

1 KEITH M. DAVIDSON, ESQ.
 (State Bar No. 212216)
 2 DAVIDSON & ASSOCIATES, P.L.C.
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5 Pro Se Attorney for Defendant and Cross-Complainant,
 Keith M. Davidson

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 8 **UNITED STATES DISTRICT COURT**
FOR THE CENTRAL DISTRICT OF CALIFORNIA
 9 **WESTERN DISTRICT**

10 STEPHANIE CLIFFORD (AKA STORMY
 DANIELS), an individual;

11 Plaintiff,

12 vs.

13 KEITH M. DAVIDSON, an individual,
 14 MICHAEL COHEN, an individual and DOES 1
 through 10, inclusive,

15 Defendants.

Case No.: 2:18-cv-05052

**COUNTERCLAIM BY KEITH M.
 DAVIDSON AGAINST STEPHANIE
 CLIFFORD (AKA STORMY DANIELS);
 MICHAEL AVENATTI; AVENATTI &
 ASSOCIATES, A PROFESSIONAL
 CORPORATION; EAGAN AVENATTI,
 LLP; AND ROES 1 TO 10, INCLUSIVE**

**[Filed Concurrently with Answer to
 Complaint and Crossclaim against Michael
 D. Cohen]**

16
 17 KEITH M. DAVIDSON, an individual

18 Counter-Claimant,

19 vs.

20 STEPHANIE CLIFFORD (AKA STORMY
 DANIELS), an individual; MICHAEL
 21 AVENATTI, an individual; AVENATTI &
 ASSOCIATES, A PROFESSIONAL
 22 CORPORATION, a California Corporation;
 EAGAN AVENATTI, LLP, a California
 23 Corporation; AND ROES 1 TO 10,
 INCLUSIVE,

24 Cross-Defendant.

Assigned For All Purposes:
 Hon. S. James Otero

25
 26
 27 Defendant and Counterclaimant KEITH M. DAVIDSON (hereinafter "DAVIDSON") for
 28 its Counterclaim hereby brings this action against Counter-defendants STEPHANIE

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1 CLIFFORD (AKA STORMY DANIELS), an individual; MICHAEL AVENATTI, an
2 individual; AVENATTI & ASSOCIATES, A PROFESSIONAL CORPORATION, a
3 California Corporation; EAGAN AVENATTI, LLP, a California Corporation; AND ROES
4 1 TO 10, INCLUSIVE.
5

6 **INTRODUCTION**

7 1. Keith M. Davidson is an Attorney who formerly represented Stephanie
8 Clifford. Stephanie Clifford's current attorney Michael Avenatti has been on a crusade to
9 falsely vilify Davidson while using Clifford's Attorney Client Privilege with Davidson as
10 both a sword and a shield.
11

12 2. After making more than 175 television appearances in the first five months of
13 2018, on June 6, 2018, Clifford sued Davidson.
14

15 3. Countless reckless and false statements have been made against Davidson by
16 the Counter-defendants since AVENATTI began what Hon. Judge Kimba Wood referred to
17 as his "Publicity Tour."
18

19 4. After filing suit against Davidson on June 6, 2018, the Counter-Defendants
20 and each of them uttered and intentionally published a statement of fact which was false,
21 defamatory, had a natural tendency to injure and was published with actual malice.
22

23 **THE PARTIES**

24 5. Defendant and Counterclaimant KEITH M. DAVIDSON (DAVIDSON) is a
25 California Resident and is a former attorney for Cross-Defendant STEPHANIE CLIFFORD
26 ((CLIFFORD) AKA Stormy Daniels).
27

28 6. Counter-defendant CLIFFORD sued her former Attorney DAVIDSON in Los
Angeles Superior Court Case No. SC129384 on June 6, 2018. The case was removed to the
United States District Court for the Central District of California on June 7, 2018.

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7. Counter-Defendant Michael Avenatti, (AVENATTI), is a California resident and is the current attorney for CLIFFORD. AVENATTI utilizes a verified Twitter account @MichaelAvenatti. AVENATTI currently has 525,000 twitter followers.

8. Counter-Defendant AVENATTI & ASSOCIATES, A PROFESSIONAL CORPORATION, (AVENATTI ASSOCIATES), is a duly organized corporation existing under the laws of the State of California. On information and belief, AVENATTI ASSOCIATES has been and is employed by CLIFFORD and employs AVENATTI.

9. Counter-Defendant EAGAN AVENATTI, LLP, is a duly organized corporation existing under the laws of the State of California. On information and belief, AVENATTI ASSOCIATES has been and is employed by CLIFFORD and employs AVENATTI.

JURISDICTION & VENUE

10. The court may assert personal jurisdiction over the parties because the parties have submitted themselves to this court’s jurisdiction.

11. The court has subject matter jurisdiction under 28 U.S.C. § 1332. The parties are citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

12. Venue is proper under 28 U.S.C. § 1391. A substantial part of the events or omissions that give rise to DAVIDSON’s claims which occurred in the Central District of California.

FIRST CAUSE OF ACTION
DEFAMATION PER SE
AGAINST ALL DEFENDANTS

13. Plaintiff re-alleges and incorporates by reference the allegations in all prior paragraphs as though fully set forth herein;

1 Plaintiff is informed and believes that DEFENDANTS, and each of them, by the herein
2 described acts, conspired to, and in fact, did negligently, recklessly, and intentionally cause
3 publications of defamation of and concerning Plaintiff, to third persons and to the
4 community. The false and defamatory statements at issue is a social media tweet posted by
5 AVENATTI at 1:12 PM on June 6, 2018 which reads:



6
7
8 Michael Avenatti Verified

9
10 account @MichaelAvenatti 10h10 hours ago

11 Keith Davidson should have been charged after his arrest
12 for extortion not long ago.[...]. Watch him now try and
13 distract away from his own unethical conduct. Ms. Daniels
14 deserved better.

15 [https://thebea.st/2HUp3jM?source=twitter&via=mobile ...](https://thebea.st/2HUp3jM?source=twitter&via=mobile...)

16 via [@thedailybeast](#)

17
18
19 14. As of the filing of this Complaint, he above publication, (tweet), in paragraph
20 13 has been liked more than 12,000 times and re-published, (re-tweeted) more than 4,300
21 times.

22 15. Keith Davidson has never been arrested for extortion as falsely alleged by
23 defendants. The defamatory publications consisted of written, knowingly false and
24 unprivileged communications, tending directly to injure Counter-Claimants personal,
25 business, and professional reputations. These false and defamatory publications were and are
26 in violation of Cal. Civil Code § 45 and 46(3) and (5). This statements and similar ones
27 published by Defendants and each of them, expressly and impliedly asserted that Plaintiff is
28 a violent threat to others, threatened physical violence against other persons, committed
misconduct, violated company policies, and that his termination was justified.

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1 16. Plaintiff is informed and believes, and fears, that these false and defamatory
2 per se statements will continue to be published by Counter-Defendants and each of them and
3 will be foreseeably republished by their recipients, all to the ongoing harm and injury to
4 DAVIDSON's business, professional and personal reputations. Plaintiff also seeks redress
5 in this action for all foreseeable republication including his own compelled self publication
6 of these defamatory statements.

7 17. The defamatory meaning of all of the above-described false and defamatory
8 statements and their reference to DAVIDSON were understood by these above referenced
9 third person recipients and other members of the community who are known to Counter-
10 Defendants and each of them, but unknown to DAVIDSON at this time.

11 18. None of the Counter-Defendants defamatory publications against Plaintiff
12 referenced above are true.

13 19. The above defamatory statements were understood as assertions of fact, and
14 not as opinion. Plaintiff is informed and believes this defamation will continue to be
15 negligently, recklessly, and intentionally published and foreseeably republished by Counter-
16 Defendants and each of them and foreseeably republished by recipients of Defendants'
17 525,000 twitter followers, thereby causing additional injury and damages for which Plaintiff
18 seeks redress by this action.

19 20. Each of these false defamatory per se publications were negligently,
20 recklessly, and intentionally published in a manner equaling malice. These publications
21 abuse any alleged conditional privilege (which Plaintiff denies existed.). All of the
22 publications were made with hatred, ill will, and intent to vex, harass, annoy, and injure
23 Plaintiff. These publications were made in order to justify Counter-Defendants frivolous
24 lawsuit against DAVIDSON and/or to Distract from AVENATTI's, and/or EAGAN
25 AVENATTI's recent negative press. These false and defamatory statements were made to
26 cause damage to Plaintiff's professional and personal reputation.

27 21. Each of these publications by Counter-Defendants, and each of them, were
28 made with knowledge that no investigation supported the unsubstantiated and obviously
false statements. The Counter-Defendants published there statements knowing them to be

1 false, unsubstantiated by any reasonable investigation and the product of hostile witnesses.
2 These acts of publication were known by Counter-Defendants, and each of them, to be
3 negligent to such a degree as to be reckless. In fact, not only did Counter-Defendants, and
4 each of them, have no reasonable basis to believe these statements, but they also had no
5 belief in the truth of these statements, and in fact knew the statements to be false. Counter-
6 Defendants and each of them, excessively, negligently, and recklessly published these
7 statements to individuals with no need to know, and who made no inquiry, and who had a
8 mere general or idle curiosity of this information.

9 22. The complained of publications by Counter-Defendants and each of them
10 were made with hatred and ill will towards DAVIDSON and the design and intent to injure
11 him, his good name his reputation, employment and employability. Counter-Defendants and
12 each of them, published these statements not with an intent to protect any interest intended to
13 be protected by any privilege, but with negligence, recklessness and/or and intent to injure
14 Plaintiff and destroy his reputation.

15 23. As a proximate result of the publication and republication of these
16 defamatory statements by Counter-Defendants and each of them, DAVIDSON has suffered
17 injury to his personal, business and professional reputation including suffering
18 embarrassment, humiliation, severe emotional distress, shunning, anguish, fear, loss of
19 employment, and employability, and significant economic loss and future earnings, all to his
20 economic, emotional and general damage in an amount according to proof.

21 24. Counter-Defendants and each of them, by and through their managing agents
22 and officers committed the acts alleged herein recklessly, maliciously, fraudulently, and
23 oppressively, with the wrongful intention of injuring Plaintiff, for an improper and evil
24 motive amounting to malice (as described above) and which abused and/or prevent the
25 existence of any conditional privilege, which in fact did not exist, and with a reckless and
26 conscious disregard of Plaintiff's rights. All actions of Counter-Defendants, and each of
27 them their agents, employees, managing agents and officers as herein alleged were known
28 authorized ratified and approved by the Counter-Defendants and each of them. Plaintiff is
thus entitled to recover punitive and exemplary damages from Counter-Defendants and each

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1 of them for thee wanton, obnoxious, and despicable acts in an amount based on the wealth
2 and ability to pay according to proof at the time of trial.

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5 WHEREFORE, Defendant prays that:

- 6 1. Plaintiff takes nothing by her Complaint;
- 7 2. For attorneys' fees and costs of the suit herein;
- 8 3. For such other relief that the Court deems just and proper.

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13 DATED: June 7, 2018

DAVIDSON & ASSOCIATES, P.L.C.

/S/ Keith M. Davidson

By: _____
Keith M. Davidson, Esq.
Attorney In Pro Per

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DEMAND FOR JURY TRIAL

1
2 KEITH M. DAVIDSON respectfully demands trial by jury for all claims that may be
3 tried to a jury.
4

5
6 DATED: June 7, 2018

DAVIDSON & ASSOCIATES, PLC

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8
9 By: /S/ Keith M. Davidson
10 Keith M. Davidson, Esq.
11 Attorney In Pro Se

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PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 8383 Wilshire Boulevard, Suite 510, Beverly Hills, CA 90211.

On **June 7, 2018**, I served a true copy of **COUNTERCLAIM BY KEITH M. DAVIDSON AGAINST STEPHANIE CLIFFORD (AKA STORMY DANIELS); MICHAEL AVENATTI; AVENATTI & ASSOCIATES, A PROFESSIONAL CORPORATION; EAGAN AVENATTI, LLP,; AND ROES 1 TO 10, INCLUSIVE** on the interested parties in said action by placing as stated below:

SEE ATTACHED SERVICE LIST

(BY MAIL) I deposited such envelope with postage thereon fully prepaid, in the United States mail at Calabasas, California.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

(BY FACSIMILE) The above-described document (s) were sent by facsimile transmission to the facsimile number(s) of the law office(s) stated above. The transmission was reported as complete and without error. A copy of the transmission report is made a part of this proof of service pursuant to CRC §2008.

(BY OVERNIGHT DELIVERY) I placed the Federal Express package for overnight delivery in a box or location regularly maintained by Federal Express at my office or I delivered the package to an authorized courier or driver authorized by Federal Express to receive documents. The package was placed in a sealed envelope or package designated by Federal Express with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served at the address(es) shown above, at the office address(es) as last given by that person on any document filed in the cause and served on the party making service; otherwise at that party's place of residence.

(State) I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 7, 2018 at Beverly Hills, California.

/S/ Vilma Duarte
Vilma Duarte

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SERVICE LIST
(DAVIDSON vs CLIFFORD)

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