defame the Plaintiff, denigrate an actual archaeological site, and conversely facilitate a "Noah's ark dig"—a pseudo-science activity.

139. Defendant's acts in conspiring with other Defendants to defame the Plaintiff occurred during and after the ASOR conference, on November 22, 2013, and in the Podcast published on the World Wide Web, on April 4, 2014, are within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p); Complaint, ¶¶ 84, 86-88, 114, Ex. 99, App. D.

140. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASOR and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: NEGLIGENCE

141. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

142. The four elements of a negligence charge are (1) a duty, or obligation, recognized by the law, requiring the defendant to conform to a certain standard of conduct, for the protection

of others against unreasonable risks; (2) a failure on the defendant's part to conform to the standard required: a breach of the duty; (3) a reasonably close causal connection between the conduct and the resulting injury, which is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact, and (4) actual loss or damage. *Curd v. Mosaic Fertilizer, LLC*, 39 So. 3d 1216 (Fla. 2010); *Jenkins v. W.L. Roberts, Inc.*, 851 So. 2d 781, 783 (Fla. 1st DCA 2003); *Kayfetz v. A.M. Best Roofing, Inc.*, 832 So. 2d 784, 786 (Fla. 3d DCA 2002), *rev. denied*, 851 So. 2d 728 (Fla. 2003). The Restatement (Second) of Torts identifies four sources of duty: (1) legislative enactments or administration regulations; (2) judicial interpretations of such enactments or regulations; (3) other judicial precedent; and (4) a duty arising from the general facts of the case. *Clay Elec. Co-op., Inc. v. Johnson*, 873 So. 2d 1182, 1185 (Fla. 2003); *Curd*, 39 So. 3d at 1227-1228.

The statute books and case law . . . are not required to catalog and expressly proscribe every conceivable risk in order for it to give rise to a duty of care. Rather, each defendant who creates a risk is required to exercise prudent foresight whenever others may be injured as a result. This requirement of reasonable, general foresight is the core of the duty element.

McCain v. Fla. Power Corp., 593 So. 2d 500, 503 (Fla. 1992); *see Aguila v. Hilton, Inc.*, 878 So. 2d 392, 395 (Fla. 1st DCA 2004), *rev. denied*, 891 So. 2d 549 (Fla. 2004); *Nat'l Title Ins. Co. v. Lakeshore 1 Condo. Ass'n, Inc.*, 691 So. 2d 1104, 1106 (Fla. 3d DCA 1997). Florida law recognizes (1) a legal duty arises whenever a human endeavor creates a generalized and foreseeable risk of harming others; (2) a defendant's duty to lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk imposes. *Id.*; *Gross v. Sand & Sea Homeowners Assoc., Inc.*, 756 So. 2d 1073, 1075 (Fla. 4th DCA 2000). Further, if a defendant's conduct creates a "foreseeable zone of risk" or likelihood that defendant's conduct

would result in the type of injury suffered by the plaintiff, Florida courts will generally recognize a duty placed upon the defendant to lessen the risk or protect others from the harm posed by the risk; and trial and appellate courts cannot find a lack of duty if this zone of risk was more likely than not created by a defendant. *McCain*, 593 So. 2d at 503 (citing *Kaisner v. Kolb*, 543 So. 2d 732, 735 (Fla. 1989)). Whether injury was foreseeable must be left to the fact-finder. *Whitt v. Silverman*, 788 So. 2d 210, 216 (Fla. 2001). In addition, a breach of industry standards is evidence of negligence. *Hilliard v. Speedway Superamerica LLC*, 766 So. 2d 1153 (Fla. 4th DCA 2000). Also, Florida recognizes a common law cause of action against professionals based on their acts of negligence despite the lack of direct contract between the professional and the aggrieved party. *Stone's Throw Condo. Assoc., Inc. v. Sand Cove Apartments, Inc.*, 749 So. 2d 520, 522 (Fla. 2d DCA 1999). A cause of action in negligence encompasses not only negligent acts, but the negligent failure to act as well. *Padgett v. Sch. Bd. of Escambia Cty.*, 395 So. 2d 584, 585-86 (Fla. 1st DCA 1981). Tortfeasors who contribute to cause an indivisible injury are responsible for the entire injury. *Gross v. Lyons*, 763 So. 2d 276, 279 (Fla. 2000). The statute of limitations for negligence is four years. Fla. Stat. §95.11(3)(a); *Elmore v. Fla. Power & Light Co.*, 895 So. 2d 475, 478 (Fla. 4th DCA 2005). Other aspects of Florida negligence actions include gross negligence, negligence in hiring or retention, and vicarious liability—each are discussed separately below.

143. For archaeologists and archaeological organizations, the duty of care: “to mitigate the loss of historic properties” applies to both the historic site and persons attempting to mitigate loss of cultural material or data at these sites. Historic properties and materials are over 50 or 100 years of age (*Metropolitan Dade County v. P.J. Birds, Inc.*, 654 So. 2d 170, 175 (Fla. 3d DCA

1995) (Noting 50 years); *Cf.*, 16 U.S.C.A. § 470bb(1) (Archaeological Resources Protection Act citing, “at least 100 years of age.”); UNESCO Convention 2001 (Noting 100-year threshold); 36 C.F.R. § 60.4 (U.S. National Register criteria noting 50-year rule for “historic property”).

143. Contrasting the elements of defamation, which include harm to a victim’s person or property, breaching an archaeological duty of care results in damage to a historic property usually not owned by the victim. *Klein v. The Unidentified Wrecked and Abandoned Sailing Vessel*, 758 F.2d 1511, 1515 (11th Cir. 1985) (Holding breach of duty of care when appellant’s activities placed historic site in greater peril); *Cobb Coin Co. v. The Unidentified, Wrecked and Abandoned Sailing Vessel*, 549 F. Supp. 540, 559-60 n. 20 (S.D. Fla. 1982) (Noting fundamental duty to engage in and document protection and preservation efforts of a historic site); *Int’l Aircraft Recovery, L.L.C. v. The Unidentified, Wrecked and Abandoned Aircraft*, 54 F. Supp. 2d 1172, 1181-82 (S.D. Fla. 1999), *rev’d*, 218 F.3d 1255 (11th Cir. 2000), *cert. denied*, 121 S. Ct. 1079 (2001) (Requiring activities to stabilize and preserve a historic site).

144. Various courts have defined the elements of the archaeological duty of care as the (1) preservation of provenance data; (2) research at libraries for historical records, use of archaeological methods to map and excavate a site, performance of conservation techniques, employment of experts to help with assessment and preservation of the artifacts; (3) [a]rchaeological preservation, onsite photography, and marking of sites; and (4) mapping and recording the location, depth, and proximity of each artifact. *Cobb Coin Co.*, 549 F. Supp. at 559; *Marex Int’l, Inc.*, 952 F. Supp. at 829; *MDM Salvage, Inc. v. The Unidentified, Wrecked and Abandoned Sailing Vessel*, 631 F. Supp. 308, 310 (S.D. Fla. 1986); *Fathom Exploration, LLC v. The Unidentified Shipwrecked Vessel or Vessels, Etc.*, 2005 A.M.C. 669, 684 (S.D. Ala.

2005). In addition, the U.S. Secretary of the Interior provides standards and guidelines for archaeologists that include historical and archival research, gathering relevant data, implementation of the research design to accommodate the discovery of new or unexpected data classes or properties, studying artifact types and distribution, and radiometric and other means of age determination. U.S. Secretary of Interior, *Guidelines for Archaeological Documentation* (September 5, 2015, at 9:45 AM), http://www.nps.gov/history/local-law/arch_stnds_7.htm#methods.

145. Florida courts hold historic preservation efforts to such importance that even a “futile” effort to preserve requires ministerial duties to process historic preservation applications. *Stranahan House, Inc. v. City of Fort Lauderdale*, 927 So. 2d 1068, 1069 (Fla. 4th DCA 2006); *cf. Metro. Dade Cty. v. P.J. Birds, Inc.*, 654 So. 2d 170, 175 (Fla. 3d DCA 1995) (Supporting historic designation despite additions to structure less than fifty years of age).

146. Also contrasting with defamation, negligence by an archaeologist causes harm to cultural material belonging to historic or ancient cultures, native communities, or nations that seek to preserve their cultural heritage via statute and civil or criminal penalties. *E.g.*, 16 U.S.C.A. § 470; 36 C.F.R. § 60.4; 54 U.S.C.A. § 300101 (National Historic Preservation Act noting policy: “[I]n cooperation with other nations . . . and private organizations and individuals, to . . . (2) provide leadership in the preservation of the historic property . . . of the international community of nations.”).

147. Further contrasting with defamation, negligence by an archaeologist harms the ability of (1) an individual person engaged in historic preservation, whether a professional or a volunteer, from mitigating the loss of a historic property; (2) other persons and legal entities

engaged in historic preservation; and (3) cultures, tribes, nations, and other larger entities attempting to preserve their cultural heritage. For example, if a negligent archaeologist or archaeological organization labels an actual historic site a “hoax,” this could degrade the willingness of other archaeologists or conservationists, historic preservation entities, and state antiquities authorities from protecting, preserving, or even evaluating an historic site. Further, looters removing actual historic cultural material from an alleged modern “hoax” face few if any civil or criminal charges because intent or knowledge is usually a prerequisite for civil or criminal liability. 16 U.S.C.A. § 470bb(1) (Defining archaeological resource as “remains of past human life or activities which are of archaeological interest . . . at least 100 years of age.”).

148. Here, ASOR agrees with U.S. Federal and state statutes regarding an archaeological duty of care and openly professes its objectives to “initiate, encourage and support research into, and public understanding of, the cultures and history of the Near East from the earliest times”; “fostering original research . . . and explorations”; “maintaining the highest ethical standards of scholarship and public discourse.” ¶ 87, Ex. 66 & 67. ASOR’s archaeological duty of care is also supported in its publications to mitigate loss of historic properties in the Near and Middle East through documentation, mitigation and restoration, and capacity building. Gil J. Stein, *The War-Ravaged Cultural Heritage of Afghanistan: An Overview of Projects of Assessment, Mitigation, and Preservation*, 78 (3) *Near Eastern Archaeology*, Special Issue: The Cultural Heritage Crisis in the Middle East. 187, 190 (2015); accord, Elizabeth C. Stone, *An Update on the Looting of Archaeological Sites in Iraq*, 78 (3) *Near Eastern Archaeology*, Special Issue: The Cultural Heritage Crisis in the Middle East. 178, 178 (2015). Particularly, offensive to ASOR is that the “Islamic State has developed an unusual

practice of deliberately damaging archaeological sites and museums . . . attacks on local shrines and holy places” and then propagandizing these efforts. Ömür Harmanşah, *ISIS, Heritage, and the Spectacles of Destruction in the Global Media*, 78 (3) *Near Eastern Archaeology*, Special Issue: The Cultural Heritage Crisis in the Middle East. 170, 170 (2015). ASOR’s repulsion agrees with Florida hate-crime statutes for criminal acts: “A biased-motivated crime . . . wherein the perpetrator intentionally selects the victim because of . . . religion.” *State v. Stalder*, 630 So. 2d 1072, 1077 (Fla. 1994).

149. However, ASOR breached its duty of care because first, ASOR purposefully suppressed archaeological data on the Ararat archaeological site by ordering attendees at Plaintiff’s ASOR presentation to not record the lecture, prevented the subsequent release of Plaintiff’s presentation on the site, failed to accomplish any measures to document or preserve an archaeological site in peril, and actively worked against archaeologists attempting to preserve the site, allowing both looting and melting permafrost to further harm this historic locale. ¶¶ 86, 87, 112, 114; Ex. 64, 66, 67, 68, 98, 99; App. D, H.

150. Second, ASOR breached its duty of care making false statements with other Defendants in this suit and purposefully prepared, planned, and acted to degrade the actual archaeological site as a “hoax,” “Chinese site,” “ice cave” and falsely claim the Plaintiff was advocating a hoax. Here, ASOR caused harm to the Plaintiff and an archaeological site by actively working against efforts to document and mitigate the damage to the Ararat archaeological site and then publishing efforts into Florida that hurt a Florida archaeologist, a historic preservation firm, and efforts by other archaeologists, that are ultimately causing tremendous harm to a defenseless archaeological site. ¶¶ 86, 87, 112, 114; Ex. 64, 66, 67, 68, 98,

99; App. A-H.

151. Third, ASOR breached its duty of care by adding to the “Cultural Heritage Crisis” in the Near East by its efforts to suppress information and prevent the protection, preservation, and research of an archaeological site by preventing the recording or dissemination of the data, by misrepresenting that the archaeological site did not exist, and by harming the ability of the Plaintiff, a professional archaeologist, to conduct historic preservation efforts at the Ararat archaeological site and other historic locales. *Id.*; *see supra* pp. 2, 29; ¶¶ 86-87, 99-103, 105-108, 114, Ex. 94, p. 4, 99.

152. Fourth, here, like in *Klein, Padgett, and Lakeshore 1 Condo*, ASOR made no effort, “failed to act,” and took no “precautions” to “initiate, encourage, and support research” [ASOR’s mission statement] by the Plaintiff or other archaeologists to protect the Ararat archaeological site even though two professional archaeologists belonging to ASOR—Plaintiff and Bishop—both attested to the veracity, historicity, or magnitude of historic cultural material at the Ararat locale. *Klein*, 758 F.2d at 1515; *Padgett*, 395 So. 2d at 585-586; *Lakeshore 1*, 691 So. 2d at 1106; ¶¶ 86, 87, 112, 114; App. D, p. 24; App. C, F, H.

153. ASOR’s breach of duty would create a “foreseeable zone of risk” because it is likely that as a premier historic preservation in the Near East, ASORs actions to (1) purposefully suppress information on the Ararat archaeological site by forbidding the recording or dissemination of Plaintiff’s ASOR lecture, and (2) publish and not remove publications referencing Plaintiff’s ASOR lecture and then degrading the site as a “hoax,” “Chinese site,” representing modern wood from the Black Sea would inhibit the Plaintiff and other historic preservation entities (e.g., Bishop) from protecting the Ararat locale and other historic

preservation sites and cause other harms such as prevention of employment as an archaeologist or loss of archaeological contracts for Plaintiff's historic preservation firm. *See supra* ¶¶ 86-87, 112, 114, Ex. 94, p. 4, 99 (Citing ASOR's tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff). It is also likely that ASOR's efforts to degrade the site and the Plaintiff would prevent other archaeologists, historic preservation firms, or state antiquity authorities from engaging in preservation efforts at the Ararat archaeological site because ASOR labeled the site a "hoax" and historic preservation efforts do not extend to a "hoax" comprising "modern" wood from the Black Sea. Lastly, it is likely that ASOR's intentional efforts to degrade an actual archaeological site by stating the locale was a "hoax" and prepare, plan, and act to cause its members embarrass, humiliate, or conceal archaeological efforts by the Plaintiff and others would cause others to neglect preservation efforts at the Ararat site and subject the locale to looting and the locale's organic artifacts and architecture to damage by melting permafrost. ¶¶ 21-27; App. D, p. 24; *see* ¶¶ 86, 87, 112, 114, Ex. 99.

154. Again, ASOR's breach of duty of archaeological care not only caused specific harm pertaining to this Count, namely preventing the Plaintiff and other historic preservation entities (e.g., Bishop) from protecting the Ararat locale but also caused the Plaintiff other harms such as loss of employment as an archaeologist, loss of archaeological contracts for Plaintiff's historic preservation firm, breach of historic preservation contracts, and other damages. *See supra* ¶¶ 86-87, 112, 114, Ex. 94, p. 4, 99 (Citing ASOR's tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff).

COUNT IV: GROSS NEGLIGENCE

155. Gross negligence is established by facts showing a reckless disregard of human life or rights which is equivalent to an intentional act or a conscious indifference to the

consequences of an act. *Rapp v. Bryant*, 417 So. 2d 658, 670 (Fla. 1982). The statute of limitations for negligence is four years. Fla. Stat. §95.11(3)(a).

156. Here, ASOR showed intentionality by planning, preparing, and executing a confrontation by two of its members at Plaintiff's ASOR lecture, on November 22, 2013, where Defendant Cline and other female agent of ASOR degraded the eastern Anatolia site as an "ice-cave" and "Chinese site" inferring Plaintiff advocated a hoax. ¶¶ 86-87, App. D.

157. Here, ASOR showed intentionality by openly ordering attendees at Plaintiff's ASOR lecture, on November 22, 2013, to not record Plaintiff's presentation and then refused to disseminate the presentation after ASOR filmed Plaintiff presentation on November 23, 2013. ¶¶ 86-87, App. D.

158. Here, ASOR showed intentionality by having its executive Andrew Vaughn plan, prepare, record, and publish on the World Wide Web, on April 4, 2014, an interview by Eric Cline where both participants cited Plaintiff's ASOR lecture and then stated the Ararat site was a "hoax," representing modern wood from the "Black Sea," a "Chinese site, and "ice cave." Even after, Sheila Bishop, a Trustee of ASOR, and other archaeologist (Rensen) later surveyed and supported the veracity of the site, ASOR failed to remove the Podcast from the World Wide Web. ¶¶ 112-114, Ex. 99.

159. ASOR's intentional and reckless behavior caused damages, namely Plaintiff's economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. ASOR's intentional acts also caused harm specific to this Count, namely Plaintiff's ability to protect, preserve, and

research the Ararat archaeological site. *See* ¶¶ 142-146, 153-154. Further, ASOR’s intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. *Id.*

COUNT V: VICARIOUS LIABILITY

160. Vicarious liability requires a negligent act by an employee that is committed within the course and the scope of their employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So. 2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations related to vicarious liability is four years. Fla. Stat. §95.11(3)(a).

161. Here, ASOR’s employees acted within the scope of their employment because the Defendant Cline and another female ASOR employee staged a confrontation of the Plaintiff during an ASOR conference, after the female ASOR agent order persons to not record Plaintiff’s lecture on the Ararat archaeological site, while both claimed the actual historic property in eastern Turkey was a hoax: an “ice-cave” and “Chinese site” inferring Plaintiff advocated a hoax. ¶¶ 86-87, App. D.

157. Here, ASOR’s employees acted within the scope of their employment because the videographer employed by ASOR filmed Plaintiff’s presentation on November 23, 2013, and then ASOR refused to publish the lecture. ¶¶ 86-87, App. D.

158. Here, ASOR employees acted within the scope of their employment because ASOR’s Executive Director, Andrew Vaughn, participated in, recorded, and published on the World Wide Web, on April 4, 2014, an interview with Eric Cline, who had been promoted to co-editor of ASOR’s major journal. Here, both participants cited Plaintiff’s ASOR lecture and then stated the Ararat site was a “hoax,” representing modern wood from the “Black Sea,” a “Chinese

site, and “ice cave.” Even after Sheila Bishop, a Trustee of ASOR, and another archaeologist (Rensen) later surveyed and supported the veracity of the site, ASOR failed to remove the Podcast from the World Wide Web. ¶¶ 112-114, Ex. 99.

159. ASOR’s employees, namely Andrew Vaughn, Defendant Eric Cline, and an yet-to-be named female employee tortiously acted against the defendant during the scope of their employment because their activities occurred during ASOR conferences, in ASOR publications, while they performed as employees, namely as Executive Director (Vaughn) and Co-Editor (Cline) for ASOR.

160. As such, Defendant ASOR is liable for the damages caused to the Plaintiff by ASOR’s employees acting within the scope of their employment. These aforementioned damages include but are not limited to economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff’s reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. ASOR’s intentional acts also caused harm specific to this Count, namely Plaintiff’s ability to protect, preserve, and research the Ararat archaeological site. *See* ¶¶ 142-146, 153-154. Further, ASOR’s intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. *Id.*

161. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant ASOR for negligence and vicarious liability, or a combination thereof, and that he be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages

including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

162. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASOR, for gross negligence, and that he be awarded economic damages for past, present, and future wage loss or diminution, attorney's fees, and court costs. Also, a finding of gross negligence enables Plaintiff to request non-economic damages including but not limited to loss of consortium. Plaintiff's request for punitive damages will be filed separately. Further, Plaintiff requests a trial by jury.

DEFENDANT ERIC CLINE (“CLINE”)

163. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Cline. Tracking the language of Fla. Stat. § 48.193(1)(a), Cline is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

164. Cline directly and through agents repeatedly engaged in business in Florida because Cline performed paid lectures in Florida; sold books, compact discs, and other materials in Florida; directly promoted or promoted through agents his goods and services in Florida; solicited volunteers for his work projects from Florida; was the co-editor of a magazine that sold subscriptions in Florida; and acquired a leadership role in a non-profit organization that solicited memberships throughout Florida. *Id.*, at § 48.193(1)(a)(1).

165. Cline committed the tortious acts of defamation and conspiracy to defame within the State of Florida by publishing a defamatory podcast on the World Wide Web and in Duval County. *Id.*, at § 48.193(1)(a)(2).

166. Cline caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff in Maryland and Massachusetts while Cline regularly solicited journal subscriptions, donations, attendance at his lectures, and Cline's books and other goods from Florida residents and engaged in service activities such as conferences and associations in Florida. These goods, services, and products were used or consumed within Florida in the ordinary course of commerce, trade, or use. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

167. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Cline's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

168. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

169. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

170. Here, publications occurred because Defendant Cline stated to third parties at the ASOR conference in Maryland on November 22, 2013, and in an ASOR podcast published on April 4, 2014, on the World Wide Web, that the Ararat archaeological site was a "hoax," an "ice cave," a recently manufactured "Chinese site," represented modern wood from the "Black Sea," and that it was wrong for site's advocates to not reveal the location of the site to the general public, and that Plaintiff was advocating a hoax. ¶¶ 86, 114, Ex. 99, App. D.

171. Cline's defamatory statements were made on an ASOR podcast that was published on the World Wide Web was received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouhecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. pp. 2, 29, ¶¶ 99-103, 105-108,

114, Ex. 99.

172. Cline's statements were false because the Ararat site is a factual archaeological site and Plaintiff advocated for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

173. Defendant Cline acted "with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person" because Cline is a noted archaeologist in the Near East, Plaintiff showed Defendant prior to Cline's defamatory actions that the wood architecture and artifacts at the Ararat archaeological site conform to other archaeological sites in eastern Turkey, with radiocarbon dates older than 100 years of age, and it is published and common knowledge, particularly among archaeologists, that archaeological sites are found in eastern Turkey at high elevations and on Mount Ararat (Ağrı Dagi). *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, App. C, pp. 65-66, App. D (ASOR Presentation), pp. 2.

174. Defendant Cline's false statements caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Cline's statements at the Maryland archaeological conference and in ASOR's podcast on the World Wide Web, the latter received by third parties in Duval County and other locales in Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108, Ex. 94, p. 4, 99.

175. Cline's statements were defamatory by stating that the Ararat archaeological site

the Plaintiff was attempting to protect and preserve was a hoax and a fabrication would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax would infer gross ineptitude or other negative implications.

176. Defendant Cline's defamatory acts against the Plaintiff occurred during and after the ASOR conference, on November 22, 2013, and in a podcast published on the World Wide Web, on April 4, 2014. These acts were within the two-year statute of limitations for defamation from the filing of this suit on September 20, 2015. ¶¶ 84, 86-88, 114, Ex. 99, App. D.

177. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Cline and that he be awarded (i) mandatory injunctions, to enjoin Defendant Cline to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

178. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

179. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by

unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

180. Here, the additional element is that Defendant Cline engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, prior to the Plaintiff’s presentation on November 22, 2016, a female ASOR representative forbade anyone from recording Plaintiff’s presentation on the Ararat archaeological site. ¶ 87. Second, immediately after Plaintiff’s presentation, Defendant Cline and a female stated the Ararat archaeological site represented a hoax: a “Chinese site,” and “ice-cave,” that Plaintiff did not have a “permit” mimicking statements by other Defendants. ¶ 86, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5. Second, after ASOR filmed a shorter version of Plaintiff’s presentation the next day, on November 23, 2016, ASOR refused to release the presentation on the World Wide Web. *Id.* at ¶ 87.

181. The additional element that Defendant Cline engaged in “common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff is also evidenced by ASOR’s Podcast. Here, Defendants ASOR and Cline published the podcast on April 4, 2014, on the World Wide Web, and in Duval County, Florida. ¶ 114, Ex. 99. Here, Defendants ASOR (Vaughn) and Cline referred to Plaintiff’s ASOR lecture entitled “Prehistoric Monumental Wood Structure . . . ,” coordinated efforts to record and publish a joint Podcast, and stated the Ararat archeological site was a “hoax,” represented modern wood “from the Black Sea,” did “not [represent] prehistoric monumental wood,” and that this information was from Turkey, which parroted statements and location of other Defendants. ¶ 114, Ex. 99, 2:21, 2:41, 3:17, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5.

182. Here, Plaintiff cites circumstantial evidence that Defendants agreed and acted in

concert to defame Plaintiff at the ASOR conference. First, two defendants in this suit, Richard Bright and Amy Beam, previously worked Defendant Cline in a television program about Noah's ark. ¶ 86, Ex. 62 & 63; *Diamond*, 511 So. 2d at 1034. Second, Cline's defamatory statements toward the Plaintiff s that Plaintiff advocated a "hoax," "Chinese site," "ice cave"—copy the wording used by the Sahin brothers and other Defendants in this suit, namely Amy Beam, John Randall Price, and Don Patton. Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5. Third, Cline cites that his sources are "from Turkey," the location of Defendants such as Beam in this suit. ¶ 114, Ex. 99, 3:17.

183. Here, regarding the Federal "plus factor[s]" in civil conspiracy, Defendant Cline possessed a "strong motive to conspire" to defame the Plaintiff because the presence of actual wood constructions on Mount Ararat from prehistoric periods conflicted with Cline's assumption of the Ararat site being a pseudo-science project or hoax, despite that large sites from Neolithic (9,800-ca. 4,000 BC) and later periods were discovered in eastern Turkey. *Twombly*, 313 F. Supp. 2d at 179; ¶¶ 26-27.

184. Cline's defamation of the Plaintiff and denigration of an archaeological site was "against self-interest" because Cline is a professional archaeologist that espouses the preservation of cultural sites and the employment of the scientific method. *Twombly*, 313 F. Supp. 2d at 179; ¶ 114; Ex. 99. However, here, Defendant Cline did not review the information produced by the Plaintiff or by another member of ASOR's Board of Trustees (Bishop) but ignored and worked to suppress the archaeological data from the Ararat site (¶¶ 86-87, 112-114), defame the Plaintiff (¶¶ 86-87, 114), and supported other defendants such as Price and Beam, who acquired donor monies to dig a hole in the ice, which Price and Beam advertised as a

Noah's ark dig or "legitimate Noah's Ark searches." ¶¶ 35-42, 45-47, 101, p. 2. Here, Cline disregarded data on a rare well-preserved archaeological site and instead worked with other defendants to defame the Plaintiff, denigrate an actual archaeological site, and conversely facilitate a "Noah's ark dig," a pseudo-science activity.

185. Cline's acts in conspiring with other Defendants to defame the Plaintiff occurred during and after the ASOR conference, on November 22, 2013, and in the Podcast published on the World Wide Web, on April 4, 2014, are within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p); Complaint, ¶¶ 84, 86-88, 114, Ex. 99, App. D.

186. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Cline and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: NEGLIGENCE

187. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

188. Plaintiff incorporates case law for a Florida negligence cause from ¶ 142. The four elements of a negligence charge are (1) a duty, or obligation, recognized by the law,

requiring the defendant to conform to a certain standard of conduct, for the protection of others against unreasonable risks; (2) a failure on the defendant's part to conform to the standard required: a breach of the duty; (3) a reasonably close causal connection between the conduct and the resulting injury, which is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact, and (4) actual loss or damage. *Curd*, 39 So. 3d at 1216

189. Plaintiff incorporates Federal and Florida case law for negligence for an archaeologist from ¶ 143 to 147. For archaeologists and archaeological organizations, the duty of care: "to mitigate the loss of historic properties" applies to both the historic site and persons attempting to mitigate loss of cultural material or data at these sites.

190. Here, Cline would agree with U.S. Federal and state statutes and ASOR's professed objectives regarding an archaeological duty of care to "initiate, encourage and support research into, and public understanding of, the cultures and history of the Near East from the earliest times"; "fostering original research . . . and explorations"; "maintaining the highest ethical standards of scholarship and public discourse." ¶ 87, Ex. 66 & 67. Cline's archaeological duty of care is also supported in Cline's publications to mitigate loss of historic properties in the Near East, particularly in Israel.

191. However, Cline breached his archaeological duty of care because Cline failed to halt ASOR's purposeful suppression of archaeological data on the Ararat archaeological site when ASOR ordering attendees to not record Plaintiff's ASOR lecture, may have worked to prevent the subsequent release of Plaintiff's presentation on the site, failed to accomplish any measures to document or preserve the Ararat archaeological site in peril, and actively worked against the Plaintiff, who was attempting to preserve the site, allowing both looting and melting

permafrost to further harm this historic locale. ¶¶ 86, 87, 112, 114; Ex. 64, 66, 67, 68, 98, 99; App. D, H.

192. Second, Cline breached his duty of care making false statements with other Defendants in this suit and purposefully prepared, planned, and acted to degrade the actual archaeological site as a “hoax,” “Chinese site,” “ice cave” and that Plaintiff was advocating a hoax. Here, Cline caused harm to the Plaintiff and an archaeological site by actively working against efforts to document and mitigate the damage to the Ararat archaeological site and then publishing efforts into Florida that hurt a Florida archaeologist, a historic preservation firm, and efforts by other archaeologists, which are ultimately causing tremendous harm to a defenseless archaeological site. ¶¶ 86, 87, 112, 114; Ex. 64, 66, 67, 68, 98, 99; App. A-H.

193. Third, Cline breached its duty of care by adding to the “Cultural Heritage Crisis” in the Near East through his efforts to suppress information and prevent the protection, preservation, and research of an archaeological site, by inhibiting the recording or dissemination of the data, by misrepresenting that an archaeological site did not exist, and by harming the ability of the Plaintiff, a professional archaeologist, to conduct historic preservation efforts at the Ararat archaeological site and at other historic locales. *Id.*; *see supra* pp. 2, 29; ¶¶ 99-103, 105-108, Ex. 94, p. 4, 99.

194. Fourth, here, like in *Klein, Padgett, and Lakeshore 1 Condo*, Cline made no effort, “failed to act,” and took no “precautions” to mitigate the loss of cultural material at the Ararat archaeological site even though two professional archaeologists belonging to ASOR—Plaintiff and Bishop—both attested to the veracity, historicity, or magnitude of historic cultural material at the Ararat locale. *Klein*, 758 F.2d at 1515; *Padgett*, 395 So. 2d at 585-586; *Lakeshore*

1, 691 So. 2d at 1106; ¶¶ 86, 87, 112, 114; App. D, p. 24; App. C, F, H.

195. Cline’s breach of duty would create a “foreseeable zone of risk” because it is likely that as a premier archaeologist in the Near East, Cline’s actions to (1) purposefully suppress information on the Ararat archaeological site by forbidding the recording or dissemination of Plaintiff’s ASOR lecture, and (2) publish and not remove publications referencing Plaintiff’s ASOR lecture and then degrading the site as a “hoax,” “Chinese site,” representing modern wood from the Black Sea would inhibit the Plaintiff and other historic preservation entities (e.g., Bishop) from protecting the Ararat locale and other historic preservation sites and cause other harms such as prevention of employment as an archaeologist or loss of archaeological contracts for Plaintiff’s historic preservation firm. *See supra* ¶¶ 86-87, 112, 114, Ex. 94, p. 4, 99 (Citing ASOR’s tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff). It is also likely that Cline’s efforts to degrade the site and the Plaintiff would prevent other archaeologists, historic preservation firms, or state antiquity authorities from engaging in preservation efforts at the Ararat archaeological site because Cline labeled the site a “hoax” and historic preservation efforts do not extend to a “hoax” comprising “modern” wood from the Black Sea. Lastly, it is likely that Cline’s intentional efforts to degrade an actual archaeological site by stating the locale was a “hoax” and act to embarrass, humiliate, or conceal archaeological efforts by the Plaintiff would cause others to neglect preservation efforts at the Ararat site and subject the site to looting and enhanced decomposition by melting permafrost. ¶¶ 21-27; App. D, p. 24; *see* ¶¶ 86, 87, 112, 114, Ex. 99.

196. Again, Cline’s breach of duty of archaeological care not only caused specific harm pertaining to this Count, namely preventing the Plaintiff and other historic preservation

entities (e.g., Bishop) from protecting the Ararat locale but also caused the Plaintiff other harms such as loss of employment as an archaeologist, loss of archaeological contracts for Plaintiff's historic preservation firm, breach of historic preservation contracts, and other damages. *See supra* ¶¶ 86-87, 112, 114, Ex. 94, p. 4, 99 (Citing ASOR's tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff).

COUNT IV: GROSS NEGLIGENCE

197. Plaintiff incorporates case law for a gross negligence cause from ¶ 155. Gross negligence is established by facts showing a reckless disregard of human life or rights which is equivalent to an intentional act or a conscious indifference to the consequences of an act. *Rapp*, 417 So. 2d at 670.

198. Here, Cline showed intentionality by planning, preparing, and executing a confrontation with other Defendants, at Plaintiff's ASOR lecture, on November 22, 2013, where Defendant Cline and other female agent of ASOR degraded the eastern Anatolia cite as an "ice-cave" and "Chinese site" inferring Plaintiff advocated a hoax. ¶¶ 86-87, App. D.

199. Here, Cline showed intentionality by having ASOR's executive Andrew Vaughn plan, prepare, record, and publish on the World Wide Web, on April 4, 2014, an interview with Cline where both participants cited Plaintiff's ASOR lecture and then stated the Ararat site was a "hoax," representing modern wood from the "Black Sea," a "Chinese site, and "ice cave." Even after, Sheila Bishop, a Trustee of ASOR, and other archaeologist (Rensen) later surveyed and supported the veracity of the site, neither Cline nor ASOR to measures to remove the Podcast from the World Wide Web. ¶¶ 112-114, Ex. 99.

200. Cline's intentional and reckless behavior caused damages, namely Plaintiff's economic and non-economic loss including but not limited to loss or diminution of income past,

present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. Cline's intentional acts also caused harm specific to this Count, namely Plaintiff's ability to protect, preserve, and research the Ararat archaeological site. Further, Cline's intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. ¶¶ 23-25, Ex. 1-2, App. D, p. 24 (ASOR Presentation).

201. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant Cline for negligence and that Plaintiff be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

202. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Cline, for gross negligence, and that Plaintiff be awarded economic damages for past, present, and future wage loss or diminution, attorney's fees, and court costs. Also, a finding of gross negligence enables Plaintiff to request non-economic damages including but not limited to loss of consortium. Plaintiff's request for punitive damages will be filed separately. Further, Plaintiff requests a trial by jury.

DEFENDANT AMY LOUISE BEAM (“BEAM”)

203. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Beam. Tracking the language of Fla. Stat. § 48.193(1)(a), Beam is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

204. Beam directly and repeatedly engages in business in Florida because through Beam’s website, mountararattrek.com, Beam solicits from Florida citizens guided tours in eastern Turkey and ascents up Mount Ararat with Murat Camping. Ex. 100; *see* Ex. 38-43. *Id.*, at § 48.193(1)(a)(1).

205. Beam committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

206. Beam caused injury to Plaintiff and Plaintiff’s business outside the state of Florida by committing tortious acts against the Plaintiff while Beam regularly solicited guided tours and Mount Ararat ascents in Florida from Florida citizens through Beam’s website, emails, and other communications. Ex. 100; *see* Ex. 38-43. Despite being banned from Turkey because of Beam’s associations with terrorism, Beam continues to solicit services to Florida citizens. ¶¶ 3, 44, 82, Ex. 15-20, 44-46. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

207. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts

that Beam's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

208. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

209. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

210. Here, publications occurred because Defendant Beam published on the World Wide Web, the following defamatory material against the Plaintiff:

a. Beam published <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, that (1) Plaintiff is a "Noah's Ark Searcher," (2) Plaintiff is a "so-called expert"; (3) "he [Plaintiff] is a fraud"; (4) "Klenck is a fraud." Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. Beam provides a "share" link and then asks individuals viewing the website: "After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin" *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

b. Beam published <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21,

2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

c. Website http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf was published by Amy Beam on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, Beam publishes that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of

mankind's history, if only it were true," (5) "[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat," (6) [Plaintiff's] "lies continue to grow like Pinocchio's nose," (7) the MackQuigley Report was "created . . . by [Plaintiff] himself," (8) [Plaintiff] "did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey," (9) "I [Beam] have described [Plaintiff's] deception in the . . . fraud elsewhere," (10) "[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found," (11) "To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language." Ex. 71, pp. 2-3. Beam entitles the publication a "Fraud," cites herself as author: "by Amy L. Beam, Ed.D.," and admits, "Along with discovering [Plaintiff's private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

d. http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf was published by Amy Beam on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, with Defendant Andrew Tsai, Beam translates the above defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese. *See supra* ¶ 210(c).

e. Beam published <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and

November 24, 2015. Ex. 82, 83. Beam continues to republish this defamatory material against the Plaintiff on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, Beam states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

f. Beam published <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainarattrek.com/ark/> was translated into Chinese. *See supra* ¶ 210(e), Ex. 74 & 75.

211. Beam’s defamatory statements published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

212. Beam’s statements were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal

departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not "bully," "intimidate," or email "a long threatening diatribe" to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

213. Defendant Beam acted "with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person" because Beam has a doctorate in education from Tufts University, solicits tours of the eastern Anatolia region, is knowledgeable of the cultural and archaeological history in eastern Anatolia, obtained photographs of artifacts from the Ararat site from Plaintiff's luggage prior to Beam's defamatory actions, and solicits "legitimate Noah's ark searches annually on Mount

Ararat.” ¶¶ 115, Ex. 71, p. 1, 100, p. 2. *Wagner*, 629 So. 2d at 115; *see* ¶¶ 26-27.

214. Defendant Beam’s false statements caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Beam’s publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108, Ex. 94, p. 4, 99.

215. Beam’s statements were defamatory by stating that the Ararat archaeological site was a “hoax,” “fraud,” “fiction,” and the Plaintiff was a “liar,” “fraud,” “fraudulent expert,” “sociopath,” “pathological,” and “pathological liar” would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax would infer gross ineptitude, criminality, or other negative implications.

216. After YouTube.com and Media Temple removed Defendant Beam’s defamatory materials against the Plaintiff from the World Wide Web, Beam published or republished these and other defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. ¶¶ 73, 78-79, 210(a)-(f), Ex. 48-51, 54, 70-75, 82-83.

217. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Beam and that he be awarded (i) mandatory injunctions, to enjoin Defendant

Beam to shut down her defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

218. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

219. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

220. Here, the additional element is that Defendant Beam engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, prior to the Plaintiff's ASOR presentation on November 22, 2016, Defendant ASOR through a female employee or agent and Defendant Cline stated the Ararat archaeological site represented a hoax: a “Chinese site,” and “ice-cave,” mimicked statements by Beam and other Defendants. ¶ 86, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5.

221. A “common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff is also evidenced by ASOR's Podcast. ¶ 114, Ex. 99. Here, Defendants ASOR (Vaughn) and Cline referred to Plaintiff's ASOR lecture entitled “Prehistoric Monumental Wood Structure . . . ,” stated the Ararat archeological site was a “hoax” and

represented modern wood “from the Black Sea,” parroting statements by Defendant Beam. ¶ 114, Ex. 99, 2:21, 2:41, 3:17, *e.g.*, Ex. 3, p. 3; 35, pp. 35, 46; 101, p.5.

222. Plaintiff cites circumstantial evidence that Defendants agreed and acted in concert to defame Plaintiff at the ASOR conference. First, two defendants in this suit, Richard Bright and Amy Beam, previously worked Defendant Cline in a television program about Noah’s ark. ¶ 86, Ex. 62 & 63; *Diamond*, 511 So. 2d at 1034. Second, Defendants ASOR and Cline cite sources “from Turkey,” the location of Defendant Beam and others in this suit. ¶ 114, Ex. 99, 3:17.

223. A “common plan or scheme or actions in concert” is also evidenced in that Beam and other Defendants intentionally and reciprocally placed links of defamatory statements towards the Plaintiff on each other’s websites. Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 79, 83, 88.

224. Here, regarding the Federal “plus factor[s]” in civil conspiracy, Defendant Beam possessed a “strong motive to conspire” to defame the Plaintiff because Beam worked with the Sahin brothers and Murat Camping that received monies from other Defendants for a fraudulent Noah’s ark dig and the actual Ararat archaeological site threatened fund raising efforts for Defendants’ ruse. *Twombly*, 313 F. Supp. 2d at 179; ¶¶ 35-43, 45, 53, 68, 70, Ex. 6-13, 21-22, 23.

225. Beam’s defamation of the Plaintiff and denigration of an archaeological site was “against self-interest” because Beam solicits tours in eastern Turkey, ascents up Mount Ararat, and advertises, “We lead legitimate Noah’s Ark searches annually on Mount Ararat.” *Twombly*, 313 F. Supp. 2d at 179; ¶ 115, Ex. 101, p. 2. Here, Beam disregarded potential income from tourism generated by an actual archaeological site on Mount Ararat associated with the legendary account of Noah. ¶¶ 54-55, App. A-H.

226. Beam's acts in conspiring with other Defendants to defame the Plaintiff occurred during and after the ASOR conference, on November 22, 2013, and in the Podcast published on the World Wide Web, on April 4, 2014, and were within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p); Complaint, ¶¶ 84, 86-88, 114, Ex. 99, App. D; *see supra* ¶ 210.

227. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Beam and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down her defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

228. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1102-03, 1115 (Fla. 2008). "Florida is one of a minority of states in this country that have recognized the right of privacy,

through with limitations.” *Thompson v. City of Jacksonville*, 130 So. 2d 105, 108 (Fla. 1st DCA 1961), *cert. denied*, 147 So. 2d 530 (Fla. 1962). The statute of limitations for an invasion of privacy action is four years. Fla. Stat. §95.11(3)(a) (attributing a four-year statute of limitations to all “not specifically provided for” actions); *Hankins v. City of Fort Lauderdale*, 898 So. 2d 1120, 1123 (Fla. 4th DCA 2005) (Stating, “the statute of limitations period for an invasion of privacy claim . . . is four years.”). Although most of the Defendants violated all three categories of invasion of privacy, each category is analyzed separately.

A. Public Disclosure of Private Facts

230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns, Inc. v. Hitchner*, 549 So. 2d 1374, 1377 (Fla. 1989), *appeal dismissed*, 493 U.S. 929 (1989). The element of “offensiveness” is met if “the publicity given to [the plaintiff] is such that a reasonable person would feel justified in feeling seriously aggrieved by it.” *Smith v. Volusia Cty., Fla.*, 2011 WL 1598741, at *6 (M.D. Fla. April 28, 2011) (Quoting Restatement (Second) of Torts § 652D cmt. c (1977). “The publicity given to private facts must be to the public at large or to so many persons that the matter must be regarded as substantially certain to become public knowledge” *Id.* (Citing *Williams v. City of Minnesota*, 575 So. 2d 683, 689 (Fla. 5th DCA 1991). “[A] defendant may become liable through revealing the matter only to one person, from whom the information predictably goes to many. *Id.*”

231. Here, Beam published in the public domain, on the World Wide Web, private facts concerning the Plaintiff.

a. Beam published <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21,

2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff's full name, birthdate, and photographs of Plaintiff's passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff's private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

b. Beam also published <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages. *Compare*, Ex. 49 and Ex. 51. The video shows:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff's personal email address and private emails.
4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

232. Beam's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity

theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co. v. Fletcher*, 340 So. 2d 914, 918 (Fla. 1977); *Agency for Health Care Admin. v. Associated Indus. of FL, Inc.*, 678 So. 2d 1239, 1252 (Fla. 1996). This count is defined as the "wrongful intrusion into one's private activities, in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person or ordinary sensibilities. Claims based on this tort require the allegation and proof of publication to a third person of personal matter." *State Farm Fire & Cas. Co. v. Compupay, Inc.*, 654 So. 2d 944, 948-49 (Fla. 3d DCA 1995). "The intrusion to which this [count] refers is into a 'place' in which there is a reasonable expectation of privacy and is not referring to a body part . . . this is a tort in which the focus is the right of a private person to be free from public gaze." *Allstate Ins. Co. v. Ginsberg*, 863 So. 2d 156, 16 (Fla. 2003).

234. Here, Beam published in the public domain, on the World Wide Web, intrusion upon seclusion materials concerning the Plaintiff.

a. Beam published <http://www.mountainararatrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff "needed to ride a horse to Camp, Mount Ararat" (Ex. 50, 51. p. 10), location where

Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

b. Beam also published <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows:

- 4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
- 7:31-15:50: Plaintiff’s private journal pages.
- 18:25-18:55: Plaintiff’s private journal pages.
- 21:23-22:12: Plaintiff’s private journal pages.
- 23:25-23:51: Plaintiff’s toilet procedures.
- 25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
- 27:04-28:34: Plaintiff’s private legal papers and information thereof.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

235. Defendant Beam published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. Beam took and published this private and personal information without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory

and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

236. Beam's public disclosure of Plaintiff's private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Also, other Defendants read the material and printed links to Beam's intrusive material about the Plaintiff on their own website. *E.g.*, Ex. 30-33, 77, 79, 88; *see also* Ex. 49, 51, 71.

C. Appropriation

237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent" Appropriation is "the unauthorized use of a person's name or likeness to obtain some benefit." *Allstate Ins. Co. v. Ginsberg*, 863 So. 2d 156, 162 (Fla. 2003). "Section 540.08 . . . is designed to prevent the unauthorized use of a name to directly promote the product or service of the publisher." *Loft v. Fuller*, 408 So. 2d 619, 622-23 (Fla. 4th DCA 1982), *petition for rev. denied*, 419 So. 2d 1198 (Fla. 1982). The statute of limitations for appropriation is four years. Fla. Stat. §95.11(3)(a) (attributing a four-year statute of limitations to all "not specifically provided for" actions); *Hankins v. City of Fort Lauderdale*, 898 So. 2d 1120, 1123 (Fla. 4th DCA 2005).

238. Here, Beam published <http://www.mountainarattrek.com/ark/arkfraud2.htm> on servers hosted by Defendant One.com, on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, a video of an interrogation of the Plaintiff filmed with a secret, concealed

camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Also, in other publications on the World Wide Web, Beam directs viewers to this interrogation of the Plaintiff using a hidden camera. E.g., Ex. 49, 29:09-29:43 & 51, p. 40. Further, Beam used Plaintiff's full name, likeness (photographs), and private information on Beam's Ararat tourism internet site published on the World Wide Web. Ex. 53, *see also* Ex. 49, 51, 71, 73, 74, 100-101.

D. Damages and Statute of Limitations

239. Beam's acts of public disclosure of private facts caused identity thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

240. Beam's publication of privacy invasion material against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. *See supra* ¶ 231, 234-235, 238; Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

241. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Beam, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Beam to shut down her privacy invasion websites and web pages to halt damage to the Plaintiff; (ii) prohibitory

injunctions act to prevent and prohibit Defendant Beam's republication of invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

242. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Beam, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy." *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

243. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

244. A civil action for conspiracy, in this case invasion of privacy, requires the

concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333; *cf. Saint Louis v. State*, 561 So. 2d 628, 629 (Fla. 2d DCA 1990) (holding in criminal conspiracy the two elements are an agreement and an intention to commit an offense). Conspiracy may be proven by circumstantial evidence when the influence sought to be created by this evidence outweighs reasonable inferences to the contrary. *Diamond*, 511 So. 2d at 1034. Civil conspiracy can exist as an independent tort if the plaintiff can demonstrate a peculiar power of coercion possessed by the conspirators by virtue of their combination that an individual would not possess, particularly “a malicious motive and coercion through numbers and economic influence.” *Churruca*, 353 So. 2d at 550; *Wilcox*, 637 So. 2d at 336. Civil conspiracy usually exists if the basis for the conspiracy is an independent wrong or tort would constitute a cause of action done by one person. *Cedar Hills Props. Corp.*, 575 So. 2d at 676; *Kurnow v. Abbott*, 2013 Fla. App. LEXIS 9368, at *6-7 (Fla. 1st DCA 2013). Federal case law requires a “plus factor” in civil conspiracy suits—either a strong motive to conspire or acting against self-interest. *Twombly*, 313 F. Supp. 2d at 179 (Holding Plaintiffs in civil conspiracy cases should plead a “plus factor . . . that the parallel behavior would have been against individual defendants’ economic interests absent an agreement, or that defendants possessed a strong common motive to conspire.”). The statute of limitations for civil conspiracy is four years. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

245. A “common plan or scheme or actions in concert” is also evidenced in that Beam and other Defendants intentionally and reciprocally placed links of Plaintiff’s privacy invasion material on each other’s websites. Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 79, 83, 88. Here, regarding the Federal “plus factor[s]” in civil conspiracy, Defendant Beam possessed a “strong

motive to conspire” to invade Plaintiff’s privacy because Beam worked with the Sahin brothers and Murat Camping that received monies from other Defendants for a fraudulent Noah’s ark dig and Plaintiff’s advocacy for a factual Ararat archaeological site threatened fund raising efforts for Defendants’ ruse. *Twombly*, 313 F. Supp. 2d at 179; ¶¶ 35-43, 45, 53, 68, 70, Ex. 6-13, 21-22, 23. Also, Beam’s privacy invasions against the Plaintiff and denigration of an archaeological site was “against self-interest” because Beam solicits tours in eastern Turkey, ascents up Mount Ararat, and advertises, “We lead legitimate Noah’s Ark searches annually on Mount Ararat.” *Twombly*, 313 F. Supp. 2d at 179; ¶ 115, Ex. 101, p. 2. Here, Beam disregarded potential income from tourism generated by Plaintiff’s advocacy of an actual archaeological site on Mount Ararat associated with the legendary account of Noah. ¶¶ 54-55, App. A-H.

246. Beam’s conspiracy to commit privacy invasion caused identity theft as identity thieves removed monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108, Ex. 94, p. 4, 99. Furthermore, Beam’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385; *see supra* ¶ 231, 234-235, 238, 244-246.

247. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant Beam and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down her defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: NEGLIGENCE

248. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein. Plaintiff incorporates citations for negligence from ¶ 142. The four elements of a negligence charge are (1) a duty, or obligation, recognized by the law, requiring the defendant to conform to a certain standard of conduct, for the protection of others against unreasonable risks; (2) a failure on the defendant's part to conform to the standard required: a breach of the duty; (3) a reasonably close causal connection between the conduct and the resulting injury, which is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact, and (4) actual loss or damage. *Jenkins*, 851 So. 2d at 783.

249. Tourism providers have a duty of care to not publish defamatory, privacy invasion, or wrongful appropriation data given to them by customers in the public forum. Industry standards for persons in the hospitality and tourism industry require employees and managers to not reveal in a public manner the defamatory, privacy information, or wrongful appropriation data given to them by customers wishing to participate in tourism and lodging at hospitality and tourism establishments. Defendant Beam breached this duty of care by taking

private information from Plaintiff's luggage, copying the information, and then publishing the information on the World Wide Web. Ex. 49, 51, 53, 71, 75, 83. It was foreseeable that Defendant Beam's breach of duty would cause actual or proximate harm, or create a "foreseeable zone of risk" for the Plaintiff because Beam's publication of defamatory, privacy invasion, and wrongful appropriation materials could result in the theft of Plaintiff's identity, and other harms towards the Plaintiff. Damage resulted, within four years of Plaintiff filing this suit, because of Beam's breach of duty because Plaintiff was harmed as his identity was stolen, his reputation, business, ability to acquire contracts were damaged, and Plaintiff sustained other damages: loss of employment opportunities, contracts for Plaintiff's firm, breach of contracts, and other damages.

COUNT VI: GROSS NEGLIGENCE

250. Plaintiff incorporates citations for gross negligence from ¶ 155. Gross negligence is established by facts showing a reckless disregard of human life or rights which is equivalent to an intentional act or a conscious indifference to the consequences of an act. *Rapp*, 417 So. 2d at 670.

251. Here, Beam showed intentionality by purposefully entering Plaintiff's luggage, copying Plaintiff's financial information, journal, and other private information, and then publishing this material on defamatory websites openly showing hostility and malice to Plaintiff and publicly stating Beam obtained information from Plaintiff's luggage, was publishing the materials on the internet, and that when Plaintiff tried to prevent this publication Beam would republish the information on another web platform. Ex. 71, pp. 1-2 ("Along with discovering [Plaintiff's private] journal in his backpack, I also found photocopies of this photo along with other . . . photos."); Ex. 51, p. 40 ("[Plaintiff] succeeded in having this video removed from

YouTube. I will post it elsewhere.” Ex. 51, p. 40. Defendant Beam’s intentional and reckless behavior caused damages, namely Plaintiff’s economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff’s reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. Beam’s intentional acts also caused harm specific to this Count, namely Plaintiff’s ability to protect, preserve, and research the Ararat archaeological site. *See* ¶¶ 142-146, 153-154. Further, Beam’s intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. *Id.*

252. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant Beam for negligence, and that Plaintiff be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

253. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Beam, for gross negligence, and that Plaintiff be awarded economic damages for past, present, and future wage loss or diminution, attorney’s fees, and court costs. Also, a finding of gross negligence enables Plaintiff to request non-economic damages including but not limited to loss of consortium. Plaintiff’s request for punitive damages will be filed separately. Further, Plaintiff requests a trial by jury.

DEFENDANT MICHAEL HEISER (“HEISER”)

254. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Heiser. Tracking the language of Fla. Stat. § 48.193(1)(a), Heiser is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

255. Heiser directly and repeatedly engages in business in Florida. Heiser in an adjunct “on-line” professor for Liberty University and provides services in Florida by teaching Florida students. Heiser works for Logos Software that provides “electronic delivery” of “electronic text[s] and database[s]” in Florida and nationwide. Using Logos Software websites, Heiser solicits books and other materials in Florida. Heiser utilized blogs to solicit Heiser’s goods and services in Florida including books, DVDs, podcasts, and interactional platforms. Heiser promotes and is featured on websites selling books, DVDs, instructional manuals, lectures in Florida that cite Heiser as a person of knowledge on diverse subjects such as ancient languages, alien resistance, ghosts, supernatural, and the divine council. Heiser is an agent for many of the Defendants in this action organized under the entity of Ark Search, LLC, which is directed from and has its nerve center in Florida. *Id.*, at § 48.193(1)(a)(1).

256. Heiser committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

257. Heiser caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Heiser engaged in solicitation of goods or services in Florida including (1) educational services via Liberty University, (2) electronic texts and databases via Logos Software websites, (3) books, DVDs, podcasts, and interactional platforms via blogs, websites, and on-line lectures in Florida. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

258. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Heiser's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

259. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

260. Here, publications occurred because Defendant Heiser published on the World Wide Web, the following defamatory material against the Plaintiff:

a. Heiser published the "Noah's Ark Fraud Report" on Heiser's website <http://www.palaeobabble.com> on February 23, 2012, and then republished this material numerous times during 2013, 2014, and 2015. Here, Heiser provides a link to Beam's defamatory materials against the Plaintiff. ¶ 91, Exhibit 77, p. 2. (Noting republications from 2013

through 2015 in upper-right corner). However, Heiser also publishes his own statements: (1) “It’s a first-hand accounting . . . of certain individuals involved in the hoax,” (2) “exposure of the fraud,” (3) “Hopefully, some guides will speak publicly so that finally, all of the guides who were innocent victims in this fraud may be relieved of the burden of silence and secrecy,” and (4) displays “Technorati Tags” of “fraud” and “hoax.” *Id.*

b. After http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf was removed from Media Temple for defamatory and privacy invasion content, Heiser republished a link to this material in 2014 and 2015 on Heiser’s website after Beam reloaded the article, on servers hosted by Defendant One.com, on December 27, 2013. ¶ 91, Ex. 78, *see* Ex. 70, 71. Here, defamatory statements include: (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites

herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

c. In the above “report,” which Heiser provides a link, another link is provided via a blue, underlined “Joel Klenck” to <http://www.mountainararattrek.com/ark/arkfraud3.htm>. Beam published this material on servers hosted by Defendant One.com, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49.

261. Heiser’s defamatory statements and links to other defamatory materials by Beam on Heiser’s site were published on the World Wide Web and received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108, Ex. 99.

262. Heiser’s statements and links to defamatory materials are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a Turkish archaeologist in

Turkey or the Republic of Georgia. App. A-H.

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam's photographs but in areas further distant. *See supra* ¶¶ 258(c)(9), *see also* 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

g. Plaintiff is not a sociopath, pathological, or a pathological liar.

h. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or

demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

263. Defendant Heiser acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Heiser has a M.A. and Ph.D. in Hebrew and Semitic studies from University of Wisconsin, a B.A. in Ancient History from the U. of Pennsylvania, and would know that archaeological sites are prevalent in eastern Anatolia. Further, Heiser advocated for Price and other Defendants searching and excavating for a large, wood structures on Mount Ararat. ¶¶ 91, 115, Ex. 76, 100, p. 2. *Wagner*, 629 So.2d at 115; *see* ¶¶ 26-27.

264. Defendant Heiser’s false statements and links to Beam’s defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Heiser’s publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105, 107; ¶ 91, Ex. 77, p. 2, *see also* Ex. 71 & 49, 51.

265. Heiser’s statements were defamatory by stating that the Ararat archaeological site was a “hoax,” “fraud,” that had “victims,” and the Plaintiff was an individual “involved in the hoax,” that needed “exposure,” and providing links to Beam’s defamatory and degrading statements about the Plaintiff and archeological locale, would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an

archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax would infer gross ineptitude, criminality, or other negative implications. ¶ 91, Ex. 77, p. 2, *see also* Ex. 71 & 49, 51. Heiser published or republished Heiser's own defamatory material and republished links to Defendant Beam's defamatory materials against the Plaintiff (after Youtube.com and Media Temple removed Beam's websites), within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶ 91, Ex. 77, p. 2, *see also* Ex. 70, 71 & 48-51.

266. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Heiser and that he be awarded (i) mandatory injunctions, to enjoin Defendant Heiser to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

267. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

268. Here, the additional element is that Defendant Heiser engaged in "a common plan

or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Heiser and other Defendants intentionally and reciprocally placed links of defamatory statements against the Plaintiff on each other’s websites. Heiser posted links to defamatory material from Defendant Beam. ¶ 91, Ex. 77, p. 2, *see also* Ex. 71 & 49, 51.

269. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Heiser propagated reports by Price and Beam that the Ararat archaeological site was a hoax. ¶¶ 56, 91, Ex. 35, 77, p. 2, *see also* Ex. 71 & 49, 51. Price hired Murat Camping and Amy Beam (a partner in Murat Camping) for Defendants’ Noah’s ark excavations. Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78.

270. Heiser with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), advocate for and associate of a terrorist organization (Beam), secular

archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates and CMI), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

271. Second, in terms of economic influence, Heiser and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

272. Third, with regard to malicious motives against the Plaintiff, Heiser’s desire was to prove his original assertion that an actual archaeological site was a hoax and product of pseudo-science. Complaint, ¶ 91, Ex. 77.

273. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Heiser’s strong motive to agree to commit defamation against Plaintiff include that the presence of actual wood constructions on Mount Ararat from prehistoric periods would conflict with Heiser’s assumptions of the Ararat site being a pseudo-science project--despite that large sites from Neolithic periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27,

App. D, p. 2 (ASOR Presentation).

274. Evidence for conduct against self-interest includes that Defendant Heiser, who authors an internet blog against pseudo-science, ignored information from archaeologists and lay persons about an archaeological site, mocked the Plaintiff, and sided with defendants who were raising monies to dig a hole in the ice advertised as a dig for Noah's ark and facilitated an exercise in pseudo-science. ¶¶ 35-42, 45-47, Ex. 6-14, 27-29.

275. Heiser's acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g).

276. Heiser's conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff's rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

277. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Heiser and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is

jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

278. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

279. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1098.

A. Public Disclosure of Private Facts

280. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

281. Here, after http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf was removed from Media Temple for defamatory and privacy invasion content, Heiser republished a link to this material in 2014 and 2015 on his website after Beam reloaded the article, on servers hosted by Defendant One.com, on December 27, 2013. ¶ 91, Ex. 78, *see* Ex. 70, 71. Here, another link is provided via a blue, underlined "Joel Klenck" shown in Exhibit 49: <http://www.mountainarattrek.com/ark/arkfraud3.htm>. Beam published this material on servers hosted by Defendant One.com, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015. The video shows:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
 1:52-3:04: Plaintiff's personal email address and private emails.
 4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
 4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
 7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
 19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
 23:25-23:51: Plaintiff's service in the U.S. military.
 24:04-24:21: Plaintiff's personal address, phone number, and email address.
 25:20-26:21: Plaintiff's financial information.
 26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
 27:04-28:34: Plaintiff's private legal papers.
 28:58-29:08: Viewers invited to download, embed, and redistribute information.
 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

282. Heiser's links to Plaintiff private facts were offensive, not available from other sources, and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, private electronic mail address, personal cell phone number, date of birth, place of birth, or financial information to be publicly displayed, for fear of identity theft, especially on Heiser's malicious website, which facilitated animosity toward Klenck, showed Plaintiff's private information, where the video invites "Viewers . . . to download, embed, and redistribute this video." Ex. 49.

B. Intrusion upon Seclusion

283. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

284. Here, after http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf was removed from Media Temple for defamatory and privacy invasion content, Heiser

republished a link to this material in 2014 and 2015 on his website after Beam reloaded the article, on servers hosted by Defendant One.com, on December 27, 2013. ¶ 91, Ex. 78, *see* Ex. 70, 71. Here, another link is provided via a blue, underlined “Joel Klenck” shown in Exhibit 49: <http://www.mountainararattrek.com/ark/arkfraud3.htm>. Beam published this material on servers hosted by Defendant One.com, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015. The video shows:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff’s private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

285. Heiser published this private and personal information knowing it was without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, p. 2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Heiser published this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and this material was removed by YouTube.com and Media Temple based on its defamatory, privacy invasion, and appropriation materials. ¶¶ 73, 78, Ex. 51, p. 2. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web which Beam openly writes about receiving the letter and quotes passages from Plaintiff’s document. ¶ 72, Ex. 47, 49, 51, p. 39.

286. Heiser's publication of links of intrusion upon seclusion material about the Plaintiff was published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Heiser read the material and printed links to Beam's intrusive material about the Plaintiff on his website. ¶ 91, Ex. 77, p. 2; *see* Ex. 49, 51.

C. Appropriation

287. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

288. Heiser's link to Exhibit 71 provides a link to another video on the World Wide Web: <http://www.mountainarattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Also, as noted above, Heiser's link to Exhibit 71, provides a connection to Exhibit 49: <http://www.mountainarattrek.com/ark/arkfraud3.htm>. At the end of this video, from 29:09-29:43, viewers are encouraged to see the hidden camera interrogation of the Plaintiff without Plaintiff's knowledge or consent—Exhibit 53. Exhibit 49 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19. Heiser's

links to wrongful appropriation material of the Plaintiff were placed on Heiser's website where the Defendant solicited subscribers and the sale of books and other goods. Ex. 77.

D. Damages and Statute of Limitations

287. Heiser's acts of public disclosure of private facts caused identity theft as identity thieves removed monies from Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

288. Heiser's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

289. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Heiser, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Heiser to shut down their defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Heiser's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several

liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

133. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Heiser, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy." *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Heiser is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

290. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

291. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

292. Here, the additional element is that Defendant Heiser engaged in "a common plan

or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, Heiser and other Defendants intentionally and reciprocally placed links of privacy invasion materials against the Plaintiff on each other’s websites. *E.g.*, Ex. 30-33, 77, 79, 88, see also Ex. 49, 51, 71. Here, Heiser posted links to privacy invasion materials from Defendant Beam. ¶ 91, Ex. 77, p. 2, *see also* 49, 51.

293. Here, circumstantial evidence of conspiracy to commit privacy invasions includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Heiser propagated reports by Price and Beam that the Ararat archaeological site was a hoax. ¶¶ 56, 91, Ex. 35, 77, p. 2, *see also* Ex. 71 & 49, 51. Price hired Murat Camping and Amy Beam (a partner in Murat Camping) for Defendants’ Noah’s ark excavations. Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the privacy invasion material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents with a link to Plaintiff’s privacy invasion material to Heiser. ¶ 91, Ex. 77, *see also* Ex. 71, 49, 51. Defendant Heiser published Beam’s links to defamatory and privacy invasion material, with Heiser’s own defamatory content against Plaintiff, on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78.

294. Heiser with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in

conspiracy to commit privacy invasion against the Plaintiff included an array of backgrounds including a religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), advocate for and associate of a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates and CMI), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

295. Second, in terms of economic influence, Heiser and other Defendants possessed an array of economic resources to conspire to commit privacy invasion against the Plaintiff. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

296. Third, with regard to malicious motives against the Plaintiff, Heiser’s desire was to prove his original assertion that an actual archaeological site was a hoax and product of pseudo-science. Complaint, ¶ 91, Ex. 77.

297. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Heiser’s strong motive to agree to commit privacy invasion against Plaintiff include

that the presence of actual wood constructions on Mount Ararat from prehistoric periods would conflict with Heiser's assumptions of the Ararat site being a pseudo-science project--despite that large sites from Neolithic periods were discovered at other locales in eastern Turkey." *Twombly*, 313 F. Supp. 2d at 179, ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

298. Evidence for conduct against self-interest includes that Defendant Heiser, who authors an internet blog against pseudo-science, ignored information from archaeologists and lay persons about an archaeological site, committed privacy invasion against Plaintiff, and sided with defendants who were raising monies to dig a hole in the ice advertised as a dig for Noah's ark and facilitated an exercise in pseudo-science. *Twombly*, 313 F. Supp. 2d at 179, ¶¶ 35-42, 45-47, Ex. 6-14, 27-29. 249.

299. Heiser's acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

300. Heiser's conspiracy to commit privacy invasion against the Plaintiff caused identity thieves to remove monies from Plaintiff's bank account on several occasions. ¶ 116, ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. ¶ 116. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

301. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant Heiser and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of privacy invasion against the Plaintiff; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

DEFENDANT LIBERTY UNIVERSITY

302. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Liberty University. Tracking the language of Fla. Stat. § 48.193(1)(a), Liberty University is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

303. Liberty University directly and repeatedly engages in business in Florida. Liberty University offers on-line courses to Florida citizens. *Id.*, at § 48.193(1)(a)(1).

304. Liberty University committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

305. Liberty University caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Liberty University engaged in solicitation of goods or services in Florida including on-line courses and books and other goods participate in these academic programs to Florida citizens. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

306. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Liberty University's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

307. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

308. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

309. Here, publications occurred because Liberty University and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with the following defamatory material towards the Plaintiff (Ex. 30-33):

a. Liberty University and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and

October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountarattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to

download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other .

. . photos. Ex. 71, pp. 1-2.

e. This web page established by Liberty University and other Defendants (Ex. 30-33) links to http://www.mountainararattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's defamatory material from http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) "Joel David Klenck . . . a so-called expert," (2) "Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud." (3) "Klenck is a fraud," (4) "This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud," (5) "Joel David Klenck, . . . fraudulent expert," (6) "[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah's Ark site and "artifacts" from the site." Ex. 82, 83, pp. 1-2.

g. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014,

August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainararattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

310. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

311. The statements and links to defamatory content established by Liberty University and other Defendants (¶ 47, Ex. 30-33) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator ("PI"). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices

in Beam's photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

312. Defendant Liberty University acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Liberty University is an academic institution with scholars in Biblical history, ancient history, and having familiarity with the archaeological method and theory and would know that archaeological sites are prevalent in eastern Anatolia at high elevations. Further, Liberty University aided, participated in, and promoted, the search for Noah’s ark described as a large, ancient, wood structure on Mount Ararat. Also, Liberty University promotes the veracity of the Old Testament as an accurate historical text, which features passages on the existence of a large wood structure on mountains in the Ararat region. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

313. Defendant Liberty University’s false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional

archaeological circles as a consequence of Liberty University's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

314. Liberty University's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

315. Liberty University republished its own defamatory material and links to Defendant Beam's defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

316. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Liberty University and that he be awarded (i) mandatory injunctions, to enjoin Defendant Liberty University to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages,

punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

317. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

318. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

319. Here, the additional element is that Defendant Liberty University engaged in "a common plan or scheme or actions in concert" with other Defendants to defame the Plaintiff because first, Liberty University and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Liberty University posted links to defamatory material from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

320. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping.

Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouhecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouhecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

321. Liberty University with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

322. Second, in terms of economic influence, Liberty University and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

323. Third, with regard to malicious motives against the Plaintiff, Liberty University promoted Defendant Price’s claims that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to other

defamatory material toward the Plaintiff, while promoting and publicizing its own Noah's ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

324. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Liberty University’s strong motive to agree to commit defamation against Plaintiff include the prestige and notoriety that its Noah’s ark searches brought Liberty University as well as its degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

325. Evidence for conduct against self-interest includes that Defendant Liberty University believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported their philosophical views, Liberty University coordinated efforts with other Defendants to publish defamatory material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, Liberty University with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Liberty University either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay

persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

326. Liberty University’s acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

327. Liberty University’s conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff’s rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

328. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Liberty University and that he be awarded (i) mandatory injunctions, to induce Defendant Liberty University to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant’s republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys’ fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each

conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

329. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

330. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

331. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

332. Here, publications occurred because Liberty University and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to public disclosure of private facts material towards the Plaintiff (Ex. 30-33):

a. Liberty University and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of "Distinguished Research Professor" and "Executive Director

Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff’s full name, birthdate, and photographs of Plaintiff’s passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages. *Compare*, Ex. 49 and Ex. 51. The video shows:

1:22-1:39: Plaintiff’s U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff’s personal email address and private emails.
4:15-4:19: Plaintiff’s U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff’s flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff’s luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff’s passport data relating details of Turkish Visa entry stamps.

23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

333. Liberty University's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

334. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

335. Here, publications occurred because Liberty University and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to intrusion upon seclusion material towards the Plaintiff (Ex. 30-33):

a. Liberty University and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16

and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.

27:04-28:34: Plaintiff's private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

336. Defendant Liberty University published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff's private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff's knowledge or consent because Beam acknowledges taking private material from Plaintiff's backpack. Ex. 71, pp. 1-2 ("Along with discovering [Plaintiff's private] journal in his backpack, I also found photocopies of this photo along with other . . . photos."). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff's objections because Plaintiff "succeeded in having this video removed from YouTube. I will post it elsewhere." Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

337. Liberty University's public disclosure of Plaintiff's private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Defendant Liberty University read the material and printed links to Beam's intrusive material about the Plaintiff on their own website. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

338. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, “(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent”

339. This web page established by Liberty University and other Defendants (Ex. 30-33) provided a link <http://www.mountainararattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff’s full name, private information, and many photographs including high resolution photographs in the Plaintiff’s U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. Liberty University’s links to wrongful appropriation material of the Plaintiff were placed on a web page advertising its trademark, a professor, and its involvement in a search for Noah’s ark. (Ex. 30-33).

D. Damages and Statute of Limitations

340. Liberty University’s acts of public disclosure of Plaintiff’s private facts caused identity thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled

throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

341. Liberty University's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

342. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Liberty University, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Liberty University to shut down its defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Liberty University's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

343. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Liberty University, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which

would have been a reasonable royalty, and punitive or exemplary damages.” Damages include “a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section.” *Id.* at §540.08(3). Remedies in §540.08 “shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Liberty University is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

344. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

345. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

346. Here, the additional element is that Defendant Liberty University engaged in “a common plan or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, Liberty University and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other’s websites. Liberty University posted links to defamatory material from Defendant Beam’s websites. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

347. Here, circumstantial evidence of conspiracy to commit privacy invasion includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty

University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with

Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

348. Liberty University with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

349. Second, in terms of economic influence, Liberty University and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/>

2013/09/14/ liberty-university/2764789/. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

350. Third, with regard to evidence for malicious motives against the Plaintiff, Liberty University promoted Defendant Price’s claims that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to privacy invasion material of the Plaintiff, while promoting and publicizing its own Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

351. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Liberty University’s strong motive to agree to commit privacy invasion material against Plaintiff include the prestige and notoriety that its Noah’s ark searches brought Liberty University as well as its degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

352. Evidence for conduct against self-interest includes that Defendant Liberty University believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported their philosophical views, Liberty University coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading

material about the Ararat archaeological site. Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, Liberty University with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Liberty University either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

353. Liberty University’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

354. Liberty University’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at

385.

355. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Liberty University and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: VICARIOUS LIABILITY

356. Plaintiff incorporates citations for vicarious liability from ¶ 160. Vicarious liability requires a negligent act by an employee that is committed within the course and the scope of their employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So.2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations related to vicarious liability is four years. Fla. Stat. §95.11(3)(a).

357. Here, Liberty University's employee, Randall Price as an archaeologist, acted within the scope of his employment because Price lead and supervised surveys and excavations for ancient structures believed to be on Mount Ararat supported and promoted by Liberty University. ¶¶ 46, 47, Ex. 8, 11, 23, 25, 26.

358. Here, as noted below, Randall Price as an archaeologist had a duty of archaeological care to mitigate the loss of historic properties, which applied both to the archaeological sites and to persons facilitating the protection, preservation, and research of historic properties. Instead, Randall Price breached this duty, purposefully denigrated an actual

historic site, threatened by looting the melting permafrost, and publicly declaring the site was a hoax and fraud and encouraging others to do the same. ¶¶ 47, 56, 91, Ex. 30-33, 77, 49, 51, 53, 71, 73, 75, 83. Meanwhile, Liberty University's employee raised funds with other Defendants to dig holes in the ice on Mount Ararat, from 2006 to the present, having no cultural material or human features that Price described as surveys or excavations for Noah's ark. ¶¶ 35-42, 45-47, Ex. 6-14, 27-29. It was foreseeable that Price's breach of the archaeological duty of care would cause harm for the historic property and for the Plaintiff, who was trying to facilitate the protection, preservation, and research of the factual Ararat archaeological site and sustained an array of damages.

359. As such, Defendant Liberty University is liable for the damages caused to the Plaintiff by Liberty University's employee, Randall Price, acting within the scope of the University's employment. These damages include but are not limited to economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. Liberty University's intentional acts also caused harm specific to this Count, namely Plaintiff's ability to protect, preserve, and research the Ararat archaeological site. *See* ¶¶ 142-146, 153-154. Further, the negligent acts by Liberty University's employee, Randall Price, harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. ¶¶ 23-27; App. D, p. 24 (ASOR Presentation).

COUNT VI: NEGLIGENCE IN SUPERVISION / RESPONDEAT SUPERIOR

360. Florida courts vary as to the necessary elements of negligence in hiring or retention where an employer is liable for the willful torts of its employee, including torts

involving violence, committed against a third person if the employer knew or should have known the employee was a threat to others. Some Florida courts have held employers chargeable for the knowledge they could have acquired after a reasonable investigation; other courts hold that an employer is responsible for its actual prior knowledge of the employee's propensity for violence in failing to make an inquiry. *Island City Flying Serv. v. Gen. Elec. Credit Corp.*, 585 So. 2d 274, 276 (Fla. 1991) (citing *Williams v. Feather Sound, Inc.*, 386 So. 2d 1238 (Fla. 2d DCA 1980), *rev. denied*, 392 So. 2d 1374 (Fla. 1981)). The elements of this cause: "In [hiring] [or] [retaining] another to perform services, the employer must exercise due care to assure that the person is competent to perform the services to perform the services. A person is responsible for the negligence of [his] [her] independent contractor if, in [hiring] [or] [retaining] the independent contractor, the employer failed to exercise due care." *In re Standard Jury Instructions in Civil Cases-Report No. 09-01*, 35 So. 3d 666, 682 (Fla. 2010).

361. Florida law recognizes negligence in hiring or retention as being distinct from respondeat superior, as an employer is liable for the willful tort of his employee committed against a third person if the employer knew or should have known that the employee was a threat to others or of the employee's unfitness, but failed to take action including an investigation, discharge, or reassignment. *Tallahassee Furniture Co., Inc. v. Harrison*, 583 So. 2d 744, 750 (Fla. 1st DCA 1991), *rev. denied*, 595 So. 2d (Fla. 1992). In *Herndon v. Shands Teaching Hosp. & Clinics, Inc.*, the First District Court of Appeal held: "A common law duty is recognized, regardless of intervening criminal conduct, when a person's actions 'create 'a foreseeable zone of risk' posing a general threat of harm to others" 23 So. 3d 802, 803-04 (Fla. 1st DCA 2009). The employer should be liable for his employee "when the employer has somehow been

responsible for bringing a third person into contact with an employee, whom the employer knows or should have known is predisposed to committing a wrong.” *Bennet v. Godfather’s Pizza, Inc.*, 570 So. 2d 1351, 1353 (Fla. 3d DCA 1990). Negligent hiring may encompass liability for negligent acts that are outside the scope of the employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So. 2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations for negligent hiring or retention is four years. Fla. Stat. §95.11(3)(a).

362. Here, two employees of Liberty University, Defendants Michael Heiser and Randall Price, committed willful torts against the Plaintiff including defamation, conspiracy to defame, invasion of privacy, and conspiracy to commit privacy invasions over a period over a period of nearly four years. Here, Liberty University conducted no reasonable investigation, discharge, or reassignment but participated in the tortious behavior of its employees establishing a web page with Liberty University’s trademark with defamatory statements against the Plaintiff with links to more defamatory and privacy invasion websites on the World Wide Web. ¶¶ 47, Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83.

363. Here, Price and other Defendants hired the services of Murat Camping consisting of Murat Sahin, a serious felon with convictions for murderer and malicious wounding, associated with the disappearance of Donald Mackenzie, and Amy Beam, who was expelled from Turkey by the government for associations with a terrorist organization, the PKK. ¶¶ 30, 32, 33-34, 44, Ex. 3, 15-20. Since 2008, Murat Camping was paid large sums of money from Price and his associates to conduct meritless digs and surveys for Noah’s ark, where no historic cultural artifacts or features were found. ¶¶ 35-42, 45-47, Ex. 6-14, 21-23, 27-29. Mostly since the fourth quarter of 2013, Liberty University, Price, Heiser, and Amy Beam published more

defamatory and privacy invasion material against the Plaintiff, as Liberty University, Price, and Heiser published links to Beam's defamatory and privacy invasion materials on their own websites. ¶¶ 47, 79, 91, 210(a)-(f), 234, 235, 238, Ex. 30-33, 48-51, 54, 70-75, 77, 82-83. Instead of investigating, recognizing, or trying to minimize foreseeable zone of risk posed by its employees to the Plaintiff, Liberty University lauded, promoted, and established a website supporting Price's activities and enabled Price to use of Liberty University's students, trademark, and University press releases. ¶ 47, Ex. 25, 26. The coordinated the efforts Price and Heiser with other Defendants and their willful torts against the Plaintiff caused harm: economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. As a result of the acts of privacy invasion, Plaintiff sustained harm from identity theft.

365. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant Liberty University for vicarious liability, negligent supervision, respondeat superior, or combination thereof, and that Plaintiff be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

DEFENDANT RANDALL PRICE (“PRICE”)

366. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Price. Tracking the language of Fla. Stat. § 48.193(1)(a), Price is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

367. Price directly and repeatedly engages in business in Florida. Defendant Price uses Ark Search, LLC, in all aspects of Price’s interactions in his expeditions and excavations for Noah’s ark, from which this cause arises. First, Price continues to advertise himself as the Senior Archaeologist for Ark Search, LLC. Ex. 30, 32-33. Second, monies from donors for Price’s ark expeditions and excavations were sent from Price’s World of the Bible Ministries through Ark Search, LLC, to Turkey. ¶ 35, Ex. 6, p. 5. Price’s described his ark searches and excavations as a project through Ark Search, LLC: “Price climbed Mt. Ararat with Ark Search, LLC” Ex. 35-41 (Citing Price’s activities as Ark Search, LLC searches and excavations). Although advertised as a Wyoming entity, Ark Search, LLC, has its nerve center and base of activity in Dunedin, Florida, because Florida is the residence of Richard Bright—the managing director of Ark Search, LLC. Bright’s Answer, ¶ 11 (“I am the President/Manager/Owner of Ark Search LLC, . . . and I do live in Dunedin, Florida.”); Ark Search, LLC’s Answer ¶ 36 (“Ark Search, LLC is solely owned by me [Bright].”). *Id.*, at § 48.193(1)(a)(1).

368. Price committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of

Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

369. Price caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Price engaged in solicitation of goods or services in Florida including Noah's ark search material, books, DVDs, guided tours the Middle East, and donations for World of Bible Ministries from Florida citizens. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

370. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Price's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

371. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

372. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

373. Here, publications occurred because Price and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with the following defamatory material towards the Plaintiff (Ex. 30-33):

- a. Price and other Defendants established a web page where materials were

republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark

discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page established by Price and other Defendants (Ex. 30-33) provided a link to http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the

fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

e. This web page established by Price and other Defendants (Ex. 30-33) links to http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam’s defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24,

2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

g. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainarattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

374. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

375. The statements and links to defamatory content established by Price and other Defendants (¶ 47, Ex. 30-33) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D.

degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

376. Defendant Price acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Price has knowledge of Biblical history, ancient history, and having familiarity with the archaeological method and theory and would know that archaeological sites are

prevalent in eastern Anatolia at high elevations. Further, Price aided, participated in, and promoted, the search for Noah's ark described as a large, ancient, wood structure on Mount Ararat. Also, Price promotes the veracity of the Old Testament as an accurate historical text, which features passages on the existence of a large wood structure on mountains in the Ararat region. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

377. Defendant Price's false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Price's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

378. Price's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

379. Price republished his own defamatory material and links to Defendant Beam's

defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

380. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price and that he be awarded (i) mandatory injunctions, to enjoin Defendant Price to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

381. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

382. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

383. Here, the additional element is that Defendant Price engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Price and other Defendants intentionally and reciprocally placed links to defamatory statements

against the Plaintiff on each other's websites. Price posted links to defamatory material from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

384. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of

your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

385. Price with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

386. Second, in terms of economic influence, Price and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16,

86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

387. Third, with regard to malicious motives against the Plaintiff, Price and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to other defamatory material toward the Plaintiff, while promoting and publicizing Price’s Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

388. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Price’s strong motive to agree to commit defamation against Plaintiff include the prestige that his Noah’s ark searches brought Price as well as the notoriety received by Price’s degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Price, despite that large sites from Neolithic and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

389. Evidence for conduct against self-interest includes that Defendant Price believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported their philosophical views,

Price coordinated efforts with other Defendants to publish defamatory material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. **Ex. 30-33, 49, 51, 53, 71, 73, 75, 83.** Here, Price with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Price either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (**Ex. 6-13, 23**)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

390. Price’s acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

391. Price’s conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff’s rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

392. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price and that he be awarded (i) mandatory injunctions, to induce Defendant Price to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

393. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

394. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

395. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

396. Here, publications occurred because Price and other Defendants published on the

World Wide Web, on a web page on www.noahsarksearch.com, with links to public disclosure of private facts material towards the Plaintiff (Ex. 30-33):

a. Price and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff’s full name, birthdate, and photographs of Plaintiff’s passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48,

49. Here, the material is presented in a video as opposed to a scroll-down screen of pages.

Compare, Ex. 49 and Ex. 51. The video shows:

- 1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 1:52-3:04: Plaintiff's personal email address and private emails.
- 4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
- 7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
- 19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
- 23:25-23:51: Plaintiff's service in the U.S. military.
- 24:04-24:21: Plaintiff's personal address, phone number, and email address.
- 25:20-26:21: Plaintiff's financial information.
- 26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
- 27:04-28:34: Plaintiff's private legal papers.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

397. Price's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

398. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor,

and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

399. Here, publications occurred because Price and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to intrusion upon seclusion material towards the Plaintiff (Ex. 30-33):

a. Price and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Price and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page established by Price and other Defendants (Ex. 30-33) provided a

link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant

One.com. Ex. 48, 49. The video shows:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff’s private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

400. Defendant Price published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

401. Price’s public disclosure of Plaintiff’s private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in

Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Defendant Price and other Defendants read the material and printed links to Beam's intrusive material about the Plaintiff on their own web page. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

402. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

403. This web page established by Price and other Defendants (Ex. 30-33) provided a link <http://www.mountainarattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. Price's links to wrongful appropriation material of the Plaintiff were placed on a web page advertising its trademark, a professor, and his involvement in a search for Noah's ark. (Ex. 30-33).

D. Damages and Statute of Limitations

404. Price's acts of public disclosure of Plaintiff's private facts caused identity thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail

address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

405. Price's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

406. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Price to shut down his defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Price's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

407. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action.

Florida Statute §540.08(2) states, “[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.” Damages include “a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section.” *Id.* at §540.08(3). Remedies in §540.08 “shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Price is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

408. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

409. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

410. Here, the additional element is that Defendant Price engaged in “a common plan or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, Price and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other’s websites. Price posted links to defamatory material from Defendant Beam’s websites. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

411. Here, circumstantial evidence of conspiracy to commit privacy invasion includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the

Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

412. Price with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

413. Second, in terms of economic influence, Price and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's*

legacy (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

414. Third, with regard to evidence for malicious motives against the Plaintiff, Price claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to privacy invasion material of the Plaintiff, while promoting and publicizing his own Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

415. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Price’s strong motive to agree to commit privacy invasion material against Plaintiff include the prestige that his Noah’s ark searches brought Price as well as the notoriety Price received from his degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

416. Evidence for conduct against self-interest includes that Defendant Price believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported his philosophical views, Price coordinated efforts with other Defendants to publish privacy invasion material about the

Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, Price with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Price either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

417. Price’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

418. Price’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

419. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: NEGLIGENCE

420. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

421. Plaintiff incorporates case law for a Florida negligence cause from ¶ 142. The four elements of a negligence charge are (1) a duty, or obligation, recognized by the law, requiring the defendant to conform to a certain standard of conduct, for the protection of others against unreasonable risks; (2) a failure on the defendant's part to conform to the standard required: a breach of the duty; (3) a reasonably close causal connection between the conduct and the resulting injury, which is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact, and (4) actual loss or damage. *Curd*, 39 So. 3d at 1216

422. Plaintiff incorporates Federal and Florida case law for negligence for an archaeologist from ¶ 143 to 147. For archaeologists and archaeological organizations, the duty of care: "to mitigate the loss of historic properties" applies to both the historic site and persons attempting to mitigate loss of cultural material at these sites.

423. Here, Price would agree with U.S. Federal and state statutes and ASOR's

professed objectives regarding an archaeological duty of care to “initiate, encourage and support research into, and public understanding of, the cultures and history of the Near East from the earliest times”; “fostering original research . . . and explorations”; “maintaining the highest ethical standards of scholarship and public discourse.” ¶ 87, Ex. 66 & 67. Price’s archaeological duty of care is also supported in Price’s publications to mitigate loss of historic properties in the Near East, particularly in Israel.

424. However, Price breached his archaeological duty of care because Price failed to his purposeful degradation of the Ararat archaeological site, failed to accomplish any measures to document or preserve the Ararat archaeological site in peril, and actively worked against the Plaintiff, who was attempting to preserve the site, allowing both looting and melting permafrost to further harm this historic locale. ¶ 47, Ex. 30-33; App. D, p. 24 (ASOR Presentation).

425. Second, Price breached his duty of care making false statements with other Defendants in this suit and purposefully prepared, planned, and acted to degrade the actual archaeological site as a “hoax,” “fraud,” “Chinese site,” “ice cave” and that Plaintiff was advocating a hoax. Here, Price caused harm to the Plaintiff and an archaeological site by actively working against efforts to document and mitigate the damage to the Ararat archaeological site and then publishing efforts into Florida that hurt a Florida archaeologist, a historic preservation firm, and efforts by other archaeologists, which are ultimately causing tremendous harm to a defenseless archaeological site. ¶ 47; Ex. 30-33, 49, 51, 53, 71, 73, 75, 83; App. A-H.

426. Third, Price breached his duty of care by adding to the “Cultural Heritage Crisis” in the Near East through his efforts by misrepresenting that an archaeological site did not exist, and by harming the ability of the Plaintiff, a professional archaeologist, to conduct historic

preservation efforts at the Ararat archaeological site and at other historic locales. *Id.*; *see supra* pp. 2, 29; ¶¶ 99-103, 105-108, Ex. 94, p. 4, 99.

427. Fourth, here, like in *Klein, Padgett, and Lakeshore 1 Condo*, Price made no effort, “failed to act,” and took no “precautions” to mitigate the loss of cultural material at the Ararat archaeological site even though three professional archaeologists—Plaintiff, Rensen, and Bishop—attested to the veracity, historicity, or magnitude of historic cultural material at the Ararat locale. *Klein*, 758 F.2d at 1515; *Padgett*, 395 So. 2d at 585-586; *Lakeshore 1*, 691 So. 2d at 1106; ¶¶ 109-114, App. D, p. 24; App. C, F, H.

428. Price’s breach of duty would create a “foreseeable zone of risk” because it is likely that as a archaeologist in the Near East, Price’s actions to purposefully degrade a factual archaeological site as a “hoax,” “Chinese site,” representing modern wood from the Black Sea would inhibit the Plaintiff and other historic preservation entities (e.g., Bishop) from protecting the Ararat locale or other historic preservation sites and cause other harms such as prevention of employment as an archaeologist or loss of archaeological contracts for Plaintiff’s historic preservation firm. *See supra* ¶ 47, Ex. 30-33 (Citing Price’s tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff). It is also likely that Price’s efforts to degrade the site and the Plaintiff would prevent other archaeologists, historic preservation firms, or state antiquity authorities from engaging in preservation efforts at the Ararat archaeological site because Price labeled the site a “hoax” and historic preservation efforts do not extend to a “hoax” comprising “modern” wood from the Black Sea. Lastly, it is likely that Price’s intentional efforts to degrade an actual archaeological site by stating the locale was a “hoax” and act to embarrass, humiliate, or conceal archaeological efforts by the Plaintiff would cause others to neglect preservation

efforts at the Ararat site and subject the site to looting and enhanced decomposition by melting permafrost. ¶¶ 21-27; App. D, p. 24; *see* ¶ 47, Ex. 30-33.

429. Again, Price's breach of the duty of archaeological care not only caused specific harm pertaining to this Count, namely preventing the Plaintiff and other historic preservation entities (e.g., Bishop) from protecting the Ararat locale but also caused the Plaintiff other harms such as loss of employment as an archaeologist, loss of archaeological contracts for Plaintiff's historic preservation firm, breach of historic preservation contracts, and other damages. *See supra* ¶ 47, Ex. 30-33 (Citing Price's tortious actions); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff).

COUNT VI: GROSS NEGLIGENCE

430. Plaintiff incorporates case law for a gross negligence cause from ¶ 155. Gross negligence is established by facts showing a reckless disregard of human life or rights which is equivalent to an intentional act or a conscious indifference to the consequences of an act. *Rapp*, 417 So. 2d at 670.

431. Here, Price showed intentionality by planning, preparing, and coordinating attacks on an actual archaeological site directly claiming and having other associates assert the historic locale was a "fraud" and "hoax" and that the Plaintiff was a "fraud," "so-called expert," "liar," and "sociopath." ¶ 47, Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83.

432. Price's intentional and reckless behavior caused damages, namely Plaintiff's economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. Price's intentional acts also

caused harm specific to this Count, namely Plaintiff's ability to protect, preserve, and research the Ararat archaeological site. Further, Price's intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. ¶¶ 23-25, Ex. 1-2, App. D, p. 24 (ASOR Presentation).

COUNT VII: VICARIOUS LIABILITY

433. Plaintiff incorporates citations for vicarious liability from ¶ 160. Vicarious liability requires a negligent act by an employee that is committed within the course and the scope of their employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So.2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations related to vicarious liability is four years. Fla. Stat. §95.11(3)(a).

434. Here, Price's employees or agents, Amy Beam and Murat Sahin, acted within the scope of their employment because Price lead and supervised surveys and excavations for ancient structures believed to be on Mount Ararat supported and promoted by Liberty University. ¶¶ 52, 56-57, 63, Ex. 11, p. 2.

435. Here, Amy Beam and Murat Sahin had a duty of care not to harm persons, such as the Plaintiff, staying at Murat Camping to do historic research in the area. Instead, Amy Beam and Murat Sahin breached this duty, purposefully denigrated an actual historic site, threatened by looting the melting permafrost, and publicly declaring the site was a hoax and fraud and encouraging others to do the same while searching through the Plaintiff's luggage and then publishing on the internet Plaintiff's private information and then defaming him because Plaintiff observed there were valid archaeological locales on Mount Ararat. ¶¶ Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83. Meanwhile, Price's employees, Beam and Sahin, used funds with other

Defendants to dig holes in the ice on Mount Ararat, from 2008 to the present, having no cultural material or human features that Beam describes as “legitimate” surveys or excavations for Noah’s ark. ¶¶ 35-42, 45-47, 115, Ex. 6-14, 27-29, 100, p. 2. It was foreseeable that Beam and Sahin’s breach of the duty of care as a tourism provider would cause harm to Plaintiff and this was recognized by Turkish authorities that fined Murat Camping for not having a valid TURSAB (tourism) license and prosecuted Beam for not having a permit to work in Turkey. ¶ 43, Ex 14.

436. As such, Defendant Price is liable for the damages caused to the Plaintiff by Price’s employees, Amy Beam and Murat Sahin, acting within the scope of Price’s employment. These damages include but are not limited to economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff’s reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108.

COUNT VIII: NEGLIGENCE IN SUPERVISION / RESPONDEAT SUPERIOR

437. Plaintiff incorporates citations for negligence in supervision and respondeat superior from ¶¶ 360-361. Florida courts vary as to the necessary elements of negligence in hiring or retention where an employer is liable for the willful torts of its employee. *Island City Flying Serv.*, 585 So. 2d at 276. Florida law recognizes negligence in hiring or retention as being distinct from respondeat superior, as an employer is liable for the willful tort of his employee committed against a third person if the employer knew or should have known that the employee was a threat to others or of the employee’s unfitness, but failed to take action including an investigation, discharge, or reassignment. *Tallahassee Furniture Co.*, 583 So. 2d at 750

438. Here, an employee of Price, Amy Beam, committed willful torts against the Plaintiff including defamation, conspiracy to defame, invasion of privacy, and conspiracy to

commit privacy invasions over a period of nearly four years. Here, Price conducted no reasonable investigation, discharge, or reassignment of Amy Beam but participated in the tortious behavior of Beam establishing a web page with other Defendants with defamatory statements against the Plaintiff with links Beam's defamatory and privacy invasion websites on the World Wide Web. ¶ 47, Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83.

439. Here, Price and other Defendants hired the services of Murat Camping consisting of Murat Sahin, a serious felon with convictions for murderer and malicious wounding, associated with the disappearance of Donald Mackenzie, and Amy Beam, who was expelled from Turkey by the government for associations with a terrorist organization, the PKK. ¶¶ 30, 32, 33-34, 44, Ex. 3, 15-20. Since 2008, Murat Camping was paid large sums of money from Price and his associates to assist with meritless digs and surveys for Noah's ark, where no historic cultural artifacts or features were found. ¶¶ 35-42, 45-47, Ex. 6-14, 21-23, 27-29. Mostly since the fourth quarter of 2013, Amy Beam published more defamatory and privacy invasion material against the Plaintiff, as Liberty University and Price published links to Beam's defamatory and privacy invasion materials on their own websites. ¶¶ 47, 79, 91, 210(a)-(f), 234, 235, 238, Ex. 30-33, 48-51, 54, 70-75, 77, 82-83. Instead of investigating, recognizing, or trying to minimize foreseeable zone of risk posed by Amy Beam to the Plaintiff, Price lauded, promoted, and established a web page supporting Beam's activities and links to Beam's defamatory and privacy invasions against the Plaintiff as well as links to Beam's fund-raising activities. ¶ 47, Ex. 30-33. The coordinated the efforts of Beam with other Defendants and their willful torts against the Plaintiff caused harm: economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts,

and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. As a result of the acts of privacy invasion, Plaintiff sustained harm from identity theft.

440. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant Price for negligence, vicarious liability, negligent hiring or supervision, and respondeat superior, and that he be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

441. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Price, for gross negligence, and that he be awarded economic damages for past, present, and future wage loss or diminution, attorney's fees, and court costs. Also, a finding of gross negligence enables Plaintiff to request non-economic damages including but not limited to loss of consortium. Plaintiff's request for punitive damages will be filed separately. Further, Plaintiff requests a trial by jury.

DEFENDANT ARK SEARCH, LLC (“ARK SEARCH, LLC” or “ASL”)

442. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant ASL. Tracking the language of Fla. Stat. § 48.193(1)(a), ASL is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

443. ASL directly and repeatedly engages in business in Florida. Several Defendants state that ASL is the corporate entity managing their expeditions and excavations for Noah’s ark, from which this cause arises. First, Price continues to advertise himself as the Senior Archaeologist for Ark Search, LLC. Ex. 30, 32-33. Second, monies from donors for Price’s ark expeditions and excavations were sent from Price’s World of the Bible Ministries through Ark Search, LLC, to Turkey. ¶ 35, Ex. 6, p. 5. Price’s described his ark searches and excavations as a project through Ark Search, LLC: “Price climbed Mt. Ararat with Ark Search, LLC” Ex. 35-41 (Citing Price’s activities as Ark Search, LLC searches and excavations). Although advertised as a Wyoming entity, Ark Search, LLC, has its nerve center and base of activity in Dunedin, Florida, because Florida is the residence of Richard Bright—the managing director of Ark Search, LLC. Bright’s Answer, ¶ 11 (“I am the President/Manager/Owner of Ark Search LLC, . . . and I do live in Dunedin, Florida.”); Ark Search, LLC’s Answer ¶ 36 (“Ark Search, LLC is solely owned by me [Bright].”). *Id.*, at § 48.193(1)(a)(1).

368. ASL committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida,

by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

444. ASL caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Price engaged in the solicitation services in Florida including Noah's ark search preparations, fund raising, and other logistical functions. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

445. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that ASL's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

446. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

447. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

448. Here, publications occurred because ASL and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with the following defamatory material towards the Plaintiff (Ex. 30-33):

a. ASL and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and

17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p.

1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like

Pinocchio's nose," (7) the MackQuigley Report was "created . . . by [Plaintiff] himself," (8) [Plaintiff] "did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey," (9) "I [Beam] have described [Plaintiff's] deception in the . . . fraud elsewhere," (10) "[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found," (11) "To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language." Ex. 71, pp. 2-3. Beam entitles the publication a "Fraud," cites herself as author: "by Amy L. Beam, Ed.D.," and admits, "Along with discovering [Plaintiff's private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

e. This web page established by ASL and other Defendants (Ex. 30-33) links to http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on

February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

g. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainarattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

449. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

450. The statements and links to defamatory content established by ASL and other Defendants (¶ 47, Ex. 30-33) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles

and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed

Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

451. Defendant ASL acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because persons in ASL had knowledge of Biblical history, ancient history, and familiarity with the archaeological method and theory and would know that archaeological sites are prevalent in eastern Anatolia at high elevations. Further, ASL aided, participated in, and

promoted, the search for Noah's ark described as a large, ancient, wood structure on Mount Ararat. Also, persons in ASL promote the Old Testament as an accurate historical text, which features passages on the existence of a large wood structure on mountains in the Ararat region. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

452. Defendant ASL's false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of ASL's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

453. ASL's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

454. ASL republished its own defamatory material and links to Defendant Beam's defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these

materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

455. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASL and that he be awarded (i) mandatory injunctions, to enjoin Defendant ASL to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

456. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

457. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

458. Here, the additional element is that Defendant ASL engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, ASL and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. ASL posted links to defamatory material from

Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

459. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam

produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

460. ASL with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

461. Second, in terms of economic influence, ASL and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private

university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

462. Third, with regard to malicious motives against the Plaintiff, ASL and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to other defamatory material toward the Plaintiff, while promoting and publicizing ASL’s Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

463. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant ASL’s strong motive to agree to commit defamation against Plaintiff include the prestige that its Noah’s ark searches brought ASL as well as the notoriety received by ASL’s degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by ASL, despite that large sites from Neolithic and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

464. Evidence for conduct against self-interest includes that persons in ASL believe in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported their philosophical views, ASL coordinated efforts with other Defendants to publish defamatory material about the Plaintiff

as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, ASL with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom ASL either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

465. ASL’s acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

466. ASL’s conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff’s rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

467. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant ASL and that he be awarded (i) mandatory injunctions, to induce Defendant ASL to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

468. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

469. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

470. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

471. Here, publications occurred because ASL and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to public disclosure

of private facts material towards the Plaintiff (Ex. 30-33):

a. ASL and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff’s full name, birthdate, and photographs of Plaintiff’s passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages.

Compare, Ex. 49 and Ex. 51. The video shows:

- 1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 1:52-3:04: Plaintiff's personal email address and private emails.
- 4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
- 7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
- 19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
- 23:25-23:51: Plaintiff's service in the U.S. military.
- 24:04-24:21: Plaintiff's personal address, phone number, and email address.
- 25:20-26:21: Plaintiff's financial information.
- 26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
- 27:04-28:34: Plaintiff's private legal papers.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

472. ASL's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

473. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

474. Here, publications occurred because ASL and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to intrusion upon seclusion material towards the Plaintiff (Ex. 30-33):

a. ASL and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page established by ASL and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> published on December 21, 2013,

August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant

One.com. Ex. 48, 49. The video shows:

- 4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
- 7:31-15:50: Plaintiff’s private journal pages.
- 18:25-18:55: Plaintiff’s private journal pages.
- 21:23-22:12: Plaintiff’s private journal pages.
- 23:25-23:51: Plaintiff’s toilet procedures.
- 25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
- 27:04-28:34: Plaintiff’s private legal papers and information thereof.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

475. Defendant ASL published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

476. ASL’s public disclosure of Plaintiff’s private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant

Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. ASL and other Defendants read the material and printed links to Beam's intrusive material about the Plaintiff on their own web page. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

477. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

478. This web page established by ASL and other Defendants (Ex. 30-33) provided a link <http://www.mountainararattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. ASL's links to wrongful appropriation material of the Plaintiff were placed on a web page advertising its involvement in the search for Noah's ark. (Ex. 30-33).

D. Damages and Statute of Limitations

479. ASL's acts of public disclosure of Plaintiff's private facts caused identity thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained

other damages: rejection from employment, incurred property damage, sustained past-present- and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

480. ASL's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

481. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASL, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant ASL to shut down its defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant ASL's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

482. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant ASL, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin

such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.” Damages include “a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section.” *Id.* at §540.08(3). Remedies in §540.08 “shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant ASL is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

483. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

484. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

485. Here, the additional element is that Defendant ASL engaged in “a common plan or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, ASL and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other’s websites. ASL posted links to defamatory material from Defendant Beam’s websites. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

486. Here, circumstantial evidence of conspiracy to commit privacy invasion includes

that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory

documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

487. ASL with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

488. Second, in terms of economic influence, ASL and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/>

liberty-university/2764789/. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

489. Third, with regard to evidence for malicious motives against the Plaintiff, ASL claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to privacy invasion material of the Plaintiff, while promoting and publicizing its own Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

490. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant ASL’s strong motive to agree to commit privacy invasion material against Plaintiff include the prestige that its Noah’s ark searches brought ASL as well as the notoriety ASL received from its degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

491. Evidence for conduct against self-interest includes that persons in ASL believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported its philosophical views, ASL coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site.

Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, ASL with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom ASL either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (**Ex. 6-13, 23**)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

492. ASL’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

493. ASL’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

419. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant ASL and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: VICARIOUS LIABILITY

494. Plaintiff incorporates citations for vicarious liability from ¶ 160. Vicarious liability requires a negligent act by an employee that is committed within the course and the scope of their employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So.2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations related to vicarious liability is four years. Fla. Stat. §95.11(3)(a).

495. Here, ASL's employees or agents, Amy Beam and Murat Sahin, acted within the scope of their employment because ASL was a purported corporate entity that lead and supervised surveys and excavations for ancient structures believed to be on Mount Ararat supported and promoted by Liberty University. ¶¶ 52, 56-57, 63, Ex. 11, p. 2.

496. Here, Amy Beam and Murat Sahin had a duty of care not to harm persons, such as the Plaintiff, staying at Murat Camping to do historic research in the area. Instead, Amy Beam and Murat Sahin breached this duty, purposefully denigrated an actual historic site, threatened by looting the melting permafrost, and publicly declaring the site was a hoax and fraud and encouraging others to do the same while searching through the Plaintiff's luggage and then publishing on the internet Plaintiff's private information and then defaming him because Plaintiff

observed there were valid archaeological locales on Mount Ararat. ¶¶ Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83. Meanwhile, ASL's employees, Beam and Sahin, used funds with other Defendants to dig holes in the ice on Mount Ararat, from 2008 to the present, having no cultural material or human features that Beam describes as "legitimate" surveys or excavations for Noah's ark. ¶¶ 35-42, 45-47, 115, Ex. 6-14, 27-29, 100, p. 2. It was foreseeable that Beam and Sahin's breach of the duty of care as a tourism provider would cause harm to Plaintiff and this was recognized by Turkish authorities that fined Murat Camping for not having a valid TURSAB (tourism) license and prosecuted Beam for not having a permit to work in Turkey. ¶ 43, Ex 14.

497. As such, Defendant ASL is liable for the damages caused to the Plaintiff by ASL's employees, Amy Beam and Murat Sahin, acting within the scope of ASL's employment. These damages include but are not limited to economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108.

COUNT VI: NEGLIGENCE IN SUPERVISION / RESPONDEAT SUPERIOR

498. Plaintiff incorporates citations for negligence in supervision and hiring and respondeat superior from ¶¶ 360-361. Florida courts vary as to the necessary elements of negligence in hiring or retention where an employer is liable for the willful torts of its employee. *Island City Flying Serv.*, 585 So. 2d at 276. Florida law recognizes negligence in hiring or retention as being distinct from respondeat superior, as an employer is liable for the willful tort of his employee committed against a third person if the employer knew or should have known that the employee was a threat to others or of the employee's unfitness, but failed to take action including an investigation, discharge, or reassignment. *Tallahassee Furniture Co.*, 583 So. 2d at

499. Here, an employee of ASL, Amy Beam, committed willful torts against the Plaintiff including defamation, conspiracy to defame, invasion of privacy, and conspiracy to commit privacy invasions over a period of nearly four years. Here, ASL conducted no reasonable investigation, discharge, or reassignment of Amy Beam but participated in the tortious behavior of Beam establishing a web page with other Defendants with defamatory statements against the Plaintiff with links Beam's defamatory and privacy invasion websites on the World Wide Web. ¶¶ 47, Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83.

500. Here, ASL and other Defendants hired the services of Murat Camping consisting of Murat Sahin, a serious felon with convictions for murderer and malicious wounding, associated with the disappearance of Donald Mackenzie, and Amy Beam, who was expelled from Turkey by the government for associations with a terrorist organization, the PKK. ¶¶ 30, 32, 33-34, 44, Ex. 3, 15-20. Since 2008, Murat Camping was paid large sums of money from ASL and its associates to assist with meritless digs and surveys for Noah's ark, where no historic cultural artifacts or features were found. ¶¶ 35-42, 45-47, Ex. 6-14, 21-23, 27-29. Mostly since the fourth quarter of 2013, Amy Beam published more defamatory and privacy invasion material against the Plaintiff, as Liberty University and ASL published links to Beam's defamatory and privacy invasion materials on their own websites. ¶¶ 47, 79, 91, 210(a)-(f), 234, 235, 238, Ex. 30-33, 48-51, 54, 70-75, 77, 82-83. Instead of investigating, recognizing, or trying to minimize foreseeable zone of risk posed by Amy Beam to the Plaintiff, ASL lauded, promoted, and established a web page supporting Beam's activities and links to Beam's defamatory and privacy invasions against the Plaintiff as well as links to Beam's fund-raising activities. ¶ 47, Ex. 30-33.

The coordinated the efforts of Beam with other Defendants and their willful torts against the Plaintiff caused harm: economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. As a result of the acts of privacy invasion, Plaintiff sustained harm from identity theft.

501. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant, Ark Search, LLC, for vicarious liability, negligent hiring or supervision, respondeat superior, and that he be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

DEFENDANT RICHARD BRIGHT (“BRIGHT”)

502. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Bright because Bright has his residence in Dunedin, Florida, and venue is appropriate in Duval County because Defendant Fouchecourt resides in Jacksonville, FL. Also, Tracking the language of Fla. Stat. § 48.193(1)(a), Bright is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

503. Bright directly and repeatedly engages in business in Florida. Several Defendants state that Ark Search, LLC is the corporate entity managing their expeditions and excavations for Noah’s ark, from which this cause arises. First, Price continues to advertise himself as the Senior Archaeologist for Ark Search, LLC. Ex. 30, 32-33. Second, monies from donors for ark expeditions and excavations were sent from Price’s World of the Bible Ministries through Ark Search, LLC, to Turkey. ¶ 35, Ex. 6, p. 5. Price’s described his ark searches and excavations as a project through Ark Search, LLC: “Price climbed Mt. Ararat with Ark Search, LLC” Ex. 35-41 (Citing Price’s activities as Ark Search, LLC searches and excavations). Although advertised as a Wyoming entity, Ark Search, LLC, has its nerve center and base of activity in Dunedin, Florida, because Florida is the residence of Richard Bright—the managing director of Ark Search, LLC. Bright’s Answer, ¶ 11 (“I am the President/Manager/Owner of Ark Search LLC, . . . and I do live in Dunedin, Florida.”); Ark Search, LLC’s Answer ¶ 36 (“Ark Search, LLC is solely owned by me [Bright].”). *Id.*, at § 48.193(1)(a)(1).

504. Bright committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

505. Bright caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Price engaged in the solicitation services in Florida including Noah's ark search preparations, fund raising, and other logistical functions as the Managing Member of Ark Search, LLC. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

506. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Bright's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

507. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

508. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

509. Here, publications occurred because Bright and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with the following defamatory material towards the Plaintiff (Ex. 30-33):

a. Bright and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is

perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountarattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5)

“[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

e. This web page established by Bright and other Defendants (Ex. 30-33) links to [http://www.mountainarattrek.com/ark/KurdishGuides NoahsArk chinese.pdf](http://www.mountainarattrek.com/ark/KurdishGuides%20NoahsArk%20chinese.pdf) published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam’s defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16,

2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

g. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainarattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

510. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

511. The statements and links to defamatory content established by Bright and other Defendants (¶ 47, Ex. 30-33) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of

time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

512. Defendant Bright acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Bright was knowledgeable of Biblical history, ancient history, and that wood

features were found on Mount Ararat. Further, Bright aided, participated in, and promoted, the search for Noah's ark described as a large, ancient, wood structure on Mount Ararat. In addition, Bright knew that other historic and archaeological periods were prevalent in eastern Turkey on or around Mount Ararat. Also, Bright believes the Old Testament of Bible is an accurate historical text, which features passages on the existence of a large wood structure on mountains in the Ararat region. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

513. Defendant Bright's false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Bright's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

514. Bright's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

515. Bright republished his own defamatory material and links to Defendant Beam's defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

516. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Bright and that he be awarded (i) mandatory injunctions, to enjoin Defendant Bright to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

517. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

518. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

519. Here, the additional element is that Defendant Bright engaged in "a common plan or scheme or actions in concert" with other Defendants to defame the Plaintiff because first,

Bright and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Bright posted links to defamatory material from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

520. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants

sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

521. Bright with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

522. Second, in terms of economic influence, Bright and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on

monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

523. Third, with regard to malicious motives against the Plaintiff, Bright and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to other defamatory material toward the Plaintiff, while promoting and publicizing Bright’s Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

524. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Bright’s strong motive to agree to commit defamation against Plaintiff include the prestige that his Noah’s ark searches brought Bright as well as the notoriety received by Bright’s degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Bright, despite that large sites from Neolithic and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

525. Evidence for conduct against self-interest includes that Bright believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount

Ararat. Instead of favoring an actual archaeological site that supported their philosophical views, Bright coordinated efforts with other Defendants to publish defamatory material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. **Ex. 30-33, 49, 51, 53, 71, 73, 75, 83.** Here, Bright with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Bright either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (**Ex. 6-13, 23**)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

526. Bright’s acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

527. Bright’s conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff’s rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103,

105-108.

528. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Bright and that he be awarded (i) mandatory injunctions, to induce Defendant Bright to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

529. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

530. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

531. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

532. Here, publications occurred because Bright and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to public disclosure of private facts material towards the Plaintiff (Ex. 30-33):

a. Bright and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff’s full name, birthdate, and photographs of Plaintiff’s passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30,

2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages.

Compare, Ex. 49 and Ex. 51. The video shows:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff's personal email address and private emails.
4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

533. Bright's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

534. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An

unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

535. Here, publications occurred because Bright and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to intrusion upon seclusion material towards the Plaintiff (Ex. 30-33):

a. Bright and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page established by Bright and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff’s private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

536. Defendant Bright published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

537. Bright’s public disclosure of Plaintiff’s private facts were published on the World

Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Bright and other Defendants read the material and printed links to Beam's intrusive material about the Plaintiff on their own web page. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

538. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

539. This web page established by Bright and other Defendants (Ex. 30-33) provided a link <http://www.mountainarattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. Bright's links to wrongful appropriation material of the Plaintiff were placed on a web page advertising Bright's involvement in the search for Noah's ark. (Ex. 30-33).

D. Damages and Statute of Limitations

540. Bright's acts of public disclosure of Plaintiff's private facts caused identity

thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

541. Bright's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

542. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Bright, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Bright to shut down his defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Bright's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

543. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Bright, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive

damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy." *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Bright is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

544. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

545. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

546. Here, the additional element is that Defendant Bright engaged in "a common plan or scheme or actions in concert" with other Defendants to commit privacy invasions against the Plaintiff because first, Bright and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Bright posted links to privacy invasion material from Defendant Beam's websites. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-

51, 54, 70-75, 82-83.

547. Here, circumstantial evidence of conspiracy to commit privacy invasion includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for

distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

548. Bright with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

549. Second, in terms of economic influence, Bright and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private

university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

550. Third, with regard to evidence for malicious motives against the Plaintiff, Bright claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to privacy invasion material of the Plaintiff, while promoting and publicizing his own Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

551. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Bright’s strong motive to agree to commit privacy invasion material against Plaintiff include the prestige that his Noah’s ark searches brought Bright as well as the notoriety Bright received from his degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

552. Evidence for conduct against self-interest includes that Bright believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported his philosophical views,

Bright coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. **Ex. 30-33, 49, 51, 53, 71, 73, 75, 83.** Here, Bright with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Bright either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (**Ex. 6-13, 23**)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

553. Bright’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

554. Bright’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the

filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

555. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Bright and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down his privacy invasion website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: VICARIOUS LIABILITY

556. Plaintiff incorporates citations for vicarious liability from ¶ 160. Vicarious liability requires a negligent act by an employee that is committed within the course and the scope of their employment. *Anderson Trucking Serv., Inc. v. Gibson*, 884 So.2d 1046, 1052 (Fla. 5th DCA 2004). The statute of limitations related to vicarious liability is four years. Fla. Stat. §95.11(3)(a).

557. Here, Bright's employees or agents, Amy Beam and Murat Sahin, acted within the scope of their employment because Bright was the purported Managing Member of the corporate entity, Ark Search, LLC, that managed the surveys and excavations for ancient structures believed to be on Mount Ararat supported and promoted by Liberty University. ¶¶ 52, 56-57, 63, Ex. 11, p. 2.

558. Here, Amy Beam and Murat Sahin had a duty of care not to harm persons, such as the Plaintiff, staying at Murat Camping to do historic research in the area. Instead, Amy Beam and Murat Sahin breached this duty, purposefully denigrated an actual historic site, threatened by

looting the melting permafrost, and publicly declaring the site was a hoax and fraud and encouraging others to do the same while searching through the Plaintiff's luggage and then publishing on the internet Plaintiff's private information and then defaming him because Plaintiff observed there were valid archaeological locales on Mount Ararat. ¶¶ Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83. Meanwhile, Bright's employees, Beam and Sahin, used funds with other Defendants to dig holes in the ice on Mount Ararat, from 2008 to the present, having no cultural material or human features that Beam describes as "legitimate" surveys or excavations for Noah's ark. ¶¶ 35-42, 45-47, 115, Ex. 6-14, 27-29, 100, p. 2. It was foreseeable that Beam and Sahin's breach of the duty of care as a tourism provider would cause harm to Plaintiff and this was recognized by Turkish authorities that fined Murat Camping for not having a valid TURSAB (tourism) license and prosecuted Beam for not having a permit to work in Turkey. ¶ 43, Ex 14.

559. As such, Defendant Bright is liable for the damages caused to the Plaintiff by Bright's employees, Any Beam and Murat Sahin, acting within the scope of Bright's employment. These damages include but are not limited to economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108.

COUNT VI: NEGLIGENCE IN SUPERVISION / RESPONDEAT SUPERIOR

560. Plaintiff incorporates citations for negligence in supervision and respondeat superior from ¶¶ 360-361. Florida courts vary as to the necessary elements of negligence in hiring or retention where an employer is liable for the willful torts of its employee. *Island City Flying Serv.*, 585 So. 2d at 276. Florida law recognizes negligence in hiring or retention as being distinct from respondeat superior, as an employer is liable for the willful tort of its employee

committed against a third person if the employer knew or should have known that the employee was a threat to others or of the employee's unfitness, but failed to take action including an investigation, discharge, or reassignment. *Tallahassee Furniture Co.*, 583 So. 2d at 750

561. Here, an employee or agent of Bright, Amy Beam, committed willful torts against the Plaintiff including defamation, conspiracy to defame, invasion of privacy, and conspiracy to commit privacy invasions over a period of nearly four years. Here, Bright conducted no reasonable investigation, discharge, or reassignment of Amy Beam but participated in the tortious behavior of Beam establishing a web page with other Defendants with defamatory statements against the Plaintiff with links Beam's defamatory and privacy invasion websites on the World Wide Web. ¶ 47, Ex. 30-33, 49, 51, 53, 71, 73, 75, 77, 83.

562. Here, Bright and other Defendants hired the services of Murat Camping consisting of Murat Sahin, a serious felon with convictions for murderer and malicious wounding, associated with the disappearance of Donald Mackenzie, and Amy Beam, who was expelled from Turkey by the government for associations with a terrorist organization, the PKK. ¶¶ 30, 32, 33-34, 44, Ex. 3, 15-20. Since 2008, Murat Camping was paid large sums of money from Bright and its associates to assist with meritless digs and surveys for Noah's ark, where no historic cultural artifacts or features were found. ¶¶ 35-42, 45-47, Ex. 6-14, 21-23, 27-29. Mostly since the fourth quarter of 2013, Amy Beam published more defamatory and privacy invasion material against the Plaintiff, as Liberty University and Bright published links to Beam's defamatory and privacy invasion materials on their own websites. ¶¶ 47, 79, 91, 210(a)-(f), 234, 235, 238, Ex. 30-33, 48-51, 54, 70-75, 77, 82-83. Instead of investigating, recognizing, or trying to minimize foreseeable zone of risk posed by Amy Beam to the Plaintiff, Bright lauded,

promoted, and established a web page supporting Beam's activities and links to Beam's defamatory and privacy invasions against the Plaintiff as well as links to Beam's fund-raising activities. ¶ 47, Ex. 30-33. The coordinated the efforts of Beam with other Defendants and their willful torts against the Plaintiff caused harm: economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. As a result of the acts of privacy invasion, Plaintiff sustained harm from identity theft.

563. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant Bright for vicarious liability, negligent hiring or supervision, and respondeat superior, and that Plaintiff be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

DEFENDANT DON PATTON (“PATTON”)

564. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Patton. Tracking the language of Fla. Stat. § 48.193(1)(a), Patton is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

565. Patton directly and repeatedly engages in business in Florida. Defendant Patton uses Ark Search, LLC, in all aspects of Patton’s interactions in his involvement in expeditions and excavations for Noah’s ark, from which this cause arises. First, Patton continues to advertise himself as part of Ark Search, LLC.

“ . . . Ark Search, LLC is wholly owned by Richard Bright. He is the Director . . . I have been a member of the team directed by Richard Bright since 2008. That simply means I get to work as long as I want for free and Richard gets to tell me what to do.”

Patton’s Answer, ¶ 17

Although advertised as a Wyoming entity, Ark Search, LLC, has its nerve center and base of activity in Dunedin, Florida, because Florida is the residence of Richard Bright—the managing director of Ark Search, LLC. Bright’s Answer, ¶ 11 (“I am the President/Manager/Owner of Ark Search LLC, . . . and I do live in Dunedin, Florida.”); Ark Search, LLC’s Answer ¶ 36 (“Ark Search, LLC is solely owned by me [Bright].”). *Id.*, at § 48.193(1)(a)(1).

566. Patton committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of

Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

567. Patton caused injury to Plaintiff and Plaintiff's business outside the state of Florida by committing tortious acts against the Plaintiff while Patton engaged in services in Florida including the promotion of searches for Noah's ark through Ark Search, LLC. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

568. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Patton's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

569. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

570. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

571. Here, publications occurred because Patton and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with the following defamatory material towards the Plaintiff (Ex. 30-33):

a. Patton and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and

17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p.

1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like

Pinocchio's nose," (7) the MackQuigley Report was "created . . . by [Plaintiff] himself," (8) [Plaintiff] "did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey," (9) "I [Beam] have described [Plaintiff's] deception in the . . . fraud elsewhere," (10) "[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found," (11) "To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language." Ex. 71, pp. 2-3. Beam entitles the publication a "Fraud," cites herself as author: "by Amy L. Beam, Ed.D.," and admits, "Along with discovering [Plaintiff's private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

e. This web page established by Patton and other Defendants (Ex. 30-33) links to http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on

February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

g. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainarattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

572. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

573. The statements and links to defamatory content established by Patton and other Defendants (¶ 47, Ex. 30-33) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles

and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed

Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not "bully," "intimidate," or email "a long threatening diatribe" to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

574. Defendant Patton acted "with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person" because Patton was knowledgeable of Biblical history, ancient history, and that wood features were found on Mount Ararat. Further, Patton aided, participated in, and promoted, the search for Noah's ark described as a large, ancient, wood structure on Mount Ararat. In addition,

Patton knew that other historic and archaeological periods were prevalent in eastern Turkey on or around Mount Ararat. Also, Patton believes the Old Testament of Bible is an accurate historical text, which features passages on the existence of a large wood structure on mountains in the Ararat region. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

575. Defendant Patton's false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Patton's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

576. Patton's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

577. Patton republished his own defamatory material and links to Defendant Beam's defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these

materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

578. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Patton and that he be awarded (i) mandatory injunctions, to enjoin Defendant Patton to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

579. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

580. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

581. Here, the additional element is that Defendant Patton engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Patton and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Patton posted links to defamatory material from

Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

582. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam

produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

583. Patton with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

584. Second, in terms of economic influence, Patton and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private

university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

585. Third, with regard to malicious motives against the Plaintiff, Patton and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to other defamatory material toward the Plaintiff, while promoting and publicizing Patton’s Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

586. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Patton’s strong motive to agree to commit defamation against Plaintiff include the prestige that his Noah’s ark searches brought Patton as well as the notoriety received by Patton’s degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Patton, despite that large sites from Neolithic and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

587. Evidence for conduct against self-interest includes that Patton believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported their philosophical views, Patton coordinated efforts with other Defendants to publish defamatory material about the

Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, Patton with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Patton either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

588. Patton’s acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

589. Patton’s conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff’s rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

590. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant Patton and that he be awarded (i) mandatory injunctions, to induce Defendant Patton to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

591. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

592. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

593. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

594. Here, publications occurred because Patton and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to public disclosure

of private facts material towards the Plaintiff (Ex. 30-33):

a. Patton and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff’s full name, birthdate, and photographs of Plaintiff’s passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages.

Compare, Ex. 49 and Ex. 51. The video shows:

- 1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 1:52-3:04: Plaintiff's personal email address and private emails.
- 4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
- 7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
- 19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
- 23:25-23:51: Plaintiff's service in the U.S. military.
- 24:04-24:21: Plaintiff's personal address, phone number, and email address.
- 25:20-26:21: Plaintiff's financial information.
- 26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
- 27:04-28:34: Plaintiff's private legal papers.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

595. Patton's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

596. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

597. Here, publications occurred because Patton and other Defendants published on the World Wide Web, on a web page on www.noahsarksearch.com, with links to intrusion upon seclusion material towards the Plaintiff (Ex. 30-33):

a. Patton and other Defendants established a web page where materials were republished on October 3, November 4, and December 6, in 2013; on February 13, April 16 and 17, May 17, June 18 and 20, and December 15, in 2014, and October 29, 2015, on www.noahsarksearch.com. ¶ 47, Ex. 30-33. Here, Liberty University shows its trademark, the Liberty University positions of “Distinguished Research Professor” and “Executive Director Center of Judaic Studies” for Defendant Price, that Price has the Liberty University positions and is the “Ark Search LLC Senior Archaeologist” for the Noah’s Ark “expeditions, with the following statements: (1) “Joel David Klenck in the alleged Noah’s Ark fraud,” (2) “Joel David Klenck exposed,” (3) and various links referring to Dr. Amy L. Beam. *Id.*

b. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page established by Patton and other Defendants (Ex. 30-33) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> published on December 21, 2013,

August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant

One.com. Ex. 48, 49. The video shows:

- 4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
- 7:31-15:50: Plaintiff’s private journal pages.
- 18:25-18:55: Plaintiff’s private journal pages.
- 21:23-22:12: Plaintiff’s private journal pages.
- 23:25-23:51: Plaintiff’s toilet procedures.
- 25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
- 27:04-28:34: Plaintiff’s private legal papers and information thereof.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

598. Defendant Patton published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

599. Patton’s public disclosure of Plaintiff’s private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant

Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Patton and other Defendants read the material and printed links to Beam's intrusive material about the Plaintiff on their own web page. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

600. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

601. This web page established by Patton and other Defendants (Ex. 30-33) provided a link <http://www.mountainararattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. Patton's links to wrongful appropriation material of the Plaintiff were placed on a web page advertising Patton's involvement in the search for Noah's ark. (Ex. 30-33).

D. Damages and Statute of Limitations

602. Patton's acts of public disclosure of Plaintiff's private facts caused identity thieves to steal monies out of Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff

also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

603. Patton's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

604. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Patton, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Patton to shut down his defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Patton's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

605. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Patton, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin

such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.” Damages include “a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section.” *Id.* at §540.08(3). Remedies in §540.08 “shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Patton is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

606. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

607. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

608. Here, the additional element is that Defendant Patton engaged in “a common plan or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, Patton and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other’s websites. Patton posted links to defamatory material from Defendant Beam’s websites. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

609. Here, circumstantial evidence of conspiracy to commit privacy invasion includes

that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory

documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

610. Patton with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

611. Second, in terms of economic influence, Patton and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/>

liberty-university/2764789/. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

612. Third, with regard to evidence for malicious motives against the Plaintiff, Patton claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax,” that needed to be “exposed,” with links to privacy invasion material of the Plaintiff, while promoting and publicizing his own Noah’s ark search efforts with other Defendants. ¶¶ 46-47, 56. Ex. 25-26, 30-33, *see also* 49, 51, 53, 71, 73, 75, 83.

613. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Patton’s strong motive to agree to commit privacy invasion material against Plaintiff include the prestige that his Noah’s ark searches brought Patton as well as the notoriety Patton received from his degradation of the factual Ararat archaeological site as a hoax. Ex. 25-26. Further, the early dates of the Ararat archaeological site, as evidenced by radiocarbon dates and artifact and architecture studies, conflicted with Biblical creation dates around 4004 B.C. as advocated by Liberty University despite that large sites from Neolithic periods and later periods were discovered at other locales in eastern Turkey.” ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

614. Evidence for conduct against self-interest includes that Patton believes in the actual biblical account of Noah’s ark that there is an ancient, large, wooden boat on Mount Ararat. Instead of favoring an actual archaeological site that supported his philosophical views, Patton coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site.

Ex. 30-33, 49, 51, 53, 71, 73, 75, 83. Here, Patton with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Patton either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (**Ex. 6-13, 23**)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites, under tons of ice layers and lithic material, located more than 4,000 meters above sea level, on greater Mount Ararat—correlating with the Noah’s ark legend.. ¶¶ 109-114, App. A-H.

615. Patton’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

616. Patton’s acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

617. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered

against Defendant Patton and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

DEFENDANT ANDY CHI KIT WONG (“WONG”)

618. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Wong. Tracking the language of Fla. Stat. § 48.193(1)(a), Wong is committing tortious acts within this state. § 48.193(1)(a)(2) Fla. Stat. Ann. (West).

619. Wong committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

620. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Wong’s tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

621. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

622. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

623. Here, publications occurred because Wong and Defendant Beam published on the World Wide Web, on a web page on <http://mountainararattrek.com/> the following defamatory material towards the Plaintiff (Ex. 74-75):

a. Wong and Beam published <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, Defendant Andy Chi Kit Wong, translated defamatory material from <http://www.mountainarattrek.com/ark/> into Chinese. *See supra* ¶ 210(e), Ex. 74 & 75.

b. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

c. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about

being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

d. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf published on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever

visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

e. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to [http://www.mountainarattrek.com/ark/KurdishGuides NoahsArk_chinese.pdf](http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf) published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam’s defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

f. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainarattrek.com/ark/> on servers hosted by Defendant One.com, published on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) “Joel David Klenck . . . a so-called expert,” (2) “Here is the evidence,

presented by Dr. Amy L. Beam, to prove he is a fraud.” (3) “Klenck is a fraud,” (4) “This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

g. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainararattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainararattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

624. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

625. The statements and links to defamatory content established by Defendants Wong and Beam (Ex. 74-75) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the

Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam’s photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish

anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

626. Defendant Wong acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Wong was knowledgeable of Biblical history, ancient history, and that historic and archaeological sites were prevalent in eastern Turkey on or around Mount Ararat. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

627. Defendant Wong's false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property

damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Wong's publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

628. Wong's statements and links were defamatory by stating that the Ararat archaeological site was a "hoax," "fraud," "fiction," and providing statements about the Plaintiff: "Joel David Klenck in the alleged Noah's Ark fraud," "Joel David Klenck exposed," "liar," "fraud," "fraudulent expert," "sociopath," "pathological," and "pathological liar" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

629. Wong republished his own defamatory material and links to Defendant Beam's defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

630. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Wong and that he be awarded (i) mandatory injunctions, to enjoin Defendant Wong to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff;

(ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

631. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

632. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

633. Here, the additional element is that Defendant Wong engaged in "a common plan or scheme or actions in concert" with other Defendants to defame the Plaintiff because first, Wong and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Wong posted links to defamatory material from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

634. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the

Plaintiff ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Wong); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p.

5; Ex. 89, 90, 91, 92.

635. Wong with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), Chinese blogger (Wong) with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, e.g., 56-57, 67, 77, 86, 87, 91, 92-93, 114.

636. Second, in terms of economic influence, Wong and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

637. Third, with regard to malicious motives against the Plaintiff, Wong and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a

participating in a “hoax.” Ex. 89, 90, 91, 92; *see also* 49, 51, 53, 71, 73, 75, 83.

638. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Wong’s strong motive to agree to commit defamation against Plaintiff include that the presence of an archaeological site on Mount Ararat would support the claims and prestige of a rival Chinese religious organization for which Wong displayed animosity, despite that large archaeological sites from Neolithic and later periods were discovered at other locales in eastern Turkey and on Mount Ararat. ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

639. Evidence for conduct against self-interest includes that Wong does not believe in the veracity of the Bible but in the scientific method. Instead of favoring an actual archaeological site, such as an ordinary Neolithic or “Farming Age” storage site that supported Wong’s philosophical views about the dominance of the scientific method and the evolution of human culture, Wong coordinated efforts with other Defendants to publish defamatory material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 89, 90, 91, 92; *see also* 49, 51, 53, 71, 73, 75, 83. Here, Wong with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Wong either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites. ¶¶ 109-114, App. A-H.

640. Wong's acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

641. Wong's conspiracy to commit defamation against the Plaintiff caused harm: Plaintiff's rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

642. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Wong and that he be awarded (i) mandatory injunctions, to induce Defendant Wong to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

643. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

644. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a

person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

645. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

646. Here, publications occurred because Wong and Defendant Beam published on the World Wide Web, on a web page on <http://mountainarattrek.com/> the following public disclosure of private facts towards the Plaintiff (Ex. 74-75):

a. Wong and Beam published <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, Defendant Andy Chi Kit Wong, translated privacy invasion material from <http://www.mountainarattrek.com/ark/> into Chinese. *See supra* ¶ 210(e), Ex. 74 & 75.

b. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff's full name, birthdate, and photographs of Plaintiff's passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-

10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff's private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

c. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Here, the material is presented in a video as opposed to a scroll-down screen of pages.

Compare, Ex. 49 and Ex. 51. The video shows:

- 1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 1:52-3:04: Plaintiff's personal email address and private emails.
- 4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
- 4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
- 7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
- 19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
- 23:25-23:51: Plaintiff's service in the U.S. military.
- 24:04-24:21: Plaintiff's personal address, phone number, and email address.
- 25:20-26:21: Plaintiff's financial information.
- 26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
- 27:04-28:34: Plaintiff's private legal papers.
- 28:58-29:08: Viewers invited to download, embed, and redistribute information.
- 29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

647. Wong's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51,

p. 2-3.

B. Intrusion upon Seclusion

648. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

649. Here, publications occurred because Wong and Defendant Beam published on the World Wide Web, on a web page on <http://mountainarattrek.com/> the following intrusion upon seclusion material towards the Plaintiff (Ex. 74-75):

a. Wong and Beam published <http://www.mountainarattrek.com/> on servers hosted by Defendant One.com, on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, Defendant Andy Chi Kit Wong, translated privacy invasion material from <http://www.mountainarattrek.com/ark/> into Chinese. *See supra* ¶ 210(e), Ex. 74 & 75.

b. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

c. This web page translated and published by Wong and Beam (Ex. 74-75) provided

a link to <http://www.mountainararattrek.com/ark/arkfraud3.htm> published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff’s private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

650. Defendant Wong published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

651. Wong’s public disclosure of Plaintiff’s private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in

Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Wong read the material and printed links to Beam's intrusive material about the Plaintiff on their own social media sites and blogs. *E.g.*, Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

C. Appropriation

652. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

653. This web page translated and published by Wong and Beam (Ex. 74-75) provided a link to <http://www.mountainararattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9. Wong's links to wrongful appropriation material of the Plaintiff were placed on Wong's social media sites on the World Wide Web. *E.g.*, Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

D. Damages and Statute of Limitations

654. Wong's acts of public disclosure of Plaintiff's private facts caused identity thieves

to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

655. Wong's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

656. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Wong, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Wong to shut down his defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Wong's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

657. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Wong, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive

damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy." *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Wong is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

658. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

659. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

660. Here, the additional element is that Defendant Wong engaged in "a common plan or scheme or actions in concert" with other Defendants to commit privacy invasions against the Plaintiff because first, Wong and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other's websites. Wong posted links to defamatory material from Defendant Beam's websites. *E.g.*, Ex. 89, 90, 91, 92; *see also* Ex. 48-

51, 54, 70-75, 82-83.

661. Here, circumstantial evidence of conspiracy to commit privacy invasion includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for

distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5; *E.g.*, Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

662. Wong with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), Chinese internet blogger (Wong) with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

663. Second, in terms of economic influence, Wong and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on

monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

664. Third, with regard to evidence for malicious motives against the Plaintiff, Wong claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax.” *E.g.*, Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83.

665. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Wong’s strong motive to agree to commit privacy invasions against Plaintiff include that the presence of an archaeological site on Mount Ararat would support the claims and prestige of a rival Chinese religious organization for which Wong displayed animosity, despite that large archaeological sites from Neolithic and later periods were discovered at other locales in eastern Turkey and on Mount Ararat. ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

666. Evidence for conduct against self-interest includes that Wong does not believe in the veracity of the Bible but in the scientific method. Instead of favoring an actual archaeological site, such as an ordinary Neolithic or “Farming Age” storage site that supported Wong’s philosophical views about the dominance of the scientific method and the evolution of human culture, Wong coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading material about the Ararat

archaeological site. Ex. 89, 90, 91, 92; *see also* 49, 51, 53, 71, 73, 75, 83. Here, Wong with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to whom Wong either sent or allowed to send monies to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites. ¶¶ 109-114, App. A-H.

667. Wong's conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

668. Wong's acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

669. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Wong and that he be awarded (i) mandatory injunctions, to induce Defendant

to shut down his privacy invasion website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of privacy invasion materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

DEFENDANT ANDREW TSAI (“TSAI”)

670. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Tsai. Tracking the language of Fla. Stat. § 48.193(1)(a), Tsai is committing tortious acts within this state. § 48.193(1)(a)(2) Fla. Stat. Ann. (West).

671. Tsai committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida. *Id.*, at § 48.193(1)(a)(2).

672. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that Tsai’s tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

673. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

674. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

675. Here, publications occurred because Defendants Tsai and Beam published http://www.mountainararattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf on the World Wide Web, the following defamatory material towards the Plaintiff (Ex. 72-73):

a. Defendants Tsai and Beam (Ex. 72-73) published on servers hosted by Defendant One.com, published on December 27, 2013, and April 22, 2014, the following website on the World Wide http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese, where Tsai attests to translating the document and provides his English name, Andrew Tsai, his Chinese name, 蔡昇達, and email address: andrewtsaiark@gmail.com. Ex. 73, p. 26. Here, the defamatory statements include that (1) "Joel Klenck . . . so-called expert archaeologist is a liar," (2) ". . . because I know it is unequivocally true," (3) "[Plaintiff] is a 'pathological liar' and a 'sociopath'," (4) "He is . . . claiming one of the most extraordinary discoveries of mankind's history, if only it were true," (5) "[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat," (6) [Plaintiff's] "lies continue to grow like Pinocchio's nose," (7) the MackQuigley Report was "created . . . by [Plaintiff] himself," (8) [Plaintiff] "did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey," (9) "I [Beam] have described [Plaintiff's] deception in the . . . fraud elsewhere," (10) "[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found," (11) "To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language." Ex. 73, pp. 2-3. Beam entitles the publication a "Fraud," cites herself as author: "by Amy L. Beam, Ed.D.," and admits, "Along with discovering [Plaintiff's private] journal in his backpack, I [Beam] also found photocopies of this photo along with other .

. . photos. Ex. 73, pp. 2-3.

b. This web page translated and published by Tsai and Beam (Ex. 72-73) provides a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm> on servers hosted by Defendant One.com, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43.

676. These defamatory statements and links published by Tsai and Beam on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

677. The statements and links to defamatory content established by Defendants Tsai and Beam (Ex. 72-73) were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports

by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The “big wooden structure(s)” are on Greater Mount Ararat, at elevations more than 3,000 meters above sea level and have been documented by three professional archaeologists and numerous lay persons. ¶¶ 109-114, App. A-H.

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed portions of the site including Jeroen Rensen and Shiela Bishop. ¶¶ 109-114, App. A-H.

e. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

f. Plaintiff is not a sociopath, pathological, or a pathological liar.

g. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah’s ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or

religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

678. Defendant Tsai acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Tsai was knowledgeable of Biblical history, ancient history, and that historic and archaeological sites are prevalent in eastern Turkey on or around Mount Ararat. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

679. Defendant Tsai’s false statements and links to other defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Tsai’s publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

680. Tsai’s statements and links were defamatory by stating that the Ararat archaeological site was a “fraud,” “no such structure has been found,” “fictitious giant wood structure” and providing statements about the Plaintiff: “Joel Klenck . . . so-called expert archaeologist is a liar,” “pathological liar,” “sociopath,” and “Klenck is a fraud” would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

681. Tsai republished this defamatory material and links to Defendant Beam’s

defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶ 89, Ex. 72, 73; *see also* Ex. 48-49.

682. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Tsai and that he be awarded (i) mandatory injunctions, to enjoin Defendant Tsai to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

683. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

684. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

685. Here, the additional element is that Defendant Tsai engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Tsai and other Defendants intentionally and reciprocally placed links to defamatory statements

against the Plaintiff on each other's websites. ¶¶ 47, 79, 210(a)-(f), Ex. 89, 90, 91, 92; *see also* Ex. 48-51, 54, 70-75, 82-83. Tsai posted links to defamatory material from Defendant Beam. ¶ 89, Ex. 72, 73; *see also* Ex. 48-49.

686. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants

sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. ¶ 89, 90, Ex. 72, 73, p. 26; Ex. 74, p. 5, 75; Ex. 48-49, 89, 90, 91, 92.

687. Tsai with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person having associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), young-earth creationist organization (Bates, CMI, and Wieland), Chinese blogger (Wong), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

688. Second, in terms of economic influence, Tsai and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on

monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

689. Third, with regard to malicious motives against the Plaintiff, Tsai and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax.” Ex. 72, 73, 89, 90, 91, 92; *see also* 49, 51, 53, 71, 73, 75, 83.

690. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Tsai’s strong motive to agree to commit defamation against Plaintiff include that the presence of an archaeological site on Mount Ararat would support the claims and prestige of a rival Chinese religious organization for which Tsai displayed animosity, despite that archaeological sites from Neolithic and later periods were discovered at other locales in eastern Turkey and on Mount Ararat. ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

691. Evidence for conduct against self-interest includes that Tsai does not believe in the veracity of the Bible but in the scientific method. Instead of favoring an actual archaeological site, such as an ordinary Neolithic or “Farming Age” storage site that supported Tsai’s philosophical views about the dominance of the scientific method and the evolution of human culture, Tsai coordinated efforts with other Defendants to publish defamatory material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site.

Ex. 72, 73, 89, 90, 91, 92; *see also* 49, 51, 53, 71, 73, 75, 83. Here, Tsai with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites. ¶¶ 109-114, App. A-H.

692. Tsai's acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

693. Tsai's conspiracy to commit defamation against the Plaintiff caused harm: Plaintiff's rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

694. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Tsai and that he be awarded (i) mandatory injunctions, to induce Defendant Tsai to shut down his defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and

invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

695. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

696. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

697. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

698. Here, publications occurred because Defendants Tsai and Beam on servers hosted by Defendant One.com, published on December 27, 2013, and April 22, 2014, the following website: http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf on the World Wide Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese, where Tsai

attests to translating the document and provides his English name, Andrew Tsai, his Chinese name, 蔡昇達, and email address: andrewtsaiark@gmail.com. Ex. 73, p. 26.

a. This web site translated and published by Tsai and Beam (Ex. 72-73) provides a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm>, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows the public disclosure of Plaintiff's private facts:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff's personal email address and private emails.
4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

699. Tsai's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Tsai and Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08.

B. Intrusion upon Seclusion

700. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

701. Here, publications occurred because Defendants Tsai and Beam on servers hosted by Defendant One.com, published on December 27, 2013, and April 22, 2014, the following website: http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf on the World Wide Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese, where Tsai attests to translating the document and provides his English name, Andrew Tsai, his Chinese name, 蔡昇達, and email address: andrewtsaiark@gmail.com. Ex. 73, p. 26.

a. This web site translated and published by Tsai and Beam (Ex. 72-73) provides a link to <http://www.mountainarattrek.com/ark/arkfraud3.htm>, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows intrusion upon Plaintiff's seclusion:

4:38-5:01: Statements that Plaintiff is "overweight" and had to be "carried by a horse".
7:31-15:50: Plaintiff's private journal pages.
18:25-18:55: Plaintiff's private journal pages.
21:23-22:12: Plaintiff's private journal pages.
23:25-23:51: Plaintiff's toilet procedures.
25:20-26:21: Plaintiff's private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff's private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

702. Defendant Tsai published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as

Plaintiff's private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. Ex. 72-73. These materials were taken and published without Plaintiff's knowledge or consent because Beam acknowledges taking private material from Plaintiff's backpack. Ex. 71, pp. 1-2 ("Along with discovering [Plaintiff's private] journal in his backpack, I also found photocopies of this photo along with other . . . photos."). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff's objections because Plaintiff "succeeded in having this video removed from YouTube. I will post it elsewhere." Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

703. Tsai's intrusion upon Plaintiff's seclusion was published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108.

C. Appropriation

704. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

705. Tsai and Beam's link to <http://www.mountainarattrek.com/ark/arkfraud3.htm>, published on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com, guides viewers to another website where viewers are

encouraged to see a video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent. Ex. 48, 49, 29:09-29:43. The video shows intrusion upon Plaintiff's seclusion:

a. Here, the video references <http://www.mountainararattrek.com/ark/arkfraud2.htm> published on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. Ex. 52-53. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. In addition, Exhibit 49 also shows Plaintiff's full name, private information, and many photographs including high resolution photographs in the Plaintiff's U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19.

D. Damages and Statute of Limitations

706. Tsai's acts of public disclosure of Plaintiff's private facts caused identity thieves to steal monies out of Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

707. Tsai's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

708. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Tsai, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Tsai to shut down his defamatory websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Tsai's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

709. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Tsai, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy." *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Tsai is subject to joint and several liability. Fla.

Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

710. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

711. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

712. Here, the additional element is that Defendant Tsai engaged in “a common plan or scheme or actions in concert” with other Defendants to commit privacy invasions against the Plaintiff because first, Tsai and other Defendants intentionally and reciprocally placed links to defamatory statements against the Plaintiff on each other’s websites. Tsai posted links to privacy invasion material from Defendant Beam’s websites. *E.g.*, Ex. 72-73; *see also* Ex. 49, 53.

713. Here, circumstantial evidence of conspiracy to commit privacy invasion includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright’s Answer, ¶ 45 (“Amy Beam . . . worked with Murat Camping.”). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah’s ark searches and excavations. ¶¶

52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a “team.” Patton’s Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: “It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed.” Bright’s Answer, p. 9, ¶ 47 (Noting Bright is the “Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone.”). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. ¶ 89, 90, Ex. 72, 73, p. 26; Ex. 74, p. 5, 75; Ex. 48-49, 89, 90, 91, 92.

714. Tsai with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent

university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), Chinese internet blogger (Wong) with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

715. Second, in terms of economic influence, Tsai and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

716. Third, with regard to evidence for malicious motives against the Plaintiff, Tsai claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “hoax” and being part of a “fraud.” *E.g.*, Ex. 72-73; *see also* Ex. 49.

717. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Tsai’s strong motive to agree to commit privacy invasions against Plaintiff include

that the presence of an archaeological site on Mount Ararat would support the claims and prestige of a rival Chinese religious organization for which Tsai displayed animosity, despite that archaeological sites from Neolithic and later periods were discovered at other locales in eastern Turkey and on Mount Ararat. ¶¶ 26, 27, App. D, p. 2 (ASOR Presentation).

718. Evidence for conduct against self-interest includes that Tsai does not believe in the veracity of the Bible but in the scientific method. Instead of favoring an actual archaeological site, such as an ordinary Neolithic or “Farming Age” storage site that supported Tsai’s philosophical views about the dominance of the scientific method and the evolution of human culture, Tsai coordinated efforts with other Defendants to publish privacy invasion material about the Plaintiff as well as false, misleading, and degrading material about the Ararat archaeological site. Ex. 89, 90; *see also* 49, 51, 53, 71, 73, 75, 83. Here, Tsai with other Defendants promoted and followed the missives of a man convicted of homicide (Murat Sahin), who spend years in prison, and his relatives, employees, and partners such as Beam to dig a hole in the ice on Mount Ararat—with no cultural material (Ex. 6-13, 23)—as opposed to supporting (or at least thoroughly investigating) the analysis of four professional archaeologists and other lay persons showing hundreds of photographs, extensive film footage, of thousands of artifacts, in architectural contexts made of wood, with analogies to features and remains from other archaeological sites. ¶¶ 109-114, App. A-H.

719. Tsai’s conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff’s bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and

future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

720. Tsai's acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

721. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Tsai and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down his privacy invasion website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of privacy invasion materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

DEFENDANT GRETCHEN MARIE FOUCHECOURT (“FOUCHECOURT”)

722. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant Fouchecourt because Fouchecourt has her residence in Duval County, Florida, and venue is appropriate in Duval County because Defendant Fouchecourt resides in Jacksonville, Florida.

723. Plaintiff alleges specific facts of Fouchecourt’s tortious acts and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3).

COUNT I: DEFAMATION

724. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

725. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

726. Here, publications occurred because Defendant Fouchecourt sent defamatory statements Defendant Beam to publish on the World Wide Web with other Defendants and Defendant Beam sent defamatory statements to Defendant Fouchecourt to publish to third parties in and outside of Florida. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95.

727. Here, publications occurred because Defendant Fouchecourt sent Beam a series of electronic mailings, the contents of some of which were published on the World Wide Web, then removed by Youtube.com and Media Temple, and then published and republished on servers hosted by Defendant One.com, within the two-year statute of limitations for defamation, from

the filing of this suit on September 20, 2015. Fouchecourt's statements include but are not limited to:

- a. That Plaintiff's former employer "ordered" Plaintiff to attend Anger Management classes.
- b. Plaintiff did not attend and "if he did, it didn't help." (sic)
- c. Plaintiff is "fraudulent"
- d. Plaintiff is "delusion"
- e. Plaintiff is "pathological"
- f. Plaintiff "makes it sound like he's been to the [Ararat archaeological] site and done an extensive examination of it."
- g. Plaintiff's "nerve knows no bounds!"
- h. Plaintiff's archeological analysis of the Ararat site is "garbage."
- i. Plaintiff is participating in a "fraud."
- j. "Ugh, there are so many people who are reading this garbage, and thinking that it's true because he's [Plaintiff] got a Harvard degree behind him."
- k. To not allow Plaintiff to know that Fouchecourt contacted Beam: "I do need to ask that you please refrain from mentioning that . . . [Defendant Fouchecourt] contacted you [Beam]."

Upon information and belief, Defendant Fouchecourt published and delivered to Amy Beam other defamatory statements, within the two-year statute of limitations for defamation from the filing of this suit, on September 20, 2015, because as evidenced from their correspondence Fouchecourt and Beam have a close, friendly, communicative relationship, even communicating daily mundane tasks, because of their mutual malice towards the Plaintiff, but Fouchecourt purposefully excluded these communications from her discovery materials.

728. Similarly, publications occurred because Defendant Fouchecourt prepared, planned, and acted with Defendant Amy Beam to forward defamatory statements to third parties within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. These statements include but are not limited to:

- a. Plaintiff was associated with a "so-called Noah's Ark wood in an ice cave."
- b. Plaintiff's archaeological site is a "hoax."
- c. "Satan is alive and well on planet Earth and working through some of the people

- [Plaintiff] we know at Ararat.
- d. The Ararat archaeological site is a “diabolical deception.”
 - e. Plaintiff produced a “fabricated report.”
 - f. Plaintiff is telling “preposterous lies” about the archaeological site.
 - g. Plaintiff is stating “preposterous lying blather” about the Ararat historic locale.
 - h. Plaintiff’s “finger” should be “smashed.”

729. Defendant Fouchecourt’s defamatory statements toward the Plaintiff were then published by Defendant Beam on the World Wide Web.

a. Fouchecourt provided statements for Beam, who published on servers hosted by Defendant One.com, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, <http://www.mountainarattrek.com/ark/arkfraud3.htm> stating that (1) Plaintiff is a “Noah’s Ark Searcher,” (2) Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43. Much of the pages in <http://www.mountainarattrek.com/ark/arkfraud3b.htm> are replicated in from <http://www.mountainarattrek.com/ark/arkfraud3.htm>. *See infra* ¶ 210(b).

b. Fouchecourt provided statements for Beam, who published <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about

being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountararattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

c. Fouchecourt provided statements for Beam, who published the following website http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf on servers hosted by Defendant One.com, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam]

have described [Plaintiff's] deception in the . . . fraud elsewhere," (10) "[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found," (11) "To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language." Ex. 71, pp. 2-3. Beam entitles the publication a "Fraud," cites herself as author: "by Amy L. Beam, Ed.D.," and admits, "Along with discovering [Plaintiff's private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

d. Fouchecourt provided statements for Beam, who published with Andrew Tsai [http://www.mountainarattrek.com/ark/KurdishGuides NoahsArk chinese.pdf](http://www.mountainarattrek.com/ark/KurdishGuides%20NoahsArk%20chinese.pdf) published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73. Here, Defendant Andrew Tsai translates Beam's defamatory material from http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf into Chinese.

e. Fouchecourt provided statements for Beam, who published on servers hosted by Defendant One.com, on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015, <http://www.mountainarattrek.com/ark/>. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) "Joel David Klenck . . . a so-called expert," (2) "Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud." (3) "Klenck is a fraud," (4) "This updated version includes threats made by . . . Joel

Klenck to Amy Beam . . . to hide evidence of fraud,” (5) “Joel David Klenck, . . . fraudulent expert,” (6) “[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah’s Ark site and “artifacts” from the site.” Ex. 82, 83, pp. 1-2.

f. Fouchecourt provided statements for Beam, who published with Defendant Wong <http://www.mountainararattrek.com/> on servers hosted by Defendant One.com, published on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material from <http://www.mountainararattrek.com/ark/> was translated into Chinese. Ex. 74 & 75.

730. These defamatory statements and links published on the World Wide Web were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff’s child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff’s neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

731. The statements and links to defamatory content established by Fouchecourt and other Defendants were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator (“PI”). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish

archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam's photographs but in areas further distant.

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site. App. A-H.

e. Because archaeology is a difficult business and because Fouhecourt, Beam, and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat

archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for familial (Fouchecourt), philosophical, or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide Web. ¶ 72, Ex. 47.

l. Plaintiff was never asked to attend an anger management class by his former employer.

732. Defendant Fouchecourt acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because Fouchecourt, as the former spouse of the Plaintiff, knew that Plaintiff was knowledgeable of archaeological method and theory, ancient history, had a BA, MA, and PhD in anthropological archaeology, was searching for employment and contracts in archaeology, and had peer-reviewed books and articles in archaeology. Fouchecourt knew that Plaintiff had participated in archaeological excavations and surveys in North America, the United Kingdom, the Near East, and in other locales. *Wagner*, 629 So. 2d at 115; ¶¶ 26-27, 46-

47, Ex. 8, 11, 23, 25, 26, App. D, p. 2 (ASOR Presentation).

733. Defendant Fouchecourt's false statements caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of Fouchecourt's publications, through Beam and other Defendants, on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

734. Fouchecourt's statements and links were defamatory by stating that the Ararat archaeological site was a "fraud," "garbage," and providing statements that the Plaintiff was "fraudulent," "delusional," "pathological," and that Plaintiff was participating in a "fraud" would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications.

735. Fouchecourt statements were republished, after YouTube.com and Media Temple removed these materials from the World Wide Web, on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Further, Fouchecourt made and forwarded to third parties additional defamatory statements within the two-year statute of limitations. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

736. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Fouchecourt and that Plaintiff be awarded (i) mandatory injunctions, to enjoin Defendant Fouchecourt from making defamatory statements and to shut down defamatory website(s) and web page(s) Fouchecourt published with other Defendants to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

737. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

738. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

739. Here, the additional element is that Defendant Fouchecourt engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Fouchecourt and other Defendants such as Beam intentionally and reciprocally published defamatory statements against the Plaintiff on Beam and other Defendants' websites and webpages. Fouchecourt published defamatory material to third parties received from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

740. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and

Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents to Heiser. ¶ 91, Ex. 77.

Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded, with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt, and Fouchecourt publishing materials to third parties authored by Beam. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

741. Fouchecourt with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), former spouse (Fouchecourt), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114; *see also* ¶¶ 98, 107, Ex. 89-93, 95.

742. Second, in terms of economic influence, Fouchecourt and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University,

a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

743. Third, with regard to malicious motives against the Plaintiff, Fouchecourt and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “fraud,” that Plaintiff was “delusional,” “fraudulent,” and “pathological.” *E.g.*, ¶¶ 98, 107, Ex. 30-33, 77, *see also* 49, 51, 53, 71, 73, 75, 83.

744. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Fouchecourt’s strong motive to agree to commit defamation against Plaintiff include that both parties had a contentious divorce and that Fouchecourt and other Defendants prepared, planned, and acted to destroy Plaintiff’s reputation and sources of income by sending defamatory statements to Beam, who published the material with other Defendants on the World Wide Web or where Fouchecourt forwarded defamatory material to third parties from other Defendants.” ¶¶ 98, 107, Ex. 89-93, 95.

745. Evidence for conduct against self-interest includes that if Plaintiff’s confirmation of the site were supported, Klenck was approved by the Florida Bar, or both, Plaintiff’s income could increase as well as Plaintiff’s child support obligations. Instead, Fouchecourt defamed the Plaintiff and provided material to Beam and Wong, who republished this information to further degrade Klenck’s reputation, standing in his profession and throughout the world, and ability to acquire employment.

746. Fouchecourt's acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

747. Fouchecourt's conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff's rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

748. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Fouchecourt and that he be awarded (i) mandatory injunctions, to induce Defendant Fouchecourt to shut down defamatory website(s), web page(s), and blogs with defamatory material to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and invasive materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

749. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

750. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts

three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

751. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

752. Here, publications occurred because Defendant Fouchecourt sent public disclosure of private facts material to Defendant Beam to publish on the World Wide Web with other Defendants and Defendant Beam sent public disclosure of private facts material to Defendant Fouchecourt to publish to third parties in and outside of Florida. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95.

753. Here, publications occurred because Defendant Fouchecourt sent Beam a series of electronic mailings, the contents of some of which were published on the World Wide Web, then removed by Youtube.com and Media Temple, and then published and republished on servers hosted by Defendant One.com, within the four-year statute of limitations for public disclosure of private facts, from the filing of this suit on September 20, 2015. Fouchecourt's statements include but are not limited to:

- a. That Plaintiff was working at Crowley Maritime Corporation.
- b. Plaintiff was fired in 2007 [was involuntarily laid off during a recession].
- c. Mother of Plaintiff's son, Plaintiff's relationship status.

- d. Plaintiff's location from Fouchecourt.
- e. Plaintiff's investments.
- f. The age of Plaintiff's son.
- g. Plaintiff's litigation with Fouchecourt.
- h. Plaintiff's former university.
- i. Plaintiff's department where he received his PhD.
- j. Plaintiff's attorneys and their locations.
- k. Plaintiff's dissertation advisor.
- l. Plaintiff's information that Fouchecourt received from "subpoening [Plaintiff's] records" during their divorce.
- m. To not allow Plaintiff to know that Fouchecourt contacted Beam: "I do need to ask that you please refrain from mentioning that . . . [Defendant Fouchecourt] contacted you [Beam]."
- n. That Defendant Fouchecourt sent a "pdf. file" of information on Plaintiff to Beam and Beam sent Fouchecourt's file to "10 people" and that "the owner of the blog would update" the information on a blog for viewing by other people.

754. Here, publications occurred because Defendant Fouchecourt prepared, planned, and acted with Defendant Amy Beam to forward private facts about the Plaintiff to third parties, and bloggers, within the four-year statute of limitations for invasion of privacy, from the filing of this suit on September 20, 2015. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95.

755. Defendant Fouchecourt's public disclosure of public facts toward the Plaintiff were then published by Defendant Beam on the World Wide Web or by bloggers on members-only websites. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95.

a. Fouchecourt expanded Beam private information about Plaintiff, which Beam published on <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, Plaintiff's full name, birthdate, and photographs of Plaintiff's passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone number, and photographs of Plaintiff (*Id.* at 10),

nineteen pages of Plaintiff's private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37). Conversely, Fouchecourt then sent Beam's private information about the Plaintiff to third parties.

b. Fouchecourt expanded Beam's private information about Plaintiff, which Beam published on <http://www.mountainarattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Conversely, Fouchecourt then sent Beam's private information about the Plaintiff to third parties. This information reveals shows:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff's personal email address and private emails.
4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

756. Fouchecourt's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their "subpoenaed" information from a divorce, a "pdf. file" send to 10 persons including a blogger, U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenc,

showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3; *see also* ¶¶ 98, 107, Ex. 89-92, 95.

B. Intrusion upon Seclusion

757. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

758. Here, Fouchecourt expanded Beam's intrusion on seclusion material about Plaintiff, which Beam published on servers hosted by Defendant One.com, at <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on servers hosted by Defendant One.com, published on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff "needed to ride a horse to Camp, Mount Ararat" (Ex. 50, 51. p. 10), location where Plaintiff "went . . . for toilet" on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff's private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff's unsigned drafts of court filings (*Id.* at 38). Conversely, Fouchecourt sent Beam's intrusion on seclusion information to other third parties.

a. Here, Fouchecourt expanded Beam's intrusion on seclusion material about Plaintiff, which Beam published at <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. Conversely, Fouchecourt sent Beam's intrusion on seclusion information to other third parties. This material reveals:

4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
7:31-15:50: Plaintiff’s private journal pages.
18:25-18:55: Plaintiff’s private journal pages.
21:23-22:12: Plaintiff’s private journal pages.
23:25-23:51: Plaintiff’s toilet procedures.
25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
27:04-28:34: Plaintiff’s private legal papers and information thereof.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff’s knowledge or consent.

759. Together, Fouchecourt and Beam published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this intrusion upon seclusion information comprised “subpoenaed” information from a divorce, a “pdf. file” send to 10 persons including a blogger, personal information such as Plaintiff’s private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfilled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff’s knowledge or consent because Beam acknowledges taking private material from Plaintiff’s backpack. Ex. 71, pp. 1-2 (“Along with discovering [Plaintiff’s private] journal in his backpack, I also found photocopies of this photo along with other . . . photos.”). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff’s objections because Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere.” Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47. Beam mocks the Plaintiff to Fouchecourt that she received the Letter but would not respond or remove the intrusion upon seclusion material. (“[Plaintiff] is having his usual temper tantrum . . . As for Joel, I will not reply. Silence is a great extinguisher.”).

760. Fouchecourt’s intrusive material concerning the Plaintiff was published on the

World Wide Web, or in members-only blog sites, and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108; *see also* ¶¶ 98, 107, Ex. 89-92, 95.

C. Appropriation

761. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute §540.08 provides, "(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent"

762. Upon information and belief, some the materials Defendant Fouchecourt sent to Beam including "subpoenaed" information from a divorce and a "pdf. file" sent to 10 persons including a blogger, contained wrongful appropriation material including Plaintiff's driver's license, full name, and other likenesses. That Beam states Beam sent this material to a blogger and Wong has a prominent blog soliciting donations, memberships to his site, Plaintiff suspects this information was used to expand the commerciality of Wong's blog material. ¶¶ 98, 107, Ex. 89-92, 95.

D. Damages and Statute of Limitations

763. Fouchecourt's acts of public disclosure of Plaintiff's private facts, intrusive material, and suspected wrongful appropriations, caused identity thieves to steal monies out of Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage

loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

764. Fouchecourt's privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a); *Hankins*, 898 So. 2d at 1123.

765. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Fouchecourt, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant Fouchecourt to shut down defamatory websites, web pages, members-only blogs, to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant Fouchecourt's republication of defamatory and invasive materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

766. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Fouchecourt, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and

to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.” Damages include “a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section.” *Id.* at §540.08(3). Remedies in §540.08 “shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant Fouchecourt is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

767. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

768. Plaintiff incorporates citations for conspiracy to commit privacy invasions from ¶ 244. A civil action for conspiracy, in this case invasion of privacy, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

769. Here, the additional element is that Defendant Fouchecourt engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, Fouchecourt and other Defendants such as Beam intentionally and reciprocally published defamatory statements against the Plaintiff on Beam and other Defendants’ websites and webpages. Fouchecourt also published defamatory material to third parties received from Defendant Beam. ¶¶ 47, 79, 210(a)-(f), Ex. 30-33, 48-51, 54, 70-75, 82-83.

770. Here, circumstantial evidence of conspiracy to commit privacy invasion includes

that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright's Answer, ¶ 45 ("Amy Beam . . . worked with Murat Camping."). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory

documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded, with Beam publishing privacy invasion material against the Plaintiff obtained by Fouchecourt, and Fouchecourt publishing privacy invasion materials to third parties obtained by Beam. *E.g.*, ¶¶ 98, 107, Ex. 89-93, 95. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5.

771. Fouchecourt with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy against the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), secular archaeological organization (ASOR), secular professor of archaeology (Cline), former spouse (Fouchecourt) and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

772. Second, in terms of economic influence, Fouchecourt and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the "high hundreds of thousands of dollars." ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University,

a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell's legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

773. Third, with regard to evidence for malicious motives against the Plaintiff, Fouchecourt and other Defendants claimed that the Ararat archaeological site was a hoax and attacked the Plaintiff as a participating in a “fraud,” that Plaintiff was “delusional,” “fraudulent,” and “pathological.” *E.g.*, ¶¶ 98, 107, Ex. 30-33, 77, *see also* 49, 51, 53, 71, 73, 75, 83.

774. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant Fouchecourt’s strong motive to agree to commit privacy invasion material against Plaintiff include that both parties had a contentious divorce and that Fouchecourt and other Defendants prepared, planned, and acted to destroy Plaintiff’s reputation and sources of income by sending defamatory statements to Beam, who published the material with other Defendants on the World Wide Web, members-only blogs, or where Fouchecourt forwarded defamatory material to third parties from other Defendants.” ¶¶ 98, 107, Ex. 89-93, 95.

775. Evidence for conduct against self-interest includes that if Plaintiff’s confirmation of the site were supported, Klenck was approved by the Florida Bar, or both, Plaintiff’s income could increase as well as Plaintiff’s child support obligations. Instead, Fouchecourt provide private, intrusive, and suspected appropriation material to Beam and Wong, who republished this information to further embarrass, humiliate, or outrage the Plaintiff, cause harm to the standing in his profession, throughout the world, and ability to acquire employment.

776. Fouchecourt's conspiracy to commit privacy invasion caused identity thieves to remove monies out of Plaintiff's bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

777. Fouchecourt's acts in conspiring with other Defendants to commit privacy invasions against the Plaintiff occurred were within the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p); *Young*, 835 So. 2d at 385.

778. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant Fouchecourt and that he be awarded (i) mandatory injunctions, to induce Defendant to shut down website(s) web page(s), and blogs with privacy invasion material against the Plaintiff, to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of privacy invasion materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

DEFENDANT ONE.COM A/S (“ONE.COM”)

779. Pursuant to Fla. R. Civ. P. 1.110(b)(1), this Court has jurisdiction over Defendant One.com. Tracking the language of Fla. Stat. § 48.193(1)(a), One.com is

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state . . .
6. Causing injury to person or property within the state this state arising out of an act or omission by the defendant outside this state, if, at or about the time of injury, either:
 - a. The defendant was engaged in solicitation or service activities within this state; or
 - b. Products, materials or things processed, services or manufactures by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade or use.

§ 48.193(1)(a)(1), (1)(a)(2), & (1)(a)(6), Fla. Stat. Ann. (West).

780. One.com directly and repeatedly engages in business in Florida. One.com engages in business in Florida soliciting and providing Florida citizens to establish and develop internet sites, electronic mail address that link to these internet sites, and the means to increase the visibility and on-line presence for Florida persons, legal entities including a range of corporate entities. *Id.*, at § 48.193(1)(a)(1).

781. One.com committed the tortious acts of defamation, conspiracy to defame, invasion of privacy, conspiracy to commit privacy invasion, negligence, and gross negligence, against the Plaintiff, within the State of Florida, by publishing materials on the World Wide Web and in Duval County, Florida, and then continuing to allow these tortious materials on the World Wide Web despite that Plaintiff followed One.com’s policies and procedures and standard industry procedures for notifying One.com of defamatory, privacy invasion, and wrongful appropriation materials on One.com’s servers in order to remove this material from the World Wide Web. *Id.*, at § 48.193(1)(a)(2).

782. One.com also caused injury to Plaintiff and Plaintiff’s business, if One.com argues that its tortious actions occurred outside the state of Florida, by committing tortious acts

against the Plaintiff while One.com engaged in solicitation of goods or services in Florida including the solicitation of goods and services: computerized files sent to customers, websites, email address, and website development and visibility tools, via the internet and through on-line assistance, with actual employees from One.com, soliciting, guiding, and instructing Florida citizens to purchase and develop One.com's goods and services. *Id.*, at § 48.193(1)(a)(6)(a) & (6)(b).

783. In addition to tracking the language of § 48.193, Plaintiff alleges specific facts that One.com's tortious acts fit within § 48.193 and provides statements below of the ultimate facts showing Plaintiff is entitled to relief and demands for judgment. Fla. R. Civ. P. 1.110(b)(2) & (3); *Hilltopper*, 955 So. 2d at 601.

COUNT I: DEFAMATION

784. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

785. Plaintiff incorporates case law for a defamation cause from ¶ 123. Defamation comprises five elements: (1) publication; (2) falsity; (3) actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory. *Wagner*, 629 So. 2d at 115.

786. Here, publications occurred because One.com and other Defendants published on the World Wide Web the following defamatory material towards the Plaintiff (Ex. 30-33):

a. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/ark/arkfraud3.htm>, on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015; stating that (1) Plaintiff is a "Noah's Ark Searcher," (2)

Plaintiff is a “so-called expert”; (3) “he [Plaintiff] is a fraud”; (4) “Klenck is a fraud.” Ex. 48, 49, *see also* Ex. 49, 0:36-1:19. This material provides a “share” link and then asks individuals viewing the website: “After this watch interview with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 29:09-29:43.

b. One.com and other Defendants published on servers hosted by Defendant One.com: <http://www.mountainarattrek.com/ark/arkfraud3b.htm>, on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that (1) Plaintiff is perpetrating a fraud: (1) “Joel D. Klenck fraud exposed,” (2) “Exposing the Noah’s Ark discovery fraud by . . . Joel D. Klenck,” (3) “Warn your church not to support fraud” (Ex. 51, p. 1), (4) “Help fight fraud,” (5) provides a “Fraud Definition” (*Id.* at 3), (6) “Joel David Klenck NAMI’s Expert Is a Fraud,” (7) “Klenck’s failure to pay child support,” (8) “Klenck lies about being unemployed,” (*Id.* at 4), (9) provided photographs of natural crevices in the ice that Beam states are the “excavation site” (*Id.* at 12), (10) Plaintiff had a conversation with convicted Murat Sahin where Sahin asked Plaintiff “Then why do you lie?” and Plaintiff “hung his head” (*Id.* at 36), (11) Plaintiff is a “puffed up BULLY. He operates by intimidate and lies.” (*Id.* at 39), and (12) Plaintiff “emailed [Beam] a long threatening diatribe” (*Id.* at 39), (13) Plaintiff is “telling fiction” (*Id.* at 39). Ex. 50, 51. Beam claims authorship of the defamatory material: “copyright 2011 by Dr. Amy L. Beam” and cites Beam’s website soliciting guided tours in eastern Turkey: www.mountarattrek.com. Ex. 51, p. 2, 40. Beam invites “Viewers . . . to download, embed, and redistribute this video” and “Just right click to save any slide.” *Id.* at 2-3, 40. Beam acknowledges that Plaintiff “succeeded in having this video removed from YouTube. I will post it elsewhere” and to “Watch the interview

with Joel David Klenck by Amy L. Beam with Murat Sahin” *Id.* at 40.

c. One.com and other Defendants published on servers hosted by One.com http://www.mountainarattrek.com/ark/kurdishguides_noahsark.pdf, on December 27, 2013. Ex. 70, 71. Here, it states that (1) “Joel Klenck . . . so-called expert archaeologist is a liar,” (2) “. . . because I [Beam] know it is unequivocally true,” (3) “[Plaintiff] is a ‘pathological liar’ and a ‘sociopath,’” (4) “He is . . . claiming one of the most extraordinary discoveries of mankind’s history, if only it were true,” (5) “[Plaintiff] has aggressively posted his fake press release . . . about his examination of the fictitious giant wood structure on Mount Ararat,” (6) [Plaintiff’s] “lies continue to grow like Pinocchio’s nose,” (7) the MackQuigley Report was “created . . . by [Plaintiff] himself,” (8) [Plaintiff] “did not take these photos [of seeds]. They were released . . . long before Klenck ever visited Turkey,” (9) “I [Beam] have described [Plaintiff’s] deception in the . . . fraud elsewhere,” (10) “[Plaintiff] has never been to examine any big wooden structure on Mount Ararat because no such structure has been found,” (11) “To demonstrate the pathological immaturity of [Plaintiff] . . . he posted a photo of a big black cow urinating on a pile of garbage and put my name across the cow in big letters . . . [and] . . . extremely anti-Muslim cartoons and hate language.” Ex. 71, pp. 2-3. Beam entitles the publication a “Fraud,” cites herself as author: “by Amy L. Beam, Ed.D.,” and admits, “Along with discovering [Plaintiff’s private] journal in his backpack, I [Beam] also found photocopies of this photo along with other . . . photos. Ex. 71, pp. 1-2.

d. One.com and other Defendants published on servers hosted by One.com http://www.mountainarattrek.com/ark/KurdishGuides_NoahsArk_chinese.pdf published on servers hosted by Defendant One.com, on December 27, 2013, and April 22, 2014. Ex. 72, 73.

Here, Defendant Andrew Tsai translates Beam's defamatory material into Chinese from http://www.mountainararattrek.com/ark/kurdishguides_noahsark.pdf.

e. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/ark/> on July 26, 2013, August 15, 2013, August 20, 2013, December 20, 2013, December 21, 2013, February 20, 2014, August 22, 2014, February 20, 2015, March 9, 2015, May 16, 2015, May 18, 2015, July 17, 2015, September 16, 2015, October, 23, 2015, and November 24, 2015. Ex. 82, 83. This defamatory material against the Plaintiff was also republished recently on February 9 and 22, 2016, March 11 and 22, 2016, and April 1, 2014. Ex. 82, 83. Here, the material states: (1) "Joel David Klenck . . . a so-called expert," (2) "Here is the evidence, presented by Dr. Amy L. Beam, to prove he is a fraud." (3) "Klenck is a fraud," (4) "This updated version includes threats made by . . . Joel Klenck to Amy Beam . . . to hide evidence of fraud," (5) "Joel David Klenck, . . . fraudulent expert," (6) "[Plaintiff] has put out his own press releases . . . packed with preposterous lies stating he examined the Noah's Ark site and "artifacts" from the site." Ex. 82, 83, pp. 1-2.

f. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/> on January 2, 2014, April 13, 2014, May 17, 2014, December 18, 2014, August 1, 2015, January 11, 2016, and March 13, 2016. Ex. 74, 75. Here, with Defendant Andy Chi Kit Wong, defamatory material was translated into Chinese from <http://www.mountainararattrek.com/ark/>. Ex. 74 & 75.

787. One.com and other Defendants published these on the World Wide Web that were received and read by persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt

in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. p. 2, 29, ¶¶ 99-103, 105-108.

788. These defamatory materials published by One.com and other were and are false because . . .

a. Plaintiff is qualified in archaeology having graduated with M.A. and Ph.D. degrees from Harvard University in anthropological archaeology, having archaeology articles and books in peer-reviewed journals and bulletins, authoring reports for U.S. Federal departments, and professionally participating in archaeological surveys and excavations as the Principal Investigator ("PI"). Further, Plaintiff has broad view of the Ararat archaeological site having examined, recorded, and analyzed a majority of the artifacts, features, or survey reports by other archaeologists at the site, and conducted research with a prominent Turkish archaeologist in Turkey or the Republic of Georgia. App. A-H

b. The Ararat locale is a factual archaeological site comprising a monumental wood edifice or structures and Plaintiff advocated and continues to advocate for the protection, preservation, and research of this true archaeological locale. ¶¶ 109-114, App. A-H.

c. The Ararat archaeological site is not located in the naturally forming ice crevices in Beam's photographs but in areas further distant. *See supra* ¶ 210(b)(9), 57(l).

d. Plaintiff has himself been at the Ararat archaeological site, directly taken photographs of features and artifacts from the site, authored a preliminary survey report of the site, and delivered reports via post and electronic mail to Turkish, international, and academic authorities. Further, Plaintiff provided presentations about the Ararat locale at professional conferences in archaeology and anthropology. Also, other archaeologists have surveyed the site.

App. A-H.

e. Because archaeology is a difficult business and because Beam and other defendants have so targeted the Plaintiff with defamatory attacks and privacy invasions throughout the globe and in Duval County, Florida, Plaintiff has been unemployed for periods of time.

f. Plaintiff regularly paid his monthly child support. However, a Court allowed Plaintiff to pay his back-support incrementally.

g. Plaintiff did not author the MackQuigley Report, post a photo of a cow, or publish anti-Muslim cartoons or hate language towards Muslims in the MackQuigley Report.

h. Plaintiff is not a sociopath, pathological, or a pathological liar.

i. As a professional archaeologist Plaintiff has done his duty to protect the Ararat archaeological site from the Defendants who have criminal histories including murder, malicious wounding, gross negligence or other criminal and civil violations, associations with terrorism or the disappearance of Donald Mackenzie, involvement in fraudulent Noah's ark digs, or demonstrate malice and animosity towards the historic Ararat locale for philosophical or religious reasons. *E.g.*, ¶¶ 30-47, 56, 67, Ex. 3-20, 35.

j. Plaintiff never had the conversation with Murat Sahin as stated by Beam. *See supra* ¶ 210(b)(10). Murat Sahin did mention to Plaintiff that he was convicted of murder and incarcerated in a Turkish prison. ¶ 30, 32.

k. Plaintiff did not “bully,” “intimidate,” or email “a long threatening diatribe” to Beam. *See supra* ¶ 210(b)(11-12). Plaintiff sent a lawful Cease-and-Desist letter to Beam to remove her defamatory and privacy invasion materials against the Plaintiff on the World Wide

Web. ¶ 72, Ex. 47.

789. Defendant One.com acted “with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person” because One.com received notice of the defamatory nature of this material and Plaintiff followed the abuse@one.com policies and procedures to take down this defamatory content and yet Defendant One.com received the notice and purposefully and intentionally allowed the defamatory material to remain on the World Wide Web. *Wagner*, 629 So. 2d at 115; ¶ 83, Ex. 56.

790. Defendant One.com’s defamatory material caused actual damage to the Plaintiff because Plaintiff was rejected from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles as a consequence of One.com’s publications on the World Wide Web, the latter received by third parties in Duval County, Florida. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

791. One.com’s published statements and links were defamatory by stating that the Ararat archaeological site was a “hoax,” “fraud,” “fiction,” and providing statements about the Plaintiff: “Joel David Klenck in the alleged Noah’s Ark fraud,” “Joel David Klenck exposed,” “liar,” “fraud,” “fraudulent expert,” “sociopath,” “pathological,” and “pathological liar” would and did have a defamatory and harmful effect on the Plaintiff because Plaintiff is a professional archaeologist with an archaeology business. For a professional archaeologist to advocate for the protection, preservation, and research of a hoax or fraud would infer gross ineptitude, criminality, or other negative implications. Further, One.com does not just store websites on its

servers but aids customers to publish and republish materials using One.com, and here retained the defamatory content on the World Wide Web despite its full knowledge of the defamatory content from the Plaintiff and Plaintiff's request to remove this material. ¶ 83, Ex. 56.

792. One.com published and republished this defamatory material and links to Defendant Beam's other defamatory materials against the Plaintiff, after YouTube.com and Media Temple removed these materials from the World Wide Web, and Beam published or republished these defamatory materials on servers by Defendant One.com, within the two-year statute of limitations for defamation, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g); ¶¶ 47, 73, 78-79, 210(a)-(f), Ex. 30-33, 48-51, 54, 56, 70-75, 82-83.

793. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com and that he be awarded (i) mandatory injunctions, to enjoin Defendant One.com to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant republishing defamatory materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. In addition, because this Count is an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

COUNT II: CONSPIRACY TO COMMIT DEFAMATION

794. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

795. Plaintiff incorporates case law for a civil action of conspiracy to commit defamation from ¶ 133. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by

unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So. 2d at 1333.

796. Here, the additional element is that Defendant One.com engaged in “a common plan or scheme or actions in concert” with other Defendants to defame the Plaintiff because first, One.com intentionally published and refused to remove defamatory material towards the Plaintiff despite notice. ¶¶ 47, 79, 83, 210(a)-(f), Ex. 30-33, 48-51, 53, 54, 56, 70-75, 82-83.

797. Here, circumstantial evidence of conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with defamatory statements and links to defamatory and privacy invasion material against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright’s Answer, ¶ 45 (“Amy Beam . . . worked with Murat Camping.”). Murat Camping was hired by the consortium of Ark Search, LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah’s ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a “team.” Patton’s Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: “It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed.” Bright’s Answer, p. 9, ¶ 47 (Noting Bright is the “Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone.”). Amy Beam and Richard Bright filmed a

secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 (“We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey.”). Amy Beam produced some of the defamatory material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam’s defamatory documents to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam’s defamatory material with Heiser’s own defamatory content against Plaintiff on Heiser’s website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam’s defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5. One.com published and refused the notice to remove the material acquiring both commercial exposure and funds from Defendant Beam. ¶ 83, Ex. 56.

798. One.com with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in conspiracy to defame the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), a prominent internet company (One.com), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, *e.g.*, 56-57, 67, 77, 86, 87,

91, 92-93, 114.

799. Second, in terms of economic influence, One.com and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. One.com is a thriving commercial venture with millions of dollars in revenue acquired from U.S. and Florida citizens. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

800. Third, with regard to malicious motives against the Plaintiff, One.com published and republished the defamatory material against the Plaintiff despite that Plaintiff provided notice to One.com, followed One.com’s procedures and policies, and followed industry standards to remove defamatory, privacy invasion, and wrongful appropriation materials from the World Wide Web. ¶¶ 46-47, 56, 83. Ex. 25-26, 30-33, 54, 56, *see also* 49, 51, 53, 71, 73, 75, 83.

801. Regarding “plus factor[s]” in Federal civil conspiracy cases, evidence of Defendant One.com’s strong motive to agree to commit defamation against Plaintiff include the prestige, notoriety, and commercial exposure One.com received from its defamation of the Plaintiff and degradation of an Ararat archaeological site as a hoax. ¶¶ 26, 27, Ex. 49, 51, 53, 71,

73, 75, 83, App. D, p. 2 (ASOR Presentation).

802. Evidence for conduct against self-interest includes that Defendant One.com violated its own policies regarding abuse of persons in the United States after it received notice from the Plaintiff, refused to remove the defamatory materials on its websites, and exposed itself to liability and legal action. ¶ 83, Ex. 56.

803. One.com's acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the two-year statute of limitations for defamation and the four-year statute for civil conspiracy, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(4)(g) & §95.11(3)(p).

804. One.com's conspiracy to commit defamation against the Plaintiff cause harm: Plaintiff's rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

805. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com and that he be awarded (i) mandatory injunctions, to induce Defendant One.com to shut down its defamatory website(s) and web page(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of defamatory and materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is

jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT III: INVASION OF PRIVACY

806. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

807. Plaintiff incorporates citations for invasion of privacy from ¶ 229. Florida accepts three categories of invasion of privacy including 1) appropriation or the unauthorized use of a person's name or likeness to obtain some benefit; 2) intrusion or physically or electronically intruding into one's private quarters; and 3) public disclosure of private facts or the dissemination of truthful private information that a reasonable person would find objectionable. *Jews for Jesus*, 997 So. 2d at 1102-03.

A. Public Disclosure of Private Facts

808. Plaintiff incorporates citations for public disclosure of private facts from ¶ 230. The elements of invasion of privacy by public disclosure of private facts comprise (1) the publication, (2) of private facts, (3) that are offensive, and (4) are not of public nature. *Cape Publ'ns.*, 549 So. 2d at 1377 231.

809. Here, publications occurred because One.com and other Defendants published on the World Wide Web, the following public disclosure of private facts:

a. One.com and other Defendants published on servers hosted by Defendant One.com <http://www.mountainarattrek.com/ark/arkfraud3b.htm> on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, showing Plaintiff's full name, birthdate, and photographs of Plaintiff's passport showing the identification number (Ex. 51, p. 4, 9), private personal electronic mail address (*Id.* at 5), flight itinerary and boarding passes (*Id.* at 9-10), personal address, cell phone

number, and photographs of Plaintiff (*Id.* at 10), nineteen pages of Plaintiff's private journal (*Id.* at 15-22, 31), and that Plaintiff had significant debt (*Id.* at 37).

b. One.com and other Defendants published on servers hosted by Defendant One.com <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015, on servers hosted by Defendant One.com. Ex. 48, 49. The video shows:

1:22-1:39: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
1:52-3:04: Plaintiff's personal email address and private emails.
4:15-4:19: Plaintiff's U.S. Passport, Passport ID Numbers, Birth Date, Place of Birth
4:26-4:37: Plaintiff's flight receipt, boarding passes, cell-phone number, and baggage tag.
7:25-7:30: Statement that Defendant Beam states looking through Plaintiff's luggage, obtained his private material, copied the material, and published the material on the internet.
19:35-20:19: Plaintiff's passport data relating details of Turkish Visa entry stamps.
23:25-23:51: Plaintiff's service in the U.S. military.
24:04-24:21: Plaintiff's personal address, phone number, and email address.
25:20-26:21: Plaintiff's financial information.
26:22-27:03: Plaintiff's receipts and amounts of plane ticket and travel items.
27:04-28:34: Plaintiff's private legal papers.
28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

810. One.com's information on the Plaintiff was offensive and not of public nature because the reasonable person would not want private information such as their U.S. Passport identification numbers, personal address, cell-phone number, private electronic mail address, place of birth, birth date, or financial information to be publicly displayed, for fear of identity theft, especially on Beam's malicious websites, which facilitated animosity toward Klenck, showed Plaintiff's private information, where Beam invites "Viewers . . . to download, embed, and redistribute this video" and "Just right click to save any slide." Ex. 49, 28:58-29:08, Ex. 51, p. 2-3.

B. Intrusion upon Seclusion

811. Plaintiff incorporates citations for intrusion upon seclusion from ¶ 233. A cause of action for intrusion upon seclusion requires a trespass or intrusion upon physical solitude. An unlawful trespass occurs where forced entry is made, with objection by the owner or possessor, and not done under any common custom or usage. *FL Publ'g Co.*, 340 So. 2d at 918.

812. Here, publications occurred because One.com and other Defendants published the following intrusion upon seclusion materials:

a. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/ark/arkfraud3b.htm> on February 27, 2013, August 15, 2013, December 21, 2013, April 13, 2014, March 9, 2015, May 18, 2015, August 28, 2015, and December 6, 2015, that Plaintiff “needed to ride a horse to Camp, Mount Ararat” (Ex. 50, 51. p. 10), location where Plaintiff “went . . . for toilet” on Mount Ararat (*Id.* at 12), nineteen pages of Plaintiff’s private journal (*Id.* at 15-22, 31), Plaintiff was unemployed and received a reduction in child support obligations (*Id.* at 37), Plaintiff’s unsigned drafts of court filings (*Id.* at 38).

b. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/ark/arkfraud3.htm> on December 21, 2013, August 30, 2014, May 18, 2015, and October 13, 2015. Ex. 48, 49. This intrusion upon seclusion information shows:

- 4:38-5:01: Statements that Plaintiff is “overweight” and had to be “carried by a horse”.
- 7:31-15:50: Plaintiff’s private journal pages.
- 18:25-18:55: Plaintiff’s private journal pages.
- 21:23-22:12: Plaintiff’s private journal pages.
- 23:25-23:51: Plaintiff’s toilet procedures.
- 25:20-26:21: Plaintiff’s private legal papers discussing child support and unemployment.
- 27:04-28:34: Plaintiff’s private legal papers and information thereof.

28:58-29:08: Viewers invited to download, embed, and redistribute information.
29:09-29:43: Viewers encouraged to see video of Plaintiff taken with hidden camera without Plaintiff's knowledge or consent.

813. Defendant One.com published these items to outrage or cause mental suffering, shame, or humiliation for the Plaintiff because this information comprised personal information such as Plaintiff's private journal entries, lavatory practices on Mount Ararat, financial information, debts, child support payments, unfiled legal papers that would ordinarily not be shown to the public. These materials were taken and published without Plaintiff's knowledge or consent because Beam acknowledges taking private material from Plaintiff's backpack. Ex. 71, pp. 1-2 ("Along with discovering [Plaintiff's private] journal in his backpack, I also found photocopies of this photo along with other . . . photos."). Moreover, Beam admits publishing this privacy invasion material despite the Plaintiff's objections because Plaintiff "succeeded in having this video removed from YouTube. I will post it elsewhere." Ex. 51, p. 40. Further, Plaintiff sent a Cease-and-Desist Letter to Beam to remove her defamatory and privacy invasion material from the World Wide Web. ¶ 72, Ex. 47.

814. One.com's public disclosure of Plaintiff's private facts were published on the World Wide Web and read by third persons and entities in Florida: University of Central Florida in Orlando, Florida Gulf Coast University in Naples, Plaintiff's child in Gainesville, Defendant Fouchecourt in Duval County, Plaintiff's neighbor in Duval County, or others in Duval County and other locales in Florida. ¶¶ 99-103, 105-108. Defendant One.com read the material and printed links to Beam's intrusive material about the Plaintiff on their own website. *E.g.*, Ex. 30-33; *see also* Ex. 49, 51, 53, 71, 73, 75, 83.

C. Appropriation

815. Plaintiff incorporates citations for appropriation from ¶ 237. Florida Statute
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§540.08 provides, “(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without express written or oral consent”

816. One.com and other Defendants published on servers hosted by One.com: <http://www.mountainararattrek.com/ark/arkfraud2.htm> on December 21, 2013, April 14, 2014, June 14, 2014, and May 18, 2015, on servers hosted by Defendant One.com. The video comprises an interrogation of the Plaintiff by Defendants Bright, Beam, and Murat Sahin filmed with a secret, concealed camera that Plaintiff did not know about, consent to, or authorize in writing or in conversation. ¶¶ 67, 72, Ex. 52-53. Exhibits 49 and 51 also show Plaintiff’s full name, private information, and many photographs including high resolution photographs in the Plaintiff’s U.S. Passport. Ex. 49. 1:22-1:39 & 4:15-4:19; Ex. 51, p. 4, 9.

D. Damages and Statute of Limitations

817. One.com’s acts of public disclosure of Plaintiff’s private facts caused identity thieves to steal monies out of Plaintiff bank account. ¶ 116. Plaintiff had to change his electronic mail address, mailing address, cell phone, bank cards and checking accounts. Plaintiff also sustained other damages: rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff’s reputation was damaged as Plaintiff was ridiculed, mocked, and belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

818. One.com’s privacy invasions against the Plaintiff were within the four-year statute of limitations, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(a);

Hankins, 898 So. 2d at 1123.

819. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com, for public disclosure of private facts and intrusion upon seclusion, and that he be awarded (i) mandatory injunctions, to induce Defendant One.com to shut down its privacy invasion and intrusion upon seclusion websites and web pages to halt damage to the Plaintiff; (ii) prohibitory injunctions act to prevent and prohibit Defendant One.com's republication of privacy invasion materials; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Because this count represents an intentional tort, Defendant is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury.

820. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com, for appropriation, and that Plaintiff be awarded mandatory injunctions, prohibitory injunctions, compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Florida Statute §540.08(2) states, "[T]he [aggrieved] person . . . may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages." Damages include "a civil penalty of up to \$1,000 per violation in addition to the civil remedies contained in subsection (2). Each commercial transaction constitutes a violation under this section." *Id.* at §540.08(3). Remedies in §540.08 "shall be in addition to and not in limitation of the remedies

and rights of any person under the common law against the invasion of her or his privacy.” *Id.* at §540.08(7). Because this count represents an intentional tort, Defendant One.com is subject to joint and several liability. Fla. Stat. Ann. §768.71. Plaintiff further demands a trial by jury of all issues so triable.

COUNT IV: CONSPIRACY TO COMMIT INVASIONS OF PRIVACY

821. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

822. Plaintiff incorporates case law for a civil action of conspiracy to commit privacy invasion from ¶ 244. A civil action for conspiracy, in this case defamation, requires the concerted action of two or more persons for an unlawful purpose or to accomplish a purpose by unlawful means, which results in damage to the plaintiff. *Rivers*, 698 So.2d at 1333.

823. Here, the additional element is that Defendant One.com engaged in “a common plan or scheme or actions in concert” with other Defendants to invade the privacy of the Plaintiff because first, One.com intentionally published and refused to remove defamatory material towards the Plaintiff despite notice. ¶¶ 83, 210(a)-(f), Ex. 48-51, 53, 56, 70-75, 82-83.

824. Here, circumstantial evidence of privacy-invasion conspiracy includes that Defendants Heiser and Price are employed by Liberty University. ¶¶ 5-6; Ex. 24, 76. Liberty University promoted reports by Defendants Price and Patton that the Ararat archaeological site was a hoax. ¶ 47, Ex. 25, p. 1, Ex. 26, p. 2. Liberty University supplied its students for ark search efforts. ¶¶ 46, 47, Ex. 8, p. 1, 11, p. 3, 23, p. 5. Liberty University provided a trademark on a web page with privacy invasion material and links against the Plaintiff. ¶ 47. Amy Beam, Murat Sahin, and Sayim Sahin worked together at Murat Camping. Bright’s Answer, ¶ 45 (“Amy Beam . . . worked with Murat Camping.”). Murat Camping was hired by the consortium of Ark Search,

LLC, Liberty University, Randall Price, Richard Bright, and Don Patton for assistance with the Noah's ark searches and excavations. ¶¶ 52, 56-57, 63; Ex. 6, p. 1 (Noting team of Price, Bright, and Patton); Ex. 8, p. 1 (Citing involvement of Liberty University); Ex. 11, p. 2 (Citing participation of Murat Camping). Patton admits these Defendants were a "team." Patton's Answer, p. 5, ¶ 17; *Id.* at p. 16. Bright admits ark search tasks represented a united effort: "It is the business of Dr. Price and Liberty University and Ark Search, LLC, as to the extent of what our search for the real ark entailed." Bright's Answer, p. 9, ¶ 47 (Noting Bright is the "Owner, Manager and President of my limited liability company Ark Search LLC . . . Ark Search LLC is mine alone."). Amy Beam and Richard Bright filmed a secret video of Plaintiff using a concealed camera. ¶¶ 67, 77, 108, Ex. 53. Richard Bright is the managing member of Ark Search, LLC, the corporate entity by which Price and other defendants sent donor monies to Murat Camping. ¶ 35, Ex. 6, p. 5 ("We will immediately send every cent of your donation to Richard Bright of Ark Search LLC for distribution . . . in Turkey."). Amy Beam produced some of the privacy invasion material against the Plaintiff. *E.g.*, Ex. 49, 51, 71. Heiser confirms Amy Beam emailed one of Beam's defamatory documents and links to privacy invasion material to Heiser. ¶ 91, Ex. 77. Defendant Heiser published Beam's defamatory material with Heiser's own defamatory content and links to privacy invasion material against Plaintiff on Heiser's website in 2014 and 2015. ¶ 91, Ex. 77, p. 2, 78. Fouchecourt and Beam corresponded with Beam publishing defamatory material against the Plaintiff authored by Fouchecourt. Wong and Tsai admit translating Beam's defamatory and privacy invasion material into Chinese, publishing their own material against the Plaintiff, or both. Ex. 73, p. 26; Ex. 74, p. 5. One.com published and refused the notice to remove privacy invasion material towards the Plaintiff acquiring both

commercial exposure and funds from Defendant Beam. ¶ 83, Ex. 56.

825. One.com with other Defendants demonstrated a peculiar power of coercion by virtue of their combination an individual would not possess. First, the individuals involved in privacy invasion conspiracy of the Plaintiff included an array of backgrounds including a prominent university (Defendant Liberty University), religious professor of archaeology (Defendant Price), internet blogger (Defendant Heiser), convicted felon (Murat Sahin), person with associations with a terrorist organization (Beam), a prominent internet company (One.com), secular archaeological organization (ASOR), secular professor of archaeology (Cline), and young-earth creationist organization (Bates, CMI, and Wieland), with influence one person would not possess and engage in actions one individual could not accomplish. ¶¶ 3-18, 83, *e.g.*, Ex. 54, 56-57, 67, 77, 86, 87, 91, 92-93, 114.

826. Second, in terms of economic influence, One.com and other Defendants possessed an array of economic resources. Donor monies to Ark Search, LLC, Patton, Bright, and Price reached into the “high hundreds of thousands of dollars.” ¶ 45, Ex. 10, p. 3. ASOR relies on monies and subscription fees from members, donors, conferences, and sale of its products. ¶¶ 16, 86-87, Ex. 98-99, App. D. Heiser and Price are employed at Liberty University, a private university with an endowment fund over one-billion dollars. ¶ 4; Mary Marklien, *Jerry Falwell’s legacy* (January 27, 2016, 8:09 PM), <http://www.usatoday.com/story/news/nation/2013/09/14/liberty-university/2764789/>. Further, each defendant has their own source of income. ¶¶ 3-18. One.com is a thriving commercial venture with millions of dollars in revenue acquired from U.S. and Florida citizens. Therefore, the defendants “by virtue of their combination” had economic influence that “an individual would not possess.”

827. Third, with regard to malicious motives against the Plaintiff, One.com published and republished privacy invasion material against the Plaintiff despite that Plaintiff provided notice to One.com, followed One.com's procedures and policies, and followed industry standards to remove privacy invasion and wrongful appropriation materials from the World Wide Web. ¶¶ 73, 78, 83. Ex. 54, 56.

828. Regarding "plus factor[s]" in Federal civil conspiracy cases, evidence of Defendant One.com's strong motive to agree to commit defamation against Plaintiff include the prestige, notoriety, and commercial exposure One.com received from its privacy invasion of the Plaintiff and degradation of an Ararat archaeological site as a hoax. ¶¶ 26, 27, 83, Ex. 49, 51, 53, 56, 71, 73, 75, 83, App. D, p. 2 (ASOR Presentation).

829. Evidence for conduct against self-interest includes that Defendant One.com violated its own policies regarding abuse of persons in the United States after it received notice from the Plaintiff, refused to remove the privacy invasion materials on its websites, and exposed itself to liability, and legal action. ¶ 83, Ex. 56.

830. One.com's acts in conspiring with other Defendants to commit defamation against the Plaintiff occurred within the four-year statute for civil conspiracy to commit privacy invasion, from the filing of this suit on September 20, 2015. Fla. Stat. §95.11(3)(p).

831. One.com's conspiracy to commit privacy invasion against the Plaintiff caused harm: Identify thieves stole Plaintiff's identify and removed monies from Plaintiff's bank account. Other harm included that Plaintiff was rejection from employment, incurred property damage, sustained past-present-and future wage loss, breach of contracts, rejection from contract archaeology bids, and Plaintiff's reputation was damaged as Plaintiff was ridiculed, mocked, and

belittled throughout the world by the general public and in professional archaeological circles. *See supra* pp. 2, 29; ¶¶ 99-103, 105-108.

832. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com and that he be awarded (i) mandatory injunctions, to induce Defendant One.com to shut down its privacy invasion website(s) to halt the damage to Plaintiff; (ii) prohibitory injunctions to prevent and prohibit Defendant's republication of privacy invasion materials on the internet; and (iii) compensatory damages, ancillary damages, special damages, punitive damages (pled separately), and attorneys' fees and costs incurred in connection with this action. Each act done in a conspiracy is an act for which each conspirator is jointly and severally liable. Further, Plaintiff demands a trial by jury.

COUNT V: NEGLIGENCE

833. Plaintiff incorporates and reasserts the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

834. Plaintiff incorporates citations for negligence from ¶ 142. The four elements of a negligence charge are (1) a duty, or obligation, recognized by the law, requiring the defendant to conform to a certain standard of conduct, for the protection of others against unreasonable risks; (2) a failure on the defendant's part to conform to the standard required: a breach of the duty; (3) a reasonably close causal connection between the conduct and the resulting injury, which is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact, and (4) actual loss or damage. *Jenkins*, 851 So. 2d at 783.

835. Website providers have a duty to remove defamatory, privacy invasion materials, and wrongful appropriation materials that are placed on their servers. This is an industry standard followed by website providers such as Youtube.com and Media Temple ¶¶ 73, 78, Ex. 54. The

standard procedure is to notify a website provider of the defamatory, privacy invasion, or wrongful appropriation violations and for the provider to remove this material after it receives notice. Here, Plaintiff provided notice to One.com of the defamatory, privacy invasion, and wrongful appropriation materials following the procedure and methods published and instructed by One.com. However, despite that One.com received notice from the Plaintiff, One.com breached its own procedures and the standard industry duty of care and allowed the harmful materials against the Plaintiff to continue on its servers. One.com's breach of duty would cause actual or proximate harm, a "foreseeable zone of risk," to the Plaintiff because it was foreseeable that if One.com enabled the defamatory, privacy invasion, and wrongful appropriation materials towards the Plaintiff to continue on the internet, the Plaintiff would be harmed. And as a result of One.com breach of the duty of care, Plaintiff was harmed as his identity was stolen, his reputation, business, ability to acquire contracts were damaged, and Plaintiff sustained other damages: loss of employment opportunities, contracts for Plaintiff's firm, breach of contracts, and other damages. *See supra* ¶ 83, 56 (Citing One.com's negligence); pp. 2, 29, ¶¶ 99-103, 105-108 (Noting damages to Plaintiff).

COUNT VI: GROSS NEGLIGENCE

836. Plaintiff incorporates citations for gross negligence from ¶ 155. Gross negligence is established by facts showing a reckless disregard of human life or rights which is equivalent to an intentional act or a conscious indifference to the consequences of an act. *Rapp v. Bryant*, 417 So. 2d 658, 670 (Fla. 1982). The statute of limitations for negligence is four years. Fla. Stat. §95.11(3)(a).

837. Here, One.com showed intentionality by purposefully receiving, acknowledging, and then denying Plaintiff's notice to remove defamatory, privacy invasion, and wrongful

appropriation material against the Plaintiff from its servers. ¶ 83, Ex. 56.

838. Here, One.com showed intentionality acknowledging and then denying Plaintiff U.S. and Danish legal citations to remove defamatory, privacy invasion, and wrongful appropriation material against the Plaintiff from its servers. ¶ 83, Ex. 56.

839. Here, One.com showed intentionality by acknowledging and then denying Plaintiff's request to remove defamatory, privacy invasion, and wrongful appropriation material against the Plaintiff from its servers after Plaintiff followed the procedures, requirements, methods, and met the standards for removing these materials established by One.com. ¶ 83, Ex. 56.

840. One.com's intentional and reckless behavior caused damages, namely Plaintiff's economic and non-economic loss including but not limited to loss or diminution of income past, present, and future income, breach of contracts, and Plaintiff's reputation and relationships in his neighborhood, family, and profession. pp. 2, 29, ¶¶ 99-103, 105-108. One.com's intentional acts also caused harm specific to this Count, namely Plaintiff's ability to protect, preserve, and research the Ararat archaeological site. *See* ¶¶ 142-146, 153-154. Further, One.com's intentional and purposeful behavior harmed a historic site by inhibiting other persons and legal entities from engaging in preservation efforts at the Ararat archaeological site, a locale subject to looting and melting permafrost. *Id.*

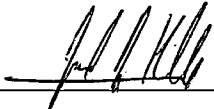
841. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against the Defendant One.com for negligence, and that he be awarded economic damages including but not limited to past, present, and future wage loss or diminution, attorney fees, and court costs. Also, Plaintiff requests non-economic damages including but not limited to loss of

consortium. A pleading for punitive damages will be filed separately. Plaintiff also requests a trial by jury.

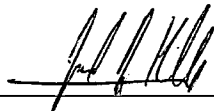
842. WHEREFORE, Plaintiff, Joel D. Klenck, demands that judgment be entered against Defendant One.com, for gross negligence, and that he be awarded economic damages for past, present, and future wage loss or diminution, attorney's fees, and court costs. Also, a finding of gross negligence enables Plaintiff to request non-economic damages including but not limited to loss of consortium. Plaintiff's request for punitive damages will be filed separately. Further, Plaintiff requests a trial by jury.

Dated this 13th day of June, 2016.

Joel D. Klenck
Plaintiff
1665 Brookside Cir. E.
Jacksonville, FL 32207
Phone: (904) 444-1576
Email Address: klenckjd@gmail.com

BY:  _____

Under penalties of perjury, I declare that I have read the foregoing Complaint and the facts stated in it are true.

BY:  _____

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of the above was furnished via the Florida Court e-filing portal to the Circuit Court of the Fourth Judicial Circuit in and for Duval County, and Defendants' attorneys and *Pro Se* Defendants on June 13, 2016.



JOEL DAVID KLENCK