

1 **ACOM**
 2 JONATHAN B. GOLDSMITH, ESQ.
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 9 In Proper Person

6 UNITED STATES DISTRICT COURT
 7 DISTRICT OF NEVADA

8 JONATHAN B. GOLDSMITH, ESQ., an
 9 Individual
 10
 11 Plaintiff,

CASE NO. 2:10-cv-01845-rlh-pal

10 vs.

11 JORDAN R. COOPER, an Individual;
 12 CHERYL COOPER DRISCOLL, an
 13 Individual; FACEBOOK, INC.; a Foreign
 14 Corporation; DOES 1 through 5 and ROE
 15 CORPORATIONS 1 through 5, inclusive,
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 17 Defendants.

15 **PLAINTIFF’S FIRST AMENDED COMPLAINT**
 16 **FOR DAMAGES AND INJUNCTIVE RELIEF**

17 COMES NOW, Plaintiff, JONATHAN B. GOLDSMITH, ESQ. (hereinafter “Plaintiff”), in
 18 Proper Person, and for his First Amended Complaint for Damages and Injunctive Relief, pursuant to
 19 FRCP 15(a), against Defendant JORDAN R. COOPER (hereinafter “Cooper”), Defendant CHERYL
 20 COOPER DRISCOLL (hereinafter “Cooper Driscoll”), and Defendant FACEBOOK, INC. (hereinafter
 21 “Facebook”) alleges the following.

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GENERAL ALLEGATIONS

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1. Plaintiff JONATHAN B. GOLDSMITH, ESQ., a member of the State Bar of Nevada, is, and has been for a period of more than six months prior to the filing of this action, a resident of the State of Nevada, County of Clark.
2. Upon information and belief, Defendant JORDAN R. COOPER is, and has been for a period of more than six months prior to the filing of this action, a resident of the State of Nevada, County of Clark.
3. Upon information and belief, Defendant CHERYL COOPER DRISCOLL is a resident of the State of Arizona, and has, by means of the Internet, participated and conducted tortious acts across state lines in the State of Nevada and all states with access to the Internet.
4. Upon information and belief, Defendant FACEBOOK, INC. is a foreign corporation licensed in the State of California and doing business primarily as an Internet social networking website with reach to all states with access to the Internet, including the State of Nevada.
5. Plaintiff is counsel of record in a domestic case in the Eighth Judicial District Court whereby Defendant Cooper is an opposing party.
6. Plaintiff has had no contact with Defendant Cooper or any Defendant except through his counsel of record in the aforementioned case.
7. Nevertheless, Defendants have consistently and continually committed defamation and privacy violations in addition to several other purposeful tortious acts against Plaintiff through the use of the world wide web and by other means.
8. Specifically, on or around October 1, 2010 at around 3:30 p.m., Defendant Cooper, by means of Defendant Facebook’s internet social networking website, published defamatory and demeaning statements specifically directed at Plaintiff which stated: “im on to you jonathan golddick(smith) ha faggot” and further stated “he looks like a pediphile (sic).”
9. Further, Defendants published the statement of a Facebook user which stated: “ha I want to se (sic) what that douche bag looks like.”

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- 1 10. Moreover, on or around October 2, 2010 at around 6:10 p.m., Defendant Cooper Driscoll, by
2 means of illegal and torious invasion of privacy, stole a private photograph depicting the likeness
3 of Plaintiff, and, by means of Defendant Facebook’s internet social networking website,
4 published the stolen picture on Defendant Cooper’s internet page, which is managed and
5 maintained by Defendant Facebook.
- 6 11. Defendants Cooper and Cooper Driscoll made disparaging remarks about the stolen photograph,
7 and Defendant Cooper Driscoll acknowledged that Defendants had committed unlawful and
8 tortious behavior by posting the following statement: “delete that picture already.”
- 9 12. Defendant Cooper, by means of Defendant Facebook, published statements about Plaintiff,
10 including that Plaintiff is a “faggot” and a “pedophile” which constitute slander per se.
- 11 13. Defendant Cooper Driscoll, by means of Defendant Facebook, caused to be published a personal
12 and private photograph depicting the name, image and likeness of Plaintiff along with
13 disparaging statements coinciding with the stolen picture.
- 14 14. With regard to all allegations related to torts committed against Plaintiff over the internet,
15 Defendant Facebook facilitated, published or neglected to mitigate the defamatory and harassing
16 statements and comments published by Defendant Cooper and Defendant Cooper Driscoll.
- 17 15. Plaintiff, who is an attorney in the State of Nevada runs an operates a law firm in the State.
- 18 16. Much of Plaintiff’s business is dependant on the public’s view of Plaintiff’s moral character,
19 reliability and reputation.
- 20 17. Defendants’ actions have already, and will likely continue to demean and diminish Plaintiff’s
21 reputation in the legal community as well as with Plaintiff’s personal social community.
- 22 18. Plaintiff uses Defendant Facebook’s marketing and advertising programs to advertise and market
23 Plaintiff’s business.
- 24 19. As a result of Defendant’s actions, Plaintiff has been forced to seize all advertising and
25 marketing through Defendant Facebook given that a diminishment of Plaintiff’s reputation is
26 taking place through Defendant Facebook as a result of Defendant Cooper and Defendant Cooper
27 Driscoll’s actions.
- 28 20. Plaintiff has suffered extreme emotional distress as a result of Defendant’s actions.

- 1 21. Defendant Cooper has engaged in a pattern of stalking against Plaintiff.
- 2 22. Most notably, in around August, 2010, Plaintiff observed Defendant's yellow Ford mustang with
3 black stripes, with the license plate "Sage 3", parked outside of Plaintiff's law office located at
4 1212 South Casino Center Boulevard in Las Vegas, Nevada.
- 5 23. Additionally, after Plaintiff moved offices, Defendant Cooper has driven by and appeared several
6 times at Plaintiff's new office located in Henderson, Nevada while driving a red Ford Mustang.
- 7 24. Since the filing of the original Complaint, on or around October 15, 2010, at approximately 5:30
8 p.m, Plaintiff witnessed Defendant Cooper drive up and back several times in a new model red
9 Ford Mustang with the custom Nevada License Plate reading: "Sage 3" passing Plaintiff's office
10 located at 9029 South Pecos Road in Henderson, Nevada.
- 11 25. At that time, Plaintiff entered his vehicle and drove next to Defendant Cooper's red mustang and
12 confirmed that Mr. Cooper was in fact driving the vehicle.
- 13 26. Defendant Cooper Driscoll has also engaged in a pattern of stalking against Plaintiff.
- 14 27. Specifically, Defendant Cooper Driscoll created a false profile on Defendant Facebook's website
15 using a false name and false picture, in order to gain access to Plaintiff's personal and private
16 information.
- 17 28. Upon information and belief, Defendant Cooper Driscoll, by means of creating a false identity
18 as described in Paragraph 27, or by other unlawful and tortious means, has gained access to
19 Plaintiff's private and secure information.

20 **FIRST CAUSE OF ACTION**

21 (Slander against all Defendants)

- 22 29. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs
23 although fully incorporated herein. Plaintiff further alleges:
- 24 30. Defendants made a false and defamatory oral communication concerning Plaintiff.
- 25 31. Defendants' communication was published to a third party.
- 26 32. Defendants knew or should have known the communication was false and that it defamed
27 Plaintiff.
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- 1 33. Defendants' publication of the communication was a legal cause of special damages to the
2 plaintiff.
- 3 34. Defendant Facebook facilitated, published or neglected to mitigate the defamatory and harassing
4 statements and comments published by Defendant Cooper and Defendant Cooper Driscoll.
- 5 35. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of
6 \$10,000.00.
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- 8 36. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and,
9 therefore, Plaintiff is entitled to exemplary or punitive damages as a result.
- 10 37. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these
11 claims and is entitled to any and all costs incurred herein, including, without limitation, any and
12 all attorneys' fees.

13 **SECOND CAUSE OF ACTION**

14 (Slander Per Se against all Defendants)

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- 16 38. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs
17 although fully incorporated herein. Plaintiff further alleges:
- 18 39. Defendants made a false and defamatory oral communication concerning Plaintiff.
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- 20 40. Defendants' communication was published to a third party.
- 21 41. Defendants knew or should have known the communication was false and that it defamed
22 Plaintiff.
- 23 42. Defendants communication imputes to Plaintiff the commission of a crime and would tend to
24 injure Plaintiff in his trade, profession, business and office.
- 25 43. Defendant Facebook facilitated, published or neglected to mitigate the defamatory and
26 harassing statements and comments published by Defendant Cooper and Defendant Cooper
27 Driscoll.
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44. As result of Defendants’ actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

45. Defendants’ actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

46. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys’ fees.

THIRD CAUSE OF ACTION

(Libel against all Defendants)

47. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:

48. Defendants made a false and defamatory written communication concerning Plaintiff.

49. Defendants’ communication was published to a third party.

50. Defendants knew or should have known the communication was false and that it defamed Plaintiff.

51. Defendants’ publication of the communication was a legal cause of special damages to the plaintiff.

52. Defendant Facebook facilitated, published or neglected to mitigate the defamatory and harassing statements and comments published by Defendant Cooper and Defendant Cooper Driscoll.

53. As a result of Defendants’ actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

54. Defendants’ actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

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55. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

FOURTH CAUSE OF ACTION

(Libel Per Se against all Defendants)

56. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:

57. Defendants made a false and defamatory written communication concerning Plaintiff.

58. Defendants' communication was published to a third party.

59. Defendants knew or should have known the communication was false and that it defamed Plaintiff.

60. Defendants communication imputes to Plaintiff the commission of a crime and would tend to injure Plaintiff in his trade, profession, business and office.

61. Defendant Facebook facilitated, published or neglected to mitigate the defamatory and harassing statements and comments published by Defendant Cooper and Defendant Cooper Driscoll.

62. As result of Defendants' actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

63. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

64. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

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FIFTH CAUSE OF ACTION

(False Light Defamation against Defendant Cooper and Cooper Driscoll)

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65. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:
66. Defendants made a false and defamatory oral and written communication concerning Plaintiff.
67. Defendants' communication was published to a third party.
68. Defendants knew or should have known the communication was false and that it defamed Plaintiff.
69. Defendants' actions placed Plaintiff in a false light in a way that the general public would find highly offensive.
70. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.
71. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.
72. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

SIXTH CAUSE OF ACTION

(Invasion of Privacy against Defendant Cooper and Cooper Driscoll)

73. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:
74. Defendants intentionally and maliciously intruded into Plaintiff's private affairs.
75. Defendants' intrusion would be found highly offensive to the general public.

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76. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

77. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

78. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

SEVENTH CAUSE OF ACTION

(Intentional Interference with Business Relations against Defendant Cooper and Cooper Driscoll)

79. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:

80. Plaintiff conducts business as an Attorney in the State of Nevada.

81. Plaintiff previously held contracts with Defendant Facebook for marketing and advertising over the Internet.

82. Defendant Cooper and Cooper Driscoll knew or should have known of the existence of Plaintiff's business in the state of Nevada and the advertising and marketing contracts with Defendant Facebook.

83. Defendants intentionally made false claims about Plaintiff with the intent to drive business away and induce the interference with Plaintiff's contracts.

84. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

85. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

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86. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

EIGHTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress against Defendant Cooper and Cooper Driscoll)

87. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:

88. Defendants engaged in outrageous conduct wilfully and maliciously directed at Plaintiff with the intent to cause emotional distress.

89. Plaintiff suffered extreme emotional distress as a result of Defendants' intentional actions.

90. Defendants' actions were the proximate cause of Plaintiff's extreme emotional distress.

91. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of \$10,000.00.

92. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and, therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

93. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these claims and is entitled to any and all costs incurred herein, including, without limitation, any and all attorneys' fees.

NINTH CAUSE OF ACTION

(Stalking against Defendant Cooper and Cooper Driscoll)

94. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs although fully incorporated herein. Plaintiff further alleges:

95. Defendant Cooper and Defendant Cooper Driscoll, without lawful authority, willfully or maliciously engaged in a course of conduct that would cause a reasonable person to feel

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105. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these
claims and is entitled to any and all costs incurred herein, including, without limitation, any
and all attorneys' fees.

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ELEVENTH CAUSE OF ACTION

(Violation of U.S.C. 18 § 2511(c) against All Defendants)

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106. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs
although fully incorporated herein. Plaintiff further alleges:

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107. Defendant intentionally disclosed, or endeavored to disclose, to other persons the contents of
electronic communication, knowing or having reason to know that the information was
obtained through the interception of a wire, oral, or electronic communication in violation of
this subsection.

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108. Defendant Facebook facilitated, published or neglected to mitigate the wiretapping violations
by Defendant Cooper and Defendant Cooper Driscoll via Defendant Facebook's internet
servers.

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109. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of
\$10,000.00.

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110. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and,
therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

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111. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these
claims and is entitled to any and all costs incurred herein, including, without limitation, any
and all attorneys' fees.

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TWELFTH CAUSE OF ACTION

(Violation of U.S.C. 18 § 2511(e) against Defendant Cooper and Cooper Driscoll)

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112. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs
although fully incorporated herein. Plaintiff further alleges:

1 113. Defendants intentionally disclosed communications unlawfully obtained in contravention of
2 U.S.C. 18 § 2511(a).

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4 114. Defendant Facebook facilitated, published or neglected to mitigate the wiretapping violations
5 by Defendant Cooper and Defendant Cooper Driscoll via Defendant Facebook's internet
6 servers.

7 115. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of
8 \$10,000.00.

9 116. Defendants' actions constitute acts of conscious disregard, fraud, malice or oppression, and,
10 therefore, Plaintiff is entitled to exemplary or punitive damages as a result.

11 117. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these
12 claims and is entitled to any and all costs incurred herein, including, without limitation, any
13 and all attorneys' fees.

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15 **THIRTEENTH CAUSE OF ACTION**

16 (Permanent Injunction against Defendant Cooper and Cooper Driscoll)

17 118. Plaintiff repeats and realleges each and every allegation made in the preceding paragraphs
18 although fully incorporated herein. Plaintiff further alleges:

19 119. Defendants have in the past, and are likely to continue in the future, to cause serious
20 irreparable harm to Plaintiff.

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22 120. Plaintiff is entitled to a permanent injunction against Defendants' use of Plaintiffs' name and
23 likeness in connection with false and/or misleading communications.

24 121. Plaintiff is additionally entitled to a permanent injunction against Defendants' actions that
25 constitute stalking and harassment.

26 122. It has become necessary for the Plaintiff to retain the services of counsel to prosecute these
27 claims and is entitled to any and all costs incurred herein, including, without limitation, any
28 and all attorneys' fees.

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WHEREFORE, Plaintiff is entitled to judgment as follows:

1. For damages in excess of \$10,000.00 against each Defendant for each cause of action as alleged in the Complaint;
2. For exemplary or punitive damages against each Defendant for each cause of action as alleged in the Complaint;
3. For reasonable attorney's fees and costs;
4. For a permanent injunction against each Defendant as alleged in the Complaint; and
5. For any other relief that the Court may deem just and proper.

DATED this 27th day of October, 2010.

/s/ Jonathan B. Goldsmith, Esq.
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