1	NELSON E. ROTH, SBN 67350	FILED
2	ner3@cornell.edu CORNELL UNIVERSITY 300 CCC Building	08 APR 28 PM 1:17
3	Garden Avenue	CLOCK U.S. DISTRICT COURT
4	Ithaca, New York 14853-2601 Telephone: (607)255-5124	m
5	Facsimile: (607)255-2794	DEPUTY
6	BERT H. DEIXLER, SBN 70614 bdeixler@proskauer.com	
7.	bdeixler@proskauer.com CLIFFORD S. DAVIDSON, SBN 246119 cdavidson@proskauer.com PROSKAUER ROSE LLP	
8	2049 Century Park East, 32nd Floor	
9	Los Angeles, CA 90067-3206 Telephone: (310) 557-2900	
10	Facsimile: (310) 557-2193	
11	Attorneys for Defendant, CORNELL UNIVERSITY	e canalist and the contract of
12	UNITED STATES DI	STRICT COURT AND
13	SOUTHERN DISTRICT	OF CALIFORNIA L
14	3	'08 CV 736 W JMA
15	KEVIN VANGINDEREN,	Case No.
16	Plaintiff,	Hon.
17	v	DECLARATION OF CLIFFORD
18	CORNELL UNIVERSITY, BERT DEIXLER,	S. DAVIDSON IN SUPPORT OF CORNELL'S NOTICE OF REMOVAL
19	Defendants.	Notice of Removal and Defendant
20	Borondains.	Bert Deixler's Joinder filed concurrently herewith]
21	}	
22	}	(San Diego Superior Court, South County Division Case No. 37-2007-00076496-CU-DF-
23	}	Case No. 37-2007-00076496-CU-DF- SC)
24	}	Action Filed: April 8, 2008
25)	
26		
27		
28		

8085/21177-001 Current/11079192v1

I, Clifford S. Davidson, declare as follows:

1. I am an attorney associated with the law firm Proskauer Rose LLP, attorneys for defendant Cornell University ("Cornell") in the above-captioned action. I am admitted to practice before this Court and am one of the attorneys responsible for handling this matter. Except as may be expressly noted below, I have firsthand knowledge of the facts set forth herein.

DECLARATION OF CLIFFORD S. DAVIDSON

- 2. I am informed and believe that on April 8, 2008, an action was commenced in the Superior Court of California, County of San Diego, South County Division, entitled *Kevin Vanginderen v. Cornell University*, Case No. 37-2008-00069807-CU-DF-SC ("State Court Action"). A true and correct copy of the Summons and Complaint in the State Court Action, as well as the Notice of Case Assignment and Alternative Dispute Resolution papers in the State Court Action, are collectively attached hereto as Exhibit A. I am informed and believe that Exhibit A represents the entirety of the case file in the State Court Action.
- 3. I am informed and believe that on April 15, 2008, the Summons and Complaint in the State Court Action was served on Cornell. I am informed and believe that Plaintiff has not yet filed any Proof of Service of Summons in the State Court Action.
- 4. Attached hereto as Exhibit B is a true and correct copy of the Notice to Adverse Party, which will be finalized, filed and served on plaintiff Kevin Vanginderen and filed in the State Court Action shortly following the filing of this Notice of Removal.
- 5. Attached hereto as Exhibit C is a true and correct copy of the Notice to State Court, which will be finalized and filed with the Superior Court of California, County of San Diego, South County Division shortly following the filing of this Notice of Removal.

TABLE	OF C	ONTENT	SOF	EXHIBI	TS
	(Local	Civil Ru	le 5.1	(e))	

1	TABLE OF CONTENTS OF EXHIBITS (Local Civil Rule 5.1(e))
2	
3	EXHIBIT A
4	Summons and Complaint (State Court Action)
5	
6	EXHIBIT B
7	Notice to Adverse Party of Removal
8	
9	EXHIBIT C
10	Notice to State Court of Removal
11	
12	
13	EXHIBIT D October 1, 2007 Summons and Complaint
	2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200, 2,200
14	
14 15	
	EXHIBIT E Cornell's Notice of Special Motion to Strike and Special Motion to Strike
15	EXHIBIT E Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil
15 16	Cornell's Notice of Special Motion to Strike and Special Motion to Strike
15 16 17	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil
15 16 17 18	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil
15 16 17 18 19 20	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil
15 16 17 18 19 20 21	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil
15 16 17 18 19 20 21	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
115 116 117 118 119 220 221 222 223	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
115 116 117 118 119 220 221 222 223	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
15 16 17 18 19 20 21 22 23 24 25	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
15 16 17 18 19 20 21 22 23 24 25 26	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
15 16 17 18 19 20 21 22 23 24 25 26 27	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
15 16 17 18 19 20 21 22 23 24 25 26	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure
15 16 17 18 19 20 21 22 23 24 25 26 27	Cornell's Notice of Special Motion to Strike and Special Motion to Strike Plaintiff's Complaint Pursuant to Section 425.16 of the California Code of Civil Procedure

SUMMONS

	(CITACIO	ON JUDICIAL)	Same and
NOTICE TO DEFENDANT		, .	FOR COURT OF ONLY (SQLO PARA USO DE LA GORTE)
			108 APR -8 AN 11: 02
			COURTHUR HAR COURT SAN DIEGO COURTY, CA
YOU ARE BEING SUED E	BY PLAINTIFF: KEVIN V	ANGINDEREN	
You have 30 CALEA summons is served on response at this court.	IDAR DAYS after this you to file a typewritten	uene un plazo de 30 l	treguen esta citación judicial usted DIAS CALENDARIOS para presentar a máquina en esta corte.
A letter or phone call w typewritten response mu If you want the court to h	ill not protect you; your st be in proper legal form ear your case.	Una carta o una II. protección: su respu	amada telefónica no le ofrecerá esta escrita a máquina tiene que lidades legales apropiadas si usted
lose the case, and ye	sponse on time, you may our wages, money and without further warning	Si usted no presenta s el caso, y le pueden d	uche su caso. su respuesta a tlempo, puede perder quitar su salario, su dinero y otras sin aviso adicional por parte de la
to call an attorney right a an attorney, you may service or a legal aid of book).	uirements, You may want away. If you do not know call an attorney referral ffice (listed in the phone	Existen otros requisito llamar a un abogado il abogado, puede llama abogados o a una ofici telefónico).	os legales. Puede que usted quiera nmediatamente. Si no conoce a un ar a un servicio de referencia de ina de ayuda legal (vea el directorio
Superior Court of (500 Third Ave.	•		CASE NUMBER (Número del Caso) 37-2008-00069807-CU-DF-SC
Chula Vista, CA 919	910-5649		
Kevin Vanginderen	none number of plaintiffs attor imero de teléfono del abogado d	ney, or plaintiff without an del demandante, o del dema	andante que no tiene abogado, es)
637 3rd Avenue, Sui	te E-1	(619)585-7414	
637 3rd Avenue, Sui Chula Vista, CA 919 DATE: April 8, 2008	te E-1	(619) 585-7414 Clerk, by	C. Riedel
Attorney Kevin Vang 637 3rd Avenue, Sui Chula Vista, CA 919 DATE: April 8, 2008 (Fecha)	NOTICE TO THE PERSON S 1. as an individual defer 2. as the person sued or	Clerk, by	C. Riedel , Deputy (Dalegado)
637 3rd Avenue, Sui Chula Vista, CA 919 DATE: April 8, 2008 (Fecha)	NOTICE TO THE PERSON S 1. as an individual defer 2. as the person sued u 3. on behalf of (specify): under: CCP 416.10	Clerk, by	C. Riedel , Deputy (Dalegado) specify): CCP 416.60 (minor) CCP 416.70 (conservatee)

EXHIBIT A
Page 3

SUMMONS

(CITACION JUDICIAL) FOR COURT USE ONLY NOTICE TO DEFENDANT: (Aviso a Acusado) BERT DEIXLER 2011 APR -8 MI II: 02 SALDIEGO GARAY, CA YOU ARE BEING SUED BY PLAINTIFF: KEVIN VANGINDEREN (A Ud. le está demandando) You have 30 CALENDAR DAYS after Después de que le entreguon esta citación judicial usted summons is served on you to file a typewritten flene un plazo de 30 DIAS CALENDARIOS para presentar response at this court. una respuesta escrita a máquina en esta corte. A letter or phone call will not protect you; your Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tione que cumplir con las formalidades legales apropiadas si usted typewritten response must be in proper legal form if you want the court to hear your case. quiere que la corte escuche su caso. If you do not file your response on time, you may Si usted no presenta su respuesta a tiempo, puede perder lose the case, and your wages, money and property may be taken without further warning from the court. el caso, y le pueden quitar su salarlo, su dinero y otras cosasde su propiedad sin aviso adicional por parte de la There are other legal requirements. You may want Existen otros requisitos legales. Puede que usted quiera to call an attorney right away. If you do not know llamar a un abogado inmediatamente. Si no conoce a un an attorney, you may call an attorney referral abogado, puede llamar a un servicio de referencia de service or a legal aid office (listed in the phone abogados o a una oficina de ayuda legal (vea el directorio The name and address of the court is: (El nombre y dirección de la corte es) CASE NUMBER (Número del Caso) Superior Court of California 500 Third Ave. 37-2008-00069807-CU-DF-SC Chula Vista, CA 91910-5649 The name, address, and telephone number of plaintiffs attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es) Kevin Vanginderen (619)585-7414 Attorney Kevin Vanginderen 637 3rd Avenue, Suite E-1 Chula Vista, CA 91910 DATE: April 8, 2008 Clerk, by Deputy (Facna) (Actuario) (Delegacio) NOTICE TO THE PERSON SERVED: You are served (SEAL) as an individual defendant. \square as the person sued under the fictitious name of (specify): 3. on behalf of (specify) under: CCP 416.10 (corporation)

EXHIBIT A

(See reverse for Proof of Service)

SUMMONS

Page 4

other: by personal delivery on (deta):

Form Assipted by Hulo 982

Judicial Council of Collection 962(a)(9) [Rev. January 1, 1394] Mondatory Form CCP 416.20 (defunct corporation)

CCP 416.40 (association or partnership)

CCP 416.60 (minor)

CCP 416.70 (conservatee)

CCP 412.20

CCP 416.90 (individual)

1		982.1(
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name Kevin Vanginderen	, state bar number, and oddress):	FOR COURT USE ONLY
Attorney Kevin Vanginde		-
637 3rd Avenue, Suite E	E-1	The second
Chula Vista, CA 91910		
TELEPHONE NO: (619) 585-74	114 FAX NO. (Octonol):	South John To
E-MAIL ADDRESS (Optional):	114 PM NO. (UTICABY).	
ATTORNEY FOR (Kame):		200 400 -0
NAME OF COURT: Superior Co		-278 APR -6 AN II: 02
STREET ADDRESS: 500 Third A		SAN DILEG COUNTY, CA
MARING ADDRESS: 500 Third A		SAR DILEGION SARIE
CHYAND ZIP COCE: Chula Vista		Journ I. LA
BRANCHNAME South Count PLAINTIFF: Kevin Vangi		·
i water is a second of the sec	nde E dii	
	,	
DEFENDANT: Cornell Uni	versity, Bert Daixler	
DOES 1 TO		·
COMPLAINT — Personal injury,	Property Damage, Wrongful Death	
AMENDED (Number):	•	
Type (check all that apply):		
MOTOR VEHICLE	OTHER (specify): Public Disclosure	
Property Damage	Wrongful Death Private Fact/Libel	
X Personal Injury	X Other Damages (specify): loss of	·
income, loss of reputat	ion, mental anguish, punitive	
Jurisdiction (check all that apply):		
ACTION IS A LIMITED CIVIL C		CASE NUMBER:
Amount demanded d	oos not exceed \$10,000	
ACTION IS AN UNLIMITED CIV	xceeds \$10,000, but does not exceed \$25,000	
ACTION IS RECLASSIFIED by	this amended complaint	37-2008-00069807-CU-DF-SC
from limited to unlimited		
from unlimited to limited		
1. FLA!NTIFF (name): Kevin Va	nginderen	
alleges causes of action against D	EFENDANT (name): Cornell University, Be	
2. This pleading, including attachmen	is and exhibits, consists of the following number of pages	rt Derxiel
3. Each plaintiff named above is a con	mpetent adult	· <u></u>
a except plaintiff (name):		
(1) a corporation qualified	d to do husiness in California	· •
(2) an unincorporated en	lity (describe):	
(3) a public entity (descri		•
	adult	
(a) for whom a guard (b) other (specify):	ian or conservator of the estate or a guardian ad litem ha	s been appointed
(5) other (specify):	·	•
(o) omen (apcony).		•
b. except plaintiff (name):		
	l to do business in California	
(2) an unincorporated ent	ity (describe):	
(3) a public entity (describ		
	adult ·	•
· · · ·	an or conservator of the estate or a guardian ad lilem has	heen annointed
(b) other (specify):	Tame of a guarder, an illetti itas	. Took appointed
(5) other (specify):		•
,,, <u> </u>		•
Information about additional a	Initialities who are not commute to the factor of the	
······································	laintiffs who are not competent adults is shown in Comple	aint — Attachment 3.
in Approvad for Cottonst Use Lateral Council of Cottonsia	COMPLAINT - Personal Injury, Property	
982.1(1) [Rev. July 1, 2002]	Damage, Wrongful Death	Legal Code of Civil Proceedure, § 425.12 Colutions Code of Civil Proceedure, § 425.12
		द्धि Plus

SHORT TITLE: VANGINDEREN V. CORNELL UNIVERSIT	Y, BERT DEIXLER CASE MUMBER
_	
4. Plaintifi (name):	
Is doing business under the fictitious name (specify):	
and has complied with the fictitious business name laws.	
 Each defendant named above is a natural person X except defendant (name): Cornell University 	c. except defendant (name):
 (1) a business organization, form unknown (2) X a corporation (3) an unincorporated entity (describe): 	 (1) a business organization, form unknown (2) a corporation (3) an unincorporated entity (describe):
(4) a public entity (describe):	(4) a public entity (describe):
(5) other (specify):	(5) other (specify):
b except defendant (name):	d. except defendant (name):
(1) a business organization, form unknown (2) a corporation (3) an unincorporated entity (describe):	(1) a business organization, form unknown (2) a corporation (3) an unincorporated entity (describe):
(4) a public entity (describe):	(4) a public entity (describe):
(5) other (specify):	(5) cther (specify):
Information about additional defendants who are not noture	persons is contained in Complaint — Attachment 5
6. The true names and capacities of defendants sued as Docs are	
7. Defendants who are joined pursuant to Code of Civil Proce	
	dere deditor obe and (harries).
·	
8. This court is the proper court because	
a. at least one defendant now resides in its jurisdictional a b. the principal place of business of a defendant corporation c. injury to person or damage to personal property occurred.	on or unincorporated association is in its jurisdictional area.
d. other (specify):	
9. X Plaintiff is required to comply with a claims statute, and a. X plaintiff has complied with applicable claims statutes, or b. plaintiff is excused from complying because (specify):	

SHORT TITLE:	VANGINDEREN	V. CORNE	LL UNIVERSI	TY, BERT	DEIXLER	CASE NUMBER:	
			<u> </u>				
0. The followin	g causes of action a	re attached ar	nd the statements	above apply	to each (<i>each</i> :	complaint must heve	one or more
	ction attached):			,		, , , , , , , , , , , , , , , , , , ,	
	otor Vehicle				*. *		
	neral Negligence		٠.				
===	entional Tort						
	oducts Liability emises Liability			,			
	ner (specify):		•				
	(-///-						
					•		
		•			•	•	
. Plaintiff has	sulfared		* •				
	ge loss					•	
	s of use of property						
c. hos	pital and medical ex	penses			• .		
	neral damage						
	peny damage		•				
I N loss	s of earning capacity er damage (spacily):	loss of					
g. LX_i oth	er damage (spacny):	1055 01	reputation,	mentar	anguish,	punitive	
		•					
		•					
	4		•		,	•	
a. liste	damages clairned for ad in Complaint — At follows:	wrongful dea tachment 12.	ih and the relation	ships of plain	tiff to the dece	ased are	
	*	-					
			*		• .		
,							
The relief sou	ight in this complaint	is within the j	jurisdiction of this	court.	•	•	
DI AINTICE D	DAVE for bushows and	(t t	Statement of setting.				•
a. (1) X	RAYS for judgment		JIL; for stich relief a	is is leif, just,	and equitable	and for	
4. (1) A	compensatory dam punitive damages	ages					
	int of damages is (yo	u must check	(1) in cases for pe	orsonal injury	or wronaful de	eath):	
(1)	according to proof		•	. ,			
(2) X	in the amount of: \$	10,000,0	00.00				
					•		
The pa	ragraphs of this com	plaint alleged	on information an	d belief are a	s follows (spec	ify paragraph numbi	erel:
·						, paregraph	.,,,,
					•		*
							•
as Daniel 9	. 2000						•
e: April	B, 2008	•			•		-
				.	/ /	7.	
<u>vin Vangi</u>	nderen (Type or print name)	· · · · · · · · · · · · · · · · · · ·		<u> </u>	1810	/ O 107022 00	PLN .
						eof Plaintef or Attorn	21)
() (Rev. July 1/2002)		COMPL	AINT Person	al Injury, P	roperty		Page 3 of :

SHORT TITL	THE: VANGINDEREN V. CORNELL UNIVERSITY, BERT	DEIXLER	CASE NUMBER:
lst		l Tort	Page <u>4</u>
ATTAC	(Nucser) ACHMENT TO [X] Complaint		
(Use a	a separate cause of action form for each cause of action.)		
IT-1.	Plaintiff (name): Kevin Vanginderen		
	alleges that defendant (name): Cornell University	*	
	to		•
	was the legal (proximate) cause of damages to plaintiff. By the intentionally caused the damage to plaintiff	following acts c	or omissions to act, defendant

at (place): Cornell University, Ithaca, NY (description of reasons for tiability):

on (date): March 8, 1983,

On March 8, 1983, Barbara Bourne, an employee and agent of the Defendant Cornell University, wrote defamatory and libelous statements about the plaintiff which she communicated to other individuals. A report written by Ms. Bourne on that date alleged that the plaintiff was responsible for fifteen separate crimes although she had never ascertained that fifteen individual crimes had ever occurred, nor did she ever possess a scintilla of evidence that the plainitff was responsible for even half that number of alleged incidents.

As a result of the defendant's tertious actions of Libel, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Council of California Effective January 1, 1982 Rule 992, 1(4) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions & Plus

SHORT TITLE: \	ANGINDEREN V	CORNELL UNI	VERSITY, BEF	T DEIXLER c	ASE NUMBER:
2nd	number)	CAUSE OF A	CTION - Intentio	nal Tort	Page 5
ATTACHME	NT TO X Comple	aint 🗀 Cross-Co	mplaint		
(Use a separa	te cause of action for	m for each cause of	action.)		
IT-1. Plainti	ff(name): Kevin	Vanginderen			
alleça	s that defendant (nan	ne): Cornell (Jniversity a:	nd Bert Deixle	x
	☐ Does	_ to			
intentio	ne legal (proximate) onally caused the dar le): December	nage to plaintiff	s to plaintiff. By t	he following acts or	omissions to act, defendant
at (pla	ce): United St	ates District	t Court, Sout	hern District	of

On March 8, 1983, Barbara Bourne, an employee and agent of the Defendant Cornell University, wrote defamatory and libelous statements about the plaintiff which she communicated to other individuals. A report written by Ms. Bourne on that date alleged that the plaintiff was responsible for fifteen separate crimes although she had never ascertained that fifteen individual crimes had ever occurred, nor did she ever possess a scintilla of evidence that the plainitff was responsible for even half that number of alleged incidents.

California and everywhere the Internet is available (description of reasons for liability):

On December 12, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University republished this report onto the Internet by submitting it to United States District Court, Southern District of California, with the knowledge, intent and purpose that it would immediately appear world wide upon the the Justia.com Web site. The defendants were aware at the time of submission to the court file that the libelous report was both defamatory and inadmissible as evidence.

As a result of the defendants' tortions actions of Libel, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Charist of California Effective January 1, 1980 Rule 922.0(4) California Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions Q Plus

SHORT TITLE: VANGINDEREN V. CORNELL UNIVERSITY, BERT DEIXLER	CASE NUMBER
	•
3rd (name) CAUSE OF ACTION - Intentional Tort	Page <u>6</u>
ATTACHMENT TO (X) Complaint	·
(Use a separate cause of action form for each cause of action.)	
IT-1. Plainliff (name): Kevin Vanginderen	
alleges that defendant (namo): Bert Deixler and Cornell Univers	ity
	•
tine the local (provimate) course of demand to the local Course	
was the legal (proximate) cause of damages to plaintiff. By the following acts of intentionally caused the damage to plaintiff on (date): December 12, 2007	or omissions to act, defendan
at (place): United States District Court, Southern District California and everywhere the Internet is available (description of reasons for liability):	ct of ilable
On December 12, 2007, Defendant Bert Deixler acting Defendant Cornell University declared in writing that	g as an agent of

On becember 12, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University declared in writing that the Plaintiff was charged in connection with fifteen separate crimes although he had never ascertained that fifteen individual crimes had ever occurred, nor did he ever possess a scintilla of evidence that the plainitiff was responsible for even half that number of alleged incidents. Defendant Bert Deixler subsequently republished his libelous statement onto the Internet by submitting it to United States District Court, Scuthern District of California, with the knowledge, intent and purpose that it would immediately appear world wide upon the the Justia.com Web site.

As a result of the defendants' tortious actions of Libel, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Farm Approved by the Judicial Council of California Bilective Jenuary 1, 1952 Rule \$92,1[4] Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions G. Plus

CCP 475 12

4ch	CAUSE OF ACTION -	Intentional Tort	Page 7
ATTACHMENT TO XX C	omplaint		
(Use a separate cause of act	on form for each cause of action.)		
IT-1. Plaintiff (name): Key	in Vanginderen		
alleges that defenden	t <i>(name)</i> ; Cornell Univer	sity	
			•
Does	to	•	•

(description of reasons for liability):

on (date): March 8, 1983,

at (place): Cornell University, Ithaca, NY

On March 6, 1983, Barbara Bourne, an employee and agent of the Defendant Cornell University, wrote false statements about the plaintiff that portrayed the plaintiff in a false light which she communicated to other individuals. A report written by Ms. Bourne on that date alleged than the plaintiff was responsible for fifteen separate crimes although she had never ascertained that fifteen individual crimes had ever occurred, nor did she ever possess a scintills of evidence that the plaintiff was responsible for even helf that number of alleged incidents.

As a result of the defendant's tortious actions of Placing Plaintiff in False Light, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Council of California Effective January 1, 1982 Suin 652,1(C) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions & Plus

SHORT TITLE: VANGINDERE	N V. CORNELL UNIVERSITY, BERT DEIXLER	CASE NUMBER:
5th	CAUSE OF ACTION - Intentional Tort	Page 8
, ,	Complaint Cross-Complaint	
(Use a separate cause of ac	ion form for each cause of action.)	
IT-1. Plaintiff (name): Ke	vin Vanginderen	
alleges that defendar	nt(name): Cornell University and Bert De	eixler

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): December 12, 2007,

Coes

at (place): United States District Court, Southern District of California and everywhere the Internet is available (description of reasons for liability):

On March 8, 1983, Barbara Bourne, an employee and agent of the Defendant Cornell University, wrote false statements about the plaintiff that portrayed the plaintiff in a false light which she communicated to other individuals. A report written by Ms. Bourne on that date alleged that the plaintiff was responsible for fifteen separate crimes although she had never asceptained that fifteen individual crimes had ever occurred, nor did she ever possess a scintilla of evidence that the plaintiff was responsible for even half that number of alleged incidents.

On December 12, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University republished this report onto the Internet by submitting it to United States District Court, Southern District of California, with the knowledge, intent and purpose that it would immediately appear world wide upon the the Justia.com Web site. The defendants were aware at the time of submission to the court file that the false statements in the report portrayed the plaintiff in a false light and was inadmissible as evidence.

As a result of the defendants' tortious actions of Placing Plaintiff in False Light, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

	(CUT26")	CAUSE OF ACTION	- Intentional Tort		Page 9
ATTACH	MENT TO IX! Compl	aint Cross-Complaint	•		
(Use a se	eparate cause of action for	nn for each cause of action.)	,	
IT-1. P	Haintiff (name): Kevin	Vanginderen	•		
a	lleges that defendant (nan	ne): Bert Deixler	and Cornell Uni	versity	

intentionally caused the damage to plaintiff on (date): December 12, 2007 at (place): United States District Court, Southern District of California and everywhere the Internet is available (description of reasons for liability):

On December 12, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University wrote a false statement about the plaintiff that portrayed the plaintiff in a false light when he declared in writing that the Plaintiff was charged in connection with fifteen separate crimes although he had never ascertained that fifteen individual crimes had ever occurred, nor did he ever possess a scintilla of evidence that the plainitff was responsible for even half that number of alleged incidents. Defendant Bert Deixler subsequently republished his false statement onto the Internet by submitting it to United States District Court, Southern District of California, with the knowledge, intent and purpose that it would immediately appear world wide upon the the Justia.com Web site.

As a result of the defendants' tortious actions of Placing Plaintiff in False Light, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Council of Collidernia Effective January 1, 1982 Rule 992,1(4) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions & Plus

<u>7th</u>	(number)	CAUSE OF	ACTION - Intent	ional Tort	Pa	ge <u>10</u>
ATTACHM	NENT TO (X) Complain	int Cross-(Complaint			
(Use a sepa	arate cause of action form	n for each cause	of action.)	.*		
!T-1. Plai	intiff (nemo): Kevin V	anginderen				
alle	ges that defendant (name	o): Cornell	University (and Sert Dei	xler	٠.
	Does	lo		·		

On November 2, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University published sealed records pertaining to the plaintiff into a public forum by submitting them to United States District Court, Southern District of California with the knowledge that the records were sealed.

at (place): United States District Court, Southern District of

California (description of reasons for liability):

As a result of the defendants' tortious actions of Public Disclosure of Private Facts for disclosing private information dating back over twenty four years, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Junctial Council of California Effective January 1, 1992 Rule 902, 1(4) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions G. Plus

CCP 425,12

SHORT TI	TLE: VANGINDEREN V. CORNELL UNIVERSITY, BERT DEIXLER CASE NUMBER:
8th	CAUSE OF ACTION - Intentional Tort Page 11
ATTA	CHMENT TO 🖾 Complaint 🗀 Cross-Complaint
(Use a	a separate cause of action form for each cause of action.)
17-1.	Plainiff (name): Kevin Vanginderan
	alleges that defendant (name): Cornell University and Bert Deixler
i	
•	Does to
	was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff on (date): November 2, 2007,
	al (place): United States District Court, Southern District of

(description of reasons for liability):

On November 2, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University published sealed records pertaining to the plaintiff onto the Internet by submitting them to United States District Court, Southern District of California, with the knowledge, intent and purpose that it would immediately appear world wide upon the Justia.com Web site and with the knowledge that the records were sealed.

As a result of the defendants' tortious actions of Public Disclosure of Private Facts for disclosing private information dating back over twenty four years, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Form Appressed by the Judicial Council of California Billopiwa January 1, 1002 Rufe 582, 1(4) Cystonal Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions Q Plus

SHORT TITLE: VANGINDEREN V	. CORNELL UNIVERSIT	Y, BERT DEIXLER	CASE NUMBER;
9th (rumber)	CAUSE OF ACTION - I	ntentional Tort	Page 12
ATTACHMENT TO X Comp	laint Cross-Complaint		
(Use a separate cause of action fo	rm for each cause of action.)		
IT-1. Plaintiff (name): Kevin	Vanginderen		
alleges that defendant (nar	me): Cornell Univers	ity and Bert Deix	ler
Does	to		
intentionally caused the date on (date): November at (place): United St Californi (description of reasons for 1 On November 2, Defendant Cornell	mage to plaintiff 2, 2007, ares District Court alability): 2007, Defendant Be: University published plaintiff into a position of the plaintiff of the control of the c	, Southern Distri rt Deixler acting ed previously sea ablic forum by su	as an agent of led records

As a result of the defendants' tortious actions of Intrusion Into Private Affairs by disclosing private and privileged information dating back over twenty four years, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

knowledge that the majority of these records are inadmissible on grounds of privacy, attorney client privilege, and lack of

authenticity and/or relevance.

Form Approved by Use Judicial Council of California Executive January 1, 1982 Rule 932,1(4) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions G. Plus

CCP 475 12

laint Cross-Complain:	•
•	
rm for each cause of ection.)	
Vanginderen	
ne): Cornell University and Bert Deixler	
	Vanginderen

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff on (date): November 2, 2007,

at (place): United States District Court, Southern District of California and everywhere the Internet is available (description of reasons for liability):

On November 2, 2007, Defendant Bert Deixler acting as an agent of Defendant Cornell University republished previously sealed records pertaining to the plaintiff into a public forum by submitting them to United States District Court, Southern District of California with the knowledge, intent and purpose that it would immediately appear world wide upon the the Justia.com Web site and with the knowledge that the majority of these records are inadmissible on grounds of privacy, attorney client privilege, and lack of authenticity and/or relevance.

As a result of the defendants' tortious actions of Intrusion Into Private Affairs for disclosing and publishing upon the Internet private and privileged information dating back over twenty four years, the plaintiff has suffered extreme emotional distress, a loss of reputation and a loss of income from the conduct of the defendants and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Counsil of California Effective January 1, 1982 Rule (82,1(4) Ozdanal Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions (& Plus

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS. 500 Yord Avenue		
ACAL BIG ADDRESS: 500 Tring Avenue	• ,	
CITY AND ZIP CODE: Chula Vista, CA 91910-5649	•	
BRANCH NAME: South County	•	
TELEPHONE NUMBER: (819) 6914400		
PLAINTIFF(S) / PETITIONER(S): KEVIN VANGINDEREN		
DEFENDANT(S) / RESPONDENT(S): CORNELL UNIVERSITY BL.BI.		
VANGINDEREN VS. CORNELL UNIVERSITY		
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2008-00069807-CU-DF-SC	

Judge: William S. Cannon

Department: S-04

COMPLAINT/PETITION FILED: 04/08/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

- TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.
- COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.
- DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)
- DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filling of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

SDSC GIV-721 (Rev. 11-06)

Page: 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NUMBER: 37-2008-00069807-CU-DF-SC

CASE TITLE: VANGINDEREN vs. CORNELL UNIVERSITY

NOTICE TO LITIGANTS/ADR INFORMATION PACKAGE

You are required to serve a copy of this Notice to Litigants/ADR Information Package and a copy of the blank Stipulation to Alternative Dispute Resolution Process (received from the Civil Business Office at the time of filing) with a copy of the Summons and Complaint on all defendants in accordance with San Diego Superior Court Rule 2.1.5, Division II and CRC Rule 201.9.

ADR POLICY

It is the policy of the San Diego Superior Court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conferences. It is the court's expectation that litigants will utilize some form of ADR – i.e. the court's mediation or arbitration programs or other available private ADR options as a mechanism for case settlement before trial

ADR OPTIONS

1) CIVIL MEDIATION PROGRAM: The San Diego Superior Court Civil Mediation Program is designed to assist parties with the early resolution of their dispute. All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participant in the program. Limited civil collection cases are not eligible at this time. San Diego Superior Court Local Rule 2.31, Division II addresses this program specifically. Mediation is a non-binding process in which a trained mediator 1) facilitates communication between disputants, and 2) assists parties in reaching a mutually acceptable resolution of all or part of their dispute. In this process, the mediator carefully explores not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities. The mediator is not the decision-maker and will not resolve the dispute – the parties do. Mediation is a flexible, informal and confidential process that is less stressful than a formalized trial. It can also save time and money, allow for greater client participation and allow for more flexibility in creating a resolution.

Assignment to Mediation, Cost and Timelines: Parlies may stipulate to mediation at any time up to the CMC or may stipulate to mediation at the CMC. Mediator fees and expenses are split equally by the parties, unless otherwise agreed. Mediators on the court's approved panel have agreed to the court's payment schedule for county-referred mediation: \$150.00 per hour for each of the first two hours and their individual rate per hour thereafter. Parties may select any mediator, however, the court maintains a panel of court-approved mediators who have satisfied panel requirements and who must adhere to ethical standards. All court-approved mediator fees and other policies are listed in the Mediator Directory at each court location to assist parties with selection. Discovery: Parties do not need to conduct full discovery in the case before mediation is considered, utilized or referred. Attendance at Mediation: Trial counsel, parties and all persons with full authority to settle the case must personally attend the mediation, unless excused by the court for good cause.

2) JUDICIAL ARBITRATION; Judicial Arbitration is a binding or non-binding process where an arbitrator applies the law to the facts of the case and issues an award. The goal of judicial arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The arbitrator's award may either become the judgment in the case if all parties accept or if no trial de novo is requested within the required time. Either party may reject the award and request a trial de novo before the assigned judge if the arbitration was non-binding. If a trial de novo is requested, the trial will usually be scheduled within a year of the filling date.

Assignment to Arbitration, Cost and Timelines: Parties may stipulate to binding or non-binding judicial arbitration or the judge may order the matter to arbitration at the case management conference, held approximately 150 days after filing, if a case is valued at under \$50,000 and is "at issue". The court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. In addition, if parties select an arbitrator from the court's panel, the court will pay the arbitrator's fees. Superior Court

SDSC CIV-730 (Rov 12-06)

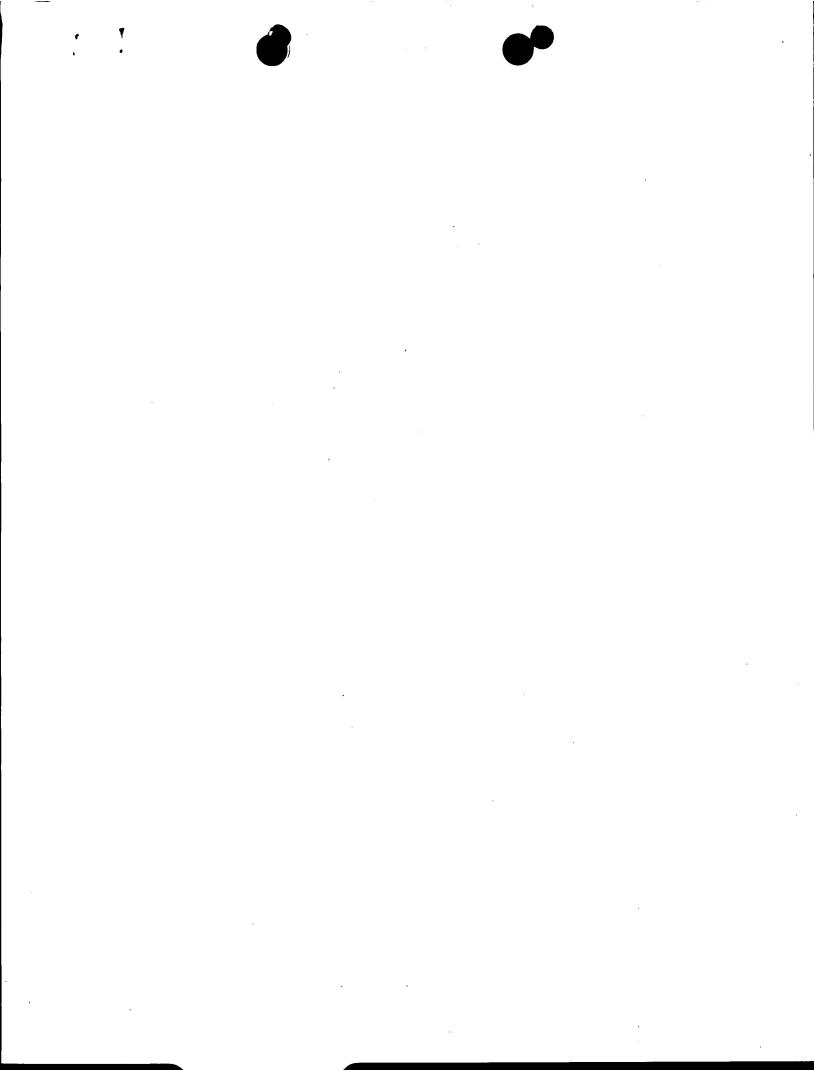
Page: 1

- 3) SETTLEMENT CONFERENCES: The goal of a settlement conference is to assist the parties in their efforts to negotiate a settlement of all or part of the dispute. Parties may, at any time, request a settlement conference before the judge assigned to their case; request another assigned judge or a pro tem to act as settlement officer, or may privately utilize the services of a retired judge. The court may also order a case to a mandatory settlement conference prior to trial before the court's assigned. Settlement Conference judge.
- 4) OTHER VOLUNTARY ADR: Parties may voluntarily stipulate to private ADR options outside the court system including private binding arbitration, private early neutral evaluation or private judging at any time by completing the "Stipulation to Alternative Dispute Resolution Process" which is included in this ADR package. Parties may also utilize mediation services offered by programs that are partially funded by the county's Dispute Resolution Programs Act. These services are available at no cost or on a sliding scale based on need. For a list of approved DRPA providers, please contact the County's DRPA program office at (619) 428-3200.

ADDITIONAL ADR INFORMATION: For more information about the Civil Mediation Program, please contact the Civil Mediation Department at (619) 515-8908. For more information about the Judicial Arbitration Program, please contact the Arbitration Office at (619) 531-3818. For more information about Settlement Conferences, please contact the Independent Calendar department to which your case is assigned. Please note that staff can only discuss ADR options and cannot give legal advice.

SDSC CIV-730 (Rev 12-05)

1	OF CALIFORNIA, COUNTY OF SAN	DIEGO		FOR COURT USE ONLY
STREET ADDRESS:	500 Third Avenue		T pr	
MAILING ADDRESS:	500 Third Avenue			
CITY, STATE, & ZIP CODE:	Chula Vista, CA 91910-5649			
BRANCH NAME:	South County			<u> </u>
PLAINTIFF(S): KEN	/IN VANGINDEREN			
DEFENDANT(S): COI	RNELL UNIVERSITY et.al.			
SHORT TITLE: VAN	IGINDEREN VS. CORNELL UNIVERS	SITY		
STIPULATION	I TO ALTERNATIVE DISPUTE (CRC 3.221)	RESOLUTION	PROCESS	CASE NUMBER: 37-2008-00069807-CU-DF-SC
Judge: William S. Can	non		Departme	nt: S-04
The parties and their a resolution process. Set	ltorneys stipulate that the matter is at i lection of any of these options will not	ssue and the claims delay any case man	in this action shall b agement time-lines.	e submitted to the following alternative disput
	d Mediation Program			red Nonbinding Arbitration
Private Noutra	Il Evaluation		Court-Orde	red Binding Arbitration (Stipulated)
Private Mini-Tr	rial		Private Ref	erence to General Referee
Private Summ	ary Jury Trial	÷	Private Ref	erence to Judge
Private Settler	nent Conference with Private Neutral		Private Bind	ling Arbliration
Other (specify)):		•	in Time to the second of the s
	and the second s			
Allemate: (mediation &	arbiiration only)	·		
	arbliration only)			
			Date:	
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Dato: Iams of Plaintiff ignature			Date:	
lams of Plainliff ignature			Date:Name of Defendar	
Jams of Plainliff ignature ame of Plainliff's Attorn	ney		Name of Defendar Signature Name of Defendan	t's Attorney
Date: Jame of Plainliff Jame of Plainliff Jame of Plainliff's Attorn	ney		Name of Defendar Signature Name of Defendan	t's Attorney
Date: Jame of Plaintiff Jame of Plaintiff's Attorn	ney puddillonal names ere necessary). It is t Upon notification of the sottlement the	the duty of the partic	Name of Defendar Signature Name of Defendan Signature es to notify the court of matter on a 45-day of	i's Attomey of any settlement pursuant to Califomia ismissal calendar.
lame of Plainliff ignature lame of Plainliff's Attore Ignature Attach another sheet if a	ney	the duty of the partic	Name of Defendar Signature Name of Defendan Signature es to notify the court of matter on a 45-day of	i's Attomey of any settlement pursuant to Califomia ismissal calendar.
Jame of Plaintiff ignature ame of Plaintiff's Attorn gnature stract another sheet if the she	ney puddillonal names ere necessary). It is t Upon notification of the sottlement the	the duty of the partic	Name of Defendar Signature Name of Defendan Signature es to notify the court of matter on a 45-day of ding or actions by nar	i's Attomey of any settlement pursuant to Califomia ismissal calendar.



		· ·
1	NELSON E. ROTH, SBN 67350 CORNELL UNIVERSITY	
2	300 CCC Building Garden Avenue	
3	Ithaca, New York 14853-2601 Telephone: (607)255-5124	
4	Facsimile: (607)255-2794	
5	BERT H. DEIXLER, SBN 70614	
6	CLIFFORD S. DAVIDSON, SBN 246119 PROSKAUER ROSE LLP	
7	2049 Century Park East, 32nd Floor Los Angeles, CA 90067-3206	
8	Telephone: (310) 557-2900 Facsimile: (310) 557-2193	
9	Attorneys for Defendant,	
10	CORNELL UNIVERSITY	
11	SUPERIOR COURT OF THE	E STATE OF CALIFORNIA
12	FOR THE COUNTY	Y OF SAN DIEGO
13	SOUTH COUN	TY DIVISION
14	KEVIN VANGINDEREN,) Case No. 37-2008-00069807-CU-DF-
15	Plaintiff,) SC
16	ν.	Hon. William S. CannonDepartment S-04
17	CORNELL UNIVERSITY, BERT DEIXLER) NOTICE TO ADVERSE PARTY OF
18	Defendants.	DEFENDANT'S FILING OF NOTICE OF REMOVAL TO UNITED STATES
19		DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
20) CALIFORNIA)
21		Action Filed: April 8, 2008
22		_)
23		
24		
25 26		
27		
28		
	EXHIB Page	
1	NOTICE TO ADVERSE	
78v1		

8085/21177-001

Current/11079178v1

1	TO PLAINTIFF KEVIN VANGINDEREN AND	HIS ATTORNEYS OF RECORD, IF ANY:
2	PLEASE TAKE NOTICE that a Notice of	Removal of this action was filed in the United
3	States District Court for the Southern District of	California on April 28, 2008, bearing Case No.
4	, by defendant Cornell Unive	rsity.
5	A true and correct copy of the Notice of F	Removal is attached to this Notice as Exhibit A,
6	and is served and filed herewith.	
7		
8		NYDY GONE DOTTE
9	DATED: April 28, 2008	NELSON E. ROTH CORNELL UNIVERSITY
10	,	BERT H. DEIXLER
11		CLIFFORD S. DAVIDSON PROSKAUER ROSE LLP
12		
13		Clifford S. Davidson
14		Attorneys for Defendant,
15		CORNĚLL UNIVERSITY
16		
Ì7		
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27		Waxaa
28	. Pa	BIBIT B ge 23 1
	NOTICE TO ADVERSE	PARTY OF REMOVAL

8085/21177-001

Current/11079178v1



1	·	•
2	NELSON E. ROTH, SBN 67350	
3	CORNELL UNIVERSITY 300 CCC Building	
4	Garden Avenue Ithaca, New York 14853-2601	
5	Telephone: (607)255-5124	
_	Facsimile: (607)255-2794	
6	BERT H. DEIXLER, SBN 70614	
7	CLIFFORD S. DAVIDSON, SBN 246119 PROSKAUER ROSE LLP	
8	2049 Century Park East, 32nd Floor Los Angeles, CA 90067-3206	
9	Telephone: (310) 557-2900 Facsimile: (310) 557-2193	
10	Attorneys for Defendant,	
11	CORNELL UNIVERSITY	
12	SUPERIOR COURT OF THI	E STATE OF CALIFORNIA
13	FOR THE COUNT	Y OF SAN DIEGO
14	SOUTH COUN	TY DIVISION
15	KEVIN VANGINDEREN,) Case No. 37-2008-00069807-CU-DF-SC
16	Plaintiff,) Hon. William S. Cannon
17	v.) Department S-04
18	CORNELL UNIVERSITY, BERT DEIXLER) NOTICE TO STATE COURT OF) DEFENDANT'S FILING OF NOTICE
19	Defendants.) OF REMOVAL TO UNITED STATES) DISTRICT COURT FOR THE
20		SOUTHERN DISTRICT OFCALIFORNIA
21		
22		Action Filed: April 8, 2008
23		
24		
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26		
27		
28		
40	EXHIBI Page	
iv1	NOTICE TO STATE CO	OURT OF REMOVAL

8085/21177-001

Current/11079166v1

TO THE HONORABLE WILLIAM S. CANNON, JUDGE OF THE SUPERIOR COURT OF 1 THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO, SOUTH COUNTY 2 3 DIVISION: PLEASE TAKE NOTICE that on April 28, 2008, defendant Cornell University filed a 4 Notice of Removal of the above-entitled action, pursuant to 28 U.S.C. § 1441(b), in the United 5 States District Court for the Southern District of California, bearing Case No. _ 6 7 Defendant Bert Deixler consented to said removal A true and correct copy of the Notice of Removal filed with the United States District 8 9 Court for the Central District of California is attached hereto as Exhibit A. Pursuant to 28 U.S.C. § 1446(d), the action in this Court "shall proceed no further unless and until the case is remanded." 10 11 NELSON E. ROTH DATED: April 28, 2008 12 CORNELL UNIVERSITY 13 BERT H. DEIXLER CLIFFORD S. DAVIDSON 14 PROSKAUER ROSE LLP 15 16 Clifford S. Davidson 17 Attorneys for Defendant, CORNÉLL UNIVERSITY 18 19 20 21 22 23 24 25 26 27 **EXHIBIT C** Page 25 28 NOTICE TO STATE COURT OF REMOVAL

8085/21177-001

Current/11079166v1

; · ·		

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO): CORNELL UNIVERSITY

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): KEVIN VANGINDEREN

SUM-100 FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

American Legalitet, Inc. | www.USCourtForms.com

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a You have 30 CALENDAR DAYS after this summons and (egal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the Callifornia Courts Online Self-Holp Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearust you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral services. If you cannot afford an altorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nongrafit groups at the California Legal Services Web site (www.lawhelecalifornia.org), the California

program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y pepeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por en esta corte y nacer que se entregue una copia al aumanoante. Ona carta o una namada teleconica no lo protegua escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de Celifornia (www.courfinfo.ce.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida el secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un securidad de remietan e abogado.

servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Pueda encontrar estos grupos sin fines de lucro an el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:			
(El nombre y dirección de la corte es):		CASE NUMBER:	
Superior Court of California, Court	nty of San Diego :	(Número del Caso):	640c OU DE 6
500 3rd Ave.		37-2007-1007	6496-CU-DF-S
Chula Vista, CA 91910-5649			
The name, address, and telephone number	er of plaintiff's afformey or otal stiff with or	ul no allace de	•
	léfono del abogado del demandante, o c	ut an Buorney, 15: del demandante que pá llono charad	
		and an analysis of the state and an analysis	o, <i>es):</i>
637 Third Ave., Ste. E1, Chula Vis	ta, CA 91910		
DATE:		10	
(Fecha) OCT 0 1 2007	Clerk, by	1000	, Deputy
	(Secretario)	Chier.	(Adjunto)
(For proof of service of lhis summons, use (Para prueba de entrega de esta citatión us MOTICE X	Proof of Service of Summons (form PO	S-010).)	
	TO THE PERSON SERVED: You are se	mons, (POS-010)).	•
SEAL	es an individual defendant.	erved	
SEALL 1	is the person sued under the fictitious na	ame of /coopiests	
ST STATE OF THE ST	, , , , , , , , , , , , , , , , , , , ,	ane or (specify):	
3/4			
* 3. 0	in behalf of (specify):		
under.	CCP 416 10 (name time)		
	The state of the s	CCP 416.60 (minor)	
CO COUNT	CCP 416.20 (defunct corporation	(0011001	vatee)
3000	CCP 416.40 (association or partu	nership) CCP 416.90 (authoriz	zed person)
	other (specify):		
4. [] by	y personal delivery on (date).		
Form Adopted for Mandalory Use			Page 1 of 1
Judicial Council of California SUM-100 [Rev. January 1, 2004]	SUMMONS		ocedure §§ 412,20, 465
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EXHIBIT D Page 26

<u></u>	· · · · · · · · · · · · · · · · · · ·	CM-010
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Ba	number, and address):	FOR COURT USE ONLY
Kevin Vanginderen	•	
637 Third Ave., Ste. E-1		
Chula Vista, CA 91910		
TELEPHONE NO.: (619) 585-7414 ATTORNEY FOR (Name): plaintiff in pro per	FAX NO.:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF S	an Diago	-
STREET ADDRESS: 500 3rd Ave.	an Diego	1 64 00 A P 1 10 A
MAILING ADDRESS: 500 3rd Ave.		
CITY AND ZIP CODE: Chula Vista, CA 919	10-5649	
BRANCHNAME: South County Divisi	on .	
CASE NAME:		
VANGINDEREN v. CORNELL UI	NIVERSITY	
CIVIL CASE COVER SHEET	Complex Case Designation	CASE NUMBER:
✓ Unlimited		37-2007-00076496-CU-DF-SC
(Amount (Amount	Counter Joinder	
demanded demanded is	Filed with first appearance by defendant	t Judge:
exceeds \$25,000) \$25,000 or less)	(Cal. Rules of Court, rule 3.402)	DEPT:
Items 1–6 be	low must be completed (see instructions on)	page 2).
1. Check one box below for the case-type the	_	
Auto Tort	10-	visionally Complex Civil Litigation
Aulo (22)		I. Rules of Court, rules 3.400–3.403)
Uninsured motorist (46)	Rule 3.740 collections (09)	Antilrust/Trade regulation (03)
Other Pt/PD/WD (Personal Injury/Property	Other collections (09)	Construction defect (10)
Damage/Wrongful Death) Tort	Insurance coverage (18)	Mass fort (40)
Asbestos (04)	Other contract (37)	Securities litigation (28)
Product liability (24)	Real Property	Environmental/Toxic tort (30)
Medical malpractice (45)	Eminent domain/Inverse condemnation (14)	Insurance coverage claims arising from the above listed provisionally complex case
L Other Pt/PD/WD (23) Non-Pt/PD/WD (Other) Tort	Wrongful eviction (33)	types (41)
1 — 1	- Cultura - 1	orcement of Judgment
Business ton/unfair business practice (07 Civil rights (08)	Unlawful Detainer	Enforcement of judgment (20)
Defamation (13)		cellaneous Civil Complaint
Fraud (16)	Residential (32)	RICO (27)
Intellectual property (19)	Drugs (38)	Other complaint (not specified above) (42)
Professional negligence (25)	tudialal Daulam	
Olher non-PI/PD/WD tort (35)	Asset forfeiture (05)	cellaneous Civil Petition
Employment	Pelltion re: arbitration award (11)	Partnership and corporate governance (21)
Wrongful termination (36)	Writ of mandate (02)	Other petition (not specified above) (43)
Other employment (15)	Other judicial review (39)	
2. This case is / is not com	plex under rule 3.400 of the California Rules	of Court. If the case is complex, mark the
factors requiring exceptional judicial mana	gement:	
a. Large number of separately repre	esented parties d. Large number of	witnesses
b. Extensive motion practice raising	difficult or novel e. Coordination with	related actions pending in one or more courts
issues that will be time-consumin	g to resolve in other counties,	states, or countries, or in a federal count
c. Substantial amount of documenta	ary evidence f. Substantial posti	udgment judicial supervision
2 Comparison county (about all that controls		
3. Remedies sought (check all that apply): a		
	bel, Public Disclosure of Private Fac	ts .
	ss action suit.	
6. If there are any known related cases, file	and serve a notice of related case. (You may	use form CM-015.)
Date: October 1, 2007		7 /
Kevin Vanginderen	fra 1	
(TYPE OR PRINT NAME)		TURE OF PARTY OR ATTORNEY FOR PARTY)
Blaintiff must file this sever chapt with the	NOTICE first paper filed in the action or proceeding (e	wood ampli alaima again as assoc filed
		of Court, rule 3.220.) Failure to file may result
in sanctions.		and the state of t
 File this cover sheet in addition to any cov 	er sheet required by local court rule.	
If this case is complex under rule 3.400 et	seq. of the California Rules of Court, you mu	st serve a copy of this cover sheet on all
 ofher parties to the action or proceeding. Unless this is a collections case under rule 	2 740 or a compley case, this sever sheet w	dll he used for statistical numees only
- Omess uns is a collections case under rule	5 3.7 40 Or & COMPLEX CASE, this Cover Sheet V	Page 1 of Z
Form Adopted for Mandalory Use	CIVIL CASE COVER SHEET	Cal. Rules of Court, rutes 2.30, 3.220, 3.400-3.403, 3.740; Cal. Standards of Judicial Administration, std. 3.10
Judicial Council of California CM-010 [Rev. July 1, 2007]		www.countrib.ca.gov

www.courlinfo.ca.gov American LegalNet, Inc. www.FormsVibridiow.com

ATTORNEY OR BARTY IMTHOUT ATTORNEY AV	(when and address)	982.7(1)
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state	e xmoer, and address;:	FOR COURT USE ONLY
Kevin Vanginderen		1
637 3rd Avenue, Suite E-1		
Chula Vista, CA 91910		
TELEPHONE NO: (619)585-7414	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):	·	
ATTORNEY FOR (Name):		1 10 to 10 t
NAME OF COURT: Superior Cour	t of California, San Diego County	
STREET ADDRESS: 500 Third Ave	•	
MAILING ADDRESS: 500 Third Ave	· •	
CITY AND ZIP CODE: Chula Vista,	CA 91910-5649	
BRANCH NAME South County		
PLAINTIFF: Kevin Vangind	eren	1
		1
DEFENDANT: Cornell Unive	rsitv	
	•	i . i
	•	1
DOES 1 TO		
		1
COMPLAINT — Personal Injury, Pro	perty Damage, Wrongiui Death	
AMENDED (Number):		
Type (check all that apply):		
	OTHER (specify): Public Disclosure of	
Property Damage	Wrongful Death Private Fact/Libel	
X Personal Injury	Other Damages (specify): loss of	
reputation, mental anguis	h ·	
Jurisdiction (check all that apply):		
ACTION IS A LIMITED CIVIL CAS	F	CASE NUMBER:
	s not exceed \$10,000	1
exce	eds \$10,000, but does not exceed \$25,000	007-00076496-CU-DF-SC
ACTION IS AN UNLIMITED CIVIL	CASE (exceeds \$25,000) 37-2	007-00076430-02
ACTION IS RECLASSIFIED by thi	s amended complaint	. 1
from limited to unlimited		
from unlimited to limited		
 PLAINTIFF (name): Kevin Vang 	inderen	•
allower course of action against DEE		
2 This placeting including attachments	ENDANT (name): Cornell University	
	and exhibits, consists of the following number of pages:	4
3. Each plaintiff named above is a comp		
a. X except plaintiff (name): C		
	o do business in California	
(2) an unincorporated entity		*
(3) X a public entity (describe): a public university	
(4) a minor an a		
	or conservator of the estate or a guardian ad litem has	been appointed
(b) other (specify).	:	
(5) other (specify):	•	
		•
b. except plaintiff (name):		•
	o do business in California	
(2) an unincorporated entity		
(3) a public entity (describe		•
(4) a minor an a		
	•	hoop appointed
COLUMN TO THE PARTY OF THE PART	or conservator of the estate or a guardian ad litem has	neen appointed
(b) other (specify):		
(5) other (specify):		•
		•
Information shout additional ale	intiffs who are not competent adults is shown in Comple	int Attachment 2
intermation about additional bis	muno mio die not competent adute te enown in Compte	IIII — Attachment 5. Page 1 of 3
Form Approved for Optional Use	COMPLAINT - Personal Injury, Property	Legal Code of Civil Procedure, § 425.12
Judicial Council of California 982,1(1) [Rev. July 1, 2002]	Damage, Wrongful Death	olutions

SHORT TITLE: VANGINDEREN V. COKNELL UNIVERSITY	CASE NUMBER:
	V.GETISIASE.
4. [X] Plaintiff (name): Kevin Vanginderen	
is doing business under the fictitious пате (specify):	
and has complied with the fictitious business name laws.	
Each defendant named above is a natural person	
	c except defendant (name):
	- Carlo pe do diamant (nomo).
(4) [a husbass supplied to the form of	
(1) a business organization, form unknown (2) a corporation	(1) a business organization, form unknown
(3) an unincorporated entity (describe):	(2) a corporation (3) an unincorporated entity (describe):

(4) 🔀 a public entity (describe): a public university	(4) a public entity (describe):
(5) ather (specify):	(5) other (specify):
	(e) La John (opomiy).
b. except defendant (name):	
b except deletidant (name).	dexcept defendant (name):
(1) a business organization, form unknown (2) a corporation	(1) a business organization, form unknown
(2) a corporation (3) an unincorporated entity (describe):	(2) a corporation (3) an unincorporated entity (describe):
·	(o) L 1 an unincorporated entity (describe):
(4) a public entity (describe):	(4) a public entity (describe):
(5) other (specify):	(5) other (specify):
	(-) Circle (appearly).
Information about additional defendants who are not natural p	persons is contained in Complaint — Attachment 5.
6. The true names and capacities of defendants sued as Does are u	nknown to plaintiff.
7. Defendants who are joined pursuant to Code of Civil Procedu	ure section 382 are (named)
	are section see are (names).
8. This court is the proper court because	
a at least one defendant now resides in its jurisdictional are b the principal place of business of a defendant corporation	a.
c. X injury to person or damage to personal property occurred	in its jurisdictional area
d. other (specify):	
9. X Plaintiff is required to comply with a claims statute, and	
a. X plaintiff has complied with applicable claims statutes, or	
 b. plaintiff is excused from complying because (specify): 	
	•

SHORT TIT	LE: VANGINDEREN V.	CORNELL UNI	VERSITY		CASE NUM	BER:	
~							
					L		
10. The folio	wing causes of action are a	attached and the sta	itements above	apply to each (eac	ch complaint m	ust have one o	or more
causes	of action attached):					•	
a. 🤼	Motor Vehicle						
b. []	General Negligence						
c. [X]	Intentional Tort	•		,			
d. []	Products Liability			•			
e. []	Premises Liability	•		•			
f	Other (specify):	,					
							•
						•	
						•	
			•				
11. Plaintiff	has suffered					•	
a. []	wage loss	4		•			
b. 🗀	loss of use of property						
c. 🗀	hospital and medical expe	nses					
d. 💢	general damage						
e. 🗀	property damage						
f. 🗀	loss of earning capacity						*, *
g. 🔀	other damage (specify): 1	oss of reput	ation, me	ntal anguis	h		
	•	_		,			
•				•			
					•		•
•		. ,		•			
12. [] 1	The damages claimed for w	ronafiil dooth and th	a colationabina	of piololiff to the d			
a. []	listed in Complaint — Atta		e relationstrips	or highligh to the or	eceased are	-	
в. —	as follows:	Gillott 12.			•		
u	B3 (01.0473.		•				•
		•					
. •			•		•		* * *
					٠.	•	
40 -4 11				. •			
13. The relie	of sought in this complaint is	s within the jurisdicti	on of this court	•			•
				•			
TAINING N	IFF PRAYS for judgment fo	s annth of outly for o	ush ratiof on in f	inin inat and amilia	blos and for		
			icu lenet sa ia i	an, just, and equits	ible; and for		
a. (1)		ges					
	punitive damages	muni abank (41 in a		al inium ar commission	d doodble		
b. The a	amount of damages is (you according to proof	must check (1) in c	ases ioi person	al injury or wrongit	n deaury:		
i:	in the amount of: \$]	000 000 00		•			
(22)	[X] In the amount of. \$ 2	.,000,000.00	1			•	
	•	•			•		. :
15. 🔲 TI	ne paragraphs of this compl	aint alleged on Infor	mation and bel	ief are as follows (s	specify paragrai	oh numbers):	
-				•	, , ,		
		* .		•			•
			•				•
				*.			
A .	-1 7 0007		•	•			
pate: Oct	ober 1, 2007					•	
	•			•		•	
					~	-	
Kevin V	anginderen						•
	(TYPE OR PRINT NAME)			(SIGN	ATURE OF PLAINTIFF	OR ATTORNEY)	
				·		· · · · · · · · · · · · · · · · · · ·	

982,1(1) [Rev. July 1, 2002]

COMPLAINT — Personal Injury, Property Damage, Wrongful Death Page 3 of 3

RT TITLE: VANGINDEREN V. CORNELL UNIVERSITY	CASE NUMBER:
CAUSE OF ACTION - Intentional Tort	Page 4
ATTACHMENT TO XX Complaint : ! Cross-Complaint	
Use a separate cause of action form for each cause of action.)	
T-1. Plaintiff (name): Kevin Vanginderen	
· · · · · · · · · · · · · · · · · · ·	

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff on (date): March 17 1983, September 2, 2007, and continuing

at (place): Cornell Univeristy, Chula Vista, CA, and to all national and international internet service protocol adresses (description of reasons for liability):

On March 17, 1983, a publication funded and operated by the defendant named the "Cornell Chronicle", was published with defamatory and libelous information about the plaintiff. The publication stated that an incorrect criminal charge was brought against the plaintiff, it misstated the basis for the actual charge brought against him and further portrayed the plaintiff as the likely perpetrator and suspect of numerous crimes he was never investigated for, charged with, nor had any involvement in. Sometime in the year 2007, the defendant republished this article onto the internet by placing it in the public domain on the defendant's library website for the first time, which was over twenty four years after its first more limited publication.

On September 2, 2007, the plainitff first became aware of the original publication when he conducted an annual "google search" of his name on the internet. The false statements became prominently available to the plaintiff and all others running a similar commonly conducted search. The defendant was informed of these circumstances by the plaintiff on that date and asked to correct it, however, the defendant has refused to delete this information from the public domain resulting in potentially infinite occurences of new counts of liability for libel.

The defendant is liable for damages for multiple counts of Libel dating back over twenty four years. The plaintiff has suffered extreme emotional distress and loss of reputation from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Council of California Effective January 1, 1982 Rule 982.1(4) Optional Form

Does Does

CAUSE OF ACTION - Intentional Tort

Legal Solutions & Plus

HORT TITLE:	VANGINDEREN V. CORNELL UNIVERSITY	CASE NUMBER:
2	CAUSE OF ACTION - Intentional Tort	Page 5
ATTACH	MENT TO [X] Complaint [T] Cross-Complaint	

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Kevin Vanginderen

alleges that defendant (name): Cornell Univeristy

Does 🗀		to	
--------	--	----	--

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act defendant intentionally caused the damage to plaintiff on (date): September 2, 2007, and continuing at (place): Chula Vista, CA, and to all national and international internet service protocol adresses (description of reasons for liability):

On March 17, 1983, a publication funded and operated by the defendant named the "Cornell Chronicle", was published with information which stated that a criminal charge was brought against the plaintiff and that he was the likely perpetrator and suspect of numerous crimes that he was never charged with. Sometime in the year 2007, the defendant republished this article onto the internet by placing it in the public domain on the defendant's library website for the first time, twenty four years after its first limited publication.

On September 2, 2007, the plainitff first became aware of the original publication when he conducted an annual "google search" of his name on the internet. The defendant's statements from 1983 regarding the plaintiff have now for the first time become prominently available to the plaintiff and all others running a similar commonly conducted search. The information stating that a charge had been brought against the plainitff in 1983 was first made available by the defendant in a prominent manner on the internet over twenty four years after the event. The defendant was informed of these circumstances by the plaintiff on that date and asked to delete it, however, the defendant has refused to delete this information from the public domain resulting in potentially infinite occurences of new counts of liability for Public Disclosure of Private Facts.

The defendant is liable for damages for multiple counts of tortious Public Disclosure of Private Facts for disclosing private information dating back over twenty four years. The plaintiff has suffered extreme emotional distress and loss of reputation from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

Form Approved by the Judicial Council of California Effective January 1, 1982 Rule 982,1(4) Optional Form

CAUSE OF ACTION - Intentional Tort

Legal Solutions G Plus

CCP 425,12

EXHIBIT D Page 32

NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2007-00076496-CU-DF-SC	
VANGINDEREN VS. CORNELL UNIVERSITY		
DEFENDANT(S) / RESPONDENT(S): Cornell University		
PLAINTIFF(S) / PETITIONER(S): KEVIN VANGINDEREN		
BRANCH NAME: South County TELEPHONE NUMBER: (819) 881-4400		
CITY AND ZIP CODE: Chuda Vista, CA 91910-5649		
MAILING ADDRESS: 500 Third Avenue	• .	
SUPERIOR COURT OF CALIFORNIA, COUN. OF SAN DIEGO STREET ADDRESS: 500 Third Avenue		

Judge: William S. Cannon

Department: S-04

COMPLAINT/PETITION FILED: 10/01/2007

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

- TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.
- COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.
- DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)
- DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS, SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

SDSC CIV-721 (Rev. 11-06)

Page: 1

Ca	se 3:07-cv-02045-BTM-JMA	Document 7	Filed 11/02/2007	Page 1 of 3
1	NELSON E. ROTH, SBN 6	7350		
2	ner3@cornell.edu CORNELL UNIVERSITY 300 CCC Building			
3	Garden Avenue Ithaca, New York 14853-26	Λ1		
4	Telephone: (607)255-512 Facsimile: (607)255-279	4 .		
5				
6	BERT H. DEIXLER, SBN 7 bdeixler@proskauer.c	om	logistration No. 15	25640
7	CHARLES S. SIMS, New Y admitted pro hac vice		legistration No. 13	33040
8	csims@proskauer.com CLIFFORD S. DAVIDSON	, SBN 246119		•
9	cdavidson@proskauer PROSKAUER ROSE LLP	•		
10	2049 Century Park East, 32r Los Angeles, CA 90067-32 Telephone: (310) 557-290	06		
11	Facsimile: (310) 557-219	93		
12	Attorneys for Defendant, CORNELL UNIVERSITY		•	
13		ED STATES D	ISTRICT COURT	·
14			T OF CALIFORN	
15	,	Lian Distrac		
16	KEVIN VANGINDEREN,		\	V-2045-BTM-JMA
17	Plaintiff,		Hon. Barry T. I	
18	v.		SPECIAL MO	'S NOTICE OF FION TO STRIKE
19	CORNELL UNIVERSITY,		STRIKE PLAI	
20	Defendar	nt.	SECTION 425.	PURSUANT TO 16 OF THE
21) CALIFORNIA) PROCEDURE	CODE OF CIVIL
22		•	Per chambers,	no oral argument d by the Court]
23)	
24) [Request for Ju) concurrently]	dicial Notice filed
25			Hearing Date:	December 21, 2007
26	:			1:00 a.m. Courtroom 15
27			A select Dilector	otobou 1 2007
28		•	Action Filed: O	ctoper 1, 2007
	•	•		•

TO DEFENDANT AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 21, 2007, at 11 a.m., or as soon thereafter as counsel may be heard in the United States District Court for the Southern District of California, Courtroom 15, located at 940 Front Street, San Diego, California 92101, defendant Cornell University ("Cornell") will and hereby does move for an order striking the Complaint of plaintiff Kevin Vanginderen ("Plaintiff") in its entirety, with prejudice and without leave to amend, and, further awarding Cornell its reasonable attorneys' fees and costs incurred in bringing this special motion to strike.

This special motion to strike will be and is made upon the following grounds.

Plaintiff filed this action after discovering in the electronic archives of the

Cornell University Library a 24-year-old report in the Cornell Chronicle that

described Plaintiff's criminal activities as a Cornell undergraduate. Plaintiff alleges
that the news account is libelous and reflects public disclosure of private facts.

The Complaint is indisputably a "strategic lawsuit against public participation" ("SLAPP") that is barred by the anti-SLAPP statute, California Code of Civil Procedure § 425.16. The Complaint's allegations arise entirely out of Cornell's actions in furtherance of the right to engage in "conduct in furtherance of the exercise of the . . . constitutional right of free speech in connection with a public issue or an issue of public interest." Cal. Code Civ. Pro. § 425.16(e)(4).

Because the Complaint is a SLAPP lawsuit, Section 425.16(b)(1) and relevant Ninth Circuit authorities require that the Complaint be stricken unless Plaintiff makes a prima facie showing that his claims are legally and factually sufficient. Plaintiff cannot show either because, as set forth in detail in Cornell's accompanying Memorandum of Points and Authorities, the Cornell Chronicle report on Plaintiff's criminal activities is fair and true and any claim would be time-barred. A simple examination of the records of the Ithaca City Court, attached as Exhibit A

to the concurrently filed Request for Judicial Notice, demonstrates the truth of the 2 news account of the criminal proceedings. As the Complaint is a SLAPP lawsuit unsupported by law or fact, Cornell is 3 entitled to recover from Plaintiff Cornell's reasonable attorneys' fees and costs 5 incurred in bringing this special motion to strike, pursuant to California Code of Civil Procedure § 425.16(c) and relevant Ninth Circuit authorities. 7 This special motion to strike will be and is based upon this Notice, the accompanying Memorandum of Points and Authorities, the accompanying Request 8 for Judicial Notice and exhibits attached thereto, the Declarations of Valerie Cross 10 Dorn and Anne Richardson Kenney, the records and files in this action and upon 11 such further oral and documentary evidence as may be presented at or before the 12 hearing on this special motion to strike. 13 14 DATED: November 2, 2007 BERT H. DEIXLER 15 ROSKAUER ROSE LLP 16 NELSON E. ROTH 17 CORNELL UNIVERSITY 18 19 s/Bert H. Deixler Bert H. Deixler 20 Attorneys for Defendant, 21 CORNĚLL UNIVERSITY 22 23 24 25 26 27 28 2

Filed 11/02/2007

Document 7

Page 3 of 3

Case 3:07-cv-02045-BTM-JMA