

1 **Walter W. Whelan, Esq. (SBN 106655)**
2 **Brian D. Whelan, Esq. (SBN 256534)**
3 **WHELAN LAW GROUP, A Professional Corporation**
4 **1827 E. FIR SUITE 110**
5 **Fresno, California 93720**
6 **Telephone: (559) 437-1079**
7 **Facsimile: (559) 437-1720**
8 **E-mail: walt@whelanlawgroup.com**
9 **E-mail: brian@whelanlawgroup.com**

E-FILED
10/19/2021 12:07 PM
Superior Court of California
County of Fresno
By: I. Herrera, Deputy

10 Attorneys for: Plaintiffs JOHN, JANE, and DAUGHTER DOE

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF FRESNO, UNLIMITED CIVIL DIVISION

13 JOHN DOE, JANE DOE, and DAUGHTER)
14 DOE)

Case No. 21CECG03118

15 Plaintiffs,

COMPLAINT; AND JURY DEMAND

16 v.

17 JOHN CHRISTOPHER SPATAFORE, and)
18 COMMUNITY HOSPITALS OF)
19 CENTRAL CALIFORNIA DOES 1 through)
20 20, inclusive,)

21 Defendants.)

22 1. Plaintiff JOHN DOE (“Plaintiff” or “JOHN”) is an individual residing in
23 Fresno County, California. Plaintiff JOHN DOE is and all times relevant was employed by the City
24 of Fresno as a police officer. As of October 25, 2019, Plaintiff had been active with the Fresno
25 Police Department for almost 19 years, and was on duty and in uniform on October 25, 2019 when
26 he issued Defendant JOHN CHRISTOPHER SPATAFORE (“SPATAFORE”) a citation for
27 jaywalking near his place of work at COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA
28 (“CHCC”). Plaintiff’s name, JOHN DOE, is a pseudonym for a man whose name is kept confidential
for personal safety and privacy reasons.

1 2. Plaintiff JANE DOE (“Plaintiff” or “JANE”) is and all times relevant has
2 been married to JOHN DOE. Both JANE and JOHN reside together and did so during the relevant
3 times. JANE DOE is a pseudonym for a woman whose name is kept confidential for personal safety
4 and privacy reasons. JANE DOE is a resident of Fresno County.

5 3. Plaintiff DAUGHTER DOE (“Plaintiff” or “DAUGHTER”) is an adult child
6 of JOHN and JANE DOE who resided at the home of JOHN and JANE DOE as a minor in the Fall
7 of 2019. DAUGHTER DOE is now an adult and the name is a pseudonym for a woman whose name
8 is kept confidential for personal safety and privacy reasons. DAUGHTER DOE was a resident of
9 Fresno County during the relevant times.

10 4. Defendant CHCC is a California Nonprofit Corporation which has done
11 business and continues to do business in Fresno County, California.

12 5. Defendant JOHN CHRISTOPHER SPATAFORE is an individual residing
13 in Fresno County, California. During the relevant times, CHCC employed SPATAFORE in its
14 information technology (“IT”) department. Plaintiffs are informed and believe and thereon allege that
15 SPATAFORE was an officer, director, or managing agent of CHCC during the relevant times.
16 Moreover, CHCC is liable for the willful and malicious torts of its employee, SPATAFORE,
17 committed in the scope of the employment and against all Plaintiffs herein.

18 6. The true names and capacities of the Defendants named herein as DOES 1
19 through 20, inclusive, whether an individual, corporation or otherwise are unknown to the Plaintiffs
20 who, therefore, sues such Defendants by fictitious names pursuant to Code of Civil Procedure §474.
21 Alternatively, such DOE Defendants are persons whose identities are unknown to Plaintiffs, but
22 about whom sufficient facts are not known that would support the assertion by Plaintiffs of a civil
23 claim at this time. When Plaintiffs obtain information supporting a claim against any DOE
24 Defendant, Plaintiffs will seek leave to amend this Complaint and will allege appropriate charging
25 allegations. Plaintiffs are informed and believe, and thereon allege, that the Defendants, and each of
26 them, are agents and/or employees and/or parents, subsidiaries or sister corporations of each other,
27 and are responsible for the acts complained of herein, unless otherwise alleged in this Complaint.

28 ///

SUMMARY OF FACTS.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. On October 25, 2019, at around 2:07 p.m., OFFICER JOHN issued SPATAFORE a ticket for unlawful crossing between controlled intersections (Jaywalking), which is a violation of Vehicle Code Section 21955. SPATAFORE had illegally crossed the street near Fresno City Hall and traversed across railroad tracks in an area that had historically experienced high numbers of accidents and injuries. In response to JOHN’s request for identification, SPATAFORE claimed he had none. When asked for his address, SPATAFORE told JOHN that his address was the administrative support building for CHCC located at 1140 T Street Fresno, CA. (Thus, notice of the ticket was mailed to CHCC administrative building.) The interaction between SPATAFORE and JOHN was recorded by JOHN’s police-issued body camera. While detained, SPATAFORE was visibly upset, and asked strange personal and vaguely threatening questions about JOHN’s address and whether JOHN had kids. SPATAFORE asked if JOHN was aware that most “police officers die of suicide” etc..

8. Within four days, on October 29, 2019, JOHN began receiving password reset codes from his personal email address, which suggested attempts were being made to gain unauthorized entry into JOHN’s personal email account. The password reset requests were unusual and persisted eight (8) more times on November 4, 2019 and then twice on November 5, 2019. Then, JOHN started to receive phone calls, emails, and texts from car dealerships “responding” to JOHN’s “inquiry” about the online purchase of luxury cars that JOHN had never made. One dealership, Carmax, e-mailed JOHN to confirm an appointment in San Francisco, CA to see a Corvette. On November 6, 2019, JOHN received over 100 texts to his personal phone concerning all manner of solicitations allegedly “responding” to JOHN’s “inquiry” or “appointment request” that he never made. The unsolicited contacts persist to this day disturbing JANE and JOHN’s peace of mind and their right to be left alone – despite multiple attempts to be removed from lists.

9. On November 8, 2019, JOHN received notice that his password to his emails and Xfinity account had received thirteen (13) attempts to be reset. Someone was attempting to gain unlawful access into or had indeed gained unlawful entry into Plaintiff’s

1 private accounts. Thereafter, Lamborghini, Rolls Royce, and Maserati dealerships started to
2 deluge JOHN with calls “responding to your request” concerning online orders and online
3 inquiries that JOHN never made. Further, there were also indications of attempted intrusion into
4 Plaintiffs’ wireless internet which suggested that SPATAFORE lurked outside Plaintiffs’ home
5 at all hours of the day and night to hack into Plaintiffs’ wireless internet and was within the short
6 radius of the wireless internet’s reach. JOHN received multiple notifications that an
7 unauthorized user was seeking access to the router – which required a physical presence within
8 150 feet of the home.

9 10. As the stalking and harassment escalated, SPATAFORE secretly
10 impersonated JOHN to make false police reports against JOHN. SPATAFORE filed a false
11 police report with the City of Fresno using JOHN’s home address, birthday, home phone number,
12 and cell phone number along with Plaintiff’s work phone number, and personal email address. In
13 November 2019, Officer Barajas informed Plaintiff that SPATAFORE had filed a false report
14 against JOHN. SPATAFORE’s misconduct was confirmed when a search warrant was executed
15 and tied the subscriber’s IP address to CHCC who identified SPATAFORE. It was confirmed
16 that this false police report had been made on a CHCC computer and IP address. In this first false
17 police report, SPATAFORE impersonated JOHN and falsely claimed JOHN had been involved
18 in a hit and run. The date of this fictitious event was listed as 10/1/19 at 11:55 a.m. In the
19 narrative portion of the false police report, SPATAFORE falsely accused JOHN of crimes:
20 “Police Motorcycle riding on sidewalk without lights or sirens. Appeared intoxicated on drugs all
21 while laughing aloud.”

22 11. Then, again, making use of CHCC resources and systems, SPATAFORE
23 filed another false police report impersonating JOHN’s sister-in-law to again falsely accuse
24 JOHN of a crime. This time, SPATAFORE claimed that Plaintiff had engaged in domestic
25 violence with JANE DOE, his wife, and that JANE’s sister-in-law had photographic evidence of
26 abuse. Because reports of abuse and domestic violence are taken seriously, these false
27 accusations were investigated and JANE was questioned. The humiliating false reports of false
28 domestic violence spread in the community and in the Fresno Police Department and JOHN and

1 JANE have been humiliated and forced and compelled to republish and refute the defamatory
2 claims within the last year to explain what happened and why the claims of domestic violence
3 were false. Plaintiffs JOHN and JANE are informed and believe that SPATAFORE made at
4 least three false police reports and there may be more. JOHN was told about a third false police
5 report, but his superior did not provide the details about the report – likely out of a desire to
6 protect JOHN.

7 12. Due to the specific information being used by SPATAFORE in the
8 activities against JOHN and JANE and their family, and on account of the CHCC IP address, law
9 enforcement believed that SPATAFORE and or other CHCC employees had accessed Plaintiffs’
10 CHCC’s medical records to assume Plaintiffs’ identity and impersonate Plaintiffs to both law
11 enforcement and members of the public.

12 13. After an internal investigation, SPATAFORE’s supervisor confirmed that
13 CHCC resources had been used to cyber attack and stalk Plaintiffs JOHN and JANE, but could
14 not confirm that SPATAFORE or other employees had accessed JOHN or JANE’s medical
15 records – though Plaintiffs are informed and believes that this did take place as the private and
16 confidential knowledge SPATAFORE developed about Plaintiffs likely came from CHCC’s
17 database or was developed through use of CHCC’s computers.

18 14. CHCC confirmed that SPATAFORE’s hosted work email had been used
19 to send information concerning JOHN to many different endusers including “Spatdog Adventure
20 Live.” SPATAFORE’s CHCC-issued laptop confirmed that SPATAFORE was using the CHCC
21 work computer to contact multiple companies (Premier Renewables, Soltek Solar, Selma Auto
22 Mall, Lithia Ford-Lincoln of Fresno, Lexus.com, Maserati.com, Lamborghini.com, Energy
23 Concepts, Carmax, PG&E, County of Fresno Inspection Request, Fresno Bee, and LLBean, to
24 name name a few) to impersonate JOHN, JANE, and DAUGHTER and make use of their names
25 to harass, cyber stalk, attack, humiliate, defame, and invade the privacy of JOHN, JANE, and
26 DAUGHTER.

27 ///

28

1 15. As eventually confirmed by the Fresno Police Department, a CHCC laptop
2 was used by SPATAFORE to impersonate PLAINTIFFS to contact thousands of websites,
3 disclose Plaintiffs’ personal identifying information, and solicit companies to contact Plaintiffs –
4 without their knowledge or consent in order to subject them to constant harassing calls at all
5 hours of the day and night. As a result of this harassment and vindictive invasion of privacy,
6 PLAINTIFFS continue to receive annoying and harassing unsolicited contacts from a variety of
7 websites and service because of SPATAFORE’s vindictive attacks.

8 16. Within the last few months, SPATAFORE’s hate campaign has even
9 escalated to include extortion. JANE, JOHN, and DAUGHTER have received messages
10 indicating that their personal computer cameras have been unlawfully accessed and that all
11 Plaintiffs have been recorded during very intimate moments and that compromising videos will
12 be released to the general public to “destroy” them if demands presented are not met (“Within 96
13 hours your public image will be fully spoiled...Ur sexual stimulation was shot with the help of ur
14 infected device via ur camera...Once I get my remuneration, I am going to eliminate ur
15 earth-shattering video.” (Email to JANE on July 13, 2021.) “I require your 100% attention for the
16 up coming 24hours, or I will certainly make sure you that you live out of guilt for the rest of your
17 life span....I know nearly everything about you...and this includes, your masturbation video
18 clips...” (Email to JOHN on June 21, 2021.) JOHN and JANE understood and still believe that
19 their personal computers, cell phones, and cameras in their home had been unlawfully intruded,
20 accessed, and recorded.

21 17. Further, SPATAFORE, posing as JOHN, contacted the City in which
22 PLAINTIFFS reside and requested that the water and trash services terminate at Plaintiffs’ home
23 – specifically identifying Plaintiffs’ home. The essential services were slated for termination on
24 November 28, 2019, or Thanksgiving Day. As SPATAFORE planned, Plaintiffs’ holiday was
25 disrupted and they had to rush to contact the City to intervene in-person to reinstate these
26 essential services. SPATAFORE, posing as PLAINTIFFS, also attempted to schedule a building
27 and pool inspection with the County of Fresno at Plaintiffs’ home through the County of Fresno
28 website. This also required intervention.

1 18. Using a special application on his phone, SPATAFORE generated a false
2 phone number that sent threatening messages to both JANE and JOHN.

3 19. JOHN, JANE, and DAUGHTER continue to receive email threats that if
4 demands are not met, their lives will be “ruined.” The threatening messages and contacts that
5 SPATAFORE caused and put in motion continue up and until this day.

6 20. Given the volume of data, and was confirmed later from the investigation,
7 it was clear that SPATAFORE not only used CHCC computers and computing from his CHCC
8 office, but continued on his mission of hate against PLAINTIFFS from his own home.

9 21. Plaintiffs are informed and believe that SPATAFORE was terminated
10 from his employment at CHCC on November 21, 2019, the day he was arrested for the criminal
11 acts against Plaintiffs in his campaign of hatred and revenge. Prior to that point, CHCC had
12 confirmed to the Fresno Police Department that SPATAFORE had certain privileges in his
13 position that provided SPATAFORE unrestricted access to Plaintiffs’ medical records and
14 outside websites by which he engaged in a destructive cyber campaign of hate and revenge
15 against Plaintiffs.

16 22. CHCC had a duty to members of the public and to its patients, such as
17 JANE and JOHN, to prevent their employees from misusing their private records at CHCC, and
18 using CHCC’s tools, instruments and technology to inflict harm on patients, as SPATAFORE did
19 to Plaintiffs. When CHCC was approached to assist with the investigation, CHCC reported that
20 SPATAFORE was in charge and he would assist. It was made clear that SPATAFORE could not
21 “assist” as he was the target of the investigation. CHCC, through its counsel Nicea Darling, was
22 informed in writing by a Fresno Police Officer on November 19, 2019 of SPATAFORE’s misuse
23 of CHCC’s equipment and technology.

24 23. On November 21, 2019 SPATAFORE sent JOHN a message saying
25 “Hey___ [name]! Hope adding me to your life isn’t bugging you. Anyway this stuff is all about
26 discretion. Let’s talk! Calling you now amigo.” In other words, it appeared that SPATAFORE
27 was aware of the communication by the Fresno Police Officers and Ms. Darling on November
28

1 19, 2019, and made a veiled threat that JOHN needed to act with “discretion” or SPATAFORE’s
2 cyber-hell to JOHN’s life would continue.

3 24. SPATAFORE was arrested on November 21, 2019 while driving
4 within a mile of Plaintiffs’ home. Plaintiffs saw this as a life-saving intervention since on the
5 floor board directly at SPATAFORE’s feet was a black bag. Inside that “work bag” was a loaded
6 revolver handgun. It was determined that SPATAFORE did not have a license to carry a
7 concealed weapon, and it was also determined that the loaded firearm was not registered to
8 anyone. When questioned by the police, SPATAFORE acted like he was unaware of the firearm.

9 25. A search warrant of the SPATAFORE residence was executed and that
10 search revealed that SPATAFORE was also in possession of a stolen firearm, marijuana,
11 methamphetamine pipes, and a white powder described by the inventorying officer as follows:
12 “The white powdery substance did not look consistent with methamphetamine, but more
13 consistent with cocaine. I also recalled a prior training on Fetanyl and how it could look like
14 cocaine. Due that possibility, I alerted the rest of my team about the discovery and placed the
15 container in K-Pac sleeve to prevent exposure to everyone if the substance was Fetanyl . I also
16 seized the two Methamphetamine pipes at the direction of the case agent.”

17 26. After having been read his Miranda rights and repeatedly advised of his
18 rights to counsel, SPATAFORE waived his rights, and admitted to nearly everything that he had
19 done to Plaintiffs through use of CHCC facilities CHCC issued computers and CHCC email
20 address. The confession was recorded.

21 27. SPATAFORE subsequently wrote an insincere apology note that reads:
22 “_____ [Name] & Family I am so sorry for causing you and your family undo stress. I have and
23 had no ill will towards you. I made a huge misjudgment to do this. I hope you can find it in your
24 heart to forgive me. I am truly sorry. God Bless.” Shortly thereafter, SPATAFORE was
25 arraigned, posted bond, and bailed out.

26 28. The harm, fear, humiliation, and stress SPATAFORE caused to Plaintiffs
27 is ongoing as Plaintiffs are still contacted by those that SPATAFORE contacted to impersonate
28 Plaintiffs or those who obtained PLAINTIFFS’ confidential information because of

1 SPATAFORE. Moreover, the extreme fear that Plaintiffs lived with and still live with to this day
2 has been truly unbearable.

3 **FIRST CAUSE OF ACTION**

4 **(INVASION OF PRIVACY against All Defendants,
5 and Does 1 through 20)**

6 29. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
7 through 28 above, as though fully set forth in this cause of action.

8 30. Plaintiffs had a reasonable expectation of privacy in their home, medical
9 records at CHCC, identities, and other places of legally recognized privacy and were unlawfully
10 subjected to unwarranted sensory intrusions, such as spying and other intrusions, attempted or
11 actual, into Plaintiffs' emails, computers, home, wireless internet system and other systems as
12 herein described.

13 31. CHCC provided SPATAFORE with unrestricted access to Plaintiffs'
14 confidential medical records and information, the tools to embark on a nearly month's long cyber
15 attack campaign from CHCC, and CHCC is responsible for the harm by its employee,
16 SPATAFORE, who was acting within the course and scope of his employment, and/or CHCC
17 was aware of SPATAFORE's conduct and unfitness for his position and use of its property to
18 engage in such conduct and chose not to stop it or properly supervise, monitor and/or implement
19 safeguards on the technology systems to prevent such abuse. Both SPATAFORE and CHCC's
20 conduct were substantial factors in causing Plaintiffs' harm.

21 32. As a direct and proximate result of the aforementioned acts and omissions
22 of DEFENDANTS, PLAINTIFFS and each of them suffered emotional distress, fear, worry, loss,
23 diminished self-worth and general and compensatory damages, including but not limited to loss
24 of income (past and future), general and compensatory damages (past and future), and will
25 continue to so suffer in the future, in an amount to be proved at trial. Further, pursuant to CCP
26 Section 1021.4, Plaintiffs are entitled to recover their attorney's fees and costs, in an amount
27 according to proof.
28

1 33. Because the conduct of Defendants was despicable, malicious and
2 intentional, and conducted, authorized ratified by a managing agent, officer, or director, Plaintiffs
3 are entitled to recover punitive damages in an amount according to proof.

4
5 **SECOND CAUSE OF ACTION**

6 **(Negligent Infliction of Emotional Distress**
7 **Against All Defendants and Does 1 through 20)**

8 34. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
9 through 33 above, as though fully set forth in this cause of action.

10 35. By virtue of the aforesaid, Defendants owed a duty of care or ordinary care
11 to Plaintiffs, to use the degree of care and skill that a reasonable prudent person would use in
12 interacting with PLAINTIFFS or others in the community. And CHCC owed a duty of care to
13 Plaintiffs to ensure that its agents and employees would not undertake such actions against
14 PLAINTIFFS, or other members of the public, that negligently caused harm.

15 36. Defendants breached the duty of care. Defendants were negligent, and
16 caused PLAINTIFFS to suffer serious emotional distress. Defendants' negligence was a
17 substantial factor in causing PLAINTIFFS' harm and serious emotional distress.

18 37. As a direct and proximate result of the aforementioned acts and omissions
19 of DEFENDANTS, PLAINTIFFS suffered emotional distress, fear, worry, loss, diminished
20 self-worth and general and compensatory damages, including but not limited to loss of income
21 (past and future), general and compensatory damages (past and future), and will continue to so
22 suffer in the future, in an amount to be proved at trial. As a direct and legal result of the
23 aforesaid, Plaintiffs sustained injuries and damages, and other damages in an amount according
24 to proof.

25 **THIRD CAUSE OF ACTION**

26 **(Intentional Infliction of Emotional Distress against all Defendants and Does 1 through 20)**

27 38. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
28 through 37 above, as though fully set forth in this cause of action.

1 39. Defendants' conduct caused PLAINTIFFS to suffer severe emotional
2 distress. Defendants' conduct was outrageous. Defendants, or their agents, intended to cause
3 PLAINTIFFS' emotional distress. Alternatively, Defendants acted with reckless disregard of the
4 probability that PLAINTIFFS would suffer emotional distress, knowing that PLAINTIFFS were
5 present when the conduct occurred or likely to be present in the home when the conduct
6 occurred. As a result of Defendants' conduct, PLAINTIFFS suffered severe emotional distress.
7 Defendants' conduct was a substantial factor in causing PLAINTIFFS' severe emotional distress

8 40. As a direct and proximate result of the aforementioned acts and omissions
9 of DEFENDANTS, PLAINTIFFS suffered emotional distress, fear, worry, loss, diminished
10 self-worth and general and compensatory damages, including but not limited to loss of income
11 (past and future), general and compensatory damages (past and future), and will continue to so
12 suffer in the future, in an amount to be proved at trial.

13 41. Because the conduct of Defendants was despicable, malicious and
14 intentional, and conducted, authorized ratified by a managing agent, officer, or director, Plaintiffs
15 are entitled to recover punitive damages in an amount according to proof.

16 **FOURTH CAUSE OF ACTION**

17 **(Negligent Supervision and/or Retention of Employee Against Defendant - CHCC)**

18 42. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
19 through 41 above, as though fully set forth in this cause of action.

20 43. During the relevant times, and for weeks, CHCC employed SPATAFORE
21 and provided SPATAFORE with the tools and facilities to cause harm to Plaintiffs during work
22 hours. CHCC was negligent in training and supervising SPATAFORE after CHCC was
23 supplied actual notice of SPATAFORE's conduct by as late as November 19, 2019.
24 Alternatively, CHCC was negligent in training and supervising SPATAFORE after CHCC had
25 constructive notice of SPATAFORE's misconduct prior to November 19, 2019. CHCC was
26 negligent in retaining SPATAFORE after CHCC was supplied actual notice of SPATAFORE's
27 conduct by as late as November 19, 2019, and did not bar SPATAFORE access to records, tools,
28 computer, and instruments used to inflict harm on JANE AND JOHN DOE. Alternatively,

1 CHCC was negligent in retaining SPATAFORE after CHCC had constructive notice of
2 SPATAFORE's misconduct prior to November 19, 2019.

3 44. CHCC hired SPATAFORE approximate nineteen (19) years ago.
4 SPATAFORE became unfit to perform the work for which he was hired. CHCC knew or should
5 have known that SPATAFORE was or had become unfit and that this unfitness created a
6 particular risk to others, including PLAINTIFFS and each of them. SPATAFORE's unfitness
7 harmed PLAINTIFFS and each of them, and CHCC's negligence in supervising and/or retaining
8 SPATAFORE was a substantial factor in causing PLAINTIFFS and each of them, harm.

9 45. As a direct and proximate result of the aforementioned acts and omissions
10 of DEFENDANTS, PLAINTIFFS and each of them, suffered emotional distress, fear, worry,
11 loss, diminished self-worth and general and compensatory damages, including but not limited to
12 loss of income (past and future), general and compensatory damages (past and future), and will
13 continue to so suffer in the future, in an amount to be proved at trial.

14 46. Because the conduct of Defendants was despicable, malicious and
15 intentional, and conducted, authorized ratified by a managing agent, officer, or director, Plaintiffs
16 are entitled to recover punitive damages in an amount according to proof.

17 **FIFTH CAUSE OF ACTION**

18 **(Violation of Civil Code Section 3344**

19 **Use of Name or Likeness Against SPATAFORE by JOHN and JANE])**

20 47. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
21 through 46 above, as though fully set forth in this cause of action.

22 48. Defendant SPATAFORE knowingly used PLAINTIFFS' name to a
23 number of businesses to market directly to those businesses while falsely claiming that
24 PLAINTIFFS were interested in the products, services or goods. The list of businesses that
25 contacted PLAINTIFFS has been in the hundreds if not thousands and was done without
26 PLAINTIFFS' consent. The use of PLAINTIFFS' names did not occur in connection with a
27 news, public affairs, or sports broadcast or account, or with a political campaign. The use of
28

1 PLAINTIFFS' name was directly connected to commercial purposes, and Plaintiffs were harmed.
2 Defendants' conduct was a substantial factor in causing PLAINTIFFS' harm.

3 49. As a direct and proximate result of the aforementioned acts and omissions
4 of DEFENDANTS, PLAINTIFFS suffered emotional distress, fear, worry, loss, diminished
5 self-worth and general and compensatory damages, including but not limited to loss of income
6 (past and future), general and compensatory damages (past and future), and will continue to so
7 suffer in the future, in an amount to be proved at trial. Further, pursuant to CCP Section 1021.4,
8 Plaintiffs are entitled to recover their attorney's fees and costs, in an amount according to proof.

9 50. Because the conduct of Defendants was despicable, malicious and
10 intentional, and conducted, authorized ratified by a managing agent, officer, or director, Plaintiffs
11 are entitled to recover punitive damages in an amount according to proof.

12 SIXTH CAUSE OF ACTION

13 **(Defamation, Against All Defendants by JOHN)**

14 51. Plaintiff JOHN incorporates each and every allegation contained in
15 Paragraphs 1 through 50 above, as though fully set forth in this cause of action.

16 52. Plaintiff is informed and believes, and thereon alleges that Defendants by
17 the herein-described acts, conspired to, and in fact, did negligently, recklessly, and intentionally
18 cause excessive and unsolicited internal and external publications of defamation, of and
19 concerning Plaintiff, to third persons and to the community. These false and defamatory
20 statements included statements falsely attributed to JOHN, and express and implied accusations
21 that JOHN engaged in criminal acts and domestic violence and made false purchases to make
22 JOHN appear dishonest. The false statements tended to injure and did in fact injure Plaintiff and
23 exposed Plaintiff to contempt, ridicule, or shame.

24 53. While the precise dates of these defamatory publications and comments
25 are not known to JOHN, he discovered extortion schemes and emails sent to both himself and
26 JANE within the last year, claiming that JOHN was unfaithful. Some of the claims were made in
27 November 2019, and JOHN was forced to republish and refute within the last year. Among other
28 things, SPATAFORE impersonated JOHN and falsely published to the community and Fresno

1 Police Department that JOHN had been involved in a hit and run while under the influence.
2 SPATAFORE caused and published other false police reports including reports concerning
3 domestic violence that Plaintiff was forced and compelled to republish to protect his reputation.

4 54. These publications by SPATAFORE individually, and as an agent of
5 CHCC, were outrageous, negligent, reckless, intentional, and maliciously published and
6 republished by Defendants by and through their agents and employees. Plaintiff is informed and
7 believe that the negligent, reckless, and intentional publications by Defendants were and continue
8 to be, foreseeably published and republished by Defendants, their agents and employees, to
9 recipients in the community. These foreseeable republications included those that Plaintiff was
10 forced and compelled to republish, in an attempt to protect and contest the serious damage this
11 defamation did to his reputation. Plaintiff hereby seeks damages for these publications and all
12 foreseeable republications discovered up to the time of trial.

13 55. During the above-described time-frame, Defendants conspired to and did
14 negligently, recklessly, and intentionally cause excessive and unsolicited publication of
15 defamation, of and concerning Plaintiff, to third persons, who had no need or desire to know.
16 Those third person(s) to whom these Defendants published this defamation are believed to
17 include, but are not limited to, other agents and employees of Defendants and the community, all
18 of whom are known to Defendants but unknown at this time to Plaintiff.

19 56. The defamatory publications consisted of oral and written, knowingly false
20 and unprivileged communications, tending directly to injure Plaintiff and Plaintiff's personal,
21 business, and professional reputations. These publications included the following false and
22 defamatory statements (in violation of Civil Code §§45 and 46(3)(5)) within the meaning and/or
23 substance that Plaintiff violated Defendant Employers' policy, engaged in misconduct, and/or
24 insubordination. These and similar statements published by Defendants expressly and impliedly
25 published that Plaintiff was incompetent, dishonest, engaged in dishonesty, and was a poor
26 employee.

27 57. Plaintiff believes and fears that these false and defamatory per se
28 statements will continue to be published by Defendants and will be foreseeably republished by

1 their recipients, all to the ongoing harm and injury to Plaintiff's professional, and personal
2 reputations. Plaintiff also seeks redress in this action for all foreseeable republications, including
3 his own compelled self-publication of these defamatory statements.

4 58. The defamatory meaning of all of the above-described false and
5 defamatory statements and their reference to Plaintiff was understood by these above-referenced
6 third person recipients and other members of the community who are known to Defendants but
7 unknown to Plaintiffs at this time.

8 59. None of Defendants' defamatory publications against Plaintiff referenced
9 above are true.

10 60. The above defamatory statements were understood as assertions of fact,
11 and not as opinion. Plaintiff is informed and believe this defamation will continue to be
12 negligently, recklessly, and intentionally published and foreseeably republished by Defendants
13 and foreseeably republished by recipients of Defendants' publications, thereby causing additional
14 injury and damages for which Plaintiff seeks redress by this action.

15 61. These publications of defamation were malicious and with the intent to
16 harm and damage JOHN.

17 62. Each of these defamatory publications by Defendants were made with
18 knowledge that no investigation supported the unsubstantiated and obviously false statements.
19 The Defendants published these statements knowing them to be false, unsubstantiated by any
20 reasonable investigation, and as a result of SPATAFORE's hatred for JOHN. These acts of
21 publication were known by Defendants to be negligent to such a degree as to be reckless. In fact,
22 not only did Defendants have no reasonable basis to believe these statements, but they also had
23 no belief in the truth of these statements, and, in fact, knew the statements to be false.
24 Defendants excessively, negligently, and recklessly published these statements to individuals
25 with no need to know, and who made no inquiry, and who had a mere general or idle curiosity
26 regarding this information.

27 63. The above complained-of publications by Defendants were made with
28 hatred and ill will towards Plaintiff and with the design and intent to injure Plaintiff's good name,

1 his reputation, and employability. Defendants published these statements, with an illegal
2 purpose, not with an intent to protect any interest intended to be protected by any privilege, but
3 with negligence, recklessness and/or an intent to injure Plaintiff and destroy his reputation.
4 Therefore, no privilege existed to protect any of the Defendants from liability for any of these
5 afore-mentioned publications or republications.

6 64. As a proximate result of the publication and republication of these
7 defamatory statements by Defendants Plaintiff has suffered injury to his personal, business and
8 professional reputations including suffering embarrassment, humiliation, severe emotional
9 distress, shunning, anguish, fear, and significant economic loss, all to Plaintiff's economic,
10 emotional, and general damage in an amount according to proof.

11 65. Defendants committed the acts alleged herein recklessly, maliciously,
12 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff for an improper
13 and evil motive amounting to malice (as described above), and which abused and/or prevented
14 the existence of any conditional privilege, which in fact did not exist, and with a reckless and
15 conscious disregard of Plaintiff's rights. All actions of Defendants their agents and employees,
16 herein alleged were known, authorized, ratified and approved by the Defendants. Plaintiff thus
17 is entitled to recover punitive and exemplary damages from Defendants for these wanton,
18 obnoxious, and despicable acts, in an amount based on the wealth and ability to pay according to
19 proof, at the time of trial.

20 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
21 them, as follows:

22 1. For compensatory damages, for each Plaintiff, relating to economic injury,
23 and emotional distress damages, all in an amount according to proof but not less than
24 \$5,550,000.00, for each Plaintiff;

25 2. For punitive damages against each Defendant in an amount according to
26 proof;

1 3. Reasonable attorney's fees and costs under any applicable statutory
2 authority, including, but not limited to, CCP Section 1021.4, Civil Code Section 3344 and other
3 applicable provisions of the Code;

4 4. For prejudgment interest under Civil Code §3288, CCP §998, and any
5 other applicable statutory authority;

6 5. For penalties under any and all available penal codes in an amount
7 according to proof;

8 6. For all other relief as shall be deemed by the Court to be proper.

9 Dated: October 12, 2021

10 WHELAN LAW GROUP,
11 A Professional Corporation



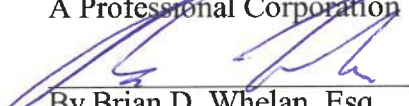
12 By Brian D. Whelan, Esq.
13 Attorneys for ALL Plaintiffs

14 **JURY DEMAND**

15 Plaintiffs request that each and every factual issue raised by each and every cause
16 of action alleged above be tried by a jury.

17 Dated: October 12, 2021

18 WHELAN LAW GROUP,
19 A Professional Corporation



20 By Brian D. Whelan, Esq.
21 Attorneys for ALL Plaintiffs