No. 25-

IN THE

Supreme Court of the United States

ALEXANDER E. JONES;
FREE SPEECH SYSTEMS, LLC,

Petitioners,

v.

ERICA LAFFERTY, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF CONNECTICUT

PETITION FOR A WRIT OF CERTIORARI

BEN C. BROOCKS
Counsel of Record
BROOCKS LAW FIRM, PLLC
248 Addie Roy Rd., Suite B301
Austin, TX 78746
(512) 201-2000
bbroocks@broockslawfirm.com

ALAN B. DAUGHTRY
ALAN DAUGHTRY LAW FIRM
3355 West Alabama, Suite 444
Houston, TX 77098

SHELBY A. JORDAN
JORDAN & ORTIZ, P.C.
500 North Shoreline,
Suite 804
Corpus Christi, TX 78401

Counsel for Petitioners

382896

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTIONS PRESENTED

This case presents multiple constitutional questions of first impression involving the use of a punitive administrative Death Penalty Sanction for small discovery errors to impose liability, bypass burdens of proof, and award punitive damages against a media defendant reporting on a matter of public concern in a suit brought by public figures. The trial court's entry of a liability-decreeing administrative Death Penalty Sanction eliminated the Plaintiffs' requirement to prove falsity, fault, or actual malice, and resulted in an award of over $1.4 billion in damages without meaningful appellate review. The questions presented are

1. In actions brought by public figures against media defendants reporting on matters of undeniable public concern, may a state court through an administrative Death Penalty Sanction: (a) judicially decree liability, thereby relieving plaintiffs of their constitutional burdens to prove fault, falsity, and actual malice under the proper evidentiary standards; (b) impose liability on a media defendant for the acts of unrelated third parties; and/or (c) permit the award of punitive damages premised solely on such sanctions. And if so, whether the standards for so doing require a showing of a serious threat to the administration of justice and that no lesser sanctions would suffice.

2. Whether this Court is constitutionally required to independently review the trial record to ensure that constitutional facts were proven—and whether such review is even possible where the record was curtailed by a liability-decreeing administrative Death Penalty Sanction.

3. Can a liability-decreeing administrative Death Penalty Sanction judicially decree the validity of a plaintiff's complaint making the following actionable solely because they were alleged and judicially deemed admitted: (i) opinions otherwise not actionable; (ii) statements alleged to be defamatory that are not in fact defamatory; (iii) causes of action not legally cognizable; (iv) conduct of unrelated third parties; and (v) statements allegedly defamatory but grossly taken out of context.

PARTIES TO THE PROCEEDINGS

Petitioners Alexander E. Jones and Free Speech Systems, LLC were Defendants in the trial court and Appellants before the Court of Appeal.

Respondents, Erica Lafferty, William Aldenberg, William Sherlach, Donna Soto, Jillian Soto-Martino, Carlee Soto-Parisi, Carlos Soto, Ian Hockley, Nicole Hockley, Matt Barden, Jacqueline Barden, David Wheeler, Francine Wheeler, Robbie Parker, and Jennifer Hensel were Plaintiffs in the trial court and Appellees before the Court of Appeal.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner, Free Speech Systems, LLC ("FSS") states that it has no parent corporation and that no publicly held company owns 10% or more of Applicant's stock. FSS is owned by Alex Jones. Jones has filed for bankruptcy protection in the Southern District of Texas. Although a Trustee has been appointed over his and FSS's assets, Jones is the manager of FSS.

RELATED PROCEEDINGS

Bankruptcy Court for the United States District Court for the Southern District of Texas, Houston Division, which are pending:

- Cause No. 22-33553, *In re: Alexander E. Jones*
- Adversary No. 23-03037, *Wheeler, et al. v. Jones, et al.*
- Adversary No. 24-03228, *Jones v. Chris Murray, et al.*
- Adversary No. 22-03034, *Wheeler, et al. v. FSS*
- Adversary No. 23-03036, *Wheeler, et al. v. FSS*

Connecticut State Court Proceedings:

- Superior Court, Complex Litigation Docket at Waterbury, Connecticut, Docket No. UWY-CV-18-604636-S/6046437-S/6046438-S, *Erica Lafferty, et al. v. Alex E. Jones, et al.*, judgment entered on verdict on December 22, 2022;
- Appellate Court of Connecticut, AC 46131/46132/46133, *Erica Lafferty, et al. v. Alex E. Jones, et al.*, opinion issued December 10, 2024; and
- Supreme Court for the State of Connecticut, PSC-240253, Erica Lafferty, et al. v. Alex E. Jones, et al., petition for certification denied on April 8, 2025.

Texas State Court Proceedings:

- Travis County District Court, Cause No. D-1-GN-18-001605, *Marcel Fontaine v. Alex E. Jones, et al.*, matter pending;
- Travis County District Court, Cause No. D-1-GN-18-001835, *Neil Heslin v. Alex E. Jones, et. al.*, final judgment entered on January 12, 2023;
- Travis County District Court, Cause No. D-1-GN-18-001842, *Leonard Pozner, et al. v. Alex E. Jones, et al.*, matter pending; and
- Third Court of Appeals at Austin, Texas, Cause No. 03-23-00209-CV, *Alex E. Jones, et al. v. Neil Heslin, et al.*, matter argued to the on May 28, 2025.
- Third Court of Appeals at Austin, Texas, Cause No. 03-25-00617-CV, Free Speech Systems, LLC v. David Wheeler, et al., matter pending.

TABLE OF CONTENTS

Table of Contents

Table of Contents

Table of Contents

TABLE OF APPENDICES

Table of Appendices

Page

TABLE OF CITED AUTHORITIES

Page

Cases

Page

Statute

PETITION FOR A WRIT OF CERTIORARI

In this case controversial conservative media defendants Alex Jones and his company Free Speech Systems, LLC (collectively, "Jones") were sued in rural Connecticut over Jones's coverage of the 2012 Connecticut-based Sandy Hook Elementary School murders, which were the subject of reporting and debate worldwide. Jones received no trial on liability as his liability was "judicially decreed" as a result of a liability-decreeing administrative Death Penalty Sanction. Based on liability imposed by judicial fiat, the ensuing damages-only trial produced a $1,436,650,000 judgment—believed to be the largest in American libel history. It is an amount that can never be paid, and which based on the trial court's findings may not be dischargeable in bankruptcy. The result is a financial death penalty by fiat imposed on a media defendant whose broadcasts reach millions.

The fifteen Plaintiffs were relatives—mothers, fathers, spouses, and siblings—of six of the twenty victims, along with one unrelated FBI agent. They filed suit after Jones was interviewed in 2017 by NBC's Megyn Kelly, their Complaint claiming in general that from 2012 to 2017 (a) Jones denied there were any murders at Sandy Hook; (b) the Plaintiffs were participants in deceiving the public; and (c) Jones's listeners had in some instances harassed the Plaintiffs for which Plaintiffs claimed Jones was liable. The causes of action sounded primarily in defamation and intentional infliction of emotional distress (IIED), even though virtually none of the Plaintiffs were named in any of Jones's broadcasts, and every IIED claim rested on the allegedly defamatory broadcasts.

The administrative Death Penalty Sanction declared Jones liable for everything alleged in Plaintiffs' Complaint, which attached none of the purportedly defamatory broadcasts, instead including only snippets and phrases lifted out of context from a handful of Jones's shows.

As a conservative media figure, Jones's opinions—and those expressed by some of his guests—focused largely on exposing what he believed were efforts by the mainstream media and the Obama Administration to convert the tragedy into a mass theatrical production in service of anti-gun legislation. He also highlighted inconsistencies and oddities in the official narrative, which in turn had fueled public concerns that the public was being given false or incomplete information, and which ultimately gave rise to broader conspiracy theories about the event. Jones urged his listeners to investigate for themselves rather than rely on the politically motivated mainstream media. In his coverage, after pointing to specifics, Jones expressed opinions of media excesses with terms such as "hoax" and "staged," generally directed at the media circus, while often in the same broadcasts acknowledging that murders had in fact occurred. Yet Plaintiffs' Complaint on which Jones was decreed liable by default, repeatedly referenced only selected portions of broadcasts, omitting clarifying language.

One example is illustrative. Plaintiffs' Complaint alleged that in a January 27, 2013 broadcast, Jones stated:

> "Now again, in the last month and a half, I have not come out and clearly said that this was a staged event. Unfortunately, evidence is beginning to come out that points more and more in that direction. . . ."

Plaintiffs seized on the single word "staged" to claim that Jones was accusing the Plaintiffs—who were not named—of falsifying the murders. But the Complaint deliberately omitted what Jones said in the same broadcast:

> "I clearly believe from the evidence children are really killed in Sandy Hook and it's a real tragedy."

Viewed in full context, Jones expressly affirmed that deaths occurred, while using the phrases "staged" or "hoax" to characterize media and governmental scripting. It is therefore contextually impossible to construe his remarks as denying deaths, as the Complaint did by selective editing. Precisely to guard against such distortions, this Court has required independent judicial review of the entire record in First Amendment cases. *Bose Corp. v. Consumers Union*, 466 U.S. 485, 499, 104 S. Ct. 1949, 1958 (1984) ("*Bose*"). No such review has occurred here at any level by any court.

Here the trial judge explicitly stated on the record that the Death Penalty Sanction was entered for three reasons, all trivial at best. **Strike One** against Jones was that his lawyers filed a motion to obtain a commission for an out-of-state deposition of Hillary Clinton, thought to be behind the suit because of her friendship with plaintiff Erica Lafferty and Jones' prior public support of Trump in the 2016 election. The trial court found Jones's motion for a deposition commission violated a protective order because it recited that the motion's genesis was an unnamed Plaintiff's refusal to testify in a deposition how her legal fees were being paid and how all 15 Plaintiffs had come together to be represented by the same law firm.

The second reason was because Jones's lawyers could not retrieve in satisfactory form, never-used Google Analytics data that the Plaintiffs alleged would show the number of vitamin supplement sales Jones made during broadcasts mentioning Sandy Hook—**Strike Two**. Jones's lawyers also could not retrieve in a form and format to the liking of the Plaintiffs, accounting "subaccounts" from FSS's accounting journal entries to determine supplement sales—**Strike Three**. By these, the Plaintiffs hoped to demonstrate Jones's profit motive even though this Court has plainly stated a profit motive is irrelevant in libel cases and causes based on First Amendment speech issues. *Harte-Hanks Commc'ns v. Connaughton*, 491 U.S. 657, 667 (1989). Even though these infractions (a) were trivial and unrelated to the merits of the case and (b) the information sought could have been obtained by other means, the trial court used these as the basis to discard the First Amendment, decreeing Jones liable for everything alleged.

Having been stripped of his Constitutional rights, in the ensuing "damages-only" trial, the six-person jury sitting 28 miles from the murder site awarded the fifteen plaintiffs a total of $965,000,000 in compensatory damages, to which the trial court added $471,650,000 in CUTPA and punitive damages amounting to an award of approximately $95,776,667 per plaintiff.

This record-breaking award was possible only because the Death Penalty Sanction that judicially decreed—without any proof whatsoever, much less clear and convincing evidence—that: (i) Jones made every statement Plaintiffs alleged, though their Complaint contained only excerpts; (ii) every such statement was false; and (iii)

Jones subjectively knew they were false. The same fiat further declared Jones liable for all acts and statements of unrelated third parties, deemed to be his "listeners," for whom he was held responsible. No proof was required that Jones had any connection to those individuals or their actions or that they were even his listeners.

This case presents the Court with an opportunity to clarify that in actions brought by public figures against media defendants reporting on matters of undeniable public concern, a state court may not, through procedural sanctions: (a) judicially decree liability, thereby relieving plaintiffs of their constitutional burdens to prove falsity, fault, and actual malice under the proper evidentiary standards; (b) impose liability on a media defendant for the acts of unrelated third parties; or (c) permit the award of punitive damages premised solely on such sanctions. If there are circumstances in which such a Death Penalty Sanction may override the First Amendment, this Court should articulate the constitutional guardrails necessary to prevent abuse.

In *New York Times v. Sullivan*, 376 U.S. 254 (1964) ("*Sullivan*") this Court stated:

> "Authoritative interpretations of the First Amendment guarantees have consistently refused to recognize an exception for any test of truth—whether administered by judges, juries, or administrative officials—and especially one that puts the burden of proving truth on the speaker."

Sullivan, 376 U.S. at 271. That constitutional command was discarded here by judicial fiat. With this case left undisturbed, all broadcasters are now at risk because of a new and easy means of bypassing *Sullivan* and its progeny through a Death Penalty Sanction that sidesteps core First Amendment protections. And the threat is to all media broadcasters including *legacy newspapers and broadcasters* (New York Times, Wall Street Journal, ABC, NBC, CNN), *digital-native outlets* (Politico, Axios, Vox), *nonprofit investigative groups* (ProPublica, The Intercept), *independent podcasters* (Joe Rogan, Pod Save America, Ben Shapiro), *social media platforms* (TikTok, Twitter/X, Reddit), *algorithmic aggregators* (Google News, Apple News, Morning Brew), and *state-sponsored players* (BBC, Al Jazeera, RT, Xinhua). Reporting from all of these sources will result in self-censoring fear of suits especially in small locales, where any of these news sources may be targeted for locally unpopular speech.

The result will chill the reporting of news. *Counterman v. Colorado*, 600 U.S. 66, 75-76, 143 S. Ct. 2106, 2114-15 (2023) ("*Counterman*") (J. Kagan) ("Prohibitions on speech have the potential to chill, or deter, speech outside their boundaries. A speaker may be unsure about the side of a line on which his speech falls. Or he may worry that the legal system will err, and count speech that is permissible as instead not. Or he may simply be concerned about the expense of becoming entangled in the legal system. The result is 'self-censorship' of speech that could not be proscribed . . . ").

It will also flood state and federal courts with demands for default judgments. Faced with the precedent of this very case, courts will be left without guidance on whether

constitutional pronouncements of this Court can be discarded by a Death Penalty Sanction—and, if so, how offensive must the alleged discovery abuse be to justify replacing trial by jury with trial by sanction.

Sullivan remains controlling law. Should this Court decide to revisit *Sullivan*—and Jones does not contend it should—this case would present the occasion. What the Court should not do, however, is nothing, thereby allowing First Amendment jurisprudence to descend into uncharted waters of greater uncertainty.

OPINIONS BELOW

The decision of the Supreme Court for the State of Connecticut (App. A, 1a-2a) is reported at 333 A.3d 105. The Opinion of the Appellate Court of Connecticut (App. B, 3a-74a) is reported at 229 Conn. App. 487. The opinion of the Superior Court (App. C, 75a-104a) is reported at 2022 Conn. Super. LEXIS 2813.

The orders and opinions of the Superior Court (App. D, 105a-106a) (App. E, 107a-120a) (App. F, 121a-125a) have not been published.

JURISDICTION

The Supreme Court of Connecticut denied certification for their review of this case on April 8, 2025. This Court granted Petitioners' Application to Extend Time to File Petition (25A7) until September 5, 2025. The jurisdiction of this Court is based on 28 U.S.C. §1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment, the Fifth Amendment and the Fourteenth Amendment. App. G, 126a-127a.

STATEMENT OF THE CASE

A. The Sandy Hook Tragedy And Its Very Public Aftermath Were Matters Of Public Concern

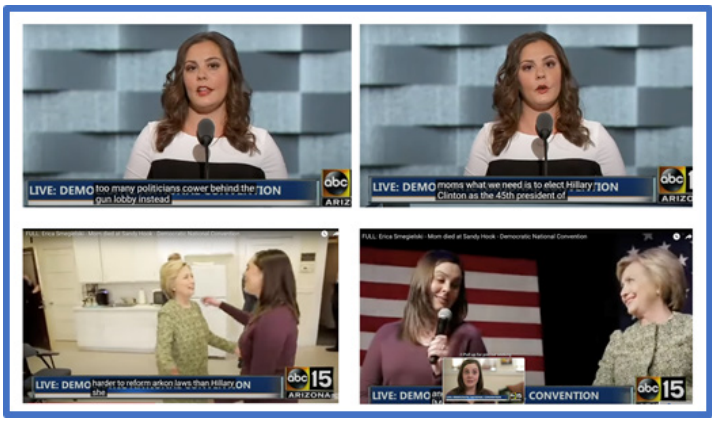
The tragic Sandy Hook murders took place in December of 2012 in Newtown, Connecticut, a small town with a population of under 30,000 and captivated the entire world. In the United States alone, major news outlets such as The New York Times, The Washington Post, CNN, and NBC News, alongside numerous local papers and online publications, produced extensive coverage immediately following the incident and, in the years, since. The Sandy Hook tragedy triggered widespread public debate over gun control and generated extensive public commentary concerning inconsistencies in media coverage. This, in turn, led to a broad array of public opinions, including claims that certain aspects may have been a "hoax" which to Jones meant media propaganda. These were undeniably matters of public concern.

B. The Plaintiffs Were Public Figures

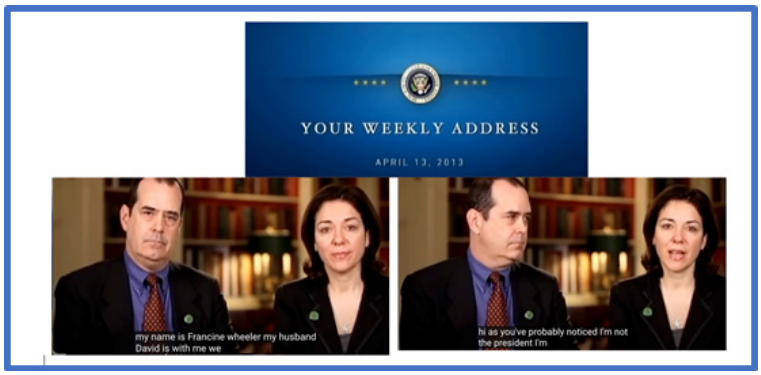
Plaintiff William Aldenberg was/is a law enforcement official with the FBI who was on site at Sandy Hook leading the investigation there. Complaint, ¶28. As a federal law enforcement official, Aldenberg was unquestionably a public figure. *St. Amant v. Thompson*, 390 U.S. 727

(1968) (deputy sheriff). The Sandy Hook tragedy quickly morphed any of the Plaintiffs who were not before, into significant public figures as driving forces for gun control.

At the 2016 Democratic National Convention Plaintiff Erica Lafferty (her maiden name) gave a five-minute speech on gun control and Hillary Clinton and was shown in close support of Secretary Clinton given her positions on gun control.



Some of the Plaintiffs were invited to attend President Barack Obama's 2013 State of the Union address as guests, a gesture that highlighted their very public gun control advocacy. There President Obama advocated for gun reform following the tragedy, where President Obama after paying tribute to the Plaintiffs called for Congress to act on gun violence prevention. Based on public records and media coverage, David and Francine Wheeler were even asked to substitute for President Obama in his weekly, nationally televised address to publicly advocate these issues.



Nicole Hockley and Ian Hockley were active in the media and Mark Barden and Jacqueline Barden frequently gave interviews and public statements. William Sherlach joined in public advocacy for changes in gun laws and mental health reform. Mark and Jackie Barden, Nicole Hockley, and William Sherlach co-founded Sandy Hook Promise, which holds itself out on its publicly accessible web site. https://www.sandyhookpromise.org/who-we-are/about-us.

Their status as public figures increased when they sued Remington Arms, the manufacturer of the weapon used by the murderer in a highly publicized suit. *Soto v. Bushmaster Firearms Int'l, LLC*, 331 Conn. 53, 64, 202 A.3d 262, 271 (2019). That case and its settlement for $73,000,000 was publicized world-wide, referring to the Plaintiffs as the "Sandy Hook Families."

All Plaintiffs were public and vocal advocates for gun reform, school safety, mental health awareness (and it's connection to violence) and participated in marches and public forums. There is thus no question that the Plaintiffs were "public figures," which has Constitutional

significance [*Gertz v. Robert Welch*, 418 U.S. 323, 336-37 (1974)] which the Death Penalty Sanction ignored.

C. Alex Jones Is A Media Defendant Entitled To All First Amendment Freedom Of The Press Protections

Jones is a media defendant and the Plaintiffs readily admitted this. Complaint, ¶7, 30-35 & 40. Recognized by both supporters and critics, Jones has been at the forefront of media for nearly three decades, with his career spanning radio, online broadcasting, film, and commentary. Though some controversies have followed him, Jones has maintained his dedication to free speech, individual rights, and against gun control, positioning himself as a steadfast proponent of questioning mainstream narratives. Currently, he hosts The Alex Jones Show from Austin, Texas, which is the longest-running online news and politics talk show today and was previously broadcast by the Genesis Communications Network across the United States via syndicated and internet radio. As such he was entitled to, but denied, all the Constitutional protections afforded media defendants.

D. Alex Jones Goes On Megyn Kelly Show In June 2017 Which Prompts Suit

In June 2017, NBC talk show host and political commentator Megyn Kelly hosted Alex Jones on a live broadcast on NBC. The interview covered many subjects and lasted approximately 17.5 minutes in its entirety. Approximately 4.5 minutes of that airtime involved (a) Kelly talking about Sandy Hook, which included her own comments and commentary, (b) Kelly asking question

of and making allegations against Jones; and (c) Kelly interviewing Neil Heslin, a parent of one of the murdered children who sued Jones in Texas.

E. The Complaint

In May 2018—five years after the tragedy—Plaintiffs sued Jones and others [CR 64], asserting claims for (i) invasion of privacy, (ii) defamation and defamation per se, (iii) intentional infliction of emotional distress, and (iv) Connecticut Unfair Trade Practices Act ("CUTPA") violations. Initially, Jones filed a motion to dismiss pursuant to the Connecticut anti-Slapp statute. As a sanction, the trial court dismissed that motion which was upheld by the Connecticut Supreme Court. *Lafferty v. Jones*, 336 Conn. 332 (2020).

F. The Administrative "Death Penalty" Default Sanction Was Unjust And Disproportionate

Shortly after the case was returned to the trial court, on November 14, 2021, that court entered a Death Penalty Sanction. A transcript of its ruling recites the three reasons for entry. As to the first ground, Jones's lawyers filed a motion for leave to depose Hillary Clinton [App. E, 108a]. A protective order had been entered in the case that provided that information covered in depositions could be (a) designated as "confidential" but also (b) used for the preparation and trial of the case. Trial Dkt. No. 185.10, p. 4, ¶9. As the deposition of one of the plaintiffs began, it became apparent that plaintiffs' counsel would resist any testimony about how all 15 plaintiffs happened to find themselves in the same law office six years after the Sandy Hook shootings. It was the collective belief on Jones's side,

that the prosecution of Jones was orchestrated by those motivated to have their revenge on him for his support of Donald Trump's successful campaign against Hillary Clinton in 2016. To that end, counsel for Jones sought a commission to take the deposition of Clinton in New York, explaining why Clinton's deposition was being sought using the following two sentences:

> "On advice of counsel, at least one plaintiff has refused to answer how so many of the clients all ended up represented by the same firm. The witness claimed not to know how her legal fees were being paid."

[Trial Dkt. No. 385].

Although the two offending sentences did not disclose testimony but only a refusal to answer, the trial judge denied the request for commission [Trial Dkt. No. 385.10] and used this as the first of the three grounds for the Death Penalty Sanction.

The second ground was that Jones's lawyers could not retrieve in satisfactory form, never-used Google Analytics data showing sales ("Analytics Data"), i.e., the same issues presented earlier that resulted in the denial of Jones's anti-SLAPP motion. 336 Conn. at 378, n.35. Given that the "failure" regarding analytics was one of the reasons the trial court there had initially denied Jones's statutory rights to an anti-Slapp motion, the Connecticut Supreme Court had a reason for addressing it earlier and did so demonstrating its sole relevance was to Plaintiffs' CUTPA claim—which would later be dismissed on appeal—explaining Plaintiffs' claimed need involved showing

Jones's profit motive relevant to Plaintiffs' CUTPA claim. After the Connecticut Supreme Court returned the case to the trial court, the Plaintiffs again explained that the "critical importance" of this was tied to their now-dismissed CUTPA claim. Dkt. 450, pp. 14-15.

The third ground was because Jones's lawyers could not retrieve accounting "subaccounts" from Jones's accounting journal entries also sought for sales information to determine profits [App. E, 110a] ("Subledger Data"), the trial court concluded Jones had failed to provide "full and fair compliance" with a request for the data, thus "willfully withholding information" that was of "critical importance" to the plaintiffs in pursuing their CUTPA claims. In the Death Penalty Sanction order itself, the trial judge cited this. App. E, 119a. Thus, both the Analytics and Subledger grounds were tied directly to the now-reversed CUTPA claim, as Plaintiffs admitted stating: "These allegations are significant to the plaintiffs' Connecticut Unfair Trade Practices Act claims." Dkt. 450, pp. 14-15.

Notably, none of the three stated bases for the Death Penalty Sanction has anything to do with defamation or intentional infliction, and that is particularly true as to the Analytics and Subledgers, as this Court has plainly stated a profit motive is irrelevant in libel cases and causes based on First Amendment speech issues. *Harte-Hanks Commc'ns v. Connaughton*, 491 U.S. 657, 667 (1989).

The effect of this Death Penalty Sanction was for the trial court to judicially decree that everything Plaintiffs' Complaint alleged was true without the need for proof.

G. Trial Court Strikes Jones's Notice Of Constitutional Defenses

After entry of the Death Penalty Sanction, Jones filed a Notice of Defenses specifically stating the Constitutional defenses referenced herein, which would have allowed Jones to offer evidence contradicting any allegation of the Complaint and challenged the right of the Plaintiffs to maintain the action. App. K 189a. *De Blasio v. Aetna Life & Cas. Co.*, 186 Conn. 398, 401, 441 A.2d 838, 839 (1982). The trial court, however, struck this because of the Death Penalty Sanction.

H. Trial Court Conducts A "Damages-Only" Trial Where Jury Was Told Liability Had Been Established

As a direct result of the Death Penalty Sanction, in the ensuing "damages-only" trial, the trial court made it abundantly clear that "fault" was not at issue. The charge simply lifted quotes from the Plaintiffs' complaint on which the Death Penalty Sanction had been granted and repeatedly instructed the jury that that they were to assume as "facts" that alleged statements were actually statements made by Jones, they were defamatory, they were false, and they were made with legal malice. App. I, 148a, 157a. The trial court even instructed the damages-only jury that the court itself had found Jones's conduct extreme and outrageous, instructing the jury: " . . . you may consider that it is already established that the defendants' conduct was extreme and outrageous." App. I, 163a.

Also because of the Death Penalty Sanction, the "damages-only" jury was repeatedly instructed by the

trial court that damages were presumed—their task was only to figure out how much those presumed damages were. App. I, 161a. See also App. I, 159a, 160a, & 165a.

This Court, however, has repeatedly emphasized that it is an absolute constitutional requirement that each alleged defamatory statement be precisely identified in context, focusing particularly on "what was said, where it was said, and how it was said" and that it is "necessary to evaluate all the circumstances of the speech, including what was said, where it was said, and how it was said." *Snyder v. Phelps*, 562 U.S. 443, at 453-54 (2011) ("*Snyder*"). This it did not occur given the Death Penalty Sanction.

I. Appeals Process

Jones appealed to the Connecticut Court of Appeals which upheld the Death Penalty Sanction, refused to consider the Constitutional issues Jones raised and refused to consider the inappropriate denial of Jones's Notice of Defenses (holding them to have been inadequately briefed and not having been raised, respectively). However, it did determine CUTPA was not a valid claim but did not address what the effect of that finding was on the Death Penalty Sanction that were tied to the CUTPA claims it found invalid.

Jones requested review by the Connecticut Supreme Court [App. H, 128a] which was bound to accept the case for review given it's long-standing policies to review cases involving the denial constitutional rights even if not previously raised. *State v. Golding*, 213 Conn. 233, 239-40, 567 A.2d 823 (1989) and *In re Yasiel R.*, 317 Conn. 773, 781, 120 A.3d 1188 (2015). Yet breaking its own requirements,

however, the Connecticut Supreme Court denied review. App. A, 1a.

REASONS FOR GRANTING THE PETITION

A. While *Sullivan* Is Still The Law And This Case Is Its Identical Twin, The Administrative Default Judgment Discarded It

In *Sullivan*, this Court stated applicable Constitutional rules that cannot be set aside for any reason in a Freedom of the Press case and certiorari should be granted here because these teachings were ignored. This Court has stated:

> "The First Amendment 'guarantees have consistently refused to recognize an exception for any test of truth—whether administered by judges, juries, or administrative officials—and especially one that puts the burden of proving truth on the speaker." 376 U.S. at 271.

Labelled preempting "federal rules" that "place limits on the application of the state law. . . ." [*Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 15-17 (1990) ("*Milkovich*")] this Court has proclaimed these as unalterable "constitutional rules." *Phila. Newspapers v. Hepps*, 475 U.S. 767, 775-76 (1986) ("*Hepps*"). These Constitutional rules apply to both defamation and IIED claims asserted against media defendants. *Snyder v. Phelps*, 562 U.S. 443 (2011).

The administrative default ignored these constitutional rules. While *Sullivan* is not without its critics, until overruled, it remains the law and state courts are not at

liberty to ignore this Court's instructions. That *Sullivan* is controlling here is certain as this case is virtually identical factually to *Sullivan* making the jurisprudence of that case and its progeny fully applicable here. Therefore, a state court administrative default judgment against a media defendant violates the teachings of *Sullivan* and cannot stand.

As stated, this case is a virtual mirror image of *Sullivan*. Here, suit was filed in a small Connecticut community twenty-eight miles from the site of the murders and presided over by a judge elected by that community—just as *Sullivan* was filed in a small Alabama community and presided over by a locally elected judge. In *Sullivan*, the political motivation was racism; here, it was prejudice against a conservative media figure who stood firmly against gun control. Among other errors, in *Sullivan* the trial court instructed the jury that "falsity and malice were presumed," prompting this Court to announce its effective preemption of state law that has been consistently repeated.

Hence the unquestioned teaching of *Sullivan* and its progeny is that particularly in cases where public plaintiffs sue a media defendant for its coverage and opinions on matters of public concern, among the key requirements, the plaintiffs must prove the falsity of claimed defamations, that the media defendant acted with actual malice, and that showing of malice must be made by clear and convincing evidence. Malice by clear and convincing evidence must also be shown for punitive damages. None of that was required here. For this reason, Certiorari should be granted to clearly confirm that state courts may not issue administrative default judgments against media defendants.

B. This Court Has Issued No Jurisprudential Teaching On State Court Administrative Default Judgments

This Court's jurisprudence has not specifically addressed the intersection between *Sullivan's* constitutional rules and a state court's entry of an administrative liability-decreeing default judgment. Certiorari should be granted to reaffirm the Constitutional rules that this Court has pronounced, or to announce that these Constitutional rules allow an exception for a state court default, stating the specific grounds.

The authority believed to be most relevant from this Court is *Bridges v. California*, 314 U.S. 252 (1941) ("*Bridges*") and it does not support finding such a carve out. In *Bridges*, the petitioners were found in contempt for publishing reports of court proceedings; the court claimed to have the power to punish by contempt publications "if they tend to interfere with the fair and orderly administration of justice in a pending case." *Bridges*, 314 at 259. There Justice Black stated "free speech and fair trials are two of the most cherished policies of our civilization, and it would be a trying task to choose between them." *Id.* at 260. Jones here has been deprived of both.

The then-prevailing view was contempt was justified when a court was faced with a clear and present danger of the obstruction to the "orderly and fair administration of justice." *Id.* at 263. This Court did not fully embrace that view to uphold contempt, noting it did "no more than recognize a minimum compulsion of the Bill of Rights" which contained the "sweeping constitutional mandate against any law 'abridging the freedom of speech or of

the press' . . . necessarily [requiring] measuring a power of all American courts, both state and federal, including this one." *Id.* at 260. Analyzing the allegedly contemptuous conduct there, the Court found nothing that "sidetracked the course of justice."

The *Bridges* test is inapplicable, however, as it involved contempt of court, whereas here the Death Penalty Sanction was merely based on alleged discovery abuse. But even if it were the test, the three trivial bases given for denying Jones his twin rights of "free speech and fair trial" cannot conceivably be argued to significantly obstruct the administration of justice. Hence, this Court must make clear that a Death Penalty Sanction of a state trial court for alleged discovery abuse, cannot veto or disregard the constitutional safeguards put in place by this Court.

Furthermore, allowing a trial court to grant a Death Penalty Sanction against a media defendant—thereby accepting as proved and accurate everything a defamation plaintiff has alleged—opens the door to abuse. As demonstrated *infra*, once such a default judgment declares a media defendant liable for every allegation in the complaint, the following become actionable solely because they were pleaded and deemed admitted: (i) opinions otherwise not actionable; (ii) statements alleged to be defamatory that are not in fact defamatory; (iii) causes of action not legally cognizable; (iv) conduct of unrelated third parties; and (v) statements allegedly defamatory but grossly taken out of context. Surely this cannot be this Court's intention.

Jones respectfully states that if this Court determines that a trial court can impose a Death Penalty Sanction, then two concomitant things must occur. First, this Court must announce guidelines to guide state and federal courts as they circumnavigate the above-stated constitutional safeguards.

Second, this Court must issue guidance so that simply because a Death Penalty Sanction judicially decrees the validity of a plaintiff's complaint: (i) opinions otherwise not actionable do not become actionable; (ii) nondefamatory statements do not become defamatory; (iii) context of alleged defamatory statements does not become irrelevant; (iv) invalid causes of action do not become valid; and (v) actions of unrelated third parties do not become the responsibility of the media defendant.

C. Independent Review Is Mandated Here As In All First Amendment Cases

This Court requires that appellate courts independently review the factual record in cases implicating the First Amendment to ensure constitutional conformity. *Bose*, 466 U.S. at 499. This review assesses whether the requisite constitutional facts have been proved by "clear and convincing evidence." *Rosenbloom v. Metromedia*, 403 U.S. 29, 55 (1971). It also requires the independent judicial review of the speech's context, content, form, and setting. *Snyder*, 562 U.S. at 453-54. No such review has been conducted by any court and it is incumbent on this Court to do so here and now.

Such review is not limited to whether a trial court recited constitutional principles, which did not occur, but

requires a conscious determination of the existence or nonexistence of critical facts. *Time, Inc. v. Firestone*, 424 U.S. 448, 463 (1976). That determination must examine the "content, form, and context" of each challenged statement, as revealed by the entire record. *Snyder*, 562 U.S. at 453.

Here, the record is barren of factual determinations on constitutional issues because of the Death Penalty Sanction. [App. K]. Because no fact finder made the determinations the Constitution requires, and because no record exists from which this Court can conduct the de novo review mandated by *Bose* and its progeny, the judgment must be reversed.

The Connecticut Court of Appeals exacerbated the problem by refusing to conduct the required constitutional analysis, dismissing briefing on the issue as "bereft of any substantive legal analysis" and thus deemed abandoned. *Lafferty*, 229 Conn. App. at 510 n.26. Yet this Court holds that appellate courts have a duty to conduct de novo review when constitutional rights are implicated. *Bose*, 466 U.S. at 506 n.24. Independent review is thus not an optional task but a constitutional mandate.

D. The Complaint Itself Demonstrates There Is No Defamation

As a result of the Death Penalty Sanction, the only "what, where and how" of alleged defamatory statements was in the Complaint. See CR 64. Even in the face of a default, a complaint must still articulate valid claims. And even a cursory review of the Complaint shows the allegations made do not pass Constitutional muster. Moreover, phrases such as "hoax" and "fake as a three-

dollar-bill," cited out of context in the Complaint, are plainly hyperbolic opinions about events, lacking any specific "what, where, or how" to explain or support them. They are opinions about events, specific news accounts or news conferences, made in a broader social context. Moreover, it is not even clear what the references to "hoax" in the Complaint pertain to; a press conference? a specific news coverage segment?

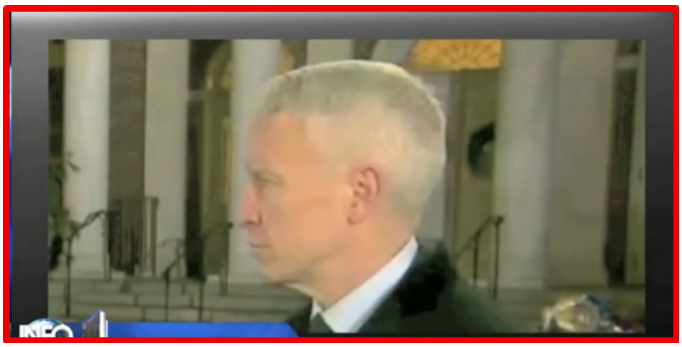
The media landscape is rife with groups challenging various events, including Holocaust denial, moon landing skepticism, 9/11 conspiracy theories, and even flat Earth claims. However, such statements critique or dismiss the events themselves, not the character, conduct, or reputation of those associated with them. Referring to an event as a "hoax" targets the nature of the event, not any specific individual. An unnamed Plaintiff cannot have been "defamed" by statements directed at generalized events.

Further fatal, none of the Plaintiffs (with one exception) were identified, named, singled out, or directly referenced in any way. No statement complained of alleged misconduct, dishonesty, or moral failing on the part of any Plaintiff.

Additionally, the Complaint inserts its own summaries of meanings, interspersed with article headlines, surrounding factual anomalies, leaving a reviewing court to have to guess to determine precisely what was the defamatory "statement" and more importantly, why it was defamatory.

In other places, statements are made that convey no possible defamatory meaning. As one example of

numerous, in several places, the Complaint purports to quote someone saying that CNN reporter Anderson Cooper was operating behind a greenscreen as his nose would disappear when he would move.



See e.g., Complaint. See e.g., CR 64-102. Was this defamatory? Was it true? The jury was told it was maliciously defamatory without explanation.

In another example, the Complaint at ¶111-17 [CR 76] complains of a 1.27.2013 video as follows (focusing particularly on ¶112):

> 112. Jones appeared in that video. During the video, he stated, "Now again, in the last month and a half, I have not come out and clearly said that this was a staged event Unfortunately, evidence is beginning to come out that points more and more in that direction, and we're going to show you that evidence in the moment. Now a lot of the tens of millions of video views on YouTube concerning the Sandy Hook hoax surround CNN, and what appears to be people who've

> been coached, people who have been given cue cards, people who are behaving like actors."

But what the Complaint intentionally omits is what Jones said immediately before this where he said: "**I clearly believe from the evidence children are really killed in Sandy Hook and it's a real tragedy.**" Trial Ex. 1 (video). It was only after Jones stated the deaths were real that he stated things were being "staged."

Hence, plainly stating he believes the tragic murders occurred in the same video he used the term "staged" demonstrates it is contextually impossible to claim the use of the word "staged" (or Jones's equivalent term, "hoax") meant there were no deaths. Rather, those terms criticized media and government scripting, not the reality of the tragedy. No reasonable viewer could interpret Jones's comments as a denial of the murders when viewed in context. Rather the clear focus was on media manipulation and the political exploitation of the tragedy.

In another example, the Complaint turned to Plaintiff Robbie Parker, the only one of two Plaintiffs named and states the following:

> 113. Later in the video, Jones stated, "One of the big issues out there that has people asking questions is Robby Parker, who reportedly lost one of his daughters. And people see the photos out there where it looks like Obama' s meeting with all three of his children, and things like that. And, when you watch the footage, I know grieving parents do strange things, but it looks

> like he's saying, 'Okay, do I read off the card,' he's laughing, and then he goes over, and starts, um, breaking down and crying.

[CR 76]. In the video at issue, Robby Parker does in fact approach the microphone laughing, then visibly changes his demeanor to become serious.

This moment, widely circulated and debated online, was interpreted by some commentators, including Jones's guests, as evidence of staging or inauthenticity. The commentary focused on this video clip itself—not on private facts about Parker—illustrating how the challenged speech concerned the public narrative around the event. The Complaint then pleads:

> 116. As the video of Parker played, Jones commented over it. "I haven't touched this," he said. "All I know is they're seizing on it. They staged fast and furious. . . . that killed thousands, our government, to blame the Second Amendment, they'd stage anything."

> 117. Later in the broadcast, Jones said, "This needs to be investigated. They're clearly using this to go after our guns. . . . Something though, really, is starting to get suspicious here. . . . But the fact that this whole thing could be staged, it's just mindblowing. Tell us what you think. Great job to all the people out there with the crowdsourcing, that are resourcing all these clips."

[CR 76]. What Jones was referring to was Robbie Parker's "staged" performance in a press conference when he referenced Parker actually laughing at the news conference and clutching in his hands what clearly appeared to be "cue cards." It was not suggesting his child had not died.

Moreover, Jones's comments are not defamatory statements of fact, but expressions of constitutionally protected opinion. Yet for these, Robbie Parker was awarded $120,000,000 in compensatory damage consisting of $60M in "Defamation Damages" and another $60M in Emotional Distress Damages [App. J, 173a] to which the trial court appended $50,000,000 in punitive damages for a total award of $170,000,000.

Plaintiff William Aldenberg, an FBI agent who was listed as a "first responder," testified at the "damages-only" trial and made no accusations that Alex Jones ever spoke about him, aired information about him, or directed harassment toward him. When asked, "Did Mr. Jones direct his audience to Mr. Halbig's website (Halbig being a show-guest)?" Aldenberg responded, "To be honest, certain, I just don't recall that. I don't." (Pg. 54: 22–25).

In fact, Aldenberg testified he only learned of Jones through his conversations with an FBI counselor. (Pg. 46: 16-17, 20). As to how it affected him, he said:

> "You can say whatever you want about me. I don't care; just say whatever you want. I'm a big boy, I can take it. But they want to make profits; they want to make millions and millions of dollars." (Pg. 50: 13-17, 23-26).

And for this testimony which the trial court instructed the jury was false, defamatory and made with malice, the jury awarded him $45M in "Defamation Damages" and another $45M in Emotional Distress Damages [App. J, 185a] to which the trial court appended another $40,000,000 in punitive damages for a total award of $130,000,000. And Mr. Jones was powerless to refute the any of the allegations given the Death Penalty Sanctions rendered against him.

In another example of the travesty that occurred in not requiring the full context of broadcasts and publications to be scrutinized, Complaint ¶¶ 171- 179 reference a call-in exchange Jones is alleged to have had on December 28, 2014. Of particular relevance are Complaints paragraphs 176 and 177 (emphasis added):

> 176. Jones continued, "People just instinctively know that there's a lot of fraud going on. But it took me about a year with Sandy Hook to come to grips with the fact that the whole thing was fake. I mean, even I couldn't believe it. **I knew they jumped on it, used the crisis, hyped it**

> **up**. But then I did deep research-and my gosh, it just pretty much didn't happen."
>
> 177. A reasonable person would understand these statements to assert that the Sandy Hook massacre was staged, and that the plaintiffs fabricated the deaths of their loved ones.

Notably, in ¶ 176 Jones is quoted as saying " I knew they jumped on it, used the crisis, hyped it up" which obviously means that there was a crisis and it had been made into a media and governmental circus. But ignoring that, ¶ 177 is the summary accusation that "plaintiffs fabricated the deaths of their loved ones." It is not possible for Jones to have spoken of people "using the crisis" if there was no crises—i.e. deaths. And if this in itself is not abundantly clear, Jones broadcast that occurred the day before (i.e., December 27, 2014) removed any doubt that Jones did not say children had not been killed, but the crisis was being propagandized: "I said, they may have killed real kids, but they're practicing how to propagandize and how to control the press and how to put out a product that is a fraud."

In yet another example, Complaint ¶¶ 326-335 detail the June 18, 2017 "profile" of Jones done by Megyn Kelly. The Complaint references Kelly's interview with Neil Heslin, a father of one of the slain children who elected to file suit on virtually identical allegations in Texas. The Complaint quotes Heslin as saying "I lost my son. I buried my son. I held my son with a bullet hole through his head." Complaint ¶326. The Complaint then goes on to reference a June 26, 2017 broadcast by reporter Owen Shroyer, stating in a most deceptive manner, that Shroyer

> "claimed to have reviewed evidence showing it was impossible for Mr. Heslin to have held his son and seen his injury. This broadcast was meant to reinforce and support the underlying lie that the Sandy Hook parents are fakes." Complaint ¶ 327.

What the Complaint does not state and was never presented because of the Death Penalty Sanction, was (a) the entirety of what Helsin said; (b) what Shroyer actually said and why; and (c) what Jones himself said about this. As to Heslin, after his statement above, he said in the Megyn Kelly interview which was designed to attack Jones for sloppy reporting: "I dropped him off at 9:04 . . . at school with his book bag [and] hours later, I was picking him up in a body bag." The problem with Heslin's statements was that Shroyer was simply stating what the coroner said, which was, that did not happen. While the Complaint references video footage Shroyer played, it does not quote the coroner, who actually said: "We did not bring the bodies and families into contact. We took pictures of them, of their facial features. It's easier on the families when you do that." Clearly the coroner's statement that he did not bring the families and bodies into contact, contradicts Heslin's statements. Then Heslin's own petition in Texas continues to quote the coroner as saying "All bodies were removed from the school before dawn Saturday and transported to the medical examiner's base in Farmington—about 40 miles away. The children's autopsies were performed first so that their bodies could be made available to funeral directors 'for obvious reasons.'"

Clearly, given the coroner's own statements Shroyer's comments were accurate. At worst, the broadcasts suggested Heslin may have exaggerated for dramatic effect—especially to support a narrative attacking Jones. And amplifying that is what Jones himself said about this on July 20, 2017 when Jones first referenced what the coroner had said and then stated: "**I'm sure later maybe the parents saw their children.** The point is that the media lies so much, you can't blame the public asking questions. . . ." (emphasis added). The entire context shows on its face there is no defamation.

E. Liability Default Judgments Against Media Defendants Are Constitutionally Impermissible

Plaintiffs concede that Jones is a media defendant. [CR 64-69]. As such, he was entitled to but denied the full protections afforded media defendants under the U.S. Constitution because of the Default Judgment Sanction. But depriving Jones of these protections is not constitutional.

1. Falsity—Death Penalty Default Unconstitutionally Allowed Liability Without The Plaintiffs Having Proved Falsity Of Specific Statements By Clear And Convincing Evidence

This Court's long-standing mandate is that "a public-figure plaintiff must show the falsity of the statements at issue in order to prevail in a suit for defamation. . . . We believe that the common law's rule on falsity—that the defendant must bear the burden of proving truth–must similarly fall here to a constitutional requirement that

the plaintiff bear the burden of showing falsity, as well as fault, before recovering damages." *Hepps*, 475 U.S. at 775-76. This was not done. The trial court determined these issues by judicial fiat on grounds that had nothing to do with the merits. This Court must make clear that a Death Penalty Sanction cannot replace the requirements that a defamation plaintiff must prove the falsity of specific statements of a media defendant. Factual falsity cannot be judicially decreed.

2. Fault—The Death Penalty Sanction Unconstitutionally Allowed Liability Without The Plaintiffs Having Proved Fault

Another ignored black-letter Constitutional requirement is that liability of a media defendant cannot be entered without a finding of fault and that fault cannot be negligence. *Gertz*, 418 U.S. at 347; *see also Milkovich*, 497 U.S. at 15-16. Rather, fault must be proven to rise to the level of intentional or recklessness, which the Plaintiffs had the burden to prove by clear and convincing evidence as to each and every alleged libelous statement Jones was accused of making. *Berisha v. Lawson*, 141 S. Ct. 2424, 2424 (2021). Here there was no finding of fault, except by Death Penalty Sanction. In the ensuing "damages-only" trial, the trial court repeatedly instructed the jury that fault was not at issue. See App. I, 148a; see also [App. I, 157a, 158a, 163a). In fact, as a result of the Death Penalty Sanction, the trial court even instructed the jury that it had found Jones's conduct extreme and outrageous, instructing the jury: " . . . you may consider that it is already established that the defendants' conduct was extreme and outrageous." App. I, 164a.

And topping off the improprieties in the subsequent "damages-only" trial, Jones's testimony was deeply restricted—an issue the Court of Appeals refused to consider. *Lafferty*, 229 Conn. App. at 491. This Court must make clear that a Death Penalty Sanction cannot replace the requirements that a defamation plaintiff must prove a media defendant's malice by clear and convincing evidence as was done here. Subjective malice cannot be simply judicially decreed.

3. The Death Penalty Sanction Unconstitutionally Allowed IIED Claims To Be Submitted On The Wrong Standard.

Another constitutional error predicated on the Death Penalty Sanction involves the emotional distress damages which total $561,000,400. App. H, 133a. In *Hustler Magazine v. Falwell*, 485 U.S. 46, 56-57 (1988), this Court clearly stated that the "actual malice by clear and convincing evidence" standards articulated in *New York Times Co. v. Sullivan* applies to claims of intentional infliction of emotional distress. This has been repeatedly reaffirmed. *Snyder*, 562 U.S. at 451. Yet the trial court's jury charge, because of the Death Penalty Sanction, used a negligence standard: "The defendants intended to inflict emotional distress or . . . knew or should have known that emotional distress was the likely result of their conduct." App. I, 157a. The standard of "knew or should have known" is the legal standard of negligence.

4. Death Penalty Sanction Unconstitutionally Decreed Liability For Jones For Acts Of Third Parties

The jury charge, informed the jury that "[D]efendants proximately caused harm to the plaintiffs by . . . urging their audience and the public to investigate and look into the plaintiffs and to stop the people supposedly [behind] the Sandy Hook hoax." App. I, 160a. The actual charge itself goes on to state that this "result[ed] in members of the defendants' audience and the public cyberstalking, attacking, harassing, and threatening the plaintiffs, as you have heard the evidence in this case." App. I, 160a. Further, the Complaint is replete with acts of third parties in allegedly stalking some of the Plaintiffs, with no evidentiary tie to Jones. CR 65, ¶ 14; CR 65, ¶15 ("They have confronted strange individuals videotaping them and their children."); CR 65, ¶16; CR 69, ¶55 ("In 2017, a Florida woman was sentenced to prison for threatening the father of a child killed at Sandy Hook.) With no allegation and certainly no evidence, all of these acts were simply laid at the feet of Alex Jones and the jury was told Mr. Jones was maliciously responsible for these acts.

This is blatantly unconstitutional. Justice Sotomayor in her recent concurrence in *Mckesson v. Doe*, 144 S. Ct. 913, 914 (2024) summarized the law forbidding liability for "incitement" of third parties to act (*citing NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982). In *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, (1982), cited in *McKesson*, the Supreme Court went so far as to acknowledge that even advocacy of the use of force or violence is protected by the First Amendment when acts of violence are alleged to have been encouraged and

committed. *See also*, *Counterman*, 600 U.S. at 76, ("That rule helps prevent a law from deterring 'mere advocacy' of illegal acts—a kind of speech falling within the First Amendment's core."). Here, telling viewers to "investigate" for themselves, even if true, is purely protected by the Constitution which was ignored. The case of *NAACP v. Claiborne Hardware Co.*, dealt with civil rights activist Medgar Evers, whose urgings to his listeners to employ violence was not actionable even though vastly more inflammatory than Jones's encouragement of his listeners to simply investigate for themselves, this Court stating, "An advocate must be free to stimulate his audience with spontaneous and emotional appeals for unity and action in a common cause. When such appeals do not incite lawless action, they must be regarded as protected speech." Here, by virtue of the Death Penalty Sanction, Jones was decreed liable for everything any Plaintiff complained happened to them by strangers—a preposterous proposition by itself and certainly unconstitutional in its effect.

5. Death Penalty Sanction Unconstitutionally Allowed Profit Motive To Factor In When It Is Irrelevant In Media Libel

A media defendant's profit motive is constitutionally irrelevant in a media libel case. *Harte-Hanks*, 491 U.S. at 667.

> "If a profit motive could somehow strip communications of the otherwise available constitutional protection, our cases from *New York Times* to *Hustler Magazine* would be little more than empty vessels."

Notwithstanding this, two of the three grounds for the "death penalty" sanctions were tied to Jones's alleged profit motive. Also, in the "damages-only" trial, particularly in the Plaintiffs' closing argument, Jones's "profit motive" was repeatedly emphasized. And this argument was allowed because the Complaint on which the Death Penalty Sanction had been granted, pleaded Jones's profit motive. This Court must make clear that administrative default judgments cannot allow a defamation plaintiff to argue the "profit motive" of a media defendant, as was done here.

F. Punitive Damages Cannot Be Based On A Death Penalty Sanction

Even if Plaintiffs were not public figures, an award of punitive damages required plaintiffs themselves to prove malice and do so by clear and convincing evidence. *Herbert v. Lando*, 441 U.S. 153 (1979); *Gertz*, 418 U.S. at 349. Here the administrative Death Penalty Sanction removed this burden and punitive damages in the hundreds of millions were awarded without this showing. This Court must make clear that administrative default judgments cannot allow a defamation plaintiff to receive punitive damages.

G. If A Death Penalty Sanction Is Permitted, The Punishment Must Fit The Crime

The Death Penalty Sanction was based on three trivial matters, none of which related to the integrity of the trial court. Furthermore, Jones appeared in the case, substantially complied with discovery, engaged in motion practice, attended endless "status" conferences, sat for dozens of depositions and provided tens of thousands of pages of documents to the Plaintiffs. Imposing a financial

life-ending Death Penalty Sanction was a denial of constitutional Due Process.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: September 5, 2025

Respectfully submitted,

BEN C. BROOCKS
Counsel of Record
BROOCKS LAW FIRM, PLLC
248 Addie Roy Rd., Suite B301
Austin, TX 78746
(512) 201-2000
bbroocks@broockslawfirm.com

ALAN B. DAUGHTRY
ALAN DAUGHTRY LAW FIRM
3355 West Alabama, Suite 444
Houston, TX 77098

SHELBY A. JORDAN
JORDAN & ORTIZ, P.C.
500 North Shoreline,
Suite 804
Corpus Christi, TX 78401

Counsel for Petitioners

APPENDIX

TABLE OF APPENDICES

Table of Appendices

APPENDIX A — ORDER OF THE SUPREME COURT FOR THE STATE OF CONNECTICUT, DECIDED APRIL 8, 2025

SUPREME COURT
STATE OF CONNECTICUT

PSC-240253

ERICA LAFFERTY *et al.*

v.

ALEX EMRIC JONES *et al.*

ORDER ON PETITION FOR CERTIFICATION TO APPEAL

The defendants' petition for certification to appeal from the Appellate Court, 229 Conn. App. 487 (AC 46131), is denied.

ECKER, J. would grant the petition for certification.

Jay M. Wolman and Ben C. Broocks, in support of the petition.
Alinor C. Sterling, Christopher M. Mattei, Joshua D. Koskoff, and Matthew S. Blumenthal in opposition.

Decided April 8, 2025

Appendix A

By the Court,

/s/
Carl D. Cicchetti
Chief Clerk

APPENDIX B — OPINION OF THE APPELLATE COURT OF CONNECTICUT, FILED DECEMBER 10, 2024

APPELLATE COURT OF CONNECTICUT

ERICA LAFFERTY *et al.*
v.
ALEX EMRIC JONES *et al.*
(AC 46131)

WILLIAM SHERLACH
v.
ALEX JONES *et al.*
(AC 46132)

WILLIAM SHERLACH *et al.*
v.
ALEX EMRIC JONES *et al.*
(AC 46133)

February 8, 2024, Argued
December 10, 2024, Officially Released

OPINION

MOLL, J. In these consolidated appeals, the defendants Alex Emric Jones and Free Speech Systems, LLC,[1] appeal

1. Several additional defendants were named in the underlying consolidated actions, namely, Infowars, LLC, Infowars Health, LLC, Prison Planet TV, LLC, Wolfgang Halbig, Cory T. Sklanka, Genesis Communications Network, Inc., and Midas Resources, Inc. Jones and Free Speech Systems, LLC, however,

from the judgments of the trial court rendered following jury verdicts returned in favor of the plaintiffs[2] in the

---

were the only remaining defendants at the time of the judgments rendered following the jury verdicts returned in the underlying consolidated actions. We refer in this opinion to (1) Jones and Free Speech Systems, LLC, collectively, as the defendants, and (2) Jones, Free Speech Systems, LLC, Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, collectively, as the Jones defendants.

2. "There are three underlying actions. In the first action, the plaintiffs are Erica Lafferty, David Wheeler, Francine Wheeler, Jacqueline Barden, Mark Barden, Nicole Hockley, Ian Hockley, Jennifer Hensel, Jeremy Richman, Donna Soto, Carlee Soto-Parisi, Carlos Soto, Jillian Soto, and William Aldenberg. On November 29, 2018, the plaintiffs moved to consolidate the second and third cases . . . with their action pursuant to Practice Book § 9-5. William Sherlach is a plaintiff in the second and third cases and Robert Parker is a plaintiff in the third case. On December 17, 2018, the court granted the motion to consolidate the cases. Jeremy Richman died while this action was pending, and, on June 7, 2021, the court granted the plaintiffs' motion to substitute Jennifer Hensel, executrix of the estate of Jeremy Richman, as a plaintiff in his place; however, on June 8, 2021, Jennifer Hensel, in her capacity as executrix of the estate of Jeremy Richman, withdrew her claims against the defendants. On October 20, 2021, the court granted Erica Lafferty's motion to substitute Richard Coan, trustee of the bankruptcy estate of Erica L. Garbatini [also known as Erica Lafferty], in her place as a plaintiff in this case." (Citations omitted.) *Lafferty v. Jones*, 222 Conn. App. 855, 858 n.1, 307 A.3d 923 (2023). On December 14, 2023, the court granted a motion to substitute Erica L. Ash, also known as Erica Lafferty, as a plaintiff in place of Richard Coan, trustee of the bankruptcy estate of Erica L. Garbatini. All references in this opinion to the plaintiffs are to the remaining plaintiffs and do not include Jeremy Richman, Jennifer Hensel, as executrix of the estate of Jeremy

underlying consolidated tort actions[3] arising out of the 2012 mass shooting at Sandy Hook Elementary School in Newtown. On appeal, the defendants claim that the court improperly (1) defaulted them as a sanction for violating certain discovery orders and a protective order, (2) construed the effect of the default to relieve the plaintiffs of the burden to prove the extent of their damages, (3) restricted the scope of Jones' testimony at the hearing in damages, (4) denied their motion for a remittitur, and (5) concluded that the plaintiffs' claim asserting a violation of the Connecticut Unfair Trade Practices Act (CUTPA), General Statutes § 42-110a et seq., was legally sufficient. For the reasons that follow, we disagree with the defendants' first, second, and fourth claims, and deem the defendants' third claim to be abandoned as inadequately briefed. We agree, however, with the defendants' fifth claim. Accordingly, we reverse in part the judgments of the trial court.

The following facts and procedural history, as set forth previously by this court or as were undisputed in the record, are relevant to our resolution of these appeals. "On December 14, 2012, Adam Lanza entered Sandy

---

Richman, or Richard Coan, trustee of the bankruptcy estate of Erica L. Garbatini.

3. The motions and pleadings filed in each of the underlying consolidated actions were largely identical, and the jury verdict returned in each action was the same. In the interest of simplicity, unless otherwise deemed necessary, we refer to the motions, pleadings, and other documents filed in the controlling action. See *Lafferty v. Jones*, Superior Court, judicial district of Waterbury, Complex Litigation Docket, Docket No. CV-18-6046436-S.

Hook Elementary School (Sandy Hook), and thereafter shot and killed twenty first-grade children and six adults, in addition to wounding two other victims who survived the attack. In the underlying consolidated actions, the plaintiffs, consisting of a first responder, who was not a victim of the Sandy Hook shooting but was depicted in the media following the shooting, and the immediate family members of five of the children, one educator, the principal of Sandy Hook, and a school psychologist who were killed in the shooting, brought these separate actions. . . .

"In the complaints, the plaintiffs alleged that [Jones] hosts a nationally syndicated radio program and owns and operates multiple Internet websites that hold themselves out as news and journalism platforms. The plaintiffs further alleged that [Jones] began publishing content related to the Sandy Hook shooting on his radio and Internet platforms and circulated videos on his YouTube channel. Specifically, the plaintiffs alleged that, between December 19, 2012, and June 26, 2017, [Jones] used his Internet and radio platforms to spread the message that the Sandy Hook shooting was a staged event to the millions of his weekly listeners and subscribers. The complaints each consisted of five counts, including causes of action sounding in invasion of privacy by false light, defamation and defamation per se, intentional infliction of emotional distress, negligent infliction of emotional distress, and a violation of [CUTPA]." (Citation omitted.) *Lafferty v. Jones*, 222 Conn. App. 855, 859-60, 307 A.3d 923 (2023).

On November 15, 2021, the trial court, *Bellis, J.*, defaulted the defendants as a sanction for violating (1)

certain discovery orders and (2) a protective order. Thereafter, the issue of damages was tried to a jury. In the midst of the hearing in damages, with the defendants' consent, the plaintiffs filed an amended complaint asserting four counts, each of which was accompanied by a claim of civil conspiracy: (1) invasion of privacy by false light; (2) defamation and defamation per se; (3) intentional infliction of emotional distress; and (4) a violation of CUTPA.[4] On October 12, 2022, the jury returned a verdict in favor of the plaintiffs, awarding them a total of $965,000,000 in compensatory damages. The jury further awarded the plaintiffs reasonable attorney's fees and costs, with the amounts to be determined by the court at a later date. On November 10, 2022, the court awarded the plaintiffs a total of (1) $321,650,000 in common-law punitive damages in the form of attorney's fees, (2) $1,489,555.94 in costs, and (3) $150,000,000 in statutory punitive damages pursuant to CUTPA. The defendants filed motions to set aside the verdict and for a remittitur, which the court denied on December 22, 2022. These consolidated appeals followed. Additional facts and procedural history will be set forth as necessary.

Before turning to the defendants' claims, we note that the plaintiffs argue that "[a]lmost all of [the defendants']

---

4. In an accompanying request for leave to amend their complaint, the plaintiffs represented that the amended complaint (1) removed the negligent infliction of emotional distress count previously alleged, (2) removed former defendants, and (3) "simplifie[d] the pleadings by providing a single, uniform complaint for the hearing in damages of the [underlying] consolidated cases. . . ."

claims of error are so general or so inadequately briefed that they are waived." We iterate that we deem claims on appeal to be abandoned if they are inadequately briefed. See, e.g., *Lafferty v. Jones*, 336 Conn. 332, 375 n.30, 246 A.3d 429 (2020) ("We repeatedly have stated that [w]e are not required to review issues that have been improperly presented to this court through an inadequate brief. . . . Analysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly. . . . [F]or this court judiciously and efficiently to consider claims of error raised on appeal . . . the parties must clearly and fully set forth their arguments in their briefs. . . . The parties may not merely cite a legal principle without analyzing the relationship between the facts of the case and the law cited." (Internal quotation marks omitted.)), cert. denied, ___ U.S. ___, 141 S. Ct. 2467, 209 L. Ed. 2d 529 (2021). As we explain throughout this opinion, we decline to review any claims that the defendants have abandoned as a result of inadequate briefing.

I

The defendants first claim that the trial court improperly defaulted them as a sanction for violating certain discovery orders, as well as a discovery related protective order. We disagree.

The following additional facts and procedural history are relevant to our resolution of this claim. Shortly after the underlying consolidated actions had been commenced, the Jones defendants filed special motions to dismiss the

actions pursuant to Connecticut's anti-SLAPP[5] statute. See General Statutes § 52-196a (b).[6] The plaintiffs moved for limited discovery vis-à-vis the special motions to dismiss; see General Statutes § 52-196a (d); which the court granted on December 17, 2018.

On January 10, 2019, the court overruled objections raised by the Jones defendants to the plaintiffs' requests for production seeking, inter alia, marketing data, sales analytics, and web analytics that the Jones defendants "own[ed] and/or control[led]." On May 7, 2019, in an objection addressing various discovery issues, the Jones defendants represented that they had "provided all of the analytics, business and marketing plans that they have." On May 29, 2019, the plaintiffs moved to compel compliance with the court's discovery orders, asserting in part that the Jones defendants had failed to produce responsive marketing and analytics information. The plaintiffs referred, in particular, to marketing data generated by Google Analytics[7] in the custody and control

---

5. "SLAPP is an acronym for 'strategic lawsuit against public participation'. . . ." *Lafferty v. Jones*, supra, 336 Conn. 337 n.4.

6. Section 52-196a was amended by No. 19-64, § 17, of the 2019 Public Acts, which made changes to the statute that are not relevant to these appeals. Accordingly, we refer to the current revision of the statute.

7. In their principal appellate brief, the defendants represent that "Google Analytics is proprietary data made available to subscribers on a server maintained by Google. It is described thus on Google's webpage: 'Google Analytics is a web analytics service offered by Google that tracks and reports website traffic and also the mobile app traffic [and] events, currently inside a platform inside the Google Marketing Platform brand.'"

of the Jones defendants, and argued that a thirty-five page Google Analytics document provided by the Jones defendants was inadequate.

On June 10, 2019, the court issued an order stating that (1) testimony elicited during certain depositions confirmed that a "Google Analytics account is accessed and utilized by some employees of the [Jones] defendants," (2) the Google Analytics document that the Jones defendants had produced did not constitute full and fair compliance with the court's discovery orders, and (3) the plaintiffs were "entitled to the [Google Analytics] data pursuant to the court's discovery orders." The court further ordered that it would "consider appropriate sanctions for the [Jones] defendants' failure to fully and fairly comply should they not produce the data within one week." Subsequently, the Jones defendants represented that, on June 17, 2019, Google Analytics data purportedly had been emailed to the plaintiffs' counsel; however, the plaintiffs' counsel represented that the email was never received.

On June 17, 2019, the plaintiffs moved for the court to review a June 14, 2019 broadcast of Jones' radio program, during which Jones made threatening comments with respect to one of the plaintiffs' counsel. See *Lafferty v. Jones*, supra, 336 Conn. 342-46, 370. On June 18, 2019, after finding that (1) the Jones defendants were noncompliant with the court's discovery orders concerning, inter alia, the Google Analytics data, and (2) Jones had harassed, intimidated, and threatened one of the plaintiffs' counsel during the June 14, 2019 broadcast, the court sanctioned the Jones defendants by depriving

them of the opportunity to pursue their special motions to dismiss. Id., 346-47, 374. At the outset of its decision, the court also stated: "[T]he discovery in this case has been marked with obfuscation and delay on the part of the [Jones] defendants, who, despite several court-ordered deadlines . . . [have] continue[d] . . . to object to having to, what they call affirmatively gather and produce documents which might help the plaintiffs make their case. Despite over approximately a dozen discovery status conferences and several court-ordered discovery deadlines, the Jones defendants have still not fully and fairly complied with their discovery obligations. . . . The [court has] entered discovery deadlines, extended discovery deadlines, and discovery deadlines have been disregarded by the Jones defendants, who continue to object to their discovery and [have] failed to produce that which is within their knowledge, possession, or power to obtain." Later, the court further stated: "At this point, I decline to default the . . . Jones defendants, but I will—I don't know how clearly I can say this. . . . As the discovery in this case progresses, if there is continued obfuscation and delay and tactics like I've seen up to this point, I will not hesitate after a hearing and an opportunity to be heard to default the . . . Jones defendants if they, from this point forward, continue with their behavior with respect to discovery." On July 10, 2020, following Chief Justice Richard A. Robinson's grant of the Jones defendants' petition for an expedited public interest appeal pursuant to General Statutes § 52-265a, our Supreme Court affirmed the trial court's sanction orders. *Lafferty v. Jones*, supra, 336 n.3, 385.

On November 12, 2020, the plaintiffs moved to again compel compliance with court-ordered discovery.[8] On May 5, 2021, the Jones defendants filed an objection, arguing in part that the plaintiffs' prior discovery requests had been rendered moot as a result of the court's June 18, 2019 sanction orders precluding the Jones defendants from pursuing their special motions to dismiss.[9] On May 14, 2021, the court issued an order stating that "the obligation of the [Jones] defendants to fully and fairly comply with the discovery requests at issue was not extinguished by the fact that the [Jones] defendants have been precluded from pursuing special motions to dismiss."

On June 1, 2021, the Jones defendants filed an emergency motion for a protective order requesting that the court (1) extend an upcoming discovery production deadline by forty-five days and (2) narrow the scope of discovery regarding, inter alia, the Google Analytics data, which, they represented, required them to review nearly 300,000 emails for privileged information. On June 2, 2021, the court issued an order stating: "The court previously entered numerous orders with respect to this discovery request and the Jones defendants' objections thereto. The court declines the Jones defendants' invitation to

8. The proceedings in the underlying consolidated actions were stayed pending our Supreme Court's resolution of the public interest appeal, and, on October 27, 2020, the trial court denied a request by the Jones defendants to stay discovery further.

9. On November 18, 2020, the Jones defendants filed a notice that the underlying consolidated actions had been removed to the United States District Court for the District of Connecticut. The actions were remanded from the District Court on March 5, 2021.

address, again, the scope of appropriate discovery. With respect to the time frame for compliance, the outstanding discovery responses were due over two years ago. At no point in time following the decision [in *Lafferty v. Jones*, supra, 336 Conn. 332, 246 A.3d 429] did the Jones defendants seek clarification from the court as to their discovery obligations. According to emails produced by the plaintiffs . . . the Jones defendants, in February and March of 2020, while their case was pending before [our] Supreme Court and a court ordered stay of discovery was in effect, asked the plaintiffs' counsel for a complete set of discovery requests to date and continued to discuss the outstanding discovery that was owed by the Jones defendants. Nowhere in the email chain did counsel for the Jones defendants indicate that they were compiling their discovery only if they prevailed on their appeal. The plaintiffs filed a motion with the court seeking the overdue compliance on November 12, 2020, and the Jones defendants did not even file an objection until May 5, 2021. The court's ruling of May 14, 2021, confirmed that the outstanding discovery from the Jones defendants was overdue. At this point, the [Jones] defendants are not in compliance with their obligation to produce that discovery which is in their knowledge, possession, or power. To the extent that [the Jones defendants'] motion seeks, at this late date, a further extension of time to produce the already overdue supplemental compliance, it is granted as follows: complete, final supplemental compliance must be made by June 28, 2021, with compliance to begin immediately on a rolling basis. Failure to comply with this order may result in sanctions including but not limited to a default."

Appendix B

On June 28, 2021, the Jones defendants filed a notice of compliance indicating that (1) the defendants had provided "complete, final supplemental compliance," and (2) Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, previously had satisfied their discovery obligations. With regard to the Google Analytics data, the Jones defendants represented that (1) only Free Speech Systems, LLC, used Google Analytics, (2) Free Speech Systems, LLC, did not possess, control, or have custody of Google Analytics data in a manner allowing the data to be exported,[10] and (3) the only reasonable method of sharing the Google Analytics data would be to permit the plaintiffs' counsel to access it via a "'sandbox.'"[11]

On July 1, 2021, Free Speech Systems, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, through one of their counsel, Attorney Norman A. Pattis of Pattis & Smith, LLC,[12] filed a motion for a commission to take

---

10. The Jones defendants further represented that, to export the Google Analytics data, Free Speech Systems, LLC, would be required to purchase an upgraded membership account at a cost of $150,000.

11. The Jones defendants defined "'[s]andboxing'" as "'a computer security term referring to when a program is set aside from other programs in a separate environment so that if errors or security issues occur, those issues will not spread to other areas on the computer. Programs are enabled in their own sequestered area, where they can be worked on without posing any threat to other programs.'"

12. On July 1, 2021, all of the Jones defendants, except for Jones, were represented by both Attorney Jay Marshall Wolman and Pattis & Smith, LLC. At that time, Jones was represented by Wolman only.

an out-of-state deposition of Hillary Clinton (motion to depose Clinton).[13] These defendants asserted in relevant part that, (1) during one of the plaintiffs' depositions, (a) on the advice of counsel, the deponent refused to answer how the plaintiffs "all ended up represented by the same [law] firm" in the underlying consolidated actions and (b) claimed to be unaware of how her legal fees were being paid, (2) the lead plaintiff in the underlying consolidated actions was invited to speak at the Democratic National Convention in 2016, and thereafter was "praised" by Clinton, and (3) they "believe[d] that [the underlying consolidated actions were] filed six years after the shootings at Sandy Hook as part of a vendetta inspired, orchestrated and directed in whole or in part by . . . Clinton as part of a vendetta to silence . . . Jones after . . . Clinton lost the presidential race to Donald J. Trump."

On July 6, 2021, the plaintiffs filed a motion to sanction the Jones defendants for violating a protective order entered on February 22, 2019, as amended on June 16, 2021 (protective order),[14] which originally had been proposed by the Jones defendants and which, inter alia, protected confidential information produced by the plaintiffs during discovery.[15] The plaintiffs maintained

---

13. Jones did not join the motion to depose Clinton, and Infowars, LLC, was not listed as one of the movants. In subsequent filings, including an August 3, 2021 reply brief vis- -vis the motion to depose Clinton, Infowars, LLC, was treated as an additional movant.

14. The protective order was twice amended further in 2022.

15. The protective order limited access to materials designated as "Confidential Information" or "Highly Confidential-

that the motion to depose Clinton, filed by the Jones defendants[16] in the middle of a deposition, (1) was frivolous and (2) improperly published information obtained from the deponent's testimony that was designated as "Highly Confidential-Attorneys Eyes Only" in violation of the protective order. On July 19, 2021, Free Speech Systems, LLC, Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, filed an objection, and the plaintiffs filed a reply brief the next day.

On August 5, 2021, the court issued an order stating in relevant part: "In the midst of taking the first deposition

---

Attorneys Eyes Only" to certain categories of persons. The protective order further provided in relevant part: "Depositions involving Confidential Information shall be treated, as follows:

"a. Portions of a deposition or depositions in their entirety may be designated Confidential Information or HIGHLY CONFIDENTIAL ATTORNEYS EYES ONLY by counsel for the deponent or the Designating Party [as defined in the protective order], with respect to documents or information that it has produced, by requesting such treatment on the record at the deposition or in writing no later than thirty (30) days after the date of the deposition.

"b. This Protective Order shall permit temporary designation of an entire transcript as Confidential Information or HIGHLY CONFIDENTIAL ATTORNEYS EYES ONLY where less than all of the testimony in that transcript would fall into those categories, subject to [a procedure detailed in the protective order]. . . . The designations shall remain effective until and unless an objection is made and finally resolved."

16. The plaintiffs contended that the motion to depose Clinton should be treated as having been filed by all of the Jones defendants. See footnote 13 of this opinion.

of a plaintiff . . . Free Speech Systems, LLC, Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC (Infowars), filed a motion to depose . . . Clinton, using deposition testimony that had just been designated as '[Highly] Confidential-Attorneys Eyes Only,' and completely disregarding the court-ordered procedures. At no point prior to filing the Clinton motion did Infowars profess ignorance of the procedures they had proposed and which were court-ordered to be followed, nor have they since taken any steps to correct their improper filing. If Infowars was of the opinion that the plaintiffs' designation was unreasonable and not made in good faith, the solution was to follow the court-ordered procedure to challenge the designation, not to blatantly disregard it and make the confidential information available on the Internet by filing it in the court file. The court rejects Infowars' baseless argument that there was no good cause to issue the protective [order]. . . . Infowars . . . now takes the absurd position that the court-ordered protective order circumvents the good cause requirements of Practice Book § 13-5, did not need to be complied with, and should not be enforced by the court. This argument is frightening. Given the cavalier actions and wilful misconduct of Infowars in filing protected deposition information during the actual deposition, this court has grave concerns that their actions, in the future, will have a chilling effect on the testimony of witnesses who would be rightfully concerned that their confidential information, including their psychiatric and medical histories, would be made available to the public. The court will address sanctions at a future hearing."[17]

17. On August 4, 2021, the court denied the motion to depose Clinton. That ruling is not at issue in these consolidated appeals.

Appendix B

On July 6, 2021, the plaintiffs filed a motion to sanction the Jones defendants for failing to produce certain accounting documents. The plaintiffs asserted in relevant part that, (1) in connection with a noticed deposition of Melinda Flores, Free Speech System, LLC's accounting manager, Flores was directed to produce documents, including (a) Free Speech System, LLC's trial balances from 2012 to 2019, and (b) "'[a]ny and all subsidiary ledgers for each account listed in the [t]rial balances produced,'"[18] (2) the court ordered the requested records to be produced by the close of business on May 14, 2021,[19] (3) on May 14,

18. Attached as an exhibit to the July 6, 2021 motion was an affidavit of Brian W. Merrill, a certified fraud examiner and a certified analytics professional, who averred in relevant part that "[a] trial balance is a standard accounting report listing a company's general ledger accounts. A debit or credit balance is presented for each general ledger account. The purpose of a trial balance is to prove that the value of all debit balances equals the value of all credit balances. Subsidiary ledgers ('[s]ubledgers') contain the transactional detail that support the trial balance details for all general ledger accounts in an accounting system. Subledgers allow for the interpretation and analysis of the financial activity that is recorded in the books and records that ultimately represent the financial statement of the organization."

On November 6, 2020, the Jones defendants objected to the production request seeking the trial balances and subsidiary ledgers on the grounds that the request was, inter alia, overbroad, irrelevant, and unduly burdensome. The court overruled the objection.

19. On May 5, 2021, the Jones defendants filed an emergency motion for a protective order requesting in part that Flores' deposition, scheduled for May 7, 2021, be rescheduled for medical reasons. On May 6, 2021, the court ordered Flores' deposition to be rescheduled but further directed that "[t]he records requested

2021, the Jones defendants produced documents that they described to be trial balances "incorporating the [s]ubsidiary [l]edgers," (4) notwithstanding the Jones defendants' representation, they failed to produce any subsidiary ledgers, and (5) Flores testified during her deposition that (a) she assisted in assembling the documents produced on May 14, 2021, (b) Free Speech Systems, LLC, maintained subsidiary ledger information that was accessible, and (c) the documents produced did not contain subsidiary ledgers. (Emphasis omitted.) On July 27, 2021, the Jones defendants filed an objection, arguing in relevant part that Free Speech Systems, LLC, did not possess or maintain subsidiary ledgers. In support of their objection, the Jones defendants submitted a personal affidavit of Robert Roe (Roe affidavit), a certified public accountant and a certified forensic accountant, who averred that Free Speech Systems, LLC, did not maintain or utilize subsidiary ledgers. On August 3, 2021, the plaintiffs filed a reply brief.

On August 6, 2021, the court issued an order stating in relevant part: "The subsidiary ledger information . . . was easily accessible to Flores. . . . Despite the court orders, and although the information exists, is maintained by [Free Speech Systems, LLC], and could have been produced by Flores as was required by the court orders, the documents were not produced. The court rejects [Roe's] statement . . . that [Free Speech Systems, LLC] does not 'maintain or utilize' subsidiary ledgers as not

---

in the request to produce are ordered to be produced by the close of business on [May 14, 2021]. Failure to comply with this order may result in sanctions."

credible in light of the circumstances. There is no excuse for the [Jones] defendants' disregard of not only their discovery obligations, but the . . . court orders. The court finds that the failure to comply with the production request has prejudiced the plaintiffs [in] their ability to both prosecute their claims and conduct further depositions in a meaningful manner." The court further ordered (1) Flores' deposition to resume, with Flores directed to produce the subsidiary ledger information, and (2) that sanctions would be addressed at a future hearing. During subsequent hearings before the court, the plaintiffs' counsel represented that, on August 24, 2021, the Jones defendants produced alleged subsidiary ledgers; however, the plaintiffs' counsel further represented that "it is not clear whether [the documents produced were], in fact, subsidiary ledgers. . . ."

On August 24, 2021, the plaintiffs filed a motion to sanction the Jones defendants for violating the court's discovery orders requiring them to produce, inter alia, the Google Analytics data. The plaintiffs refuted the Jones defendants' contention in their June 28, 2021 notice of compliance that Free Speech Systems, LLC, did not possess, control, or have custody of the Google Analytics data in a manner that could be exported, asserting that such "representations were inaccurate and misleading." On September 14, 2021, the Jones defendants filed an objection, arguing, inter alia, that (1) on June 17, 2019, via email, they had produced the Google Analytics data requested by the plaintiffs, and (2) the "sandbox mechanism" previously suggested by them would allow the plaintiffs to access all of the "raw data." On September 23,

2021, the plaintiffs filed a reply brief, and on September 25, 2021, with leave of the court, the Jones defendants filed a surreply brief.

On September 30, 2021 the court issued an order stating in relevant part: "There is no dispute here that the Jones defendants failed to follow the rules [of practice] as they relate to discovery. . . . The purported June 17, 2019 email transmission of zip files . . . containing Google Analytics reports that the plaintiffs' counsel indicates was never received was not sent to [certain other defendants] nor did the purported transmission otherwise comply with the rules of practice. As such, it is not necessary for the court to resolve the issue of whether the purported transmission was actually sent, as it cannot be considered proper compliance under our rules. In short, after protracted objections and arguments by the Jones defendants over whether they had the ability to produce ANY Google Analytics data, to date they have still failed to comply. . . . In light of this continued failure to meet their discovery obligations in violation of the court's order, to the prejudice of the plaintiffs, the court will address the appropriate sanctions at the next status conference." Subsequently, by way of a notice of compliance dated October 8, 2021, the Jones defendants represented that they had provided supplemental responses to the plaintiffs' discovery requests.

On September 9, 2021, the plaintiffs moved to sanction the Jones defendants for producing "manufactured" documents in discovery. The plaintiffs contended that the trial balances that had been produced were not the

originals but, rather, constituted altered trial balances that Roe had manipulated prior to production. On October 7, 2021, the Jones defendants filed an objection. On October 18, 2021, the plaintiffs filed a reply brief, and on October 20, 2021, with leave of the court, the Jones defendants filed a surreply brief.

On November 15, 2021, after hearing argument from the parties over the course of three days between October 20 and November 15, 2021, the court issued an oral decision defaulting the Jones defendants as a sanction for violating (1) the protective order and (2) its discovery orders.[20] With regard to the protective order, the court found in relevant part that (1) the Jones defendants acknowledged that the motion to depose Clinton contained information obtained from a deposition that was designated as "Highly Confidential-Attorneys Eyes Only" pursuant to the protective order, (2) the Jones defendants argued that the protective order did not preclude them from publishing such confidential information so long as they did not identify the witness from whom the information was obtained, which position "did nothing but reinforce the court's August 5, 2021 order and findings that the [Jones defendants'] cavalier actions constituted wilful misconduct and violated the court's clear and unambiguous protective order,"[21] and

20. On October 7, 2021, the plaintiffs filed a memorandum of law in favor of the court defaulting the Jones defendants for their misconduct. On October 20, 2021, the Jones defendants filed a memorandum of law in opposition to a default order.

21. The court further observed that the Jones defendants previously had asserted a different argument, namely, that the

(3) there was a "transparent attempt to cloud the issues" by counsel who had filed the motion to depose Clinton, Pattis, as well as one of the Jones defendants' former counsel, Attorney Jay Marshall Wolman, stemming from inconsistent representations as to whether Infowars, LLC, was one of the movants of the motion to depose Clinton.[22]

With respect to the subsidiary ledgers, the court summarized its findings in its August 6, 2021 order regarding the subsidiary ledgers and commented that "it is still unclear as to what documents have been produced." The court then determined that sanctions were "appropriate in light of the [Jones] defendants' failure to fully and fairly comply with the plaintiffs' discovery request and the court's orders. . . ."

Regarding the trial balances, the court determined that the trial balances produced by the Jones defendants did not comply with its discovery orders. The court

---

inclusion of the "Highly Confidential-Attorneys Eyes Only" information in the motion to depose Clinton was justified because the plaintiffs lacked a good faith basis to designate the deposition at issue as "Highly Confidential-Attorneys Eyes Only" pursuant to the protective order. The court rejected that argument.

22. As the court explained, (1) the motion to depose Clinton, filed by Pattis, listed Free Speech Systems, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, as the movants, (2) in the July 19, 2021 objection to the plaintiffs' July 6, 2021 motion for sanctions, also filed by Pattis, Infowars, LLC, was treated as an additional movant, and (3) during argument, Wolman represented that Infowars, LLC, had no involvement in the motion to depose Clinton because its name was not listed in the motion.

stated that (1) Flores testified at her deposition that she had generated the trial balances, which she believed had been produced to the plaintiffs, but (2) Roe later altered those trial balances before they had been provided to the plaintiffs. The court rejected an argument asserted by the Jones defendants that Flores had "provided flawed information to the [Jones] defendants that the [Jones] defendants, through Roe, had to correct." The court further stated: "The Jones defendants argue that Roe combined some accounts that were not used consistently and consolidated some general accounts because various transactions all involved the same account and those records created by [Roe] were the records that were produced. But these records that removed accounts and consolidated accounts altered the information in the reports that [Flores] had produced, and they contain trial balances that did not balance. These sanitized, inaccurate records created by Roe were simply not responsive to the plaintiffs' request or to the court's order."

The court next addressed the Google Analytics data requested by the plaintiffs, stating: "With respect to analytics, including Google Analytics . . . the [Jones] defendants on May 7, 2019, represented that they had provided all the analytics that they had. They stated with respect to Google Analytics that they had access to Google Analytics reports but did not regularly use them. . . . The [Jones] defendants also claim that, on June 17, 2019, they informally emailed zip files containing Google Analytics reports to the plaintiffs, but not [to] the codefendants, an email the plaintiffs state they did not receive and that the court found would not have been in compliance with our

rules of practice. On June 28, 2021, the Jones defendants filed a notice of compliance stating that complete, final supplemental compliance was made by . . . [Jones] and Free Speech Systems, LLC, and that Infowars, LLC, Infowars Health, LLC, and Prison Planet [TV], LLC, quote: 'Had previously produced all documents required to be produced,' . . . representing that with respect to the Google Analytics documents, Free Speech Systems, LLC, could not export the dataset and that the only way they could comply was through the sandbox approach. Then on [October] 8, 2021,[23] the Jones defendants for the first time formally produced Excel spreadsheets limited to Google Analytics apparently for [Infowars.com] and not for any of the other websites such as Prison Planet TV or Infowars Health." (Footnote added.) The court also found that (1) the Jones defendants had failed to produce analytics data for other platforms, such as Alexa and Criteo, and (2) the Jones defendants' production of certain social media analytics data "has . . . been insubstantial and . . . has fallen far short both procedurally and substantively. . . ."[24] As

23. The court referred to August 8, 2021, as the date of the production of the spreadsheets; however, (1) during argument preceding the court's sanctions order, the plaintiffs' counsel represented that the spreadsheets had been produced on October 8, 2021, and (2) the record reflects that the Jones defendants filed a notice of compliance dated October 8, 2021.

24. The defendants make a passing reference to these other analytics in their principal appellate brief. Insofar as the defendants attempt to raise a claim of error specifically as to these other analytics, they have not adequately briefed any such claim. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30. Thus, we do not set forth additional context vis-a`-vis these other analytics.

the court summarized, "[t]he court finds that the Jones defendants have withheld analytics and information that is critical to the plaintiffs' ability to conduct meaningful discovery and to prosecute their claims. This callous disregard of their obligations to fully and fairly comply with discovery and court orders on its own merits a default against the Jones defendants."

The court then stated: "Neither the court nor the parties can expect perfection when it comes to the discovery process. What is required, however, and what all parties are entitled to, is fundamental fairness that the other side produces that information which is within [its] knowledge, possession and power, and that the other side meet[s] its continuing duty to disclose additional or new material and amend prior compliance when it is incorrect.

"Here, the Jones defendants were not just careless. Their failure to produce critical documents, their disregard for the discovery process and procedure and for court orders is a pattern of obstructive conduct that interferes with the ability of the plaintiffs to conduct meaningful discovery and prevents the plaintiffs from properly prosecuting their claims.

"The court held off on scheduling this sanctions hearing in the hopes that many of these problems would be corrected and that the Jones defendants would ultimately comply with their discovery obligations and numerous court orders, and they have not.

"In addressing the sanctions that should enter here, the court is not punishing the [Jones] defendants. The

court also recognizes that a sanction of default is one of last resort. This court previously sanctioned the [Jones] defendants not by entering a default, but by a lesser sanction, the preclusion of the [Jones] defendants' special motions to dismiss. At this point, entering other lesser sanctions such as monetary sanctions, the preclusion of evidence, or the establishment of facts is inadequate given the scope and extent of the discovery material that the [Jones] defendants have failed to produce.

"As pointed out by the plaintiffs, they are attempting to conduct discovery on what the [Jones] defendants publish and the [Jones] defendants' revenue. And the failure of the [Jones] defendants to produce the analytics impacts the ability of the plaintiffs to address what is published, and the [Jones] defendants' failure to produce the financial records such as subledgers and trial balances affects the ability of the plaintiffs to address the [Jones] defendants' revenue. The prejudice suffered by the plaintiffs, who had the right to conduct appropriate, meaningful discovery so they could prosecute their claims, again was caused by the Jones defendants' wilful noncompliance, that is, the Jones defendants' failure to produce critical material information that the plaintiff[s] needed to prove their claims.

"For these reasons, the court is entering a default against the [Jones] defendants. . . . The case will proceed as a hearing in damages as to the [Jones] defendants. The court notes [that] . . . Jones is [the] sole controlling authority of all the [Jones] defendants, and that the [Jones] defendants filed motions and signed off on their discovery

issues jointly. And all the [Jones] defendants have failed to fully and fairly comply with their discovery obligations."

On appeal, the defendants assert that (1) the court incorrectly (a) determined that they had violated the protective order in filing the motion to depose Clinton or, in the alternative, (b) attributed the violation of the protective order to them rather than to their counsel,[25] (2) the court incorrectly determined that their noncompliance with its discovery orders was wilful, and (3) the court's sanction order defaulting them was disproportionate.[26] These contentions are unavailing.

---

25. As we explained in footnote 13 of this opinion, although Free Speech Systems, LLC, was one of the movants of the motion to depose Clinton, Jones did not join the motion. The defendants on appeal do not claim that Jones was sanctioned improperly vis-a`-vis the protective order; on the contrary, both defendants—Jones and Free Speech Systems, LLC—claim error as to the court's ruling regarding the violation of the protective order and assert that the court attributed the violation to them rather than to their counsel. Accordingly, for purposes of our resolution of the defendants' claims in part I of this opinion and notwithstanding the convoluted background concerning the identity of the movants of the motion to depose Clinton, we do not differentiate between Jones and Free Speech Systems, LLC, with regard to the motion to depose Clinton and the court's rulings concerning the protective order.

26. The defendants raise a number of additional claims, which we decline to review. First, in their reply brief, the defendants contend for the first time that, as a matter of law, "there should be an outer limit on a trial court's authority to enter a default in civil cases. Failure adequately or substantially to comply with discovery should never result in a default." We decline to consider this discrete legal issue raised for the first time in the defendants' reply brief. See *Anderson-Harris v. Harris*, 221 Conn. App. 222,

253 n.24, 301 A.3d 1090 (2023) ("[i]t [is] axiomatic that arguments cannot be raised for the first time in a reply brief"). Even if some semblance of this claim can be gleaned from the defendants' principal appellate brief, we conclude that the defendants have abandoned the claim as a result of their failure to brief it adequately in their main brief and notwithstanding their attempt to expound on it in their reply brief. See *Robb v. Connecticut Board of Veterinary Medicine*, 204 Conn. App. 595, 613 n.23, 254 A.3d 915 ("[T]he plaintiff cannot use his reply brief to resurrect a claim that he has abandoned by failing to adequately brief it in his principal appellate brief. See *Hurley v. Heart Physicians, P.C.*, 298 Conn. 371, 378 n.6, 3 A.3d 892 (2010) (declining to consider claim when appellant raised 'vague assertion' of claim in principal appellate brief and later 'amplified her discussion of the issue considerably in her reply brief')."), cert. denied, 338 Conn. 911, 259 A.3d 654 (2021). Accordingly, insofar as the defendants claim that the default entered against them was a disproportionate sanction, we limit our analysis to the parameters of the claim adequately briefed by the defendants, namely, that the sanction constituted an abuse of the court's discretion on the basis of the record.

Second, in their principal appellate brief, the defendants claim that "[a] liability default is never appropriate in a case involving speech, given the importance the Connecticut constitution places on speech." The defendants cite article first, § 6, of the Connecticut constitution, which, as they concede, applies only to criminal prosecutions; see *Gray v. Mossman*, 91 Conn. 430, 442-43, 99 A. 1062 (1917); and which provides: "In all prosecutions or indictments for libels, the truth may be given in evidence, and the jury shall have the right to determine the law and the facts, under the direction of the court." Conn. Const., art. I, § 6. The defendants' principal appellate brief is bereft of any substantive legal analysis to support this claim, and, therefore, we deem it to be abandoned. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30.

Third, in their principal appellate brief, the defendants assert that the court, in its August 6, 2021 order addressing the subsidiary ledgers issue, improperly discredited the Roe affidavit

Appendix B

"A trial court's power to sanction a litigant or counsel stems from two different sources of authority, its inherent powers and the rules of practice. . . . [T]his inherent authority permits sanctions for dilatory, bad faith and harassing litigation conduct. . . ." (Citations omitted; internal quotation marks omitted.) *Lafferty v. Jones*, supra, 336 Conn. 373.

"Additionally, under Practice Book [Rev. to 2021] § 13-14,[27] a court may sanction a party for noncompliance

---

without an evidentiary hearing. The defendants contend that "[t]he absence of a meaningful evidentiary record to support this finding as to . . . Roe, a finding that bore such fatal consequences for the defendants, constitutes an abuse of discretion. . . ." The defendants have abandoned this claim by failing to provide any substantive legal analysis to support it. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30.

Last, in their principal appellate brief, the defendants assert that "the trial court never set forth just what it thought Google Analytics was. As such, the order [regarding Google Analytics] was not so clear and unambiguous as to warrant a default if, in fact, the order was violated at all." We deem this claim to be inadequately briefed and, therefore, the defendants have abandoned it. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30.

27. Practice Book (Rev. to 2021) § 13-14 provides in relevant part: "(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or for disclosure of the existence and contents of an insurance policy or the limits thereof, or has failed to submit to a physical or mental examination, or has failed to comply with a discovery order made pursuant to Section 13-13, or has failed to comply with the provisions of Section 13-15, or has failed to appear and testify at a deposition duly noticed pursuant

with the court's discovery orders. Among the permissible sanctions is foreclosing judgment on the merits for a party, such as by rendering a default judgment against a defendant. . . ." (Footnote added.) Id.

We consider three factors in determining whether "a trial court properly exercises its discretion in imposing a sanction for a violation of a court order. . . ." *Ridgaway v. Mount Vernon Fire Ins. Co.*, 328 Conn. 60, 71, 176 A.3d 1167 (2018); see also *Millbrook Owners Assn., Inc. v. Hamilton Standard*, 257 Conn. 1, 17-18, 776 A.2d 1115 (2001). "First, the order to be complied with must be reasonably clear. In this connection, however, we also state that even an order that does not meet this standard may form the basis of a sanction if the record establishes that, notwithstanding the lack of such clarity, the party sanctioned in fact understood the trial court's intended meaning. This requirement poses a legal question that we will review de novo. Second, the record must establish that the order was in fact violated. This requirement poses a question of fact that we will review using a clearly erroneous standard of review.[28] Third, the sanction imposed must be proportional

---

to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-6 through 13-11, the judicial authority may, on motion, make such order as the ends of justice require.

"(b) Such orders may include the following:

"(1) The entry of a nonsuit or default against the party failing to comply. . . ."

28. "A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence

to the violation. This requirement poses a question of the discretion of the trial court that we will review for abuse of that discretion." (Footnote added; internal quotation marks omitted.) *Lafferty v. Jones*, supra, 336 Conn. 373-74.

A

The defendants contend that the court improperly (1) determined that they had violated the protective order in filing the motion to depose Clinton or, in the alternative, (2) attributed the violation of the protective order to them, as opposed to their counsel. We are not persuaded.

As to the court's determination that the filing of the motion to depose Clinton violated the protective order, the defendants maintain that, in the motion, they "represented that at a deposition a witness was instructed by counsel not to answer questions about choice of counsel or who was financing the litigation. The name and gender of the deponent were not mentioned; the deposition was characterized, not quoted. . . . The de minimis recitation of facts in the motion . . . did not violate a court order. . . ." (Citations omitted; footnote omitted.) As the court correctly determined, however, the clear and unambiguous language of the protective order limited access to depositions, or portions thereof, designated as "Highly Confidential-Attorneys Eyes Only." The defendants acknowledge that the motion to depose

---

is left with the definite and firm conviction that a mistake has been committed." (Internal quotation marks omitted.) *Fernwood Realty, LLC v. AeroCision, LLC*, 166 Conn. App. 345, 356, 141 A.3d 965, cert. denied, 323 Conn. 912, 149 A.3d 981 (2016).

Clinton contained information drawn from the transcript of one of the plaintiffs' depositions, which, as the court found, was designated as "Highly Confidential-Attorneys Eyes Only" pursuant to the protective order. Thus, in filing the motion to depose Clinton and making the confidential information set forth therein available to the public, the defendants plainly violated the protective order.

Moreover, the defendants' position on appeal is further undermined by the fact that, during argument preceding the court's sanctions order, one of the defendants' former counsel, Wolman, conceded that the defendants' actions violated the protective order. The following colloquy occurred between the court and Wolman:

"[Wolman]: . . . We do take the [protective] order very seriously and have endeavored to abide it. There was during a deposition this motion [to depose Clinton] filed. And at the end of the day it comes down to simply one sentence. That the witness claims not to know how her legal fees were being paid. That's the only information that I can see in that motion that gives rise to the court's order. And you know, it was erroneously believed that that was not subject to the [protective] order. The witness herself was not identified. *And while it may be a technical violation*, and it was not realized to be so at the time –

"The Court: So, do you admit now that it was a violation, whether it's a technical violation or not?

"[Wolman]: *I would say it probably fits within the language of what is protected*. We had concerns as to

whether or not it truly was protected. The court has weighed in." (Emphasis added.)

Accordingly, we reject the defendants' assertion that the court incorrectly determined that they violated the protective order in filing the motion to depose Clinton.

The defendants, in the alternative, contend that the court improperly ascribed the violation of the protective order to them rather than to their counsel. The defendants posit that, rather than referring counsel for disciplinary action, the court "attributed counsel's alleged failure to [the defendants], justifying a default on conduct over which the defendants themselves had no control, and about which, the record reflects, they knew nothing." The defendants fail to cite any portion of the record supporting their assertion that they were unaware of counsel's actions. Without any such evidence, we cannot countenance the defendants' reasoning that they were absolved of any discipline stemming from counsel's conduct. See *MacCalla v. American Medical Response of Connecticut, Inc.*, 188 Conn. App. 228, 240, 204 A.3d 753 (2019) ("Although in some circumstances it may be unduly harsh to impute counsel's transgressions to his client, 'our adversarial system [also] requires that the client be responsible for acts of the attorney-agent whom [he] has freely chosen. . . .' *Thode v. Thode*, 190 Conn. 694, 698, 462 A.2d 4 (1983); see *Sousa v. Sousa*, 173 Conn. App. 755, 773 n.6, 164 A.3d 702 ('[a]n attorney is the client's agent and his knowledge is imputed to the client' . . .), cert. denied, 327 Conn. 906, 170 A.3d 2 (2017)."); see also *MacCalla v. American Medical Response of Connecticut,*

Inc., supra, 239-40 (concluding that court did not abuse its discretion in dismissing claims of certain plaintiffs on basis of counsel's actions); cf. *Herrick v. Monkey Farm Cafe, LLC*, 163 Conn. App. 45, 52-53, 134 A.3d 643 (2016) (reversing trial court's judgment of nonsuit rendered on basis of counsel's actions).

B

The defendants next claim that the court erred in finding that they wilfully violated its discovery orders. As to the discovery orders in general, the defendants maintain that "the failure to provide answers was not an example of wilful misconduct. Rather, it was the result of a shocking degree of disorganization. The plaintiffs persuaded the trial judge that the plaintiffs' expectations of how the defendants should operate their business and keep records was the standard the defendants must meet. The default prevented a jury from learning the truth about the defendants' corporate organization—it is a haphazard warren of people drawn together by . . . Jones' charisma and generosity, but almost altogether devoid of institutional structure or normal corporate governance." We are unpersuaded.

Whether a party wilfully violates a court order "is a factual question committed to the sound discretion of the trial court." (Internal quotation marks omitted.) *Lafferty v. Jones*, supra, 222 Conn. App. 867. The court's finding that the defendants' noncompliance with its discovery orders was wilful was supported by its subordinate findings that (1) the subsidiary ledgers requested by the plaintiffs were

"easily accessible" and "available" to Flores, (2) Flores generated the trial balances sought by the plaintiffs, but those trial balances later were altered by Roe prior to production to the plaintiffs, and (3) the defendants withheld analytics materials and exhibited a "callous disregard of their obligations to fully and fairly comply with discovery. . . ." Rather than adequately contesting the factual underpinnings of these findings, the defendants propound the argument that their failure to comply with the court's discovery orders stemmed from their purported institutional disorganization. The defendants fail to cite to any portion of the record that supports this assertion. Moreover, the defendants' argument is belied by their own statement in their principal appellate brief that, notwithstanding their purported disorganized corporate structure, they "tendered tens of thousands of documents, sat for scores of depositions, provided answers to requests to admit, and otherwise made efforts to comply with discovery." Thus, the defendants' claim regarding the wilfulness of their noncompliance with the court's discovery orders in general is untenable.

The defendants also assert that the court incorrectly determined that they had wilfully violated its discovery orders specifically concerning the Google Analytics data. The defendants maintain that they (1) made "limited and sporadic use of Google Analytics data," (2) "did not keep [any] reports, did not generally or systematically rely on them, and consulted Google Analytics only haphazardly," and (3) did not possess the Google Analytics data, but, rather, "access[ed] the information on Google servers," such that they did not wilfully fail to comply with the

court's orders regarding the Google Analytics data. We reject this assertion. The frequency of the defendants' use and reliance on the Google Analytics data has no bearing on their obligation to abide by the court's discovery orders requiring them to provide the data to the plaintiffs. Further, whether the defendants were in possession of the Google Analytics data is immaterial because the plaintiffs' production request sought analytics that the defendants "own[ed] *and/or control*[*led*]." (Emphasis added.) See Practice Book § 13-9 (a)[29] ("[i]n any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve . . . upon any other party a request to afford the party submitting the request the opportunity to inspect, copy, photograph or otherwise reproduce designated documents or to inspect and copy, test or sample any tangible things *in the possession, custody or control* of the party upon whom the request is served" (emphasis added)). As the court found, the defendants (1) had access to the Google Analytics data and (2) produced some Google Analytics data to the plaintiffs, albeit not in full and fair compliance with the court's discovery orders. Accordingly, we conclude that the court properly found that the defendants wilfully violated the court's discovery orders as to the Google Analytics data.

---

29. An amendment to Practice Book § 13-9, effective January 1, 2022, made changes to the provision that are not relevant to these appeals. Accordingly, we refer to the current revision of this provision.

C

The defendants next claim that the court's order defaulting them as a sanction for their violations of its discovery orders and the protective order was disproportionate. The defendants maintain that, although they "resisted discovery by every lawful means possible in lengthy proceedings . . . [t]heir compliance was substantial," and they did not "[fail] to answer the complaint, [fail] to respond to discovery or otherwise [fail] to participate in the proceedings."[30] We conclude that the court did not abuse its discretion in defaulting the defendants.

---

30. The defendants also argue that, as a less severe alternative to a default, the plaintiffs could have asserted a cause of action for intentional spoliation of evidence or the court could have provided a spoliation charge to the jury. See *Rizzuto v. Davidson Ladders, Inc.*, 280 Conn. 225, 243, 905 A.2d 1165 (2006) (recognizing independent cause of action for intentional spoliation of evidence, defined as "'the intentional destruction, mutilation, or significant alteration of potential evidence for the purpose of defeating another person's recovery in a civil action'"). The plaintiffs counter that the law of spoliation is inapplicable because "there is no question that [the defendants] had—and simply withheld—financial and analytics compliance. Moreover, a spoliation charge would not have remedied the prejudice to the plaintiffs from [the defendants'] misrepresentations regarding the existence of discovery, prolonged delays in providing the compliance [they] did provide, and complete refusal to provide other compliance, or from [the defendants'] wilful violation of the protective order." We agree with the plaintiffs that the law of spoliation did not provide a reasonable alternative to the court's default order.

Appendix B

As we set forth previously in this opinion, whether the court's sanction defaulting the defendants was proportional to their violations of the court's orders "poses a question of the discretion of the trial court that we will review for abuse of that discretion." (Internal quotation marks omitted.) *Lafferty v. Jones*, supra, 336 Conn. 374. "As with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did. . . . In reviewing a claim that the court has abused this discretion, great weight is due to the action of the trial court and every reasonable presumption should be given in favor of its correctness. . . . The determinative question for an appellate court is not whether it would have imposed a similar sanction but whether the trial court could reasonably conclude as it did given the facts presented. . . . Under an abuse of discretion standard, a court's decision must be legally sound and [the court] must [have] honest[ly] attempt[ed] . . . to do what is right and equitable under the circumstances of the law, without the dictates of whim or caprice." (Citation omitted; internal quotation marks omitted.) *Gianetti v. Neigher*, 214 Conn. App. 394, 437-38, 280 A.3d 555, cert. denied, 345 Conn. 963, 285 A.3d 390 (2022). With regard to discovery orders in particular, "[n]ever will the case on appeal look as it does to a [trial court] . . . faced with the need to impose reasonable bounds and order on discovery. . . . Trial court judges face great difficulties in controlling discovery procedures which all too often are abused by one side or the other and this court should support the trial judges' reasonable use of sanctions to control discovery." (Citation

omitted; internal quotation marks omitted.) *Lafferty v. Jones*, supra, 374.

"[I]n assessing proportionality, a trial court must consider the totality of the circumstances, including, most importantly, the nature of the conduct itself. . . . [A] trial court's discretion should be exercised mindful of the policy preference to bring about a trial on the merits of a dispute whenever possible and to secure for the litigant his day in court. . . . Our practice does not favor the termination of proceedings without a determination of the merits of the controversy where that can be brought about with due regard to necessary rules of procedure. . . . Therefore, although dismissal of an action is not an abuse of discretion where a party shows deliberate, contumacious or unwarranted disregard for the court's authority . . . the court should be reluctant to employ the sanction of dismissal except as a last resort. . . . [T]he sanction of dismissal should be imposed only as a last resort, and where it would be the only reasonable remedy available to vindicate the legitimate interests of the other party and the court. . . . Like a dismissal, a default judgment is also one of the more severe sanctions that a court may impose. . . ." (Citations omitted; emphasis omitted; internal quotation marks omitted.) *Gutierrez v. Mosor*, 206 Conn. App. 818, 827-28, 261 A.3d 850, cert. denied, 340 Conn. 913, 265 A.3d 926 (2021).

In determining whether the sanction of default was proportional to the defendants' violations of the court's orders, "we are guided by the factors [our Supreme Court] . . . ha[s] employed when reviewing the reasonableness of a trial court's imposition of sanctions: (1) the cause

of the [party's] failure to [comply with the orders], that is, whether it [was] due to inability rather than the [wilfulness], bad faith or fault of the [party] . . . (2) the degree of prejudice suffered by the opposing party . . . and (3) which of the available sanctions would, under the particular circumstances, be an appropriate response to the disobedient party's conduct." (Internal quotation marks omitted.) *Gianetti v. Neigher*, supra, 214 Conn. App. 439.

Remaining mindful, as the trial court recognized, that a default is a sanction of last resort, we conclude that the court's default order was a proportional sanction under the circumstances presented. As to the wilfulness factor, the court found that the defendants' failure to produce "critical material information" to the plaintiffs, as well as the defendants' "cavalier actions" in filing the motion to depose Clinton, constituted wilful noncompliance and misconduct. The court further found that "the Jones defendants were not just careless. Their failure to produce critical documents, their disregard for the discovery process and procedure and for court orders is a pattern of obstructive conduct. . . ."[31] Thus, this factor militates in favor of the court's default order.

With regard to the prejudice factor, the court found that the purpose of the plaintiffs' discovery requests was to determine (1) what the defendants published and (2) the defendants' revenue, which purpose was thwarted by

31. As we concluded in part I B of this opinion, we reject the defendants' claim that the court's finding that they wilfully violated the discovery orders was clearly erroneous.

the defendants' failure to produce the analytics data, the subsidiary ledgers, and the trial balances requested by the plaintiffs. The court further found that the defendants' conduct "interfere[d] with the ability of the plaintiffs to conduct meaningful discovery and prevent[ed] the plaintiffs from properly prosecuting their claims." See *Krahel v. Czoch*, 186 Conn. App. 22, 35-36, 198 A.3d 103 (discussing importance of unproduced discovery and its effect as to plaintiff's case when examining prejudice), cert. denied, 330 Conn. 958, 198 A.3d 584 (2018); see also *Lafferty v. Jones*, supra, 336 Conn. 378 (citing *Krahel* in analyzing prejudice factor).

Additionally, with regard to the protective order, the court stated in its August 5, 2021 order addressing the filing of the motion to depose Clinton that (1) the defendants, in filing the motion to depose Clinton, made information designated as "Highly Confidential-Attorneys Eyes Only" under the protective order available on the Internet, (2) the defendants took no corrective action thereafter, and (3) it had "grave concerns" that there would be "a chilling effect on the testimony of witnesses who would be rightfully concerned that their confidential information, including their psychiatric and medical histories, would be made available to the public." The court iterated these concerns during argument preceding its sanction order, stating in relevant part: "So, I do intend to impose sanctions [for the violation of the protective order]. . . . I think the [defendants'] behavior really is unconscionable. . . . And I am concerned about a chilling effect on the testimony of other witnesses." In light of these concerns, this factor weighs in favor of the court's default order.

Finally, the court determined that imposing a lesser sanction would be "inadequate. . . ." In 2019, following the defendants' noncompliance with discovery vis-à-vis the special motions to dismiss and Jones' comments during his June 14, 2019 radio broadcast, the court sanctioned the defendants by precluding them from pursuing the special motions to dismiss; however, the court cautioned that it would consider defaulting them in the future if "they, from th[at] point forward, continue[d] with their behavior with respect to discovery." Later, the court also warned the defendants that they risked being defaulted if they failed to comply with its June 2, 2021 order directing the production of complete, final supplemental compliance. See *Ridgaway v. Mount Vernon Fire Ins. Co.*, supra, 328 Conn. 74 ("[i]n instances in which our appellate courts have upheld the sanction of a nonsuit, a significant factor has been that the trial court put the plaintiff on notice that noncompliance would result in a nonsuit"). Nevertheless, as the court found, the defendants continued to engage in "a pattern of obstructive conduct" in "callous[ly]" disregarding their discovery obligations. This conduct was not isolated; rather, as the various orders entered by the court demonstrate, notwithstanding being given ample opportunities to comply, the defendants repeatedly failed to produce adequate, responsive materials. The court reasonably determined that a lesser sanction would not suffice under such circumstances. See *Gutierrez v. Mosor*, supra, 206 Conn. App. 829 ("[t]he appellate courts of this state consistently have upheld nonsuits, defaults or other sanctions imposed for discovery violations where the noncomplying party has exhibited a pattern of violations or discovery abuse demonstrating a disregard for the court's authority").

Moreover, in the midst of the defendants' ongoing discovery noncompliance, the defendants filed the motion to depose Clinton, which contained information designated as "Highly Confidential-Attorneys Eyes Only" subject to the protective order. As the court determined, the defendants, in a "cavalier" fashion, violated the protective order, which they originally had proposed, by releasing the confidential information to the public, thereby creating a palpable risk of a "chilling effect" on the testimony of witnesses in the future. Against this backdrop, we cannot discern an abuse of discretion by the court in defaulting the defendants as a sanction. See *Gutierrez v. Mosor*, supra, 206 Conn. App. 827 ("dismissal of an action is not an abuse of discretion where a party shows deliberate, contumacious or unwarranted disregard for the court's authority" (emphasis omitted; internal quotation marks omitted)).

In sum, we conclude that the court properly exercised its discretion in defaulting the defendants as a sanction for their violations of its discovery orders and the protective order.

II

The defendants next claim that the trial court improperly construed the effect of the defendants' default to relieve the plaintiffs of the burden to establish the extent of their damages. This claim warrants little discussion.

Initially, we observe that the defendants assert that the court "never made a principled and intelligible ruling

about causation in this case" but, rather, treated causation as having been established following the defendants' default. The defendants do not brief any substantive claims as to any particular rulings of the court[32] but, rather, take issue with the court's rulings as a whole insofar as the court purportedly "eviscerated the concept of causation and relieved the plaintiffs of any responsibility to prove, or even to attempt to prove, a linkage to the various and diffuse harms they suffered and the conduct of the [defendants]."[33] We exercise plenary review over this

32. The defendants refer to the court's jury charge, wherein the court instructed the jury in relevant part: "I hereby charge you that causation of the plaintiffs' damages is already established. . . . Causation of harm has been established by virtue of the court's prior rulings to the satisfaction of the law. That is, it has been established in this case that the defendants proximately caused harm to the plaintiffs by spreading lies about the plaintiffs to their audience and the public by urging their audience and the public to investigate and look into the plaintiffs and to stop the people supposedly behind the Sandy Hook hoax, resulting in members of the defendants' audience and the public cyberstalking, attacking, harassing, and threatening the plaintiffs, as you have heard in the evidence in this case. In sum, it has been established that the defendants caused harm to the plaintiffs in all the ways I just described. The defendants' statements and conduct caused reputational harm to the plaintiffs, invasion of privacy, and emotional distress. The extent of the harm is what you will be measuring in your verdict. The cause of the harm is not in question."

33. In their principal appellate brief, the defendants make vague references to (1) "a series of bizarre evidentiary rulings" by the court that "eviscerated the requirement that [the] plaintiffs prove the extent of their damages," (2) the court's improper admission of evidence, (3) the court failing to determine which of

claim, which presents a question of law. See *Williams v. Mansfield*, 215 Conn. App. 1, 10, 281 A.3d 1263 (2022) ("[w]hen . . . a court's decision is challenged on the basis of a question of law, our review is plenary").

It is axiomatic that "[a] default admits the material facts that constitute a cause of action . . . and entry of default, when appropriately made, conclusively determines the liability of a defendant. . . . If the allegations of the plaintiff's complaint are sufficient on their face to make out a valid claim for the relief requested, the plaintiff, on

---

the plaintiffs' allegations were "material," (4) the court instructing the jury that liability had been "'established,'" and (5) the court denying a motion in limine filed by the defendants requesting that the transcript of its November 15, 2021 ruling defaulting the defendants be admissible at the hearing in damages. Insofar as the defendants attempt to raise claims of error with respect to these discrete issues, they have failed to brief such claims adequately and, therefore, we deem any such claims to be abandoned. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30.

Additionally, in their principal appellate brief, the defendants repeatedly state that the jury was unaware that liability was established against the defendants as the result of a disciplinary default. In their reply brief, the defendants assert for the first time that the court committed error in failing to notify the jury that the defendants were defaulted as a disciplinary sanction. We decline to review this claim, as it is (1) improperly raised for the first time in the defendants' reply brief or (2) inadequately briefed, even if cognizably raised in the defendants' principal appellate brief. See *Anderson-Harris v. Harris*, 221 Conn. App. 222, 253 n.24, 301 A.3d 1090 (2023); *Robb v. Connecticut Board of Veterinary Medicine*, 204 Conn. App. 595, 613 n.23, 254 A.3d 915, cert. denied, 338 Conn. 911, 259 A.3d 654 (2021); see also footnote 26 of this opinion.

the entry of a default against the defendant, need not offer evidence to support those allegations. . . . Therefore, the only issue . . . following a default is the determination of damages. . . . A plaintiff ordinarily is entitled to at least nominal damages following an entry of default against a defendant in a legal action. . . .

"In an action at law, the rule is that the entry of a default operates as a confession by the defaulted defendant of the truth of the material facts alleged in the complaint which are essential to entitle the plaintiff to some of the relief prayed. It is not the equivalent of an admission of all of the facts pleaded. The limit of its effect is to preclude the defaulted defendant from making any further defense and to permit the entry of a judgment against him on the theory that he has admitted such of the facts alleged in the complaint as are essential to such a judgment. It does not follow that the plaintiff is entitled to a judgment for the full amount of the relief claimed. The plaintiff must still prove how much of the judgment prayed for in the complaint he is entitled to receive."[34] (Emphasis omitted;

---

34. We note that, "[a]fter a default, a defendant may still contest liability. Practice Book §§ 17-34, 17-35 and 17-37 delineate a defendant's right to contest liability in a hearing in damages after default. Unless the defendant provides the plaintiff written notice of any defenses, the defendant is foreclosed from contesting liability. . . . If written notice is furnished to the plaintiff, the defendant may offer evidence contradicting any allegation of the complaint and may challenge the right of the plaintiff to maintain the action or prove any matter of defense. . . . This approximates what the defendant would have been able to do if he had filed an answer and special defenses." (Citations omitted; footnote omitted; internal quotation marks omitted.) *Schwartz v. Milazzo*,

internal quotation marks omitted.) *Whitaker v. Taylor*, 99 Conn. App. 719, 725-26, 916 A.2d 834 (2007).

As these legal principles elucidate, after the court had defaulted the defendants, the plaintiffs were not required to demonstrate that the defendants' conduct caused their harm. Instead, following the defendants' default, the only burden carried by the plaintiffs was to prove the amount of their damages. See *Murray v. Taylor*, 65 Conn. App. 300, 335, 782 A.2d 702 (This court, in reversing the trial court's grant of the defaulted defendant's motion to set aside the verdict following the hearing in damages, explained that "[t]he [trial] court determined that there was no evidence from which the jury reasonably could have found that the plaintiff's damages were proximately caused by the conduct alleged and ruled against the plaintiff on that basis. Yet, in an action at law, as here, the liability of a defaulted defendant is established and the plaintiff's burden at a hearing in damages is limited to proving that the amount of damages claimed is derived from the injuries suffered and is properly supported by the evidence. . . . We, therefore, cannot agree with the court's conclusion that the plaintiff's claim must fail because he did not provide evidence that [the defaulted defendant's] negligent conduct proximately caused his injuries. . . ."

---

84 Conn. App. 175, 178-79, 852 A.2d 847, cert. denied, 271 Conn. 942, 861 A.2d 515 (2004). On November 24, 2021, following the entry of the default against them, the defendants filed a notice of defenses, which was stricken by the court on December 24, 2021. The defendants on appeal do not challenge the propriety of the court's order striking the notice of defenses.

(Citation omitted.)), cert. denied, 258 Conn. 928, 783 A.2d 1029 (2001).[35] Accordingly, the defendants' claim fails.

III

The defendants also claim that the trial court improperly restricted the scope of Jones' testimony at the hearing in damages. We conclude that the defendants have abandoned this claim by failing to brief it adequately.

The following additional procedural history is relevant. On September 6, 2022, the court granted motions in limine filed by the plaintiffs seeking to preclude evidence or argument at the hearing in damages concerning, inter alia, (1) the defendants' "maximum total amount of Sandy Hook coverage or percentage or proportion of Sandy Hook coverage" and (2) the court's ruling defaulting the defendants. Additionally, on September 13, 2022, the court granted a motion for sanctions filed by the plaintiffs on the basis of additional discovery misconduct by the defendants. The court sanctioned the defendants by prohibiting them from presenting evidence or argument "that they did not profit from their Sandy Hook coverage."

On September 22, 2022, during the hearing in damages, the plaintiffs called Jones as a witness. Outside

35. The defendants cite the following language in *Murray* to support their claim: "'[E]ven in a hearing in damages . . . a plaintiff must still prove that the damages claimed were caused by the conduct alleged.'" *Murray v. Taylor*, supra, 65 Conn. App. 333. The source of that language, however, is the trial court decision that this court reversed on appeal. See id., 332-35, 340. The defendants' reliance on that language, therefore, is untenable.

of the jury's presence, the court canvassed Jones with regard to the various topics about which (1) counsel were prohibited from asking him and (2) he was precluded from testifying. Jones indicated that he understood which topics his testimony could not address. During the course of Jones' direct examination, the court and counsel engaged in multiple sidebars, and the jury was excused several times, in order to address whether certain questions asked by the plaintiffs' counsel and testimony by Jones were proper in light of the court's orders. The next day, the defendants' counsel informed the court that, for "strategic" reasons, the defendants were forfeiting the right to cross-examine Jones, intending instead to call him as a witness during their case-in-chief. On October 5, 2022, outside of the jury's presence, the defendants' counsel notified the court that Jones had decided not to testify during the defendants' case-in-chief, explaining that Jones was "boycotting [the] proceedings because he [felt] that [he was] on the horns of a trilemma. If he testifie[d] in accord with the court's orders [restricting his testimony], [he would] be committing perjury; if he violate[d] the court orders, [it would be] criminal contempt; if he [took] the fifth [amendment to the United States constitution], he [would get an] adverse inference."

The defendants claim on appeal that the court committed error in restricting the scope of Jones' testimony. The majority of the defendants' briefing of this claim focuses on reciting and commenting on the relevant procedural history, iterating the "trilemma" that Jones purportedly faced, and detailing how Jones would have testified but for the court's orders limiting his testimony.

The defendants, however, provide no substantive legal analysis examining the propriety of the court's orders imposing limits on Jones' testimony, such as the court's September 13, 2022 order sanctioning the defendants for additional discovery violations. Accordingly, we conclude that the defendants have abandoned this claim as a result of their failure to adequately brief it. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30.

IV

The defendants next claim that the trial court improperly denied their motion for a remittitur. We disagree.

The following additional procedural history is relevant to our resolution of this claim. The evidentiary portion of the hearing in damages transpired over the course of several weeks, commencing on September 13, 2022, and concluding on October 5, 2022. The following witnesses testified during the plaintiffs' case-in-chief: (1) the plaintiffs; (2) Alissa Parker, a spouse of one of the plaintiffs; (3) Brittany Paz, a Connecticut attorney who served as a corporate representative of Free Speech Systems, LLC; (4) Clinton Watts, an expert in the field of "identifying analytics and analysis around social media, the Internet, and how it influences people's behavior"; and (5) Jones. The court admitted in full numerous exhibits offered by the plaintiffs, including video clips of Jones' broadcasts. The defendants rested without calling any witnesses or offering any exhibits, except for one exhibit that was marked for identification only.

Appendix B

In its verdict, the jury awarded the plaintiffs a total of $965,000,000 in compensatory damages, which was split into two categories for each plaintiff: (1) "defamation/slander" damages, past and future; and (2) emotional distress damages, past and future. The jury did not divide the $965,000,000 amount evenly among the plaintiffs; rather, other than two plaintiffs who were each awarded $57,600,000, each plaintiff was awarded a distinct amount of compensatory damages.

In moving for a remittitur, the defendants asserted that the jury's verdict was "exorbitant, shock[ed] the sense of justice and was influenced by partiality and prejudice." The defendants argued that (1) the plaintiffs failed to submit evidence to aid the jury in calculating compensatory damages, such as medical evidence or expert testimony on the extent of their emotional distress, such that the jury's verdict was predicated on speculation and was motivated by prejudice and passion, (2) the jury, in essence, awarded the plaintiffs punitive damages rather than compensatory damages, and (3) the defendants' right to due process was violated as a result of the plaintiffs' failure to submit evidence estimating their damages. The plaintiffs filed a memorandum of law in opposition to the motion for a remittitur, refuting the defendants' arguments.

In denying the defendants' motion for a remittitur, the court stated: "The defendants take the position, in a conclusory manner unsupported by any evidence or case law, that the verdict was 'exorbitant' and the result of 'passion and prejudice.' They argue—again, unsupported

by any law—that due process requires that the plaintiffs are responsible for establishing what they think would make them whole—that is, that the plaintiffs should have been required to offer evidence as to the amount they sought in compensatory damages. As the plaintiffs point out, the defendants cite no transcript, exhibits, or case law to even begin to carry their burden of showing manifest injustice.[36] Here, the overwhelming evidence of the plaintiffs' injuries and damages, in conjunction with the court's instructions on the law, which the jury is presumed to have followed, clearly support[s] the [verdict] rendered by the jury. The size of the [verdict], while substantial, does not so shock the sense of justice as to compel the conclusion that the jury was influenced by partiality, prejudice, mistake or corruption, but instead falls within the necessarily uncertain limits of just damages to be determined by the jury. This jury discharged its obligations conscientiously, dutifully, and according to the court's instructions on the law to be applied. This jury was a careful jury whose behavior was beyond reproach; [its] attention to the evidence and instructions from the court is evident from the specific questions [it] asked regarding both the charge and the evidence.[37] In reviewing the evidence in a light most favorable to sustaining the [verdict], the court finds

---

36. In footnotes, the court (1) observed that, in contrast to the defendants' "conclusory motion," the plaintiffs "in their objection painstakingly and accurately highlight[ed] the evidence submitted" and (2) iterated that it was not obligated to consider inadequately briefed claims.

37. The jury submitted several notes during its deliberations.

that the evidence of the devastating harm caused to the plaintiffs through the defendants' continued use of their business platform[s] to spread lies to a massive audience clearly supports the [verdict], and that the [verdict was] within the limits of a fair and just award of damages." (Footnotes added; footnotes omitted.)

Before addressing the defendants' claim, we set forth the following applicable legal principles and standard of review. General Statutes § 52-216a provides in relevant part: "If the court at the conclusion of the trial concludes that the verdict is excessive as a matter of law, it shall order a remittitur and, upon failure of the party so ordered to remit the amount ordered by the court, it shall set aside the verdict and order a new trial. . . ."

"[I]n determining whether to order remittitur, the trial court is required to review the evidence in the light most favorable to sustaining the verdict. . . . Upon completing that review, the court should not interfere with the jury's determination except when the verdict is plainly excessive or exorbitant. . . . The ultimate test [that] must be applied to the verdict by the trial court is whether the jury's award falls somewhere within the necessarily uncertain limits of just damages or whether the size of the verdict so shocks the sense of justice as to compel the conclusion that the jury [was] influenced by partiality, prejudice, mistake or corruption. . . . The court's broad power to order a remittitur should be exercised only when it is manifest that the jury [has awarded damages that] are contrary to law, not supported by proof, or contrary to the court's explicit and unchallenged instructions. . . .

Accordingly, we consistently have held that a court should exercise its authority to order a remittitur rarely—only in the most exceptional of circumstances . . . and [when] the court can articulate very clear, definite and satisfactory reasons . . . for such interference." (Citation omitted; internal quotation marks omitted.) *Ashmore v. Hartford Hospital*, 331 Conn. 777, 782-83, 208 A.3d 256 (2019). The inquiry into whether a damages award shocks the sense of justice "is not intended to detect the kind of shock that arises from a moral outrage but, instead, refers to the distress that may be felt when the requirement of reasonableness has been abandoned in a setting in which reason is a necessary element of any legitimate outcome. If the verdict cannot be explained rationally, then the trial court may presume that it is tainted by improper considerations." *Maldonado v. Flannery*, 343 Conn. 150, 166-67, 272 A.3d 1089 (2022).

"[O]ur review of the trial court's decision [to grant or deny remittitur] requires careful balancing. . . . [T]he decision whether to reduce a jury verdict because it is excessive as a matter of law . . . rests solely within the discretion of the trial court. . . . [T]he same general principles apply to a trial court's decision to order a remittitur. [Consequently], the proper standard of review . . . is that of an abuse of discretion. . . . [T]he ruling of the trial court . . . is entitled to great weight and every reasonable presumption should be given in favor of its correctness. . . . The chief rationale that has been articulated in support of this deferential standard of review is that the trial court, having observed the trial and evaluated the testimony firsthand, is better positioned

than a reviewing court to assess both the aptness of the award and whether the jury may have been motivated by improper sympathy, partiality, or prejudice."[38] (Citations omitted; internal quotation marks omitted.) *Ashmore v. Hartford Hospital*, supra, 331 Conn. 783.

"[A]lthough the trial court has a broad legal discretion in this area, it is not without its limits. . . . Litigants have a constitutional right to have factual issues resolved by the jury. . . . This right embraces the determination of damages when there is room for a reasonable difference of opinion among fair-minded persons as to the amount that should be awarded. . . . Furthermore, [t]he size of the verdict alone does not determine whether it is excessive. . . . Thus, [i]n ruling on the motion for remittitur, the trial court [is] obliged to view the evidence in the light most favorable to the plaintiff in determining whether the verdict returned [is] reasonably supported thereby. . . . A conclusion that the jury exercised merely poor judgment is an insufficient basis for ordering a remittitur. . . . A generous award of noneconomic damages should be sustained if it does not shock the sense of justice. . . . The fact that the jury returns a verdict in excess of what the trial judge would have awarded does not alone establish that the verdict was excessive. . . . [T]he court should not act as the seventh juror with absolute veto power. Whether

38. The defendants assert that we should exercise plenary review over their claim because the jury's verdict "shocks the sense of justice" in violation of their due process rights. The defendants provide no legal authority in support of this assertion. We, instead, apply the well settled standard of review and examine the court's decision for an abuse of discretion.

the court would have reached a different [result] is not in itself decisive. . . . The court's proper function is to determine whether the evidence, reviewed in a light most favorable to the prevailing party, reasonably supports the jury's verdict. . . . In determining whether the court abused its discretion, therefore, we must examine the evidential basis of the verdict itself. . . . [T]he court's action cannot be reviewed in a vacuum. The evidential underpinnings of the verdict itself must be examined." (Internal quotation marks omitted.) *Gois v. Asaro*, 150 Conn. App. 442, 457-58, 91 A.3d 513 (2014).

Moreover, "[p]roper compensation for noneconomic damages cannot be computed by a mathematical formula, and there is no precise rule for the assessment of damages. . . . The plaintiff need not prove damages with mathematical exactitude; rather, the plaintiff must provide sufficient evidence for the trier to make a fair and reasonable estimate." (Internal quotation marks omitted.) Id., 457; see also *Commission on Human Rights & Opportunities v. Cantillon*, 347 Conn. 58, 68-69, 295 A.3d 919 (2023) ("Noneconomic damages, such as emotional distress, pain and suffering, are, at best, rather indefinite and speculative in nature. . . . For more than fifty years, this court has rejected the idea that any specific yardstick can be applied to cabin the discretion of the trier of fact when calculating a fair and appropriate award of noneconomic damages." (Citation omitted; internal quotation marks omitted.)).

The defendants assert that a remittitur of the jury's verdict was necessary because the plaintiffs failed to

submit sufficient evidence to establish their damages, such as medical evidence or expert testimony concerning their emotional distress, leaving the jury without a means to determine damages other than relying on passion, prejudice, and speculation. The defendants maintain that, rather than prove their damages, the plaintiffs "focus[ed] . . . on arousing sympathy, directing anger, and anchoring a large number before the jury[39] with the hope that [the] jurors would do what they did in this case—award a fortune." (Footnote added.) We disagree.[40]

---

39. The defendants reference the plaintiffs' closing argument, during which the plaintiffs' counsel, in addressing damages for defamation and slander, proposed that the jury consider (1) picking a number representing a reasonable amount to award to one individual, assuming that a lie about that individual had been told to one person, and (2) multiplying that number first by 550 million, which, according to testimony elicited from Watts, represented the minimum audience that the defendants' lies about Sandy Hook reached between 2012 and 2018, and then by fifteen, or the number of plaintiffs in the underlying consolidated actions.

40. The defendants raise two additional assertions that we discuss briefly. First, the defendants contend that, to comport with due process, the plaintiffs were required to present evidence that estimated their damages so as to provide "some notice as to the magnitude of [the] harm" suffered. As before the trial court, the defendants have failed to provide any substantive legal analysis to support this claim, and, therefore, we deem it to be abandoned. See *Lafferty v. Jones*, supra, 336 Conn. 375 n.30. Moreover, we iterate our Supreme Court's recent statement that "[n]oneconomic damages, such as emotional distress, pain and suffering, are, at best, rather indefinite and speculative in nature. . . . For more than fifty years, [our Supreme Court] has rejected the idea that any specific yardstick can be applied to cabin the discretion of the trier of fact when calculating a fair and appropriate award

of noneconomic damages." (Citation omitted; internal quotation marks omitted.) *Commission on Human Rights & Opportunities v. Cantillon*, supra, 347 Conn. 68-69. We also observe that, under Connecticut law, in civil actions seeking the recovery of damages resulting from personal injury, counsel is entitled, but not required, to present argument on the amount of past and future noneconomic damages. See General Statutes § 52-216b (a) ("[i]n any civil action to recover damages resulting from personal injury or wrongful death, counsel for any party to the action shall be entitled to specifically articulate to the trier of fact during closing arguments, in lump sums or by mathematical formulae, the amount of past and future economic and noneconomic damages claimed to be recoverable"); see also Practice Book § 16-19 ("In any action seeking damages for injury to the person, the amount demanded in the complaint shall not be disclosed to the jury. In the event that the jury shall return a verdict which exceeds the amount demanded, the judicial authority shall reduce the award to, and render judgment in, the amount demanded. Counsel for any party to the action may articulate to the jury during closing argument a lump sum or mathematical formula as to damages claimed to be recoverable.").

Second, the defendants assert that the jury awarded the plaintiffs punitive, rather than compensatory, damages. The record does not support this assertion. Our review of the court's jury charge reflects that the court instructed the jury that its task was to determine compensatory damages, and the court expressly instructed the jury that, "[u]nder the rule [of] compensatory damages, the purpose of an award of damages is not to punish or penalize the defendants for their wrongdoing but to compensate the plaintiffs for the resulting harms and losses." Moreover, the court separately instructed the jury that (1) the plaintiffs were seeking punitive damages in the form of attorney's fees and costs, and (2) the jury was to determine whether punitive damages were to be awarded, with the court to determine the amount thereof if awarded. In a section of the verdict form titled "Compensatory Damages," the jury awarded the plaintiffs a total of $965,000,000

Appendix B

Our review of the record reveals that there was sufficient evidence to support the $965,000,000 in compensatory damages awarded by the jury. All of the plaintiffs testified that, in the aftermath of the Sandy Hook massacre, they endured traumatic threats and harassment, conveyed, inter alia, through social media, by mail, or in person, stemming from the lies, as propagated by the defendants, that the Sandy Hook massacre was a hoax. Examples of such threats and harassment included death threats, claims that the plaintiffs were actors, and accusations that the deceased victims of the Sandy Hook massacre were not real or were still alive. Additionally, all of the plaintiffs testified to the mental anguish and emotional harm that they suffered as a result of the harrowing threats and harassment they experienced.[41]

---

in damages, comprising past and future "defamation/slander" and emotional distress damages. In a separate section of the verdict form, the jury determined that the plaintiffs were entitled to attorney's fees and costs. The defendants do not challenge the propriety of the jury instructions, and, "in the absence of a showing that the jury failed or declined to follow the court's instructions, we presume that the jury followed them." *Audibert v. Halle*, 198 Conn. App. 472, 482, 233 A.3d 1237 (2020). Thus, we reject the defendants' contention that the $965,000,000 awarded by the jury to the plaintiffs constituted punitive, rather than compensatory, damages.

41. Insofar as the defendants argue that the plaintiffs were required to produce medical or expert testimony to corroborate their testimony concerning their emotional distress, the defendants provide no legal support for this assertion. Cf. *Patino v. Birken Mfg. Co.*, 304 Conn. 679, 707 n.25, 41 A.3d 1013 (2012) (rejecting defendant's argument that plaintiff's testimony regarding emotional distress was insufficient without corroboration by medical or expert testimony).

The extent of the plaintiffs' damages was established further by the testimony of Watts, the plaintiffs' social media expert, who testified that, on the basis of data that he reviewed from three social media platforms, namely, YouTube, Facebook, and Twitter, the defendants' lies about the Sandy Hook massacre reached a minimum audience of 550 million people between 2012 and 2018.

In sum, we agree with the court that the evidence supported the jury's verdict and, although substantial, the verdict did not "so [shock] the sense of justice as to compel the conclusion that the jury [was] influenced by partiality, prejudice, mistake or corruption." (Internal quotation marks omitted.) *Ashmore v. Hartford Hospital*, supra, 331 Conn. 782. Accordingly, we conclude that the court did not abuse its discretion in denying the defendants' motion for a remittitur.

V

The defendants' final claim is that the trial court improperly concluded that the plaintiffs asserted a legally viable CUTPA claim. For the reasons that follow, we agree.

We begin with a brief overview of CUTPA. "CUTPA is, on its face, a remedial statute that broadly prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. . . . To give effect to its provisions, [General Statutes] § 42-110g (a)[42] of [CUTPA] establishes a private cause of action,

42. General Statutes § 42-110g (a) provides in relevant part: "Any person who suffers any ascertainable loss of money or

available to [a]ny person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by [General Statutes §] 42-110b. . . ." (Footnote added; internal quotation marks omitted.) *Cenatiempo v. Bank of America, N.A.*, 333 Conn. 769, 788, 219 A.3d 767 (2019). Section 42-110b (a), in turn, provides: "No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." Section 42-110a (4) defines "'[t]rade' and 'commerce'" as "the advertising, the sale or rent or lease, the offering for sale or rent or lease, or the distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value in this state."[43]

The following additional procedural history is relevant to our resolution of this claim. To support their CUTPA claim in their original complaint, in addition to

---

property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action in the judicial district in which the plaintiff or defendant resides or has his principal place of business or is doing business, to recover actual damages. . . ."

43. CUTPA "refers to 'trade or commerce' in the substantive provision, § 42-110b (a), but contains a definition of "'trade" 'and "'commerce"' in the definitions provision, § 42-110a (4). The definition seems to equate the disjunctive with the conjunctive relationship of the two terms and interpret the two terms as having a single meaning or a combined inclusive meaning." R. Langer et al., 12 Connecticut Practice Series: Connecticut Unfair Trade Practices, Business Torts and Antitrust (2024-2025 Ed.) § 3.1, p. 117 n.2.

incorporating the allegations of the other claims that they asserted, the plaintiffs alleged, inter alia, that (1) the defendants "unethically, oppressively, immorally, and unscrupulously developed, propagated, and disseminated outrageous and malicious lies about the plaintiffs and their family members, and they did so for profit,"[44] (2) the defendants engaged in a "campaign of lies, abuse, and harassment, [which constituted] a deceptive practice and offended public policy," (3) the defendants' "reprehensible conduct caused substantial injury to the plaintiffs and other consumers that [was] not outweighed by any countervailing benefits to anyone, and that the plaintiffs themselves could not have reasonably avoided," (4) the defendants' "conduct was a foreseeable cause of and a substantial factor causing the plaintiffs' injury," and (5) the defendants "broadcast their outrageous, cruel, and malicious lies about the plaintiffs with knowledge that the

44. The plaintiffs further alleged, for instance, that, "[o]nce he has their attention and trust, Jones exploits his audience by selling them products in line with the paranoid worldview he promotes. In [Jones'] [I]nternet based and broadcast radio shows, the . . . defendants hawk 'open currency' precious metals, prepackaged food and dietary supplements, 'male enhancement' elixirs and radiation-defeating iodine tablets, gas masks and body armor, and various customized AR-15 'lower receivers' (the extruded metal frame that encloses the breach, ammunition feed and firing mechanism of the rifle). . . . [T]he . . . defendants concoct elaborate and false paranoia-tinged conspiracy theories because it moves product and they make money. Jones and his subordinates say what they say not because they are eager to educate or even to entertain their audience. Rather, they deliberately stoke social anxiety and political discord in their listeners, because distrust in government and cultural tribalism motivate[s] those listeners to buy their products." (Footnote omitted.)

statements were false and with reckless disregard as to whether or not they were true."[45]

On October 9, 2020, the Jones defendants filed a motion to strike, asserting in relevant part that the plaintiffs' CUTPA claim was insufficiently pleaded. On April 29, 2021, the plaintiffs filed an objection, and, on June 4, 2021, the Jones defendants filed a reply brief. On November 18, 2021, the court denied the motion to strike. With respect to the plaintiffs' CUTPA claim, the court determined that "[a]n allegation of defamatory conduct on the part of a defendant is sufficiently wrongful to formulate the underlying basis of a CUTPA cause of action. . . . As the court is not striking the plaintiffs' defamation claim, the plaintiffs' [original] complaint sets forth allegations of violations of public policy or otherwise immoral, unethical, oppressive or unscrupulous conduct such that the plaintiffs allege a legally sufficient CUTPA cause of action." (Citations omitted.) The court further determined that the plaintiffs had standing to maintain their CUTPA claim, stating that "the plaintiffs allege that the [Jones] defendants 'broadcast . . . outrageous, cruel and malicious lies about the plaintiffs' and that '[t]hese acts of the [Jones] defendants resulted in damage to the plaintiffs.' Therefore, the plaintiffs have set forth a colorable claim of direct injury such that they have standing to maintain their CUTPA cause of action."

---

45. The allegations in support of the plaintiffs' CUTPA claim were substantively identical in the plaintiffs' respective original complaints, as well as in their September, 2022 amended complaint.

Appendix B

On October 5, 2022, after the plaintiffs had rested their case-in-chief at the hearing in damages, the defendants' counsel orally moved for a directed verdict and/or to dismiss the plaintiffs' CUTPA claim.[46] The defendants' counsel argued in relevant part that the plaintiffs were asserting a "novel application" of CUTPA because "there is no representation whatsoever that the plaintiffs were harmed in any respect by . . . Jones' commercial activities with respect to the sale of dietary supplements. . . . There is no evidence that anyone was harmed by his commercial activity. . . . [N]othing in [his] speech, or the consequences of that speech, addresses what CUTPA is intended to address . . . and that is whether consumers were harmed by . . . the commercial activity [affecting] trade or commerce. . . . [W]hat we have here is a novel attempt to use CUTPA to silence unpopular speech. . . . So, we think that CUTPA is being used for inappropriate grounds and that the plaintiffs lack standing to bring the action because they cannot establish that they were harmed by . . . Jones' commercial activity. . . . [T]here is no case . . . that supports what the plaintiffs intend to do in this case, and that is [to] use . . . a statute that is designed to protect consumers against unscrupulous trade and commercial practices to attack speech. . . . [N]othing in our law supports an application of CUTPA on the fact[s] as pled and proven in this case." In response, the plaintiffs' counsel argued in relevant part: "With regard to the idea that the CUTPA claim is only about statements, it's not. What it describes is a commercial course of conduct

46. On October 6, 2022, the defendants filed a written version of their oral motion.

that is built on targeting and victimizing these families by lying about them. So, certainly lies are in the mix, but what the court heard was not just the occasional lie, it's the use of lies to sell products to fuel a business. . . . There is a business plan to hurt these families and to sell things by hurting them. And that has to be . . . remediable under CUTPA. . . ." In rebuttal, the defendants' counsel argued that there was no precedent providing that CUTPA applies when (1) "a person engages in extreme comments and relies on the sale of products to produce that platform" and (2) there is no evidence of harm stemming from the products sold. The court rejected the defendants' claims without additional comment.

Subsequently, in their motion to set aside the jury's verdict, the defendants, in essence, reasserted their prior contention that the plaintiffs' CUTPA claim was legally insufficient. In denying that motion, the court determined in relevant part that "CUTPA serves to deter predatory commercial conduct such as [the conduct alleged by the plaintiffs]. This court, in ruling on the defendants' motion to strike, already determined that '[a]n allegation of defamatory conduct on the part of a defendant is sufficiently wrongful conduct to formulate the basis of a CUTPA cause of action.' The [verdict] rendered by [the] jury [is] not against the law or the evidence."[47]

---

47. The defendants raised additional claims directed to the plaintiffs' CUTPA claim, including that the plaintiffs failed to plead the ascertainable loss element of a CUTPA claim. The court rejected these claims, and the defendants do not pursue these issues on appeal.

Appendix B

We construe the crux of the defendants' claim on appeal to be that the conduct at issue alleged by the plaintiffs and admitted by operation of the defendants' default, namely, the defendants' dissemination of lies about the Sandy Hook massacre, was insufficient to support a viable CUTPA claim because their actions were not performed "in the conduct of any trade or commerce." General Statutes § 42-110b (a). The defendants posit that no CUTPA claim arises here when (1) they did not lie about or unscrupulously advertise the products that they sold and (2) their actions led to *indirect* commercial gains through product sales. In short, the defendants contend that they engaged in noncommercial speech outside of the scope of CUTPA. The plaintiffs respond that, "[w]hen using lies about [the] plaintiffs to sell supplements, [the defendants were] engaged in 'unfair' and 'deceptive' acts and practices 'in the conduct of' [their] 'trade or commerce.'" We conclude that, as a matter of law, the acts in which the defendants engaged were not "in the conduct of any trade or commerce" as required pursuant to CUTPA. See General Statutes § 42-110b (a).

"The interpretation of pleadings is an issue of law. . . . We conduct a plenary review of the pleadings to determine whether they are sufficient to establish a cause of action upon default." (Citation omitted; internal quotation marks omitted.) *Gaynor v. Hi-Tech Homes*, 149 Conn. App. 267, 276, 89 A.3d 373 (2014). Moreover, "[w]hether a defendant is subject to CUTPA is a question of law that is subject to plenary review." *NRT New England, LLC v. Longo*, 207 Conn. App. 588, 610-11, 263 A.3d 870, cert. denied, 340 Conn. 906, 263 A.3d 821 (2021).

Appendix B

Before turning to the merits of the defendants' claim, we note that the default entered against the defendants does not limit our review of this claim. "An appellate court . . . may examine the allegations of a complaint to ascertain whether they are sufficient on their face to establish a valid claim for the relief requested. . . . Although the failure of a party to deny the material allegations of a pleading operates so as to impliedly admit the allegations, a default does not automatically trigger judgment for, or the relief requested by, the pleader. The pleader is entitled to an entry of judgment or a grant of relief as a function of the nonresponsive party's default and the attendant implied admission only when the allegations in the well pleaded filing are sufficient on their face to make out a claim for judgment or relief. . . . While an admission carries with it all reasonable implications of fact and legal conclusions . . . the admission cannot traverse beyond the bounds of the underlying pleading and admit allegations not made by the pleader; the pleading is, unless leave is granted to modify, the ceiling." (Internal quotation marks omitted.) *Gaynor v. Hi-Tech Homes*, supra, 149 Conn. App. 274-75. "As such, while a default admits the material allegations of the underlying pleading, the question as to whether the default requires judgment in favor of the pleader is to be determined by reference to the sufficiency of the pleading itself." *Comm'r of Soc. Servs. v. Smith*, 265 Conn. 723, 737, 830 A.2d 228 (2003). "Put another way, in both equitable and legal actions, the plaintiff must establish his right to relief to the court's satisfaction, even though some issues may have been laid at rest by the default." (Internal quotation marks omitted.) *Moran v. Morneau*, 140 Conn. App. 219, 226, 57 A.3d 872 (2013); see also id.,

225 ("[a] default may settle many issues, but it does not operate to insulate a mistaken legal proposition from judicial review").

For CUTPA to apply, there must be an unfair or deceptive act or practice committed "in the conduct of any trade or commerce." General Statutes § 42-110b (a); see also *Cenatiempo v. Bank of America, N.A.*, supra, 333 Conn. 789 ("[t]o successfully state a claim for a CUTPA violation, the plaintiffs must allege that the defendant's acts occurred in the conduct of trade or commerce"); *Pellet v. Keller Williams Realty Corp.*, 177 Conn. App. 42, 62, 172 A.3d 283 (2017) ("[t]he essential elements to pleading a cause of action under CUTPA are: (1) the defendant committed an unfair or deceptive act or practice; (2) *the act complained of was performed in the conduct of trade or commerce*; and (3) the prohibited act was the proximate cause of harm to the plaintiff" (emphasis added)). CUTPA defines "'[t]rade' and 'commerce'" as "the advertising, the sale or rent or lease, the offering for sale or rent or lease, or the distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value in this state." General Statutes § 42-110a (4).

"Despite th[e] broad language [of § 42-110a (4)], the definition of trade and commerce is not unlimited and has been used to restrict the application of CUTPA." *Stearns & Wheeler, LLC v. Kowalsky Bros., Inc.*, 289 Conn. 1, 11 n.13, 955 A.2d 538 (2008); see also R. Langer et al., 12 Connecticut Practice Series: Connecticut Unfair Trade Practices, Business Torts and Antitrust (2024-2025 Ed.)

§ 3.1, p. 117 ("[b]ecause CUTPA applies only to acts 'in the conduct of any trade or commerce,' there is a significant limitation on the reach of [CUTPA]" (footnote omitted)); see, e.g., *Sempey v. Stamford Hospital*, 194 Conn. App. 505, 518, 221 A.3d 839 (2019) (trial court properly struck CUTPA count predicated on allegations that former employer made false statements to State of Connecticut Unemployment Commission regarding former employee's reliability and integrity because, inter alia, employee failed to allege that employer committed any acts in "'conduct of any trade or commerce'").

Exercising our plenary review, we conclude that the facts alleged by the plaintiffs and admitted by the defendants are legally insufficient to satisfy the "trade or commerce" prong of CUTPA. As we have explained, the conduct forming the basis of the plaintiffs' CUTPA claim was the defendants' propagation of lies that the Sandy Hook massacre was a hoax. Applying the statutory definition of "'[t]rade' and 'commerce'" set forth in § 42-110a (4) (i.e., "the advertising, the sale or rent or lease, the offering for sale or rent or lease, or the distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value in this state"), we cannot conclude that the defendants violated CUTPA in disseminating their lies about the Sandy Hook massacre. That the defendants' speech was motivated by a desire to generate profit through sales of products that the defendants marketed is not adequate to satisfy the "trade or commerce" prong of CUTPA. Indeed, nothing in the defendants' speech, in and of itself, concerning the Sandy Hook massacre made any mention of their products.

Appendix B

In their respective appellate briefs, the plaintiffs and the defendants address our Supreme Court's decision in *Soto v. Bushmaster Firearms International, LLC*, 331 Conn. 53, 202 A.3d 262, cert. denied sub nom. *Remington Arms Co., LLC v. Soto*, ___ U.S. ___, 140 S. Ct. 513, 205 L. Ed. 2d 317 (2019). In *Soto*, several plaintiffs, acting as the administrators of the estates of nine of the victims of the Sandy Hook massacre; id., 65, 66 n.2; commenced an action against several defendants who were alleged to have manufactured, distributed, and sold (to Lanza's mother) the weapon used by Lanza at Sandy Hook—a Bushmaster XM15-E2S semiautomatic rifle. Id., 65-66. The plaintiffs asserted a number of legal theories seeking to hold the defendants liable in part for the Sandy Hook massacre, most of which our Supreme Court determined to be precluded by Connecticut law and/or the Protection of Lawful Commerce in Arms Act (PLCAA), Pub. L. No. 109-92, 119 Stat. 2095 (2005), codified at 15 U.S.C. §§ 7901 through 7903 (2012). Id., 65.

Our Supreme Court concluded, however, that the plaintiffs "offered one narrow legal theory" that was recognized pursuant to Connecticut law and not precluded by PLCAA. Id. Specifically, the plaintiffs alleged that "the defendants violated CUTPA[48] by advertising and marketing the XM15-E2S in an unethical, oppressive, immoral, and unscrupulous manner that promoted illegal offensive use of the rifle" and "that such promotional

48. The plaintiffs in *Soto* brought their claims pursuant to Connecticut's wrongful death statute, General Statutes § 52-555, predicated in part on alleged CUTPA violations. *Soto v. Bushmaster Firearms International, LLC*, supra, 331 Conn. 67.

tactics were causally related to some or all of the injuries that were inflicted during the Sandy Hook massacre." (Footnote added.) Id., 86-87. The trial court struck this CUTPA claim, along with a distinct claim by the plaintiffs alleging that the sale of the XM15-E2S to the civilian market, ipso facto, constituted an unfair trade practice, on the ground that the plaintiffs lacked standing stemming from their status as "third-party victims who did not have a direct consumer, commercial, or competitor relationship . . . with the defendants." Id., 88. Our Supreme Court determined that the trial court erred in striking the plaintiffs' CUTPA claims, reasoning: "Because the principal evils associated with unscrupulous and illegal advertising are not ones that necessarily arise from or infect the relationship between an advertiser and its customers, competitors, or business associates, we hold that a party directly injured by conduct resulting from such advertising can bring an action pursuant to CUTPA even in the absence of a business relationship with the defendant." Id. Our Supreme Court further clarified that it did not "need [to] decide today whether there are other contexts or situations in which parties who do not share a consumer, commercial, or competitor relationship with an alleged wrongdoer may be barred, for prudential or policy reasons, from bringing a CUTPA action. What is clear is that none of the rationales that underlie the standing doctrine, either generally or in the specific context of unfair trade practice litigation, supports the denial of standing to the plaintiffs in this case." Id., 96. Thus, the court held that the plaintiffs had standing with respect to their "narrow legal theory" under CUTPA because they alleged direct injuries from conduct resulting from wrongful advertising. Id., 65, 99-100.

Appendix B

The allegations underlying the CUTPA claim deemed viable in *Soto* are, however, materially distinguishable from the allegations in the underlying consolidated actions and do not lend the plaintiffs support with respect to their allegation that the defendants acted "in the conduct of any trade or commerce" for purposes of CUTPA. As in *Soto*, the plaintiffs in this case did not allege that they were consumers, competitors, or otherwise in a business or commercial relationship with the defendants. Unlike the plaintiffs in *Soto*, however, the plaintiffs in this case did not allege that they were "directly injured by conduct resulting from" the defendants' advertising or sale of the defendants' products, such that they could "bring an action pursuant to CUTPA even in the absence of a business relationship with the defendant[s]." *Soto v. Bushmaster Firearms International, LLC*, supra, 331 Conn. 88. Thus, notwithstanding *Soto*'s elimination of the commercial relationship test, the plaintiffs did not allege direct injury from the defendants' *advertising* or *sale* of the defendants' products and, thus, did not fall within the expansion of CUTPA liability established in *Soto*. Rather, they alleged injuries from the defendants' *false speech* about the Sandy Hook massacre—speech that itself was silent with regard to the defendants' products. Stated differently, the plaintiffs did not allege direct injury from commercial speech relating to the advertising, marketing, or sale of goods, as in *Soto*. To extend CUTPA's reach to provide a remedy (in addition to the torts of invasion of privacy by false light, defamation, defamation per se, and intentional infliction of emotional distress) for content of speech unrelated to the advertising, marketing, or sale of products is simply a bridge too far.

In sum, we conclude that the plaintiffs failed to assert a legally viable CUTPA claim. As a result, the judgments rendered with respect to the plaintiffs' CUTPA claim must be reversed and the attendant award entered pursuant to CUTPA, namely, the $150,000,000 in punitive damages awarded by the court, must be vacated.

The judgments are reversed only as to the plaintiffs' CUTPA claim and the cases are remanded with direction to vacate the court's award of $150,000,000 in punitive damages pursuant to CUTPA; the judgments are affirmed in all other respects.

In this opinion the other judges concurred.

APPENDIX C — OPINION OF THE SUPERIOR COURT, COMPLEX LITIGATION DOCKET AT WATERBURY, CONNECTICUT, FILED NOVEMBER 10, 2022

SUPERIOR COURT, COMPLEX LITIGATION DOCKET AT WATERBURY, CONNECTICUT

NO: X06-UWY-CV18-6046436-S

ERICA LAFFERTY

v.

ALEX EMRIC JONES

NO: X06-UWY-CV18-6046437-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

NO: X06-UWY-CV18-6046438-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

Filed November 10, 2022

Appendix C

In these three consolidated cases, the plaintiffs,[1] various immediate family members of victims and a first responder to the December 14, 2012 Sandy Hook school shooting, have brought suit against the defendants, Alex Emric Jones and Free Speech Systems, LLC.[2] In the operative complaints,[3] the plaintiffs allege the following relevant facts against the defendants. Jones is a radio and internet personality who resides in Austin, Texas. He is the host of "The Alex Jones Show" and he owns and operates the websites Inforwars.com and PrisonPlanet.com. Infowars, LLC is a Texas limited liability company

1. In *Lafferty v. Jones*, Docket No. X06-UWY-CV-18-6046436-S, the current named plaintiffs are David Wheeler, Francine Wheeler, Jacqueline Barden, Mike Barden, Nicole Hockley, Ian Hockley, Jennifer Hensel, Donna Soto, Carlee Soto-Parisi, Carlos M. Soto, Jillian Soto and William Aldenberg. Each of the first eleven of these individuals are either a parent of a student or a close relative of a school employee who died in the Sandy Hook tragedy. Aldenberg is a first responder who responded to the scene on the date of the shooting. Additionally, the original plaintiff Erica Lafferty was replaced as a plaintiff by her bankruptcy trustee Richard Coan on October 20, 2021. In both *Sherlach v. Jones* cases, docket numbers X06-CV-18-6046437-S and X06-CV-18-6046438-S, the named plaintiffs are William Sherlach and Robert Parker. Sherlach is the spouse of a school psychologist and Parker is the parent of a student who were murdered by Adam Lanza during the Sandy Hook incident.

2. Although there were many additional defendants when these cases were originally brought, the only remaining defendants at this juncture are Alex Emric Jones and Free Speech Systems, LLC.

3. As the operative complaints in the three cases allege largely the same facts, they will be discussed simultaneously.

that produces and broadcasts Alex Jones' Infowars. Free Speech Systems, LLC is a Texas limited liability company that owns Infowars.com. Similarly, Infowars Health, LLC and Prison Planet TV, LLC are also Texas-based companies. All of the above-mentioned Texas business-entity defendants are owned, controlled, and/or operated by the defendant Alex Jones and are employed to hold and generate revenue for him. The Alex Jones Show is syndicated on more than sixty radio stations and it has an audience of two million people. Jones and Infowars have an audience of millions more, including 2.3 million subscribers to Jones' YouTube channel.

The plaintiffs allege that following the 2012 Sandy Hook shooting, "Jones and the rest of the Jones defendants acted together to develop, disseminate and propagate . . . false statements" regarding the incident. According to the plaintiffs, Jones made these comments even though he "does not in fact believe that the Sandy Hook [s]hooting was a hoax—and he never has." The plaintiffs assert that Jones has developed a "very lucrative business model" pedaling "conspiracy-minded falsehoods like those about Sandy Hook" for immense monetary gain. In fact, by May, 2013, Jones was alleged to make approximately $10 million annually. Specifically, Jones began telling his audience that the Sandy Hook shooting was "a government-sponsored hoax designed to lead to gun control. . . ."

In furtherance of this objective, Jones began making comments questioning the veracity of the Sandy Hook shootings and the sincerity of the reactions of some of the plaintiffs. For example, on January 27, 2013, Jones

posted a video on his YouTube channel titled "Why People Think Sandy Hook is A Hoax." Jones appeared in the video and commented that: "evidence is beginning to come out that points more and more in [the] direction" that the Sandy Hook shooting was "a staged event" and that there "appears to be people who've been coached, people who have been given cue cards, people who are behaving like actors." In that video, Jones stated that plaintiff Robert Parker, who lost a daughter in the shooting, was laughing and asking if he should read off a card. Similarly, on March 14, 2013, Jones stated: "We've clearly got people where it's actors playing different parts of people. I've looked at it and undoubtedly there's a cover up, there's actors, they're manipulating, they've been caught lying, and they were pre-planning before it and rolled out with it."

As further examples of Jones' statements, on May 13, 2014, Jones hosted a Sandy Hook denier named Wolfgang Halbig on his show. Jones commented: "I mean it's fake . . . it's fake . . . you've got parents acting. . . . It is just the fakest thing since the three-dollar bill." On September 25, 2014, Jones asserted on his radio show that FBI statistics demonstrated that nobody was killed at Sandy Hook. The plaintiffs specifically allege that "[t]his was a false statement. FBI statistics showed no such thing." Thereafter, on December 28, 2014, Jones took a call from a listener named Kevin who purported to live close to Newtown. Jones then stated: "[t]he whole thing is a giant hoax. And the problem is, how do you deal with a total hoax? How do you even convince the public something's a total hoax. . . . The general public doesn't know the school was actually closed the year before. They don't know that

they've sealed it all, demolished the building. They don't know that they had the kids going in circles in and out of the building as a photo-op. Blue screens, green screens, they got caught using." On July 7, 2015, Jones stated: "[b]ut what about how for a mass shooting in Pakistan, they got photos of Sandy Hook kids. . . . [I]t's like the same P.R. company is running this." Additionally, on November 17, 2016, Jones told his audience that he's seen "weird videos of reported parents of kids laughing and then all of sudden they do the hyperventilating to cry and go on TV." Jones has also repeatedly asked his listeners to "investigate" the events surrounding the Sandy Hook shooting and that has led to individuals such as the plaintiffs being subjected to "physical confrontation and harassment, death threats, and a sustained barrage of harassment and verbal assault on social media."

Throughout their complaints in each of the three cases, the plaintiffs allege many more examples of comments made by Jones and his associates where they questioned if the shooting occurred and whether the plaintiffs' relatives actually died. The plaintiffs allege the following causes of action against the defendants: (1) count one—invasion of privacy by false light; (2) count two—defamation and defamation per se; (3) count three—intentional infliction of emotional distress; (4) count four—negligent infliction of emotional distress and (5) count five—violations of the Connecticut Unfair Trade Practices Act (CUTPA), General Statutes § 42-110a et seq. Each of the plaintiffs' first four causes of action affix the additional label "civil conspiracy."[4]

4. On November 18, 2021, this court denied the defendants' motion to strike all counts of the plaintiffs' complaint.

Appendix C

On October 6, 2021, the plaintiffs moved for a disciplinary default against the defendants claiming litigation misconduct on the part of the defendants. Essentially, the plaintiffs argued that liability should be conclusively established against the defendants because of their repeated discovery violations throughout the course of the litigation. The defendants filed a memorandum of law in opposition, and following a hearing conducted on November 15, 2021, the court entered a default against the defendants, ruling "(T)he case will proceed as a hearing in damages as to the defendants. The court notes Mr. Jones is the sole controlling authority of all the defendants, and that the defendants filed motions and signed off on their discovery issues jointly. And all of the defendants have failed to fully and fairly comply with their discovery obligations."[5]

Evidence commenced in a hearing in damages before a jury commenced on September 13, 2022.. On October 12, 2022, the jury reached its verdict as to the various plaintiffs. Specifically, the jury awarded the following

5. The defendants in these cases have repeatedly engaged in conduct designed to thwart their discovery obligations or otherwise avoid the administration of justice. For example, the Supreme Court previously upheld this court's decision to revoke the defendants' opportunity to file a motion to dismiss under the anti-SLAPP statute, General Statutes § 52-196a, because the defendants "had violated numerous discovery orders and that Jones personally had engaged in harassing and intimidating behavior directed at the plaintiffs' counsel, Attorney Christopher Mattei." *Lafferty v. Jones*, 336 Conn. 332, 337-38, 246 A.3d 429 (2020).

damages: (1) as to Robert Parker, $120 million; (2) as to David Wheeler, $55 million; (3) as to Francine Wheeler, $54 million; (4) as to Jacqueline Barden, $28.8 million; (5) as to Mark Barden, $57.6 million; (6) as to Nicole Hockley, $73.6 million; (7) as to Ian Hockley, $81.6 million; (8) as to Jennifer Hensel, $52 million; (9) as to Donna Soto, $48 million; (10) as to Carlee Soto Parisi, $66 million; (11) as to Carlos Matthew Soto, $57.6 million; (12) as to Jillian Soto-Marino, $68.8 million; (13) as to William Aldenberg, $90 million; (14) as to Erica Lafferty, $76 million and (15) as to William Sherlach, $36 million. Additionally, the jury awarded reasonable attorney's fees and costs, in an amount to be determined by the court at a later date.

Following the jury's verdict, on October 21, 2022, the plaintiffs filed a brief regarding CUTPA punitive damages. Thereafter, on October 28, 2022, the defendants submitted a memorandum of law in opposition to an award of punitive damages. The plaintiffs filed a bench brief on attorneys' fees and costs on November 3, 2022, and a reply brief to the defendants' memorandum of law in opposition to the award of punitive damages on November 4, 2022. The court heard oral argument on the issue of punitive damages on November 7, 2022.

Common Law Punitive Damages

The Connecticut Supreme Court has most recently described the well-settled common law rule followed in Connecticut pertaining to punitive damages in *Bifolck v. Philip Morris, Inc.*, 324 Conn. 402, 447-49, 152 A.3d 1183 (2016): "In *Waterbury Petroleum Products, Inc. v.*

Canaan Oil & Fuel Co., [193 Conn. 208, 235, 477 A.2d 988 (1984)], this court declined to reconsider limits that it had placed on the recovery of punitive damages. In doing so, the court explained: 'Long ago, in *Hanna v. Sweeney*, 78 Conn. 492, 62 A. 785 (1906), this court set forth the rule which we have since followed regarding the appropriate measure of [common-law] punitive damages. In limiting our measure to the expense of litigation less taxable costs, the court noted that under the typical [common-law] rule the jury was permitted to exercise a virtually unchecked discretion to award damages not only to make the injured person whole, but to punish the wrongdoer. . . . The court further recognized that the doctrine of punitive damages which permits recovery beyond compensation prevailed in most jurisdictions, but, nonetheless, it refused to adopt such a rule characterizing it as a hybrid between a display of ethical indignation and the imposition of a criminal fine. . . . Thus, such a rule was found to be at a variance with the generally accepted rule of compensation in civil cases. . . . Since *Hanna*, we have consistently adhered to this view. . . .

"'The subject of punitive damages has been one of great debate throughout the course of American jurisprudence. . . . Typically, those who disfavor punitive damage awards in civil cases point to the prospect that such damages are frequently the result of the caprice and prejudice of jurors, that such damages may be assessed in amounts which are unpredictable and bear no relation to the harmful act, and that the prospect of such damages assessed in such a manner may have a chilling effect on desirable conduct. . . .

Appendix C

"'In permitting awards of punitive damages, but limiting such damages as we do, our rule strikes a balance—it provides for the payment of a victim's costs of litigation, which would be otherwise unavailable to him, while establishing a clear reference to guide the jury fairly in arriving at the amount of the award. Further, although our rule is a limited one, when viewed in light of the ever rising costs of litigation, our rule does in effect provide for some element of punishment and deterrence in addition to the compensation of the victim. Thus, in limiting punitive damage awards to the costs of litigation less taxable costs, our rule fulfills the salutary purpose of fully compensating a victim for the harm inflicted on him while avoiding the potential for injustice which may result from the exercise of unfettered discretion by a jury.' . . . *Waterbury Petroleum Products, Inc. v. Canaan Oil & Fuel Co.*, supra, 193 Conn. 236-38." *Bifolck v. Philip Morris, Inc.*, supra, 324 Conn. 447-49.

"In Connecticut, common-law punitive damages, also called exemplary damages, primarily are compensatory in nature. See *Bodner v. United Services Auto. Assn.*, 222 Conn. 480, 492, 610 A.2d 1212 (1992) (in Connecticut, common-law punitive damages 'are limited to the plaintiff's attorney's fees and nontaxable costs, and thus serve a function that is both compensatory and punitive'); see also *Hylton v. Gunter*, 313 Conn. 472,493, 97 A.3d 970 (2014) (*McDonald, J.*, dissenting) (common-law punitive damages are compensatory in nature, but also serve 'a punitive and deterrent function'). 'To furnish a basis for recovery of punitive damages, the pleadings must allege and the evidence must show wanton or wilful malicious

misconduct, and the language contained in the pleadings must be sufficiently explicit to inform the court and opposing counsel that such damages are being sought. . . . *If awarded, [common-law] punitive damages are limited to the costs of litigation less taxable costs, but, within that limitation, the extent to which they are awarded is in the sole discretion of the trier.* . . . Limiting punitive damages to litigation expenses, including attorney's fees, fulfills the salutary purpose of fully compensating a victim for the harm inflicted . . . while avoiding the potential for injustice which may result from the exercise of unfettered discretion by a jury. . . . We have long held that in a claim for damages, proof of the expenses paid or incurred affords some evidence of the value of the services. . . . *Label Systems Corp. v. Aghamohammadi*, 270 Conn. 291, 335-36, 852 A.2d 703 (2004); but cf. *Berry v. Loiseau*, [223 Conn. 786, 827, 614 A.2d 414 (1992)] (common-law punitive damages, when viewed in the light of the increasing costs of litigation, also [serve] to punish and deter wrongful conduct).' . . *Hylton v. Gunter*, supra, 313 Conn. 486 n.14.

"Juries in Connecticut have been awarding punitive damages for 'wanton or malicious injuries' for more than two hundred years. See, e.g., *Linsley v. Bushnell*, 15 Conn. 225, 235 (1842), and cases cited therein. More recently, in *Bifolck v. Philip Morris, Inc.*, [supra, 324 Conn. 451], our Supreme Court confirmed that, in a jury trial, the question of the amount of punitive damages is for the jury, not the court, when the parties do not agree to have the court decide that issue. As our Supreme Court explained: 'Indeed, it was precisely because juries assessed the amount of punitive damages that this court

was motivated to adopt the common-law rule, limiting the exercise of the jury's discretion by tying such damages to litigation expenses.' Id. In reaching this conclusion, the court distinguished common-law punitive damages from the award of punitive damages or attorney's fees under certain statutory causes of action that specifically provide that the court, not the jury, is to determine the amount to be awarded. Id., 449-51.

"The [purpose] of awarding [common law] punitive damages is not to punish the defendant for his offense, but to compensate the plaintiff for his injuries. . . . The rule in this state as to torts is that punitive damages are awarded when the evidence shows a reckless indifference to the rights of others or an intentional and wanton violation of those rights. . . . An award of punitive damages is discretionary, and the exercise of such discretion will not ordinarily be interfered with on appeal unless the abuse is manifest or injustice appears to have been done." (Internal quotation marks omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, 131 Conn. App. 99, 166, 30 A.3d 703, cert. granted, 303 Conn. 904, 31 A.3d 1179 (2011) (appeal withdrawn January 27, 2012), and cert. granted, 303 Conn. 905, 31 A.3d 1180 (2011) (appeal withdrawn January 26, 2012).

As an example, the court in *Bridgeport Harbour Place I, LLC*, upheld an award of common law punitive damages, explaining its reasoning as follows: "On the basis of the jury's finding against [the defendant] on the plaintiff's fraudulent misrepresentation claim, the [trial] court was satisfied that the plaintiff had proven

a reckless indifference to its contractual and business interests to warrant an award of punitive damages against [the defendant]. The [trial] court further found that the plaintiff's fee agreement with counsel was 30 percent of the first $6 million recovered and therefore the plaintiff was seeking $54,600 in attorney's fees. The [trial] court agreed with the plaintiff that it could consider its fee agreement with counsel to determine its award of attorney's fees. [The Appellate Court] conclude[d] that the [trial] court's award of attorney's fees did not constitute an abuse of its discretion, as it is consistent with the guidance provided by our Supreme Court." (Footnote omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App. 168, citing *Schoonmaker v. Lawrence Brunoli, Inc.*, 265 Conn. 210, 268-70, 828 A.2d 64 (2003), and *Sorrentino v. All Seasons Services, Inc.*, 245 Conn. 756, 773-77, 717 A.2d 150(1998).

As set forth above, the court is tasked with determining the amount of attorneys fees and costs to be awarded as common law punitive damages, following the jury's award of attorneys fees and costs. Awarding attorneys fees under the terms of a reasonable retainer agreement "protects the plaintiff's jury award by ensuring that the fees ordered are sufficient to cover the plaintiff's financial obligation, under the contingency fee agreement, to its attorney." *Schoonmaker v. Brunoli*, 265 Conn. at 210, 271 n.77 (2003). Based upon the court's review of the affidavit of Attorney James Horwitz and the agreement of the parties, the court finds that the terms of the plaintiffs' retainer agreements are reasonable.

"A trial court should not depart from a reasonable fee agreement in the absence of a persuasive demonstration that enforcing the agreement would result in substantial unfairness to the defendant." Schoonmaker 265 Conn. at 270 (quoting Sorrentino, 245 Conn. at 776). The defendants here urge the court to engage in such departure by awarding only nominal damages, essentially arguing that the size of the jury verdicts is punitive and serves to deter, and that the verdict already reflects the default sanction and is punishment enough. The court finds this argument unpersuasive. The law presumes that the jury followed the law set forth in their instructions. See, e.g., Willow Springs Condo. Ass'n, Inc. v. Seventh BRT Dev. Corp., 245 Conn. 1, 44, 717 A.2d 77 (1998) ("Absent clear evidence to the contrary, we assume that the jury acted in accordance with the charge."). The defendants also take the position that awarding more than nominal damages would serve a hardship on the defendants, including Free Speech Systems, LLC., which has filed for bankruptcy. The record does not support this conclusory claim of hardship with respect to Alex Jones, and the mere fact that Free Speech Systems, LLC. has filed for bankruptcy does not justify a nominal award of common law punitive damages. Thus, to the extent that the defendants argue that enforcing the retainer agreements would result in substantial unfairness to the defendants, the court is not persuaded. Additionally, the court rejects the defendants' due process argument for an award of nominal damages only, as on these facts, a common law punitive damages award limited to attorneys fees and costs pursuant to the terms of a reasonable retainer agreement comports with due process. Simply put, there is no sound reason

for the court not to fully compensate the plaintiffs for their financial obligations under their reasonable retainer agreements.

For the foregoing reasons, the court awards common law punitive damages as follows: As to Robert Parker, $40 million; as to David Wheeler, $18.33 million; as to Francine Wheeler, $18 million; as to Jacqueline Barden, $9.6 million; as to Mark Barden, $19.2 million; as to Nicole Hockley, $24.53 million; as to Ian Hockley, $27.2 million; as to Jennifer Hensel, $17.33 million; as to Donna Soto, $16 million; as to Carlee Soto Parisi, $22 million; as to Carlos Matthew Soto, $19.2 million; as to Jillian Soto-Marino, $22.93 million; as to William Aldenberg, $30 million; as to Erica Lafferty, $25.33 million; and as to William Sherlach, $12 million. Non-taxable costs are awarded to each plaintiff in the amount of $99,303.73, representing 1/15th of the plaintiffs' total claimed non-taxable costs of $1,489,555.94.

Punitive Damages Pursuant to the Connecticut Trade Practices Act (CUTPA), General Statutes § 42-110a et seq.

General Statutes § 42-110g provides in relevant part: "(a) Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action . . . to recover actual damages. . . . *The court may, in its discretion, award punitive damages* and may provide such equitable relief as it deems necessary or proper." (Emphasis added.)

"The language is clear and unambiguous; the awarding of punitive damages is within the discretion of the trial court." (Internal quotation marks omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, 131 Conn. App. 99, 139, 30 A.3d 703, cert. granted, 303 Conn. 904, 31 A.3d 1179 (2011) (appeal withdrawn January 27, 2012), and cert. granted, 303 Conn. 905, 31 A.3d 1180 (2011) (appeal withdrawn January 26, 2012).[6]

For various policy reasons, punitive damages under CUTPA are determined by the court, not the jury. "It is reasonable to conclude that the legislature provided that

---

6. The Supreme Court has held that punitive damages awarded pursuant to CUTPA are separate and distinct from awards of attorney's fees. "[T]he legislature did not intend to limit punitive damages awards pursuant to § 42-110g (d) to 'the expenses of bringing the legal action, including attorney's fees, less taxable costs. . . . Section 42-110g (a) expressly authorizes the trial court to award punitive damages in addition to the award of attorney's fees authorized by § 42-110g (d). Nothing in the language of the statute suggests that punitive damages are the same as attorney's fees, consistent with the common-law rule. If the legislature had intended to impose such a limitation, it presumably would have done so either by authorizing the trial court to award double attorney's fees or by authorizing it to award double punitive damages. The fact that the legislature enacted two distinct provisions indicates that it contemplated two distinct types of awards. . . . Moreover, as we have indicated, both this court and the Appellate Court have repeatedly, over the course of many years, upheld multiple damages under the punitive damages provision of CUTPA . . . and the legislature has never amended the statute to provide otherwise." (Citations omitted; footnote omitted; internal quotation marks omitted.) *Ulbrich v. Groth*, 310 Conn. 375, 449-50, 78 A.3d 76 (2013).

a claim for punitive damages under CUTPA should be submitted to the trial court, and not the jury, because it believed that the court would be aware of the range of punitive damages that have been awarded for similar CUTPA violations, that it would be less likely to be swayed by appeals to emotion and prejudice, and, therefore, it would be less likely to render an award that was an outlier. Cf. *Gill v. Petrazzuoli Bros., Inc.*, [10 Conn. App. 22, 34, 521 A.2d 212 (1987)] ("[t]o foreclose the possibility of prejudice entering the decision-making process, the award of attorney's fees [under CUTPA] has been placed in the hands of the court" instead of jury); see also *MedValUSA Health Programs, Inc. v. MemberWorks, Inc.*, [273 Conn. 634, 673-74, 872 A.2d 423] (*Zarella, J.*, dissenting) (legislature vested authority to make punitive damages award under CUTPA in court instead of in jury to safeguard against risk of excessive awards) [cert. denied sub nom. *Vertrue, Inc. v. MedValUSA Health Programs, Inc.*, 546 U.S. 960, 126 S. Ct. 479, 163 L. Ed. 2d 363 (2005)]. Accordingly, the concerns that underlie the common-law limitation on punitive damages have far less weight when the claim is submitted to the trial court instead of the jury." *Ulbrich v. Groth*, 310 Conn. 375, 451-52, 78 A.3d 76 (2013).

"Unlike punitive damages under Connecticut common law, punitive damages under CUTPA are focused on deterrence, rather than mere compensation. See *State Farm Mutual Automobile Ins. Co. v. Campbell*, 538 U.S. 408, 416, 123 S. Ct. 1513, 155 L. Ed. 2d 585 (2003) (punitive damages aimed at deterrence and retribution); *Larsen Chelsey Realty Co. v. Larsen*, 232 Conn. 480,

509, 656 A.2d 1009 (1995) (CUTPA remedy not limited to compensatory damages; court may award punitive damages and attorney's fees); *Lord v. Mansfield*, 50 Conn. App. 21, 27, 717 A.2d 267 (punitive damages intended not merely to deter defendant but to deter others from committing similar wrongs), cert. denied, 247 Conn. 943, 723 A.2d 321 (1998) [overruled on other grounds by *Hylton v. Gunter*, 313 Conn. 472, 97 A.3d 970 (2014)]; *Lenz v. CNA Assurance Co.*, 42 Conn. Sup. 514, 630 A.2d 1082 (1993) (financial circumstances of defendant relevant and material to deterrent of noncommon-law punitive damages)." *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App.

"Punitive damages [under CUTPA] must be proven by a preponderance of the evidence." Id., 141. "[W]hen considering punitive damages, the evidence must be relevant, or directly related to the plaintiff's ascertainable loss." Id., 143 (rejecting plaintiff's argument that court should have considered evidence of misconduct unrelated to plaintiff's damages in calculating punitive damages award under CUTPA). "[T]he nature of the [defendants'] conduct, the actual harm to the plaintiff and the harm the [defendants] intended to inflict are all relevant considerations." (Internal quotation marks omitted.) Id., 144. "In order to award punitive or exemplary damages, evidence must reveal a reckless indifference to the rights of others or an intentional and wanton violation of those rights. . . . In fact, the flavor of the basic requirement to justify an award of punitive damages is described in terms of wanton and malicious injury, evil motive and violence." (Internal quotation marks omitted.) *Ulbrich v. Groth*,

supra, 310 Conn. 446. "As compared to punitive damages under Connecticut common law, punitive damages under CUTPA are focused on deterrence, rather than mere compensation. . . . Consequently, the defendants' financial condition is a relevant consideration. Once deterrence rather than compensation becomes the focus of CUTPA punitive damages . . then the financial standing of the party against whom damages are sought becomes relevant and material." (Citation omitted; internal quotation marks omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App. 144.

Our appellate courts have discussed several specific approaches to the calculation of appropriate punitive damages awards pursuant to CUTPA. "[T]he Appellate Court has observed that awarding an amount equal to the plaintiff's actual damages is a recognized method for determining punitive damages under CUTPA. . . . It is not an abuse of discretion to award punitive damages based on a multiple of actual damages. . . . [C]ourts generally award punitive damages in amounts equal to actual damages or multiples of the actual damages. . . . . Indeed, it appears that in terms of consistency or frequency, punitive damages awards under CUTPA are generally equal to or twice the amount of the compensatory award." (Citations omitted; internal quotation marks omitted.) Id., 144-45.

In *Ulbrich v. Groth*, supra, 310 Conn. 452-53, the Supreme Court discussed considerations applicable to common law awards of punitive damages before turning to a discussion of appropriate considerations pertaining to such awards under CUTPA. It explained: "In [*Exxon*

Shipping Co. v. Baker, 554 U.S. 471, 128 S. Ct. 2605, 171 L. Ed. 2d 570 (2008)], the defendant challenged the size of a punitive damages award that the jury had rendered against it under maritime law. Id., 489. The court concluded that the limits on such awards fell 'within a federal court's jurisdiction to decide in the manner of a common law court. . . .' Id., 489-90. After reviewing the history of punitive damages under the common law and the standards and limitations that various jurisdictions have applied to them, the court in *Exxon Shipping Co.* observed that several studies had been done to determine 'the median ratio of punitive to compensatory verdicts, reflecting what juries and judges have considered reasonable across many hundreds of punitive awards.' Id., 512. 'These studies cover cases of the most as well as the least blameworthy conduct triggering punitive liability, from malice and avarice, down to recklessness, and even gross negligence in some jurisdictions. The data put the median ratio for the entire gamut of circumstances at less than 1:1 . . . meaning that the compensatory award exceeds the punitive award in most cases. In a well-functioning system, we would expect that awards at the median or lower would roughly express jurors' sense of reasonable penalties in cases with no earmarks of exceptional blameworthiness within the punishable spectrum (cases . . . without intentional or malicious conduct, and without behavior driven primarily by desire for gain, for example) and cases . . . without the modest economic harm or odds of detection that have opened the door to higher awards. It also seems fair to suppose that most of the unpredictable outlier cases that call the fairness of the system into question are above the median. . . . Accordingly, given the

need to protect against the possibility (and the disruptive cost to the legal system) of awards that are unpredictable and unnecessary, either for deterrence or for measured retribution, we consider that a 1:1 ratio, which is above the median award, is a fair upper limit in such maritime cases.' . . . Id., 512-13." *Ulbrich v. Groth*, supra, 310 Conn. 452-53.

In light of the differences between punitive damages claims under CUTPA and the punitive damages claims under maritime law at issue in *Exxon Shipping Co.*, the court in *Ulbrich* declined to adopt the same a one-to-one ratio of punitive damages to compensatory damages as an upper limit for punitive damages in CUTPA cases. Id., 453-54. Nevertheless, the court adopted the factors that were considered by the United States Supreme Court in *Exxon Shipping Co.* in determining whether the amount of punitive damages awarded pursuant to CUTPA is excessive. The court explained that "in determining whether a punitive damages award pursuant to § 42-110g (a) is so excessive as to constitute an abuse of discretion, the court should consider the factors that the court in *Exxon Shipping Co.* discussed. These include the 'degrees of relative blameworthiness,' i.e., whether the defendant's conduct was reckless, intentional or malicious; *Exxon Shipping Co. v. Baker*, supra, 554 U.S. 493; whether the defendant's '[a]ction [was] taken or omitted in order to augment profit'; id., 494; see also id., 503 (some courts consider whether wrongful conduct was profitable to defendant); whether the wrongdoing was hard to detect; id., 494; whether the injury and compensatory damages were small, providing a low incentive to bring the action; id.; and whether the award will deter the defendant and

others from similar conduct, without financially destroying the defendant. . . . Of these factors, reprehensibility of a defendant's conduct is the most important. . . . . Reprehensibility is determined by considering whether: the harm caused was physical as opposed to economic; the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; the target of the conduct had financial vulnerability; the conduct involved repeated actions or was an isolated incident; and the harm was the result of intentional malice, trickery, or deceit, or mere accident." (Citations omitted; footnotes omitted; internal quotation marks omitted.) *Ulbrich v. Groth*, supra, 310 Conn. 454-56.

"[I]n determining the amount of punitive damages, the court may consider that a frequent or consistent range of punitive damages awarded under CUTPA is a ratio that is equal to or twice the amount of the compensatory damages, and that particularly when it is claimed that the award should exceed this range, the award ordinarily should be premised on aggravating factors that are identifiable and articulable. . . . [W]hen high punitive damages are being claimed, a consideration of the normative range of punitive awards and an identification of articulable, aggravating factors supporting an award outside this range are wholly consistent with a reasonable exercise of the court's discretion to award punitive damages that are rational, predictable and consistent." (Internal quotation marks omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App. 146.

In awarding punitive damage awards that exceed the normative range, the court should, therefore, identify

"the factors that militate in favor of a high, rather than a low, award of punitive damages. . . ." See id. (noting that trial court, as directed by *Exxon Shipping Co.*, had identified such factors and concluding that court had not abused its discretion in awarding punitive damages in amount six times that of compensatory damage award). The court also may consider "the actual loss suffered by the [plaintiffs] and [whether] the compensatory damages awarded the [plaintiffs] militates against a high punitive damage award." Id., 146-47.

In *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App. 147-49, the Appellate Court explained that the trial court "found that among the more vexing, competing considerations presented to the court in determining the amount of the punitive award in this case is, on one hand, the issue of deterrence, particularly in light of the [defendants'] financial net worth, and on the other hand, the issue of the overall reasonableness and rationality of a high punitive award in light of the amount of the plaintiff's actual recovery and the considerations highlighted by [*Exxon Shipping Co. v. Baker*, supra, 554 U.S. 471, 128 S. Ct. 2605, 171 L. Ed. 2d 570] . . . [and] note[d] that because neither compensation nor enrichment is a valid purpose of punitive damages, an award should not be so large as to constitute a windfall to the individual litigant. . . .

"The court also was mindful that, in addition to statutory factors bearing on its discretion, a broader, threshold consideration is that high punitive awards may implicate constitutional concerns. In *Bristol Technology,*

Inc. v. Microsoft Corp., 114 F. Sup. 2d 59 (D. Conn. 2000), vacated on other grounds, 250 F.3d 152 (2d Cir. 2001), the District Court stated 'the United States Constitution imposes a substantive limit on the size of punitive damages awards. . . . This is because [p]unitive damages pose an acute danger of arbitrary deprivation of property. . . . Still, [i]n our federal system, States necessarily have considerable flexibility in determining the level of punitive damages that they will allow in different classes of cases and in any particular case. . . . Only when an award [of punitive damages] can fairly be categorized as grossly excessive in relation to [the State's legitimate interests in punishment and deterrence] does it enter the zone of arbitrariness that violates [due process].' . . . Id., 86.

"To satisfy federal due process concerns, the United States Supreme Court has 'instructed courts reviewing punitive damages to consider three guideposts: (1) the degree of reprehensibility of the defendant's misconduct; (2) the disparity between the actual or potential harm suffered by the plaintiff and the punitive damages award; and (3) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases.' *State Farm Mutual Automobile Ins. Co. v. Campbell*, supra, 538 U.S. 418. . . .

"The United States Supreme Court has 'been reluctant to identify concrete constitutional limits on the ratio between harm, or potential harm, to the plaintiff and the punitive damages award. . . . We decline again to impose a bright-line ratio which a punitive damages award cannot exceed. Our jurisprudence and the principles it has

now established demonstrate, however, that, in practice, few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process. In [*Pacific Mutual Life Ins. Co. v. Haslip*, 499 U.S. 1, 23-24, 111 S. Ct. 1032, 113 L. Ed. 2d 1 (1991)], in upholding a punitive damages award, we concluded that an award of more than four times the amount of compensatory damages might be close to the line of constitutional impropriety. . . . We cited that 4-to-1 ratio again in [*BMW of North America, Inc. v. Gore*, 517 U.S. 559, 581, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996)]. The Court further referenced a long legislative history, dating back over 700 years and going forward to today, providing for sanctions of double, treble, or quadruple damages to deter and punish. . . . While these ratios are not binding, they are instructive. They demonstrate what should be obvious: Single-digit multipliers are more likely to comport with due process, while still achieving the State's goals of deterrence and retribution, than awards with ratios in range of 500 to 1. . . .

"'Nonetheless, because there are no rigid benchmarks that a punitive damages award may not surpass, ratios greater than those we have previously upheld may comport with due process where a particularly egregious act has resulted in only a small amount of economic damages. . . . The converse is also true, however. When compensatory damages are substantial, then a lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee. The precise award in any case, of course, must be based upon the fact[s] and circumstances of the defendant's conduct and the harm to

the plaintiff.' . . . *State Farm Mutual Ins. Co. v. Campbell*, supra, 538 U.S. 424-25." (Citation omitted; internal quotation marks omitted.) *Bridgeport Harbour Place I, LLC v. Ganim*, supra, 131 Conn. App. 147-49.

In *Ulbrich v. Groth*, supra, 310 Conn. 446-47, the Supreme Court held that the trial court's award of punitive damages under CUTPA was not an abuse of discretion where the trial court reasonably could have found that the defendant's conduct was reckless. Id. (jury reasonably could have found that defendant bank's failure to inform plaintiffs that personal property located at property at time of auction was not included in sale "was not merely negligent, but involved a conscious decision to disregard acknowledged business norms" and gave rise to "substantial and unjustifiable" risk that plaintiffs would act on misleading information). Specifically, the court explained that "the trial court concluded that the best characterization of the bank's conduct . . . is that it proceeded with reckless or wilful ignorance and indifference to the risks that its conduct posed to prospective bidders; that its conduct was inherently deceptive to bidders; that its effort to maximize the bids by including the business property as part of the auction was beneficial to the bank's interests; and that the bank had a high net worth. On the other hand, the court also recognized that the jury's compensatory damages award was not small, that the bank's conduct was not of a criminal nature and that the punitive damages award should not constitute a windfall to the plaintiffs. In addition, we note that there was no evidence that the bank's conduct constituted anything other than an isolated incident." (Internal quotation marks omitted.) Id., 456.

"Although the trial court's punitive damages award in [*Ulbrich*] undoubtedly was a large one, especially in light of the large size of the compensatory damages award, [the Supreme Court could not] conclude that the award constituted a manifest abuse of discretion or that an injustice was done. . . . Rather, [the Supreme Court concluded] that the trial court reasonably could have concluded that the bank's reckless and deceptive conduct, together with the fact that the motive for the conduct was to increase the profitability of the auction to the bank, the fact that the bank has a very high net worth and the fact that there is an established practice in this state of awarding multiple damages for CUTPA violations, warranted the amount of the award. Accordingly, [the Supreme Court concluded] that the size of the trial court's punitive damages award [which was three times the compensatory award] did not constitute an abuse of discretion." (Citation omitted; footnote omitted.) Id., 456-57.

Here, the material allegations of the complaints, which have been established by virtue of the defaults, entitle the plaintiffs to an award of CUPTA punitive damages. In support of their claim for CUTPA punitive damages, the plaintiffs, in their briefs, support each Ulbrich factor with specific citations to the record. The defendants, in taking the position that there should be either no award of CUTPA punitive damages, or only a nominal award, advance some of the same arguments raised in their opposition to a common law punitive damages award, arguing that the verdict reflects the nature of the plaintiffs' arguments at trial, that the future deterrent

value of the verdict overlaps with the function of a punitive damages award under CUPTA, that any award beyond a 1:1 ration violates due process, that any award in excess of $1.3 billion serves no lawful purpose, and that the record is devoid of evidence regarding the defendants' financial resources such that the court cannot properly determine an amount of punitive damages necessary for deterrence.

In considering whether the defendants' actions were taken in order to augment profits, the court finds that despite the defendants' abject failure to meet their obligations to fully and fairly comply with discovery—and despite the defendants' failure to produce a knowledgeable corporate representative armed with sufficient information-the plaintiffs clearly established that the defendants' conduct was motivated by profit, by virtue of the convincing evidence including the text messages between Alex Jones and Tim Fruge regarding daily sales figures, the business model used by the defendants whereby they emulated content including Sandy Hook content to reap more profits, the expert testimony of Clint Watts that Jones' use of Sandy Hook engaged the audience and drove up sales and profit, the spikes in sales revenue following the article "FBI Says No One Killed at Sandy Hook," and their use of the plaintiffs even during the trial to make money.

With respect to whether the wrongdoing was hard to detect, the defendants' concealment of their conduct and wrongdoing, by virtue of their stunningly cavalier attitude toward both their discovery obligations and court orders regarding discovery throughout the entire pendency of

the case, their unprepared corporate representative, and intentional discovery abuses, militates in favor of a substantial award of punitive damages.

In addressing the size of the injuries and compensatory damages awards, and low incentive to bring the action, the court concludes that despite the magnitude of the injuries and ultimate outcome, there was a low incentive to bring and maintain an action like this. The road to reach a verdict here was a tortuous one, involving an unusual number of appeals, an extraordinary number of court filings, and numerous forays into federal court including bankruptcy court. Moreover, the trial record establishes that the defendants remain in the unique position of having-and continuing to utilize-an immense media platform and audience to continue to target the plaintiffs, as well as mocking the plaintiffs' attorneys, the court, and the very jury that they selected. It is, quite simply, unprecedented in American jurisprudence, and the court reaches the inescapable conclusion that despite the magnitude of the harms caused to the plaintiffs, there is little incentive to bring an action like this against defendants such as these defendants, who have continued to use their platform to attack.

With respect to deterrence, the defendants' financial resources, and whether the award would financially destroy the defendants, the court bases its decision on the record before it, including its findings of concealed financial records and analytics, sanitized trial balances, sales following the FBI article, and the defendants' intentional choice to produce an unprepared corporate designee, who,

when asked how much money the defendants earned since 2012, could only provide an estimate between over $100 million and up to $1 billion.

Finally, the court turns to the most important consideration – the degrees or relative blameworthiness, that is, whether the defendants' conduct was reckless, intentional, or malicious. The record clearly supports the plaintiffs' argument that the defendants' conduct was intentional and malicious, and certain to cause harm by virtue of their infrastructure, ability to spread content, and massive audience including the "infowarriors." The record also establishes that the defendants repeated the conduct and attacks on the plaintiffs for nearly a decade, including during the trial, wanton, malicious, and heinous conduct that caused harm to the plaintiffs. This depravity, and cruel, persistent course of conduct by the defendants establishes the highest degree of reprehensibility and blameworthiness.

The court recognizes that generally speaking, an award of punitive damages under CUTPA is equal to or double the amount of the compensatory award. Here, the court, having considered all the pertinent factors under the law as well as the substantial nature of the compensatory damages award, finds that a lesser ratio is appropriate. Having considered the factors in light of the record before the court, the court awards the sum of $10 million in CUTPA punitive damages to each of the fifteen plaintiffs.

Appendix C

Conclusion

In conclusion, the court awards common law punitive damages for attorneys fees in the total amount of $321,650,000.00 and costs in the total amount of $1,489,555.94, and awards CUTPA punitive damages in the amount of $150,000,000.00.

421277

Barbara N. Bellis

APPENDIX D — ORDER OF THE SUPERIOR COURT FOR THE JUDICIAL DISTRICT OF WATERBURY, DATED DECEMBER 24, 2021

SUPERIOR COURT
JUDICIAL DISTRICT OF WATERBURY
AT WATERBURY

DOCKET NO: UWYCV186046436S

LAFFERTY, ERICA *Et Al*

v.

JONES, ALEX EMRIC *Et Al*

12/24/2021

ORDER

ORDER REGARDING:
12/13/2021 620.00 OBJECTION

The foregoing, having been considered by the Court, is hereby:

ORDER:

Sustained in part and overruled in part. While the court finds that the notice of defenses are otherwise adequate under the law, the Alex Jones defendants are prohibited from contesting liability or raising affirmative defenses in light of the disciplinary default entered against them.

Therefore, the notice of defenses is stricken, and the case will proceed as a hearing in damages as to these defendants.

Judicial Notice (JDNO) was sent regarding this order.

421277
Judge: BARBARA N BELLIS

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (https://jud.ct.gov/external/super/E-Services/e-standards.pdf), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.

APPENDIX E — OPINION OF THE SUPERIOR COURT FOR THE JUDICIAL DISTRICT OF WATERBURY, CONNECTICUT, FILED NOVEMBER 15, 2021

SUPERIOR COURT
JUDICIAL DISTRICT OF WATERBURY
AT WATERBURY, CONNECTICUT

X06 UWY CV18-6046436-S

ERICA LAFFERTY, *et al*
v
ALEX EMRIC JONES, *et al*

X06 UWY CV18-6046437-S

WILLIAM SHERLACH, *et al*
v
ALEX EMRIC JONES, *et al*

X06 UWY CV18-6046438-S

WILLIAM SHERLACH, *et al*
v
ALEX EMRIC JONES, *et al*

NOVEMBER 15, 2021

Appendix E

COURT'S RULING

BEFORE:

THE HONORABLE BARBARA N. BELLIS, JUDGE

THE COURT: All right. So I will order a copy of the transcript of the following ruling, and I will sign it and I will place it in the court file as my decision for the purposes of any appeal.

So I'll first address the Clinton deposition issue and the conduct of July 1, 2021. In the July 19, 2021 court filing by the defendants Infowars, LLC, Free Speech Systems, LLC, Infowars Health, LLC and Prison Planet, LLC, they described how in the motion to depose Hillary Clinton, testimony designated by the plaintiffs as highly confidential was filed in the Clinton deposition motion. They explained that this was done because in their opinion, the plaintiffs did not have a good-faith basis to designate the deposition as highly confidential before the deposition had commenced, despite the fact that the Jones defendants had previously done so themselves. And it is not lost on the Court that the highly confidential information was improperly filed in the middle of the first deposition of a plaintiff.

The July 19, 2021 filing is in sharp contrast to the Jones defendants' position at the October 20, 2021 sanctions hearing where the Court addressed what, if any, sanctions should enter. At the October 20 hearing, the Jones defendants claim they could publish confidential

information as long as they did not reveal the name of the witness. That is, they argued unconvincingly that they didn't understand the very protective order that they themselves drafted and asked the Court to approve as a Court order, which the Court did.

The position of the Jones defendants at the October 20, 2021 sanctions hearing did nothing but reinforce the Court's August 5th, 2021 order and findings that the cavalier actions on July 1st, 2021 constituted willful misconduct and violated the Court's clear and unambiguous protective order.

The history of the attorneys who have appeared for the defendants, Alex Jones, Infowars, LLC, Free Speech Systems, LLC, Infowars Health, LLC and Prison Planet TV, LLC is a convoluted one, even putting aside the motions to withdraw appearance, the claims of conflict of interest and the motions for stay advanced by these five defendants.

As the record reflects, on June 28, 2018, Attorney Wolman appeared for all five of the Jones defendants. Eight months later, on March 1st, 2019, Attorney Wolman is out of the case and Pattis & Smith filed an in-lieu-of appearance for all five defendants. On February 24, 2020, Attorney Latonica also appeared for all five defendants. Five months later on July 7, 2020, Attorney Latonica and Pattis & Smith is now out of the case and Attorney Wolman is back in the case for all five defendants. Then on June 28, 2020, Pattis and Smith is back in the case, but now only appears for the four LLC defendants.

But what is perhaps more significant is the transparent attempt to cloud the issues by Pattis & Smith, for example, by listing the names of only three of the four clients they represent when filing the motion to take the deposition of Hillary Clinton and then listing all four clients in the July 19, 2021 filing relating to the issue. And by Attorney Wolman who then argued in his October 20, 2021 file that Infowars, LLC had no involvement in the motion for commission because their lawyer did not list their name on the motion. It is simply improper under our rules of practice for an attorney to do so.

Turning to the issue of the subsidiary ledgers. The five Jones defendants on November 6, 2020 filed with the Court their discovery objections relating to the deposition of Free Speech Systems' accounting manager and current employee, Melinda Flores. In response to the plaintiff's request for subsidiary ledgers, the Jones defendants objected on the basis that the production of the subsidiary ledgers was oppressive, unduly burdensome, disproportionate, harassing and that it will require digging through eight years of accounting. No objection was raised as to the term "subsidiary ledger", although parties frequently will object to a discovery request if they consider it vague or confusing.

On April 29, 2021, the Court overruled the objection. On May 6, 2021, the Court ordered the deposition of Flores to take place on June 4, 2021 and ordered the documents to be produced by the close of business on May 14, 2021 stating that failure to comply may result in sanctions.

Appendix E

On May 14, 2021, the five Jones defendants responded to the document request and Court order and stating that the subsidiary ledgers were incorporated into the trial balances and had been produced.

At her June 4, 2021 deposition, Flores, the accounting manager, testified that subsidiary ledgers or detail was easily accessible and available to her. She testified that it would show the sources of advertising income and she testified repeatedly that Free Speech Systems maintained subsidiary ledger information. Flores did not believe she was obligated to produce the subsidiary ledgers, and it is unclear as to whether they have been produced.

It was impossible to reconcile the expert hired by Free Speech Systems with the November 6, 2020 objections filed with the Court and with Flores' deposition testimony. While the Jones defendants in their May 5th, 2021 motion state that Flores would be the best employee to identify and produce the requested documents and further state that Flores would be compelled by Free Speech Systems to produce the requested documents at the deposition, the defendants hired expert, Mr. Roe, said that Flores was wrong and that Free Speech Systems doesn't use or have subsidiary ledgers.

The Court, in its August 6, 2021 order, found that the subsidiary ledger information was easily accessible by Flores by clicking on each general account, that, despite the Court orders and although the information exists and is maintained by Free Speech Systems and was required by the Court order to be produced, it had not

been produced. And, again, it is still unclear as to what documents have been produced.

The Court rejected Roe's statements in his affidavit as not credible in light of the circumstances. The Court found that the plaintiffs were prejudiced in their ability to prosecute their claims and conduct further meaningful depositions and that sanctions would be addressed at a future hearing.

At the October, 2021 sanctions hearing, the Court addressed whether sanctions should enter. The Court finds that sanctions are, in fact, appropriate in light of the defendant's failure to fully and fairly comply with the plaintiff's discovery request and the Court's orders of April 29, 2021, May 6, 2021 and August 6, 2021.

Turning to the trial balances. In addition to objecting to the deposition of Flores, the Jones defendants, as I mentioned, filed discovery objections to the request for production directed to Flores. The Court ruled in favor of the defendants on one production request and ruled in favor of the plaintiffs with respect to others.

In addition to the subsidiary ledgers, the Court ordered production of the trial balances. Flores had run trial balances in the past unrelated to this action. Flores testified at her June 4, 2021 deposition that she personally accessed Quick Books and selected the option to generate trial balances for 2012 to 2019. She testified that she ran the reports and printed them out and believed that the reports were produced. Her testimony the reports that

she ran were produced was left uncorrected by counsel at the deposition.

The reports were not produced by the Court-ordered deadline of May 14, 2021. They were not produced at her June 4, 2021 deposition, and they have not been produced to date, despite their obligation to do so.

While the Jones defendants, in their May 5, 2021 Court filing, emphasized that Flores would be the best employee to identify and produce the requested documents which would include the trial balances and that Flares would be compelled by Free Speech Systems to produce the documents at her deposition, not only were the reports not produced, but the Jones defendants in their October 7, 2021 filing now claim that Flores, a mere bookkeeper, provided flawed information to the defendants that the defendants, through Roe, had to correct. And the Court rejects that position.

The Jones defendants argue that Roe combined some accounts that were not used consistently and consolidated some general accounts because various transactions all involved the same account and those records created by the Jones defendants' outside accountant were the records that were produced. But these records that removed accounts and consolidated accounts altered the information in the reports that their own accounting manager had produced, and they contain trial balances that did not balance. These sanitized, inaccurate records created by Roe were simply not responsive to the plaintiff's request or to the Court's order.

Turning to the analytics. The date for the parties to exchange written discovery has passed after numerous extensions by the Court. On May 14, 2021, the Court ordered that the defendants were obligated to fully and fairly comply with the plaintiff's earlier request for disclosure and production.

On June 1, 2021, the defendants filed an emergency motion for protective order apparently seeking protection from the Court's own order where the defendants again attempted to argue the scope of appropriate discovery.

The Court, on June 2, 2021, declined to do so and extended the deadline for final compliance to June 28, 2021 ordering the defendants to begin to comply immediately on a rolling basis. In its June 2nd order, the Court warned that failure to comply would result in sanctions including default.

With respect to analytics, including Google Analytics and social media Analytics, the defendants on May 7, 2019 represented that they had provided all the analytics that they had. They stated with respect to Google Analytics that they had access to Google Analytics reports, but did not regularly use them. As the Court previously set forth in its September 30, 2021 order, the defendants also claim that on June 17, 2019, they informally emailed zip files containing Google Analytics reports to the plaintiffs, but not the codefendants, an email the plaintiffs state they did not receive and that the Court found would not have been in compliance with our rules of practice.

Appendix E

On June 28, 2021, the Jones defendants filed a notice of compliance stating that complete final supplemental compliance was made by the defendants, Alex Jones and Free Speech Systems, LLC and that Infowars, LLC, Infowars Health, LLC and Prison Planet, LLC, quote: Had previously produced all documents required to be produced, end quote, representing that with respect to the Google Analytics documents, Free Speech Systems, LLC could not export the dataset and that the only way they could comply was through the sandbox approach.

Then on August 8, 2021, the Jones defendants for the first time formally produced Excel spreadsheets limited to Google Analytics apparently for Infowars dot com and not for any of the other websites such as Prison Planet TV or Infowars Health. Importantly, the Jones defendants to date have still not produced any analytics data from any other platform such as Alexa, Comcast or Criteo.

The Jones defendants production of the social media analytics has similarly been insubstantial and similarly has fallen far short both procedurally and substantively, despite prior representations by the Jones defendants that they had produced the social media analytics and despite the May 25, 2021 deposition testimony of Louis Certucci, Free Speech Systems social media manager for nearly a decade, that there were no such documents.

At the June 28, 2021 deposition of Free Speech Systems corporate designee Zimmerman, Mr. Zimmerman testified that, in fact, he had obtained some responsive documents from Certucci which were then loaded into a deposition

chat room by counsel for the Jones defendants. It appears that these documents were minimal summaries or reports for Facebook and Twitter, but not for other platforms used by the defendants such as You Tube.

Any claim of the defendants that the failure to produce these documents was inadvertent falls flat as there was no evidence submitted to the Court that the defendants had a reasonable procedure in place to compile responsive materials within their power, possession or knowledge.

Months later, on October 8, 2021, the Jones defendants formally produced six documents for the spring of 2017 for Facebook containing similar information to the Zimmerman chat room documents, but not included in the chat room documents and screen shots of posts by Free Speech Systems to an unidentified social media account with no analytics.

The defendants represented that they had produced all the analytics when they had not done so. They represented in court filings that they did not rely on social media analytics and this, too, is false.

I'm going to need to take a thirty second water break, please.

(A short break in the proceedings occurred.)

This response was false. The plaintiffs in support of their motion for sanctions on the analytics issue attached as exhibit D, an email dated December 15, 2014 between

former Free Speech Systems business manager Timothy Fruge and current Free Speech Systems employee Buckley Hamman. Fruge attaches annotated charts of detailed analytics concerning Jones' 2014 social media audience including gender demographics engagement and social media sites that refer people to Infowars dot com. As pointed out by the plaintiffs, Fruge's annotations are even more telling than the charts themselves and totally contradict the Jones defendants misrepresentations to the Court that, quote: There is no evidence to suggest that Mr. Jones or Free Speech Systems ever used these analytics to drive content, end quote.

The next image on the document shows key indicators on Twitter. Those are engagement and influence. Again, this is reading from Fruge's notes. Again, the next image shows the key indicators on Twitter. Those are engagement and influence. Notice our influence is great and our engagement is low. bring this up—again these are Fruge's notes -because we should try and raise our engagement with our audience. Engagement is how well we are communicating and interacting with our audience. The higher our engagement, the more valuable our audience will become to our business. And that is the end of Fruge's notes.

I would note that regardless of this reliance on social media analytics, the concept is simple. The defendants were ordered to produce the documents and our law requires them to produce information within their knowledge, possession or power. Discovery is not supposed to be a guessing game. What the Jones defendants have

produced by way of analytics is not even remotely full and fair compliance required under our rules.

The Court finds that the Jones defendants have withheld analytics and information that is critical to the plaintiff's ability to conduct meaningful discovery and to prosecute their claims. This callous disregard of their obligations to fully and fairly comply with discovery and Court orders on its own merits a default against the Jones defendants.

Neither the Court nor the parties can expect perfection when it comes to the discovery process. What is required, however, and what all parties are entitled to is fundamental fairness that the other side produces that information which is within their knowledge, possession and power and that the other side meet its continuing duty to disclose additional or new material and amend prior compliance when it is incorrect.

Here the Jones defendants were not just careless. Their failure to produce critical documents, their disregard for the discovery process and procedure and for Court orders is a pattern of obstructive conduct that interferes with the ability of the plaintiffs to conduct meaningful discovery and prevents the plaintiffs from properly prosecuting their claims.

The Court held off on scheduling this sanctions hearing in the hopes that many of these problems would be corrected and that the Jones defendants would ultimately comply with their discovery obligations and numerous Court orders, and they have not.

In addressing the sanctions that should enter here, the Court is not punishing the defendants. The Court also recognizes that a sanction of default is one of last resort. This Court previously sanctioned the defendants not by entering a default, but by a lesser sanction, the preclusion of the defendant's special motions to dismiss. At this point entering other lesser sanctions such as monetary sanctions, the preclusion of evidence or the establishment of facts is inadequate given the scope and extent of the discovery material that the defendants have failed to produce.

As pointed out by the plaintiffs, they are attempting to conduct discovery on what the defendants publish and the defendants' revenue. And the failure of the defendants to produce the analytics impacts the ability of the plaintiffs to address what is published and the defendants failure to produce the financial records such as sub-ledgers and trial balances affects the ability of the plaintiffs to address the defendants' revenue. The prejudice suffered by the plaintiffs, who had the right to conduct appropriate, meaningful discovery so they could prosecute their claims again, was caused by the Jones defendants willful noncompliance, that is, the Jones defendants failure to produce critical material information that the plaintiff needed to prove their claims.

For these reasons, the Court is entering a default against the defendants Alex Jones, Infowars, LLC, Free Speech Systems, LLO, Infowars Health, LLC and Prison Planet TV, LLC. The case will proceed as a hearing in damages as to the defendants. The Court notes Mr. Jones

is sole controlling authority of all the defendants, and that the defendants filed motions and signed off on their discovery issues jointly. And all the defendants have failed to fully and fairly comply with their discovery obligations.

As I said, I will order a copy of the transcript. I will sign it and I will file it in the Court as the Court's order.

/s/_____
Bellis, J.

APPENDIX F — TRIAL COURT ORDER OF THE SUPERIOR COURT OF THE JUDICIAL DISTRICT OF WATERBURY AT WATERBURY, CONNECTICUT, DATED AUGUST 5, 2021

SUPERIOR COURT, JUDICIAL DISTRICT OF WATERBURY AT WATERBURY, CONNECTICUT

DOCKET NO: UWYCV186046436S

ORDER 421277

LAFFERTY, ERICA *et al.*

v.

JONES, ALEX EMRIC *et al.*

August 5, 2021

ORDER

ORDER REGARDING:
July 6, 2021 394.00 MOTION FOR ORDER

The foregoing, having been considered by the Court, is hereby:

ORDER:

By written stipulation, and unless the court orders otherwise, parties can agree to modify discovery procedures. See Connecticut Practice Book Section 13-32. In these consolidated cases, the defendants Alex Jones,

Appendix F

Free Speech Systems, LLC, Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC ("the Jones defendants") did just that. Additionally, they took their agreement with the plaintiffs a step further and asked the court to issue a protective order pursuant to Practice Book Section 13-5 and approve their joint discovery stipulation. The Jones defendants filed no less than three versions of a proposed protective order for the court's approval, see entry numbers 177,181,183, and 185, asserting that they were asking for the same discovery protection that would have been in place in federal court had the cases not been remanded back to state court. They indicated, correctly, that discovery materials are not filed with the court and as such are not ordinarily available to the public. The court ultimately approved the stipulation of the parties, which complied with all relevant requirements of the Connecticut Practice Book and which, inter alia, set forth the procedure by which sensitive confidential information obtained through pretrial discovery would be handled and, if necessary, filed with the court. The order provided that of all or part of a deposition transcript could be designated as confidential by counsel for the deponent or designated party, by requesting such treatment on the record at the deposition or in writing no later than thirty days after the date of the deposition. It set forth simple procedures by which the designation of "confidential" could be subsequently challenged, and how confidential information could be filed with the court. Importantly for the purposes of this motion, the protective order clearly prohibited discovery information designated as confidential from being filed with the court until such time that the court had ruled on the designating party's motion

under Practice Book Section 11-20A. The Jones defendants did not oppose the plaintiffs' June 8,2021 motion to modify the protective order, which recited a good cause basis for the modification and which added a "Confidential-Attorneys Eyes Only" designation to the above mentioned procedures. Based upon the written motions filed by the plaintiffs and the Jones defendants, the court, in entering the protective orders, found good cause for both the issuance of the original protective order and its modification. In support of the motion for protective order, the Jones defendants identified their privacy interests in sensitive proprietary information including proprietary business, financial, and competitive information that they maintain as trade secrets, proprietary business and marketing plans, marketing data, web analytics, sales analytics, and/or other web traffic data, and marketing data or analytics. They referred to the "unique" business model that makes them competitive and successful. The plaintiffs, in support of the modification to the protective order, identified their privacy interests in their medical histories, psychiatric records,and private social media accounts. In the midst of taking the first deposition of a plaintiff, the defendants Free Speech Systems LLC, Infowars LLC, Infowars Health LLC, and Prison Planet TV LLC (Infowars),filed a motion to depose Hillary Clinton, using deposition testimony that had just been designated as "Confidential-Attorneys Eyes Only," and completely disregarding the court ordered procedures. At no point prior to filing the Clinton motion did Infowars profess ignorance of the procedures they had proposed and which were court ordered to be followed, nor have they since taken any steps to correct their improper filing. If

Infowars was of the opinion that the plaintiffs' designation was unreasonable and not made in good faith, the solution was to follow the court ordered procedure to challenge the designation, not to blatantly disregard it and make the confidential information available on the internet by filing it in the court file. The court rejects Infowars' baseless argument that there was no good cause to issue the protective orders, where both sides recited, in writing, detailed justification for a good cause basis. In short, Infowars, having advocated for a court ordered protective order, filing no less than three versions, having recited in writing the good cause bases for the issuance of the protective order, and having no objection to the plaintiffs' proposed modification, now takes the absurd position that the court ordered protective order circumvents the good cause requirements of Practice Book 13-5, did not need to be complied with, and should not be enforced by the court. This argument is frightening. Given the cavalier actions and willful misconduct of Infowars in filing protected deposition information during the actual deposition, this court has grave concerns that their actions, in the future, will have a chilling effect on the testimony of witnesses who would be rightfully concerned that their confidential information, including their psychiatric and medical histories, would be made available to the public. The court will address sanctions at a future hearing.

Judicial Notice (JDNO) was sent regarding this order.

421277

Judge: BARBARA N BELLIS

Appendix F

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (https://jud.ct.gov/external/super/E-Services/e-standards.pdf), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.

APPENDIX G — RELEVANT CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Appendix G

Fourteenth Amendment §1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

APPENDIX H — PETITION FOR CERTIFICATION OF THE SUPREME COURT, STATE OF CONNECTICUT, FILED JANUARY 21, 2025

SUPREME COURT
STATE OF CONNECTICUT

PSC_____
AC 46131, 46132 and 46133

ERICA LAFFERTY, *et al.*

v.

ALEX E. JONES, *et al.*

Filed January 21, 2025

PETITION FOR CERTIFICATION

> TRIAL COURT: . . . . *I don't think that we need to talk about the Second Amendment, the First - I want to steer – this is a hearing in damages. I don't want to hear about the Second Amendment, First Amendment. President's, elections*. A244-45.

I. INTRODUCTION

Pursuant to Practice Book § 84-1 et seq., Defendants Alex Jones and his company, Free Speech Systems, LLC (collectively, "Jones"), respectfully petition the Supreme Court of the State of Connecticut to appeal from the decision of the Appellate Court entered in this case on

December 10, 2024, and reported at *Lafferty v. Jones*, 229 Conn. App. 487, 537 (2024), and attached hereto at appendix page A159.

Defendants seek certification of issues relating to protections and rights the U.S. and Connecticut Constitutions' guarantees which, for different reasons, the trial court denied, and the Appellate Court refused to consider. This resulted in an award against media defendant Jones of $1,436,620,000, believed the largest in Connecticut history. Although the victims of the Sandy Hook tragedy were 20 young children and 6 adult teachers/administrators, suit was brought by various family members of eight of the victims, including parents, siblings, daughters, and husbands, and one of hundreds of law enforcement officers, none of whom had Constitutional standing. Although no Plaintiff was identified by name (with two limited exceptions), all claimed to have been defamed by unspecified and/or partially specified opinions of Jones, one of Jones's guests, and actions allegedly taken by unaffiliated third parties about the very public aftermath of Sandy Hook and the gun control efforts it spawned. The legal validity of those claims was never determined by a fact finder because the trial court entered "Death Penalty Sanctions" that, in violation of the U.S. and Connecticut Constitutions, judicially decreed liability and damage causation for everything pleaded by Plaintiffs, including falsity, fault, malice, damage and responsibility for opinions of a guest and actions of unknown "listeners." Two of the three specified reasons for sanctions were tied to the CUTPA claim, which the Appellate Court reversed.

II. STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

1. In connection with this media case brought by public figure plaintiffs, against a media defendant, regarding matters of public concern, did it violate U.S. and Connecticut Constitutions (collectively, "Constitutions") and/or state policies for the trial court to issue sanctions and associated jury instructions curtailing and/or eliminating what Plaintiffs were Constitutionally required to prove and/or the burdens of proof by which they were to be proved (including a judicial decree that statements were not opinions, their falsity, Jones's fault, Plaintiffs' damages in fact, and punitive damages).

2. Can this Court, which is Constitutionally required to independently review the entire record to ensure Constitutional facts were proven, do so when the Sanctions and the record do not otherwise provide such support.

3. Did it violate the Constitutions and/or state policies to allow Plaintiffs to bring defamation and related claims for (i) expressed opinions about an event for Plaintiffs unnamed in publications; (ii) opinions and statements made by guests; and (iii) actions taken by alleged listeners.

4. Did it violate the Constitutional protections and/or state policies to allow Plaintiffs, who lacked constitutional standing to assert, and be awarded, presumed damages when libel *per se* is not available regarding a media defendant, and Plaintiffs had not validly (i) pleaded and

proved libel *per se* or libel *per quod*, or particularized harm of a pecuniary nature, (ii) received "Double Recoveries," (iii) excessive damages and (iv) in the case of intentional infliction, were awarded unconstitutional damages based on a negligence standard.

5. In connection with this media case, did it violate the Constitutions and/or state policies to issue sanctions and associated jury instructions when the sanctions were associated with an improperly asserted CUTPA claim and/or were excessively punitive, especially when lesser sanctions were available and/or the underlying requests were substantially complied with.

III. BRIEF HISTORY OF THE CASE

In May 2018, five years after the Sandy Hook tragedy, Plaintiffs filed suit against Jones and others [A1] asserting causes of action for (i) invasion of privacy, (ii) defamation and defamation *per se*, (iii) intentional infliction of emotional distress, and (iv) CUTPA (the "Claims"). *Id.* At a hearing on November 15, 2021 [A89; hereafter "Sanctions Transcript], the trial court entered "death penalty sanctions" ("Sanctions") judicially decreing Jones liable to all Plaintiffs for all claims. Jones filed a notice of defenses [A106] which the trial court struck because of the Sanctions.

Plaintiffs admit Jones is a media defendant. [A1, A3, A4, A5]. As such, he was entitled to all protections afforded media defendants by the Constitutions. The Sandy Hook murders garnered global coverage, prompted

controversial public cries for gun control, and resulted in were untold scores of public reports/comments about perceived anomalies and inconsistencies in published accounts of the tragedy and its aftermath. These, in turn, lead many commentators to express opinions suggesting that some aspects of reporting may have been a "hoax." These were matters of public concern and controversy.

Plaintiffs became public figures, including by voluntarily interjecting themselves into these public controversies and concerns by (i) filing suits (including against the perpetrator's mother, the school, and the gun manufacturer), (ii) giving scores of public interviews, (iii) making public statements, (iv) forming or joining advocacy campaigns, (v) attending and being recognized at highly public events such as President Barack Obama's 2013 State of the Union address and the 2016 Democratic National Convention; and (vi) being awarded presidential medals.

The jury in the ensuing "damages-only" trial, was repeatedly instructed [A112] that the trial court had previously determined all aspects of liability and causation as pleaded by Plaintiffs, including that all statements attributed to Jones (i) were "lies" [A126], (ii) actually said by Jones, (iii) false, (iv) defamatory, and (v) made with legal malice. The jury was further instructed Jones was legally responsible for guest's statements [A118] and everything any possible "listener" may have perpetrated [A126] and to " . . . consider that it is already established that the defendants' conduct was extreme and outrageous." A132. There was no proof establishing these.

The jury was instructed that Plaintiffs were presumed to have been damaged [A113; 123–29; 131; 133] and that causation of those damages had been judicially determined, obviating need of proof. A126–27; 129. Those instructions within the Charge are collectively called "Jury Instructions." The verdict and ensuing judgment was awarded in four groups for all causes: "**defamation/slander damages**" (which included emotional distress) of $403,600,000; "**emotional distress damages**" of $561,400,000; **common law punitive damages** of $321,620,000; and **CUTPA punitive damages** of $150,000,000. A142-56.

On appeal, the Appellate Court determined (i) Sanctions were appropriate; (ii) constitutional issues were waived due to inadequate briefing; and (iii) Plaintiffs had no CUTPA cause of action.

The Appellate Court did not specifically decide the questions presented for review in this petition. Nevertheless, the size and interconnected nature of the Constitutional claims with procedural default rules makes this an important case for this state's jurisprudence.

IV. ARGUMENT

This case is virtually identical to *Gleason v. Smolinski*, 319 Conn. 394, 396 (2015) in which review was granted for claims pursuant to *State v. Golding*, 213 Conn. 233, 239-40 (1989) and *In re Yasiel R.*, 317 Conn. 773, 781 (2015). The record is adequate to review the alleged claim of error as the Complaint [A1], given the Death

Penalty Sanctions Transcript [A89] and Jury Charge [A112]. The numerous claims and defenses Jones was denied are all of constitutional magnitude alleging the violation of fundamental rights. For example, in violation of constitutional rules, Plaintiffs were not required to prove falsity or fault and certainly did not have to prove them by clear and convincing evidence as constitutionally required. *Phila. Newspapers v. Hepps*, 475 U.S. 767, 775-76 (1986). These constitutional violations clearly exist and deprived Jones of a fair trial. Given U.S. and Connecticut Supreme Court authorities cited hereafter, the errors were not harmless, and Plaintiffs cannot demonstrate their harmlessness beyond a reasonable doubt. *Gleason* at 402 n. 10.

Review is also warranted under the "plain error review" set forth under Practice Book § 60-5 because the unaddressed issues implicate interests of fundamental justice. *Lynch v. Granby Holdings,* 230 Conn. 95, 99 (1994). Also review is requested under this Court's general supervisory authority.

A. In A Defamation Case, Sanctions Cannot Be Entered Against A Media Defendant Removing Plaintiffs' Burdens

The fact that Jones was a media defendant, the plaintiffs were public figures, and the subject of the alleged defamation was matters of public concern, imposed preempting state and federal constitutional mandates that distinguish normal garden-variety libel cases from libel cases asserted against media defendants. *Milkovich*

v. Lorain Journal Co., 497 U.S. 1, 3, (1990). The First Amendment to the Constitution protects freedom of speech and press. U.S. Const. Amend. 1. These freedoms are echoed in the Connecticut Constitution. Art. I., §§ 4-5. Connecticut constitutional jurisprudence is believed to be in accord with federal.[1]

This Court has summarized the issues the Plaintiffs here were Constitutionally required to prove, and the standards of proof associated with each, all of which the Sanctions improperly eliminated. *Holbrook v. Casazza*, 204 Conn. 336, 358 (1987) (citing *Gertz v. Robert Welch*, 418 U.S. 323, 342 (1974) and *Rosenbloom v. Metromedia*, 403 U.S. 29, 30 (1971)). Additionally, defamation requires that the plaintiff have been personally identified, which almost none were. *Cweklinsky v. Mobil Chem. Co.*, 267 Conn. 210, 216-18 (2004). These proof requirements are unalterable "**constitutional rules**," superseding all contrary state laws, rules and procedures. *Phila. Newspapers v. Hepps*, 475 U.S. 767, 775-76 (1986).

To reiterate, one of these unalterable constitutional rules, for example, required Plaintiffs to prove falsity of every challenged statement and do so by clear and convincing evidence, which requirement the Sanctions eliminated. *Id*. Another eliminated constitutional requirement forbade a state from finding defamation

1. As stated in *State v. Geisler*, 222 Conn. 672, 684 (1992) federal constitutional law establishes a minimum national standard for the exercise of individual rights. Hence the Connecticut Constitution is at least coextensive with the federal constitution and may be broader

against a media defendant without showing actual malice by clear and convincing evidence. *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964). This Court itself has emphasized this constitutional requirement in *Gleason*, 319 Conn. at 432-33. It was not done. Importantly, the $321,620,000 in common law punitive damages and $150,000,000 in now-reversed CUTPA punitive damages, was awarded without proof of actual malice by clear and convincing evidence, *Gleason* at 432.

The U.S. Supreme Court has repeatedly stated its constitutional requirements preempt any conflicting substantive or procedural state laws. *N.Y. Times* at 271. This Court has recognized these Constitutional limits. *Gleason* at 430-31. The Supreme Court has stated these restrictions apply beyond defamation, to related claims such as intentional infliction claims [*Snyder v. Phelps,* 562 U.S. 443, 451 (2011)] and all other claims that have as their base defamation-like claims, recognized by this Court. *Gleason* at 432.

Yet the Sanctions imposed here impermissibly excused Plaintiffs from having to plead and prove, (i) identified specific statements, in context (ii) that identified each Plaintiff, (iii) uttered or published by Jones, (iv) falsity in some material respect to be proved by "clear and convincing evidence"; and (v) legal malice, that Jones published specific statements subjectively knowing them to be false or having subjective serious doubts as to their truth; rather the Sanctions declared all of these to have been affirmatively established. Thus, all constitutionally required findings were eliminated by the Sanctions.

As a result, the judgment entered against Jones is unconstitutional and must be reversed.

B. This Court Is Constitutionally Required To Independently Review The Entire Record To Ensure Constitutional Facts Proved By The Required Standards – A Review It Cannot Perform

The Supreme Court mandates that the facts of this case be independently reviewed by this Court to confirm constitutional conformity. *Bose Corp. v. Consumers Union*, 466 U.S. 485, 499. This review is to focus on whether required constitutional ***facts*** have been proved by the required "clear and convincing evidence." *Rosenbloom*, 403 U.S. at 55. This Court's focus is particularly required, "where a federal right has been denied on the basis of a fact without evidence to support it. . ." *Bose* at 506 n.24; *see also State v. Liebenguth*, 336 Conn. 685, 698-99 (2020).

This Court's duty is not limited to making sure the trial court elaborated or espoused constitutional principles, which it did not as the very opening line of this Motion demonstrates, but to make ". . . .a conscious determination of the existence or nonexistence of the critical facts." *Time, Inc. v. Firestone*, 424 U.S. 448, 463 (1976). The "conscious determination" of "critical facts" requires the examination of the "content, form, and context" of each alleged libel "as revealed by the whole record" [*Snyder*, 562 U.S. at 453] reviewing de novo the specific statements at issue and the circumstances under which they were made to determine whether each alleged

libelous statement is of a character that the principles of the First Amendment are protected. *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.,* 472 U.S. 749 (1985). As this Court has said: "Context is a vital consideration. . ." *Netscout Sys. v. Gartner, Inc.,* 334 Conn. 396, 412 (2020).

Here, a review to confirm that constitutional issues have been properly decided by the fact finder to the requisite "clear and convincing" standard is impossible because no such determinations were made and no adequate record exists, given the Sanctions' decrees. While the record available does demonstrate massive constitutional issues at stake, the Sanctions and actions of the trial court have improperly precluded the development of a proper record from which this Court could make the review required by the Supreme Court. At the ensuing damages-only trial, Jones was even forbidden to offer any defense [A112, 117, 122–125] even though he had filed a notice of defenses [A106] entitling their presentation. *De Blasio v. Aetna Life & Cas. Co.*, 186 Conn. 398, 401 (1982); *see also* PB § 17-34. This was a constitutional deprivation of Jones's rights as he was precluded from making the very record this Court is charged with reviewing and is being denied. The inability of this Court to review a full record required to determine that all constitutional issues have been properly proven mandates reversal.

C. Constitutional Limitations Require Plaintiffs Prove (a) Specific Statements, (b) Naming Plaintiffs, (c) Made By Jones and (D) Forbid Jones's Liability For Acts Of Unrelated Third Parties

The Constitution and this Court's precedents require that "[t]he starting point for our analysis is an examination of the statements at issue." *State v. Krijger*, 313 Conn. 434, 452 (2014). This requires specification of the "content, form, and context" of the alleged defamatory speech, "include[es] what was said, where it was said, and how it was said." *Snyder*, 562 U.S. at 453-54. And "[e]ach statement … requires proof of each of the elements for defamation." *Gleason*, at 431. Here, nowhere was there any specification of the entirety of what was said, where it was said, and how it was said.

Moreover, phrases such as "hoax" and "fake as a three-dollar-bill," cited out of context in the Complaint, are plainly opinions about events, lacking any specific "what, where, or how" to explain or support them. They are opinions about events, specific news accounts or news conferences, made in a broader social context. *Montgomery v. Risen*, 875 F.3d 709, 714 (D.C. Cir. 2017) ("hoax" is "loose, figurative, or hyperbolic" and "may not serve as a basis for liability") (citing *Milkovich,* 497 U.S. at 21). Moreover, it is not even clear what the "hoax" reference pertains too; a press conference? a specific news coverage segment?

The media landscape is rife with groups challenging various events, including Holocaust denial, moon landing

skepticism, 9/11 conspiracies, and even flat Earth claims. However, such statements critique or dismiss the events themselves, not the character, conduct, or reputation of those associated with them. Referring to an event as a "hoax" targets the nature of the event, not any specific individual. *Rosenblatt v. Baer*, 383 U.S. 75, 81 (1966) (alleged libel must be "specifically directed at the plaintiff"). Aside from the fatal constitutional obstacles, from a standpoint of plain error, creating liability to media defendants and conferring standing to claiming damages to extended families and law enforcement officials for opinions about publicly discussed events, creates a nightmare of identifying potential plaintiffs, which implicates interests of fundamental justice.

Further fatal, none of the plaintiffs (with two limited exceptions) were identified, named, singled out, or directly referenced in any way. "At common law, '[t]o establish a prima facie case of defamation, the plaintiff must demonstrate that: (1) the defendant published a defamatory statement; [and] (2) the defamatory statement identified the plaintiff to a third person. . ." *Gleason*, at 430-31. Particularly missing is how any individual Plaintiff was "defamed" by statements directed at generalized events, not at any individual person. No statement complained of alleged misconduct, dishonesty, or moral failing on the part of any Plaintiff. No Plaintiff who was not identified in any challenged statement thus has constitutional standing to sue a media defendant for defamation or any defamation-related claim.

Further, the trial court instructed the jury that Jones was legally responsible for all statements/opinions of

guests [A118] such as Wolfgang Halbig, an independent journalist who alleged made defamatory statements as a program guest. A4. However, there were no allegations or proof making Jones responsible for Halbig's statements other than the conclusory allegation that "Jones specifically directed and encouraged Halbig to continue his Sandy-Hook- related activities in Connecticut." A8.[22] The Charge also stated "[D]efendants proximately caused harm to the plaintiffs by . . . urging their audience and the public to investigate and look into the plaintiffs. . ." [A126] "result[ing] in members of the defendants' audience and the public cyberstalking, attacking, harassing, and threatening the plaintiffs. . ." A126. However, there was no allegation in the Complaint nor offered proof tying Jones to actions taken by third parties. Therefore, to make Jones liable for these actions was unconstitutional. *See McKesson v. Doe*, 144 S. Ct. 913, 914 (2024) (Sotomayer, J., concurring) (summarizing the law forbidding liability for "incitement" of third parties to act, echoing the proscriptions of *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982)). It was thus unconstitutional for Jones to be decreed liable for guest comments, certainly absent malice, or acts of strangers.

2. In the damages trial, Plaintiff FBI agent Aldenberg said Halbig was "an associate of Mr. Jones and Infowars," solely based on his appearance as a guest on Jones's show. A224.

D. Damages Awarded Are Unconstitutional Where (A) Awarded On Presumed Damages, (B) Libel *Per Se* Not Present, (C) They Are Double Recoveries And Excessive And (E) Wrong Standards Used

Damages awarded [A141-58] are unconstitutional and violate Connecticut public policy. Constitutionally, media defendants cannot be charged with presumed damages without proof of malice [*Milkovich,* 497 U.S. at 15-16] yet the jury was repeatedly instructed damages are presumed. A126-27, 129, 133. This is reversible error.

Defamation *per se* charges a plaintiff with a crime involving moral turpitude punishable by imprisonment or to which an infamous penalty is attached. *Gleason*, at 947. Here, the Complaint asserts defamation *per se* [A34] but only in conclusory fashion states the alleged defamations "implicate . . . heinous criminal conduct." [*Id.*]. Pleading and proof of libel *per se* allows a plaintiff to recover general damages for reputational injury, humiliation and mental suffering as was done here. *Gleason,* at 947. But there is no libel *per se* present here because (i) nowhere in the pleading did it state what that the "heinous crime" was, (ii) no proof was offered, and (iii) constitutionally there can be no libel *per se* for a media defendant sued by a public figure. *Nunes v. Lizza,* 2023 U.S. Dist. LEXIS 71719, at *107 (N.D. Iowa 2023). As the damage award was based on libel *per se*, it must be vacated.

That libel *per se* is not present, leaves only libel *per quod*, which requires pleading and proof of actual

economic damages of a pecuniary nature, *i.e.*, loss of a business opportunity or position, which no Plaintiff pled or proved. *Urban v. Hartford Gas Co.,* 139 Conn. 301, 308-09 (1952).

CUTPA reversal means the associated compensatory and punitive damage awards must be reversed. In determining that amount, it is apparent CUTPA damages were awarded in the same measures as the other claims, consisting of "**defamation/slander damages**" and "**emotional distress**" [A141-58]. As "defamation damages" encompasses both reputational and emotional distress damages, [*Chugh v. Kalra*, 342 Conn. 815, 850-51 (2022)] reversal of CUTPA reveals the "double recovery" which violates Connecticut law and requires reversal. *Haynes v. Yale-New Haven Hospital*, 243 Conn. 17, 22 n.6 (1997).

Additionally, Plaintiffs received $561,400,000 for emotional distress, but that was submitted based on a negligence, "knew or should have known" standard. A123. *See Erickson Prods. v. Kast,* 921 F.3d 822, 833 (9th Cir. 2019). This is unconstitutional. *Gertz*, 418 U.S. at 334. Additionally, the amounts awarded when no plaintiff has experienced economic damage, bodily harm, or even consulted mental health professionals, is excessive, shocking the conscience requiring reversal.

E. Sanctions Were Unconstitutionally Excessive, Particularly Since They Were Primarily Based on Now-Reversed CUTPA Claim, And Jones Made Substantial Compliance

This Court has yet to determine whether there is an outer limit to the proportionality analysis reviewing courts engage in to determine whether sanctions awards are appropriate. Here, the Sanctions were not proportionate to the offenses and as they were tied to now-vacated CUTPA claim should have never been entered.

The Sanctions Transcript states three reasons. First, Jones's lawyer filed a motion for leave to depose Hillary Clinton [A246] containing the statement: "*On advice of counsel, at least one plaintiff has refused to answer how so many of the clients all ended up represented by the same firm. The witness claimed not to know how her legal fees were being paid*," claiming they violated a protective order. A53. The trial court denied the deposition request [*id.*] and later held this as one of three grounds for Sanctions. It is not a knowing violation of a discovery order and was unjust, as the two offending sentences did not disclose testimony and revealed nothing of substantive testimony. Sanctions based on this were disproportionate to the penalty of denying Jones his Constitutional due process rights.

Second, Jones's lawyers could not retrieve in satisfactory form, never- used Analytics data showing sales ("Analytics Data"), *i.e.*, a subset of the issues presented to this Court earlier. *Lafferty v. Jones*, 336 Conn. 332, 378

& n. 35 (2020). Third, Jones's lawyers could not retrieve accounting "subaccounts" from their accounting journal entries also sought for sales information ("Sub-ledger Data"). The Analytics and Subledger Data have nothing to do with defamation, as the U.S. Supreme Court has plainly stated a profit motive is irrelevant in libel cases and causes based on First Amendment speech issues. *Harte-Hanks Commc'ns v. Connaughton*, 491 U.S. 657, 667 (1989). Thus, both were tied directly to the now reversed CUTPA claim, as Plaintiffs admitted: "**These allegations are significant to the plaintiffs' Connecticut Unfair Trade Practices Act claims.**" A239. As CUTPA was reversed the Sanctions should be as well.

Moreover, the death penalty sanctions were disproportionately punitive. *Ridgeway v. Mount Vernon Dire Ins. Co.*, 238 Conn. 60 (2018) and *Millbrook Owners Assn., Inc. v. Hamilton Standard*, 258 Conn. 1 (2001). Making sure "the punishment fits the crime" is the key to proportionality. It is not here. Jones appeared, substantially complied with discovery, engaged in motion practice, attended endless "status" conferences, sat for dozens of depositions and provided tens of thousands of pages of documents to Plaintiffs. For Sanctions to stand in the face of Jones's efforts and the vacating of the CUTPA claim, is a denial of Constitutional Due Process and disproportionate.

Upon final resolution of this case, the holdings of the trial court and Appellate Court be reversed and the case sent back for retrial.

V. CONCLUSION

For the reasons stated herein, Jones requests that this Petition for Certification be granted.

Dated: January 21, 2025

APPENDIX I — TRANSCRIPT — JURY CHARGE, FILED OCTOBER 6, 2022

COMPLEX LITIGATION
JUDICIAL DISTRICT WATERBURY
AT WATERBURY, CONNECTICUT

DKT NO: X06-UWY-CV18046436-S

ERICA LAFFERTY
v.
ALEX EMRIC JONES

DKT NO: X06-UWY-CV186046437-S

WILLIAM SHERLACH
v.
ALEX EMRIC JONES

DKT NO: X06-UWY-CV186046438-S

WILLIAM SHERLACH
v.
ALEX EMRIC JONES

OCTOBER 6, 2022

P.M. SESSION, VOLUME I

BEFORE THE HONORABLE BARBARA N. BELLIS, JUDGE, AND A JURY

* * *

[37]THE COURT: Make yourselves comfortable.

So ladies and gentlemen of the jury, you've listened to the evidence and to the arguments of counsel and it now becomes my duty to instruct you concerning the law of the case. And I apologize but I must read most of this because it becomes somewhat technical in places and it's very important that I not miss anything.

But before I do that, I would like to thank you, ladies and gentlemen, for your attention throughout the trial. I noted that you have all been paying very close attention to everything that has gone on here. You've been unfailingly on time and even early for all the breaks and for each morning and for that, we are all very grateful.

As I instructed you before the start of evidence, generally, a civil trial such as this has two issues, liability and damages. As you will recall, here you are tasked with addressing the issue of damages, as the court previously determined that the defendants are liable. As a result this trial focused on damages. As I previously instructed you, you are not to speculate as to why the court previously determined that the defendants were liable but you are simply to accept it as a given and focus on the amount of damages to be awarded and the degree of the defendants' wrongdoing. The plaintiffs' burden at a hearing in damages such as [38]this is to simply prove that the damages claimed is properly supported by the evidence and to prove the extent of the defendants' wrongdoing for purposes of punitive damages.

Appendix I

You as the jury and I as the judge have two separate functions. It is your function to find what the facts are in this hearing in damages; with respect to the facts, you and you alone are charged with that responsibility. My function is to instruct you as to the law to be applied to the facts that you find in order to decide this case.

With respect to the law, what I say to you is binding upon you and you must follow my instructions. I do not have any preference as to the outcome of this case. I have not meant to convey by facial expression or tone of voice or in any other way at any time during the trial any preference or inclination as to how you should decide the facts and you should not make any such interpretations. If in my instructions to you, I refer to one party more than the other or do anything that in your mind suggests a preference for one side or the other, it is not done on purpose.

My task has been to apply the rules of evidence and to instruct you as to the law. It is for you alone to decide on the amount of damages in this case. It is your duty to follow my instructions and conscientiously apply the law as I give it to you to the facts as you [39]find them in order to arrive at your ultimate verdict. If you should have a different idea of what the law is or even what you feel it ought to be, you must disregard your own notions and apply the law as I give it to you.

The parties are counting on having their claims decided according to particular legal standards that are the same for everyone and those are the standards I will

give you and that you must follow. If what counsel said about the law differs from what I tell you, you will dismiss from your minds what they may have said to you. You must decide this case based only on the law that I furnish to you and on the basis of all the law as I give it to you regardless of the order of my instructions. You must not single out any particular instruction or give it more or less emphasis than any other but rather must apply all of my instructions on the law that apply to the facts as you find them.

You are to determine what the facts are by careful consideration of all the evidence presented and based solely upon the evidence giving to each part of the evidence the weight you consider it deserves in reaching your ultimate conclusion. When I say evidence, I include the following; testimony by witnesses in court including what you may have observed in any demonstrations they presented during their [40]testimony, testimony by witnesses by way of the reading of transcripts or the showing of videotapes, exhibits that have been received into evidence as full exhibits, including any pictures or documents that are full exhibits. The testimonial evidence includes both what was said on direct examination and what was said on cross examination without regard to which party called the witness.

The following are not evidence and you must not consider them as evidence in deciding the facts of this case; opening statements and closing arguments by the attorneys, questions and objections of the attorneys, and testimony or exhibits that I instructed you to disregard.

Additionally, testimony or exhibits that I told you was to be used only for a limited purpose is not evidence for any other purpose. Your duty is to decide the case based on the testimony of the witnesses in court along with what has been admitted into evidence in the courtroom only and not on any other information about the issues that was not presented into evidence in this courtroom. It is my right to make comments to you on the evidence but where I do that, such comments are merely to suggest to you what point of law or what controversy I'm speaking about. If I refer to certain facts or certain evidence in the case, do not assume that I mean to emphasize those facts or that evidence [41]and do not limit your consideration to the things that I may have mentioned. Likewise, you should attach no importance to it if I should mention one party more than the other. If I should overlook any evidence in the case, you will supply it from your own recollection. If I incorrectly state anything about the evidence in relation to what you remember, you should apply your own recollection and correct my error. In the same way, what any of the lawyers may have said in their respective summaries to you as to the facts or evidence in the case should have weight with you only if their recollection agrees with your own. Otherwise, it is your own recollection of the facts and evidence which should have weight in your deliberations.

Please understand that your decision must not be reached on the basis of sympathy for or prejudice against any party. The parties come to court asking simply for a cool impartial determination of the disputed issues based on the facts and the law. That is what they are entitled to

and that is how you should approach the decision of this case.

You have heard that one of the parties in this lawsuit, is the defendant Free Speech Systems, LLC, which is an entity created by the law. All parties are equal before the law. The mere fact that one of the parties is a natural person and one is a creation of [42]the law, should not play any part in your deliberations. You must treat all parties in an equal and unbiased fashion.

I instruct you that Free Speech Systems, LLC, is owned, controlled and operated by Alex Jones and it is employed to hold and generate revenue for him. I further instruct you that under the law applicable to this case, Alex Jones and Free Speech Systems are legally responsible for each other's wrongful conduct and are each responsible for the entirety of the harm to the plaintiffs in this case.

You will recall the testimony of Brittany Paz the corporate designee of Free Speech Systems. When asked to do so, corporations are required to designate an individual to testify for them. The opposing party has no say in who that person is. The corporation here, Free Speech Systems, LLC is given notice of the topics on which testimony is requested. It then chooses its designee and it is required to provide that designee with all the relevant information necessary to speak for it on that topic. Because it is important that the corporate designee be prepared to testify accurately, a corporation has the right to produce different designees for different topics. The corporation has an affirmative obligation to educate

its designee as to the matters regarding the corporation. Even if the documents are voluminous and the review of the [43]documents would be burdensome, the corporation is required to have its designee review them in order to testify.

Under Connecticut law, a corporation is generally responsible for the actions of its employees. In this case the court has determined that Free Speech Systems, LLC and Alex Jones both are responsible for the actions and statements of the employees of Free Speech Systems, LLC. Under Connecticut law when a broadcaster invites others on his show with whom he expects will make false statements, the broadcaster is responsible for those false statements just as if the broadcaster had said them.

You have heard evidence that the defendants invited guests onto their broadcasts and those broadcasters falsely stated that the plaintiffs are actors and the Sandy Hook shooting was a hoax. These guests included Steve Piecscenik, James Tracy, Wolfgang Halbig, and others. I instruct you that it is established that the defendants are legally responsible for the statements of these guests on Infowars.

There are generally speaking two types of evidence from which a jury can properly find the truth as to the facts of the case. One is direct evidence, such as the testimony of an eye witness. The other is indirect or circumstantial evidence, that is, the inferences which may be drawn reasonably and logically from the proven [44]facts. Let me give you an example of what I mean by

direct and circumstantial evidence. If you're looking out a third floor window and you see smoke rising outside the window, that's direct evidence that there's smoke outside.

It is also circumstantial evidence that there is a fire of some sort below the window. As a general rule, the law makes no distinction between direct and circumstantial evidence but simply requires that the jury find the facts in accordance with a preponderance of all the evidence in the case, both direct and circumstantial. Thus, both direct and circumstantial evidence are permissible evidence and each type should be treated equally.

In your consideration of the evidence, you are not limited to the bald statements of the witness, that is, the exact words that they use. On the contrary, you are permitted to draw from facts which you find to have been proven such reasonable inferences as seem justified in the light of your experience. While you may make inferences and rely on circumstantial evidence, you should be careful not to resort to guesswork or speculation or conjecture to determine the facts in the case.

While the plaintiffs requested all Sandy Hook videos broadcast by the defendants and all analytics regarding Infowars social media, website and marketing [45]materials and financial data, the defendants did not produce complete information in response and as a result, the plaintiffs had no ability to present the missing information to you.

Appendix I

The credibility of witnesses and the weight to be given to their testimony are matters for you as jurors to determine. However, there are some things to keep in mind. It is the quality and not the quantity of testimony that controls. In weighing the testimony of each witness, you may consider whether the witness has any interest in the outcome of the trial. You should consider a witness's opportunity and ability to observe facts correctly and to remember them truly and accurately, and you should test the evidence each witness gives you by your own knowledge of human nature and the motives that influence and control human actions. You may consider the reasonableness of what the witness says and the consistency or inconsistency of his or her testimony. You may consider his or her testimony in relation to facts that you find to have been otherwise proven. You may believe all of what a witness tells you, some of what a witness tells you or none of what a particular witness tells you. You need not believe any particular number of witnesses and you may reject uncontradicted testimony if you find it reasonable to do so.

In short, you are to apply the same considerations [46] and use the same sound judgment and common sense that you use for questions of truth and veracity in your own daily lives. While most of the witnesses whose testimony has been presented to you were here to testify in person, the testimony of some witnesses were presented to you by the showing of videotapes of questions asked and answers given by those witnesses under oath at an earlier time. Testimony that is presented in this manner may be accepted or rejected by you in the same way as the

testimony of witnesses who have been physically present in court. You should disregard any objections you hear made in those depositions and you may consider the responses.

We have had in this case the testimony of one expert witness Mr. Clint Watts. Expert witnesses such as engineers or doctors are people who, because of their training, education, and experience have knowledge beyond that of the ordinary person. Because of that expertise our law allows expert witnesses to give their opinions. Ordinarily a witness cannot give an opinion about anything but rather is limited to testimony as the facts and that witness's personal knowledge. Here an expert witness has given opinions. However, the fact that a witness may qualify as an expert does not mean that you have to accept his opinion. You can accept those opinions or reject them. An expert's testimony is subject to your review like [47]any other witness. In considering an expert's opinion, you should consider the expert's education, training and experience in the particular field, the information available to the expert, including the facts the expert had and the documents available to the expert, the expert's opportunity and ability to examine those things, the expert's ability to recollect the activity and facts that form the basis for the opinion, and the expert's ability to tell you accurately about the facts, activity, and the basis for the opinion. You should ask yourselves about the methods employed by the expert and the reliability of the result.

You should further consider whether the opinion stated by the expert have a rational and reasonable basis

in the evidence. Based on all of those things together with your general observation and assessment of the witness, it is then up to you to decide whether or not to accept the opinion. You may believe all, some, or none of the testimony of an expert witness. In other words, an expert witness's testimony is subject to your review like that of any other witness.

The defendants have been found liable for the following violations of each plaintiffs' legal rights. Defamation, intentional infliction of emotional distress, false light, invasion of privacy, and violation of the Connecticut Unfair Trade Practices Act. I will define each of these shortly.

[48]It is your duty as jurors to determine the extent of damages. You should award those damages you find to have been proven by a preponderance of the evidence and as I further instruct you. Your award must be fair just and reasonable. The date on which the plaintiffs filed this case and the timing of the lawsuit is irrelevant to your consideration and you should not consider that in any way in determining the damages in this case.

As I have instructed you, the court has determined that the defendants are liable for having intentionally inflicted emotional distress on each plaintiff. Four elements must be shown to establish intentional infliction of emotional distress. These four elements thus have been established. One, the defendants intended to inflict emotional distress or the defendants knew or should have known that emotional distress was the likely result of their conduct. Two, that the conduct was extreme and

outrageous. Three, that the conduct was the cause of emotional distress experienced by the plaintiff; and four, that the emotional distress sustained by the plaintiff was severe. It is established that the defendants inflicted such emotional distress on the plaintiffs.

As I have instructed you, the court has determined that the defendants are liable for having invaded the privacy of each plaintiff by placing him or her in a [49]false light before the public by publicizing material about him or her that is false and is such a major misrepresentation of his or her character, history, activities or beliefs that a reasonable person in the plaintiff's position would either be expected to take serious offense or be justified in feeling offended or aggrieved. Thus, these three elements have been established; one, that the defendants' publicized material or information about each plaintiff that was false. Two, that the defendants either knew that the publicized material was false and would place the plaintiff in a false light or acted with reckless disregard as to whether the publicized material was false and would place the plaintiff in a false light; and three, that the material so misrepresented the plaintiff's character, history, activities or beliefs that a reasonable person in the plaintiffs' position would find the material highly offensive. It is established that by their conduct the defendants deprived the plaintiffs of their privacy by casting them in a false light before the public as I have described.

The court has determined that the defendants are liable for defamation. The defendants are liable to the plaintiffs in this case and it does not matter to their

liability whether or not Alex Jones singled them out by their individual names. Defamation is false [50] communication that tends to harm the reputation of another person to diminish the esteem, respect, goodwill or confidence in which the plaintiff is held, to deter a third person from associating or dealing with him or her or to provoke adverse, derogatory, or unpleasant feelings or opinions against him or her. Certain defamatory statements whether orally or in writing, are considered to be so harmful in and of themselves that the person to whom they relate is entitled to recover general damages for injury to reputation without proving that any special or actual damages were caused by the statements.

The law conclusively presumes that there is injury to the plaintiff's reputation. A plaintiff is not required to prove that his or her reputation was damaged. The plaintiff is entitled to recover as general damages for the injury to his or her reputation and for the humiliation and mental suffering caused. In this case, the court has determined that the defendants defamed the plaintiffs by accusing them of faking their children's death, being crisis actors, and fraudulently misrepresenting themselves to the public at large.

I hereby charge you that causation of the plaintiffs' damages is already established. Under Connecticut law, the defendants' conduct is a proximate cause of an injury if it was a substantial factor in [51]bringing the harm about. In other words, if the defendants' conduct contributed materially and not just in a trivial or inconsequential manner to the production of the harm, then the defendants'

conduct was a substantial factor. That standard has been met here.

Causation of harm has been established by virtue of the court's prior rulings to the satisfaction of the law. That is, it has been established in this case that the defendants proximately caused harm to the plaintiffs by spreading lies about the plaintiffs to their audience and the public by urging their audience and the public to investigate and look into the plaintiffs and to stop the people supposedly behind the Sandy Hook hoax, resulting in members of the defendants' audience and the public cyberstalking, attacking, harassing, and threatening the plaintiffs, as you have heard in the evidence in this case.

In sum, it has been established that the defendants caused harm to the plaintiffs in all the ways I just described. The defendants' statements and conduct caused reputational harm to the plaintiffs, invasion of privacy, and emotional distress. The extent of the harm is what you will be measuring in your verdict. The cause of the harm is not in question.

Although the court has already determined that the [52]defendants are liable to the plaintiffs, I must still instruct you on the burden of proof in a civil case such as this. In order for you to award more than nominal damages, a plaintiff must satisfy you that his or her claims of damages are more probable than not. You may have heard in criminal cases that proof must be beyond a reasonable doubt, but I must emphasize to you that this is not a criminal case and you are not deciding criminal guilt or innocence.

In civil cases such as this one, a different standard of proof applies. The party who asserts a claim has the burden of proving it by a fair preponderance of the evidence, that is, the better or weightier evidence must establish that more probably than not the assertion is true. In weighing the evidence, keep in mind that it is the quality and not the quantity of evidence that is important. One piece of believable evidence may weigh so heavily in your mind as to overcome a multitude of less credible evidence. The weight to be accorded each piece of evidence is for you to decide. As an example of what I mean, imagine in your mind the scales of justice. Put all the credible evidence on the scales regardless of which party offered it, separating the evidence favoring each side. If the scales remain even or if they tip against the party making the claim, then that party has failed to establish that assertion. Only if [53] the scales incline even slightly in favor of the assertion, may you find the assertion has been proved by a fair preponderance of the evidence.

The rule of damages is as follows; insofar as money can do it, a plaintiff is to receive fair just and reasonable compensation for all harms and losses past and future which are proximately caused by the defendants' wrongful conduct. As I have already instructed you here, it has already been established that the defendants' wrongful conduct proximately caused harm to each plaintiff.

Under the rule compensatory damages, the purpose of an award of damages is not to punish or penalize the defendants for their wrongdoing but to compensate the plaintiffs for the resulting harms and losses. You must

attempt to put each plaintiff in the same position as far as money could do it, that they would have been in had the defendants not engaged in the wrongful conduct. Our laws impose certain rules to govern the award of damages in any case where liability is proven. To recover more than nominal damages, a plaintiff has the burden of proving that the amount of damages claimed is derived from the harm suffered and is properly supported by the evidence. You may not guess or speculate as to the nature or extent of a plaintiffs' losses or harms. Your decision must be based on reasonable probabilities in light of the [54] evidence presented at trial. Harms and losses for which a plaintiff should be compensated, include those they have suffered up to and including the present time and those they are reasonably likely to suffer in the future as a proximate result of the defendants' wrongful conduct.

In your consideration of future damages, you should consider the probable length of the plaintiffs' lives. This may be proven through standardized mortality tables and evidence of a plaintiff's age, health, physical condition, habits, activities, and any other factor that may affect the duration of their life. According to the standardized mortality tables, the plaintiffs' life expectancy is the following number of years from today. Bill Aldenberg 27 years. Jacqueline Barden 28 years. Mark Barden 23 years. Jennifer Hensel 28 years. Ian Hockley 28 years. Nicole Hockley 33 years. Erica Lafferty 46 years. Robert Parker 39 years. William Sherlach 19 years. Carlee Soto Parisi 53 years. Donna Soto 22 years. Jillian Soto Marino 48 years. Matthew Soto 52 years. David Wheeler 21 years. And Francine Wheeler 29 years. Bear in mind these figures are

only an estimate of a plaintiff's length of life based upon statistical data and it is just one element to consider in determining a plaintiff's life expectancy. You may find that a plaintiff will live a longer or shorter period of time [55] based upon your assessment of all the evidence regarding a plaintiff's condition and the circumstances of their life.

Once the plaintiffs have proven the nature and extent of their compensable harms and losses, it becomes your job to determine what is fair just and reasonable compensation for those harms and losses. There's often no mathematical formula in making this determination. Instead, you must use human experience and apply sound common sense in determining the amount of your verdict. The compensatory damages that you are considering here are monies awarded as compensation for non-monetary losses and harms which the plaintiffs have suffered or are reasonably likely to suffer in the future as a result of the defendants' wrongful conduct. They are awarded for such things as mental and emotional pain and suffering, and loss or diminution of the ability to enjoy life's pleasures.

As I have told you, it has been determined that the defendants violated the plaintiffs' privacy by casting them in a false light and also inflicted emotional distress on the plaintiffs by their extreme and outrageous course of conduct. It is your role and your role alone to determine the amount of damages due to each of the plaintiffs. The plaintiffs are entitled to be compensated for the harm to their privacy interest in being placed before the public in an [56]objectionable false light or false position. They are also entitled to recover for any and all additional emotional

distress damages. In assessing the invasion of the plaintiffs' privacy and their emotional distress damages, you may consider that it is already established that the defendants' conduct was extreme and outrageous, indeed, in many cases, the defendant's extreme and outrageous conduct is clear evidence that emotional distress existed; the duration of the conduct the defendants' conduct in spreading the statements and their actual spread; the harassment the plaintiff endured; the plaintiff's fear of harassment, the nature and duration of the invasions of the plaintiff's privacy including future invasions the nature and duration of the plaintiff's emotional distress including future distress; the plaintiffs' testimony concerning their damages.

Invasion of privacy and emotional distress may be inferred from all the circumstances as they are proven to you. The invasion of privacy and emotional distress for which a plaintiff should be compensated include what he or she has suffered up to and including the present time and what he or she is reasonably likely to suffer in the future. You must attempt to put each plaintiff in the same position as far as money can do it, that he or she would have been in had the defendant not, defendants not acted wrongfully.

[57]As far as money can compensate the plaintiff for such damages and their consequences, you must award a fair just and reasonable sum. You simply have to use your own good judgment in awarding damages in this category. You must use all your experience, your knowledge of human nature, your knowledge of human events, past and

present, your knowledge of the motives which influence and control human action and test the evidence in the case according to such knowledge and render your verdict accordingly. The damages I have described for you in this instruction are called emotional distress damages. You should include both damages for invasion of privacy and damages for other emotional distress suffered in your award of emotional distress damages.

In this case the court has determined that the defendants accused the plaintiffs of faking their children's death, being crisis actors, and fraudulently misrepresenting themselves to the public at large. The law presumes that there is injury to the plaintiffs' reputations. A plaintiff is not required to prove that his or her reputation was damaged. The plaintiff is entitled to recover, as general damages for injury to his or her reputation and for humiliation and mental suffering.

In determining the amount of general damages to award for an injury to a plaintiff's reputation, you [58] should consider what reputation the plaintiff had when the statements were made. You should consider all of the circumstances surrounding the making of the statement. You may also compensate the plaintiff for damages that he or she would likely incur in the future. These damages can include additional damage to his or her reputation that occurs as a result of the bringing of this lawsuit. Each plaintiff has suffered a violation of his or her legal rights entitling him or her to at least to nominal damages.

Nominal damages may be awarded if you find that the defamatory material is of an insignificant character or because you find that a plaintiff had a bad character so that no substantial harm has been done to a plaintiff's reputation or there is no proof that serious harm has been done to the plaintiff's reputation.

If on the other hand, you find that the defamatory material is of significant character or because you find that the plaintiff had a good character, so substantial harm has been done to the plaintiff's reputation or you find there is proof that there is serious harm done to the plaintiff's reputation, then you may award substantial damages. You may award punitive damages as a matter of discretion. At a minimum, each plaintiff is entitled to nominal damages of at least one dollar.

[59]The court has determined that the defendants are liable for violating the Connecticut Unfair Trade Practices Act, a Connecticut law commonly known as CUTPA. Therefore, it has been established by the court that the defendants engaged in an unfair trade practice because their business conduct was predicated on damaging the plaintiffs and was immoral, unethical, oppressive, or unscrupulous. Damages due to the defendants' violation of the Connecticut Unfair Trade Practices Act are included in the other damages measures that I am describing to you and you will not assess them separately.

In closing argument, counsel mentioned some formulas or amounts that might figure in your verdict and that is permitted under our law. I caution you that

figures suggested by counsel, do not constitute evidence. It is up to you to decide what fair just and reasonable compensation is whatever you find that figure might be, regardless of amounts that may have been suggested by counsel in argument.

In addition to seeking compensatory damages, the plaintiffs seek an award of punitive damages which in Connecticut are limited to attorney's fees and expenses. Punitive damages may be awarded if you find that the defendants' actions in this case were wilful wanton or malicious. A wilful and malicious harm is one inflicted intentionally without just cause or [60]excuse. Wilfulness and malice alike import intent. Its characteristic element is the design to injure either actually entertained or to be implied from the conduct and circumstances. The intentional injury aspect may be satisfied if the resultant harm was the direct and natural consequence of the intended act.

Wanton misconduct is reckless misconduct. It is such conduct as indicates a reckless disregard of the just rights or safety of others or of the consequences of the action. These damages, however, are not awarded as a matter of right but as a matter of discretion to be determined by you after you consider all the evidence. If you determine that they should be awarded, then I will determine in a separate hearing after this trial ends and based on evidence concerning the plaintiffs' attorney's fees and litigation costs, how much that compensation will be. If you determine they should not be compensated, then I will enter nominal damages of one dollar in this category of damages.

You are to determine whether the plaintiffs should be compensated for attorney's fees and costs by considering the extent to which you find the defendants' conduct is outrageous, the degree to which you find the defendants were recklessly indifferent to the rights of the plaintiffs or intentionally and wantonly violated their rights. Whether you will award [61]the plaintiffs reasonable attorney's fees and costs in an amount later determined by me or whether you will award the plaintiffs only nominal damages is a matter for your sound discretion.

Now as I told you at the beginning of the trial the notes you may have taken are simply aids to your individual memory. When you deliberate, you should rely on your independent recollection of the evidence you have seen and heard during the trial. You should not give precedence to your own notes or to any other juror's notes over your independent recollection of the evidence because as we all know, notes are not necessarily accurate or complete. Jurors who have not taken notes, should rely on their own recollection of the evidence and should not be influenced in any way by the fact that other jurors have taken notes. Your deliberations should be determined not by what is or is not in your notes but by your independent recollection of the evidence. If you have a question about any particular testimony, you may ask that it be read or played back to you from the official record so there is no need to rely on notes.

Each of you has taken an oath to return a true verdict according to the evidence. No one must be false to that oath but you have a duty not only as individuals, but also

collectively to express your views to the other jurors and to listen to theirs. [62]That is the strength of the jury system. Each of you takes with you into the jury deliberation room your individual experience and wisdom. Your task is to pool that experience and wisdom in considering the evidence. You do that by giving your views and listening to the views of others. There must necessarily be discussion and give and take within the scope of your oath. That is the way in which agreement is reached.

You must not discuss this case unless all members of the jury are present. We will take the usual breaks and the lunch recess, but you must not discuss the case in twos or threes during those breaks. You can deliberate only when all six of you are together and only in the jury deliberating room and this is important. We have had cases that had to be retried all over again because this rule was violated, so please be very careful not to discuss the case with your fellow jurors except when all of you are together deliberating and you are in the jury deliberating room.

When you have reached a verdict, you will knock on the door and Mr. Ferraro will alert me. When you are told to enter the courtroom, the foreperson should sit in the first seat in the first row. When the jury is asked if it has reached a verdict, the foreperson should respond. Mr. Ferraro will then hand the verdict form to me and the verdict will be read twice to you. You will each be asked to respond whether it is your [63]verdict as a check that the verdict is in fact unanimous. You should not at that point expect me to make any comment about your verdict. It has been my task to rule on issues of evidence and to instruct

you on the law. It is your task to decide the case and I will leave that strictly up to you and make no comment on what you decide. It is of course merely the division of duties and not any lack of appreciation of your efforts, that keeps me from commenting on your decision.

At this time ladies and gentlemen, I will explain the verdict forms to you and then you'll be escorted to the jury deliberation room. You should not begin your deliberations until the exhibits and the verdict forms are delivered to you by Mr. Ferraro. This will occur after the lawyers have had an opportunity to check that all the exhibits are present and to tell me if they think that any different or additional instructions to you are necessary. I will recall you to the courtroom if I conclude that further instructions are needed. When the exhibits are delivered to you, your first task will be to elect a foreperson who will serve as your clerk.

After you have received the exhibits and then elected the foreperson, you will begin deliberating. If you have questions during your deliberations, the foreperson should write the jury's question on a sheet [64]of paper, sign and date it and knock on the door. Mr. Ferraro will then bring the question to me and I will respond to it in open court. It may take a few minutes to assemble the staff before you are brought to the courtroom to hear the response. Please try to make any questions very precise. We cannot engage in an informal dialogue and I will respond only to the question on the paper. If you need to have any testimony or any part of my instructions played or read back, you'll follow the same procedure. On a sheet of paper specify

what it is that you want to hear as precisely as you can. For example, if you know that you want to hear only the direct examination or only the cross examination of a particular witness, specify that. Otherwise we will have to repeat the whole testimony. Also, if you need to re-watch any video exhibit, please follow the same procedure.

We will now go over the verdict form. Each line must be filled out and the foreperson, when you have reached a verdict, should initial each page of the verdict form and sign and date the last page. Your verdict must be unanimous. There is no such thing as a majority vote of a jury in Connecticut, rather you must all agree on the verdict. No one will hurry you. If you are not able to reach a verdict today, you will resume your deliberations tomorrow. You may have as much time as you need to reach a verdict. And at this [65]point I will have Mr. Ferraro escort you to the deliberating room.

APPENDIX J — VERDICT, DATED OCTOBER 12, 2022

VERDICT

WE THE JURY HAVE REACHED OUR VERDICT AS TO DAMAGES IN THIS CASE.

WE AWARD DAMAGES TO EACH PLAINTIFF AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS, LLC AS FOLLOWS:

I. COMPENSATORY DAMAGES

Instructions: Fill in both numbers for each plaintiff. Then go to Section II.

Please enter your damages assessments for each plaintiff on the lines below.

Appendix J

TO PLAINTIFF ROBERT PARKER:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$60,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$60,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF ROBERT PARKER AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$120,000,000.00

Appendix J

TO PLAINTIFF DAVID WHEELER:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$25,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$30,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF DAVID WHEELER AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$55,000,000.00

Appendix J

TO PLAINTIFF FRANCINE WHEELER:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$24,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$30,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF FRANCINE WHEELER AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$54,000,000.00

Appendix J

TO PLAINTIFF JACQUELINE BARDEN:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$10,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$18,800,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF JACQUELINE BARDEN AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$28,800,000.00

Appendix J

TO PLAINTIFF MARK BARDEN:

A. DEFAMATION/SLANDER DAMAGES. (PAST AND FUTURE)

$25,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$32,600,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF MARK BARDEN AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$57,600,000.00

Appendix J

TO PLAINTIFF NICOLE HOCKLEY:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$32,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$41,600,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF NICOLE HOCKLEY AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$73,600,000.00

Appendix J

TO PLAINTIFF IAN HOCKLEY:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$38,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$43,600,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF IAN HOCKLEY AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$81,600,000.00

Appendix J

TO PLAINTIFF JENNIFER HENSEL:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$21,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$31,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF JENNIFER HENSEL AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$52,000,000.00

Appendix J

TO PLAINTIFF DONNA SOTO:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$18,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$30,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF DONNA SOTO AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$48,000,000.00

Appendix J

TO PLAINTIFF CARLEE SOTO PARISI:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$30,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$36,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF CARLEE SOTO PARISI AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$66,000,000.00

Appendix J

TO PLAINTIFF CARLOS MATHEW SOTO:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$18,600,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$39,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF CARLOS MATHEW SOTO AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$57,600,000.00

Appendix J

TO PLAINTIFF JILLIAN SOTO-MARINO:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$30,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$38,800,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF JILLIAN SOTO-MARINO AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$68,800,000.00

Appendix J

TO PLAINTIFF WILLIAM ALDENBERG:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$45,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$45,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF WILLIAM ALDENBERG AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$90,000,000.00

Appendix J

TO PLAINTIFF ERICA LAFFERTY:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$18,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$58,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF ERICA LAFFERTY AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$76,000,000.00

Appendix J

TO PLAINTIFF WILLIAM SHERLACH:

A. DEFAMATION/SLANDER DAMAGES (PAST AND FUTURE)

$9,000,000.00

B. EMOTIONAL DISTRESS DAMAGES (PAST AND FUTURE)

$27,000,000.00

TOTAL FAIR, JUST AND REASONABLE DAMAGES TO PLAINTIFF WILLIAM SHERLACH AND AGAINST ALEX JONES AND FREE SPEECH SYSTEMS (ADD LINE A AND LINE B)

$36,000,000.00

II. AWARD OF ATTORNEY'S FEES AND COSTS

Instructions: check YES or NO.

If you check YES, the judge will determine the amount due to the plaintiffs for reasonable attorney's fees and costs and will then award the plaintiffs that amount at a later date.

If you check NO, the judge will award $1 to the plaintiffs for their attorney's fees and costs.

WE THE JURY FIND THAT THE STANDARD CHARGED FOR THE ASSESSMENT OF ATTORNEY'S FEES AND COSTS HAS BEEN MET.

☒ YES (reasonable attorney's fees and costs to be awarded by the judge at a later date)

☐ NO (judge will award $1)

/s/_____
FOREPERSON SIGNATURE

10/12/2022
DATE

APPENDIX K — NOTICE OF DEFENSES OF THE SUPERIOR COURT, COMPLEX LITIGATION DOCKET AT WATERBURY, FILED NOVEMBER 24, 2021

SUPERIOR COURT, COMPLEX LITIGATION DOCKET AT WATERBURY

NO: UWY-CV-18-6046436-S

ERICA LAFFERTY, *et al.*

v.

ALEX EMRIC JONES, *et al.*

NO: UWY-CV-18-6046437-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES, *et al.*

NO: UWY-CV-18-6046438-S

WILLIAM SHERLACH, *et al.*

v.

ALEX EMRIC JONES, *et al.*

Filed November 24, 2021

Appendix K

NOTICE OF DEFENSES

Pursuant to Practice Book §§ 17-34 & 17-35 Defendants Alex Jones, Free Speech Systems, LLC, Infowars, LLC, Infowars Health, LLC, and Prison Planet TV, LLC, hereby give notice of intent to contradict allegations, the subject matter(s) they intend to contradict, the intention to deny the right of the plaintiffs to maintain their actions, and to prove their matters of defense in any hearing in damages.

As to matters of defense and denial of the right of the plaintiffs to maintain their actions, Defendants incorporate by reference as if fully restated herein the arguments set forth in their Special Motion to Dismiss (*Lafferty* Entry No. 113.00; *Sherlach I* Entry No. 136.00; *Sherlach II* Entry No. 114.00), Memorandum in Support of Special Motion to Dismiss (*Lafferty* Entry No. 114.00; *Sherlach I* Entry No. 137.00; *Sherlach II* Entry No. 115.00), Motion to Strike (*Lafferty* Entry No. 297.00; *Sherlach I* Entry No. 229.00; *Sherlach II* Entry No. 200.00), Memorandum in Support of Motion to Strike (*Lafferty* Entry No. 298.00; *Sherlach I* Entry No. 230.00; *Sherlach II* Entry No. 201.00) and Reply in Support of Motion to Strike (*Lafferty* Entry No. 353.00; *Sherlach I* Entry No. 281.00; *Sherlach II* Entry No. 253.00).[1] These defenses include the following:[2]

1) Plaintiffs' claims are time-barred, in part or in whole;

---

1. Citations to the entries in the *Lafferty* matter

2. Defendants further preserve all prior objections to subject matter jurisdiction that the Court has already adjudicated.

2) Plaintiffs lack sufficient evidence to demonstrate one or more of the defendants committed defamation *per se*, defamation *per quod*,[3] false light invasion of privacy, intentional infliction of emotional distress, negligent infliction of emotional distress, and violation of the Connecticut Unfair Trade Practices Act;

3) Plaintiffs lack sufficient evidence to demonstrate that one or more of the defendants conspired with another person to commit defamation *per se*, defamation *per quod*, false light invasion of privacy, intentional infliction of emotional distress, negligent infliction of emotional distress, and violation of the Connecticut Unfair Trade Practices Act;

4) Plaintiffs' claims are barred by the First Amendment to the U.S. Constitution and Sections 4 & 5 of the Connecticut Declaration of Rights;

5) Plaintiffs are public figures and/or public officials and cannot prove one or more of the defendants made knowingly false statements or made the subject statements in reckless disregard of the truth or falsity thereof;

---

3. The Court already found defamation *per quod* to not have been properly alleged.

6) Plaintiffs' claims are barred, in whole or in part, by the doctrine of superseding cause because the intentional and criminal actions of Adam Lanza were a superseding cause of Plaintiffs' alleged injuries;

7) Plaintiffs' claims are barred, in whole or in part, by the doctrine of intervening and/or superseding cause because the actions of other individuals, both named and unnamed, identified in the operative complaint, for whom the defendants are not liable, were the intervening and/or superseding cause of Plaintiffs' alleged injuries; and

8) Plaintiffs' claims are barred, in whole or in part, because they received payments from third parties in complete or partial satisfaction of any damages incurred as a result of the occurrence alleged

As to the Complaint in the *Lafferty* matter, Defendants intend to contradict allegations appearing in Paragraphs 6-15, 17-20, 28, 30, 31, 35, 38, 39, 41, 45, 48, 54, 57, 60, 61, 68, 69, 70, 73-80, 83-94, 96-98, 100, 101, 108, 110, 118, 125, 126, 138, 142, 146, 148, 163, 169, 177, 186, 200, 207, 208, 214, 215, 218, 226, 229, 233, 240, 242, 246, 250-252, 260, 266, 267, 269, 271, 272, 274, 276, 281, 284, 286, 287, 290, 291, 291(E), 297, 308, 315, 316, 318, 321, 323, 326, 327, 333, 335, 337-346, 348-359, 361-372, 374-384 & 386-394.[4]

4. Defendants omit reference to the paragraphs incorporating the prior allegations; however, to the extent applicable, those

Appendix K

The Amended Complaint in the *Sherlach I* matter and the Complaint in the *Sherlach II* matter bear identical allegations, and Defendants intend to contradict allegations appearing in their respective Paragraphs 6-15, 17-20, 25, 26, 30, 33, 34, 36, 40, 43, 52, 55, 66, 73-75, 78-85, 89-100, 102, 103, 104, 106, 107, 114, 116, 125, 129, 130, 137, 151, 157, 162, 164, 179, 185, 193, 202, 205, 234, 241, 242, 248, 249, 252, 262, 267, 271, 278, 282, 286, 290-292, 300, 306, 307, 309, 311, 312, 314, 316, 321, 324, 326, 327, 330, 331, 331(E), 337, 348, 355, 356, 358, 361, 363, 366, 367, 374, 381, 383-391, 393, 397, 402, 408, 409, 415, 417-426, 428-439, 441-452, 454-464 & 466-74.[5] .

Defendants intend to contract these allegations regarding the subject matters of a) whether the statements were made with knowing falsity or in reckless disregard of the truth or falsity thereof; b) whether Infowars, LLC, is liable wherever "Infowars" is identified; c) whether the defendants acted jointly, as agents of each other, and/or in a conspiratorial combination; d) whether each of the statements placed Plaintiffs in a false light; e) whether each of the statements are highly offensive to a reasonable person; f) whether each of the statements caused damages to each plaintiff; g) whether each plaintiff is a private figure; h) whether the defendants participated in a

---

paragraphs are contradicted to the fullest extent the prior allegations are.

5. Defendants omit reference to the paragraphs incorporating the prior allegations; however, to the extent applicable, those paragraphs are contradicted to the fullest extent the prior allegations are.

scheme to harass and/or abuse any plaintiff; i) whether the statements accuse each plaintiff of faking a loved one's death and/or was an actor lying about the death of a loved one; j) whether the statements injured any plaintiff's reputation or image or exposed them to hatred, contempt, or ridicule; k) whether each defendants' conduct was extreme or outrageous; l) whether any defendant intended to inflict emotional distress on any plaintiff; m) whether any defendant acted with malice or cruelty; n) whether each plaintiff suffered physical illness or bodily injury; o) whether each defendant acted unethically, oppressively, immorally, or unscrupulously; p) whether each defendant could reasonably foresee each plaintiff's injury; q) whether each plaintiff could have avoided injury; and r) whether any injury to any plaintiff is outweighed by the benefit to society of free and fair discourse on broadly publicized, newsworthy events that are used as a catalyst for legislation.

Dated: November 24, 2021