IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LEONARD G. HOROWITZ, Plaintiff,	)	
vs.	)	Case No. 2:20-cv-00955-JLB-NPM
PFIZER INC., et al., Defendants.	)	

PLAINTIFF'S OPPOSITION TO DEFENDANT HEARST's MOTION TO DISMISS

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OVERVIEW

> To survive a motion to dismiss the Federal Rules of Civil Procedure require at minimum "a short and plain statement of the claim" that "will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." *Conley,* 355 U.S. at 47, 78 S.Ct. at 102-03 (quoting Fed.R.Civ.P. 8(a)(2)). *Veltmann v. Walpole Pharmacy, Inc*., 928 F. Supp. 1161 - Dist. Court, MD Florida 1996

Defendant Hearst has gleaned that short and plain cause for this action: "[T]he defendants have somehow conspired to cause [Plaintiff's] sales of OxySilver to decrease. *See, e.g.*, ECF No. 63 ("Motion") ¶ 1, 2. Hearst also admits publishing the 2016 article titled "Climb Aboard, Ye Who Seek The Truth," (hereafter, "Article I"; **Exhibit 1**), and discerns from the Complaint the following, albeit falsifying the emboldened clause for which emphasis is added :

> Plaintiff claims that the Article [I] "smear[ed]" his reputation and "misrepresented the ingredients of OxySilver™" to damage him and his product sales. Compl. ¶¶ 10, 257. He further claims that the Article is part of a "smear campaign" by Hearst and its "allies in commerce and propaganda," "media partners," "major institutional stockholders," "agents," and "shady media affiliates," against Plaintiff and "anti-vaxxers" to "restrain [Plaintiff's] celebrity and trade" and "prevent the Defendants' profits from being diluted by individuals such as the Plaintiff," **but alleges no facts making plausible any relationship between Hearst and these third parties or their conduct**. *Id.* ¶¶ 48, 104, 246, 257-258, 262, 264, 266, 276, 280. (ECF No. 63 pp. 3-4)

Except for the embolded statement, Hearst grasps the claims against its "Enterprise" well pled in the Complaint that details the "relationship[s] between Hearst and these third parties [and] their conduct." "RICO liability is not limited to those with a formal position in the enterprise, but *some* degree in directing the enterprise's affairs is required." Kelly v. PALMER, REIFLER, & ASSOCIATES, PA, 681 F. Supp. 2d 1356 - Dist. Court, SD Florida 2010, referencing: *Reves v. Ernst & Young,* 507 U.S. 170, 113 S.Ct. 1163, 122 L.Ed.2d 525 (1993). Hearst speciously denies the company's partnerships with Corus Entertainment and others named below, shirking the partners' complicity and liability for smearing the Plaintiff's reputation and 528 industry to compete unfairly and deceptively against Plaintiff's commerce. The court in *Florida Evergreen Foliage v. E.I. Dupont De Nemours & Co.,* 336 F.Supp.2d 1239, 1261 (S.D.Fla.2004) affirmed "that the distinctiveness requirement was not met where alleged enterprise consisted of corporation, employees, outside counsel, and agents and consultants)". The Plaintiff alleges Hearst, its partners, and their agents represent co-conspirators in a "racketeering enterprise" monopolizing health science and commerce.

BACKGROUND

A. Hearst's Background as a Federal Actor Affirms Article III Liability.

HEARST is invested with partners, co-contractors, and privities-in-interest in the drug industry through, inter alia, Hearst Healthcare and Hearst Health network that "includes FDB (First Databank), Zynx Health, MCG and Homecare Homebase, Hearst Health International, Hearst Health Ventures and the Hearst Health Innovation Lab," according to *Yahoo Finance News*, **Exhibit 2**.[1]

Hearst advertises drugs manufactured, distributed, or sold by Defendants Pfizer and Moderna called "genetic therapies," including the government's messenger RNA ("mRNA") vaccines. (**Exhibit 3**) These vaccines presumably deliver a genetic "payload" to impact

[1] "The mission of the Hearst Health network is [purportedly] to help guide the most important care moments by delivering vital information into the hands of everyone who touches a person's health journey. Each year in the U.S., care guidance from the Hearst Health network reaches 84 percent of discharged patients, 174 million insured individuals, 41 million home health visits, and 4 billion prescriptions," according to hearsthealth.com. (**Exhibit 2**).

nerve and immune cells' DNA via a device called a "hydrogel".[2] This little-known 'active ingredient' enables wireless bioelectronic, frequency-dependent, data-mining of substantial commercial value to Hearst's partners and privies-in-interest. (**Exhibits 6** thru **8**) This bioelectronic technology is advertised as 'cutting edge' healthcare innovation. This biotechnology is especially promising for Hearst's subsidiary, FirstData Bank, and Hearst's partner, the McKesson Company, that advertises itself to be the "Central Nervous System of Healthcare." This conglomerate leads computerization and automation of healthcare, including the advancement of artificial intelligence ("AI") in healthcare, clinical case management, limb robotics, and "transhumanism". (**Exhibit 9**)

Defendant Henry Schein, Inc. is also partnered with Hearst via MicroMD™—the exclusive computer database sold by Schein to customers in the professional, institutional, and governmental markets. Schein's product, MicroMD™, incorporates Hearst's "First DataBank's Medical Lexicon Module, which integrates all existing ICD-10 codes into emergency rooms across North America, including updated "drug-to-ICD warnings." (**Exhibits 10** and **11**) McKesson and Defendant Schein are also the U.S. Government's chief suppliers of drugs and vaccines, in this case the mRNA vaccines containing hydrogels. (**Exhibit 12**) This bioelectronic technology was developed with $25 million in financing and classified oversight from the U.S. Government through the Department of Defense's Defense Advanced Research Programs Agency ("DARPA"), and another $955 million to Moderna and its Canadian hydrogel partners through "BARDA" (i.e., the U.S. Department of Health and Human Services' (HHS') Biomedical Advanced Research and Development Authority). (**Exhibits 5, 7, 8, and 13**)

These secular partnerships in drugs, bioelectronic hydrogel developments, and related "genetic therapies," compete directly against the Plaintiff's religious paradigm, claimed "key of the house of David" 528 frequency industry, and "OxySilver™ with 528" technology that

[2] This hydrogel sources from two Canadian firms—Acuitas and Arbutus (with Arbutus prevailing in its patent infringement lawsuit). (**Exhibits 4 and 5**) The Canadian companies' vaccine-modifying device works to deliver silver, copper, or gold micro-electrodes within its water/lipid pH-regulated composite matrix, like an mRNA "envelope" used to transfer the genetic message into the vaccine-recipients immune and nerve cells. (**Exhibit 5**)

operates as a 'natural preventative' against infectious diseases. OxySilver with 528 is especially viable in the "religious market" wherein "vaccination hesitancy" is high and alternatives to drugs are commonly sought and sold. (Compl. Doc. 1. ¶¶ 11, 37-41, and 109-110)

Defendants' mRNA vaccines and OxySilver work similarly. OxySilver works naturally without risks or religious prohibitions via normal bioelectric cellular interactions, versus the Defendants' drugs/vaccines that work unnaturally via imposed genetic alterations administered via the hydrogel device prohibited by religious law, such as Leviticus 19:19. Furthermore, OxySilver does not permit data-mining using the nano-bioelectronic hydrogel device that Moderna and Pfizer's Canadian partner Acuitas supplies and Charles River Labs tests.

In 2009, Hearst's First DataBank, Inc. and McKesson Corp. were characterized in federal court filings as a "racketeering enterprise" that "fraudulently increased the published 'average wholesale price' ('AWP') of over four hundred branded drugs by five percent . . . in violation of 18 U.S.C. 1962 and state law," according to the Memorandum and Order Approving Class Settlement and Awarding Attorney's Fees and Costs, issued by the District Court of Massachusetts. (**Exhibit 14**)

Hearst is thus a "state actor" by and through its "public/private" partnership with DARPA, BARDA, McKesson, Moderna, Schein, and Pfizer similarly serving federal agents.

B. Hearst's Defenses in Motion to Dismiss Fail

1. Hearst's Misrepresentations Fraudulently Conceal[3] Its Partnerships, and Evidence Complicity in the Civil Conspiracy and FDUTPA Torts.

After gleaning the cause of this action is the alleged conspiracy to unfairly and deceptively "cause sales of OxySilver to decrease," Hearst misrepresents the Complaint as "bereft of factual allegations to support any viable claim for relief

[3] Pursuant to the alleged *fraudulent concealment*, Hearst: (1) denied and suppressed the truth about its enterprise targeting Horowitz; (2) The Hearst author of Article I, and defense counsel, represented to Horowitz that no anti-trust conspiracy existed, without knowledge as to either the truth or falsity of this representation; (3) Hearst authors and agents intended for Horowitz to dismiss evidence of their anti-trust conspiracy as silly "conspiracy theory;" Hearst's lawyer did this too before filing the instant Motion; and (4) Horowitz relied on this false representation published by Hearst author, Bronwen Dickey in Article I, for years resulting in his personal, professional, and commercial damage. See: *Jones v. General Motors Corp*., 24 F. Supp. 2d 1335 - Dist. Court, MD Florida 1998.

against Hearst." (Mtn. Doc. 63, p. 2; ¶ 2) Hearst's misrepresentation falsely excuses and conceals the company's co-conspirators and evidence of their conspiracy as detailed below and in the Complaint.

Hearst compounds its misrepresentation: "Because each cause of action makes vague allegations against an undifferentiated group of 'Defendants' without identifying which defendant allegedly did what to Plaintiff, it is nearly impossible for Hearst to ascertain what Plaintiff is claiming against Hearst." (Mtn. Doc. 63, p. 2; ¶ 2) Yet Hearst contradicts itself by falsely defending against and overtly concealing or dismissing those detailed "relationship[s] between Hearst and the third parties or their conduct" cited in the Complaint. (Mtn. Doc. 63, p. 2; ¶ 2) Factual allegations in the Complaint were apparently clear enough to raise Defendant's awareness of the company's alleged complicity in disparaging OxySilver and Horowitz to secure its alleged racketeering enterprise's monopoly over the bioelectronic infection-control industry by anti-competitive torts.

Plaintiff's claims are not speculative, but grounded in the facts summarized below and corroborated by exhibited evidence attached hereto, proving a civil conspiracy to deprive the Plaintiff's commerce that is "plausible on its face." The Plaintiff's factual allegations are enough "to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly* 550 U.S. 544, 127 S. Ct. 1955 (2007). The Complaint provides "enough facts" to survive Hearst's Motion to Dismiss, and for this Court to fashion the requested remedy of enjoining Hearst's enterprise from publishing further disparagements against the Plaintiff, his OxySilver, and 528 industry; awarding financial damages to compensate Plaintiff for his losses.

2. Hearst's Relationships and Actions Among the Alleged Co-Conspirators are Material Facts in Dispute Making Summary Disposition Unjust.

Contrary to Hearst's omissions and misrepresntations, disappearing facts that make plausible the aforementioned relationships between Hearst, the other Defendants, and complicit third parties in the administration of unfair and deceptive

trade and civil conspiracy damaging the Plaintiff, the Complaint states the following facts that Hearst speciously conceals (with paragraph numbers cited):

> 11. In May, 2018, HEARST's Corus Entertainment published another "hit piece" attacking the Plaintiff's reputability and disparaging the Plaintiff's '528 industry' the doctor had pioneered and developed through substantial research and investments....
>
> 37. HEARST properties include: First Databank, a leading healthcare industry advisor and drug and vaccine online sales tool; Corus Entertainment–a Canadian mass media enterprise, Filch Ratings advising drug and vaccine investors (inter alia), and Litton Entertainment that specializes in children's educational programming.
>
> 38. HEARST's partners on projects and promotions include NBC Universal Media, Inc. and iHeart Radio. HEARST owns a 50% stake in A&E Networks and The History Channel; and a 20% stake in ESPN, both in partnership with ABC Disney Co.
>
> 40. On June 28, 2010, McKesson and PFIZER announced their partnership "to support pharmacists' role in patient care, citing World Health Organization data as defining the need for their partnership as America's preeminent drug and vaccine portal.
>
> 41. McKesson, PFIZER, MODERNA, SCHEIN, IBM, GOOGLE and FACEBOOK share the same largest stockholders, namely the largest "institutional investors:" These include the Vanguard Group, Inc.; Blackrock Fund Advisors; State Street Global Advisors, Inc. (SSgA Funds Management, Inc.); and *Geode Capital Management*....
>
> 110. That HEARST Corus Entertainment smear [Article II; **Exhibit 16**] converted the Plaintiff's 528Radio.com listening audience, OxySilver™ customers, and newsletter subscribers, to a competing commercial enterprise making false and misleading claims that 432Hz is a superior, more therapeutic, alternative musical tuning to 528Hz.
>
> 258. . . . This enterprise considers HOROWITZ a risk to be 'neutralized' because he subscribes to alternative paradigms (e.g., homeopathic medicine, bio-acoustic technologies, phototherapies and/or 'electro-genetic' treatments that rely on a different "bio-energy" paradigm that competes against the Defendants' allopathic paradigm.)

Hearst disclaims accountability for its alleged complicity with its Canadian media partner, Corus Entertainment, an alleged joint tortfeasor,[4] jointly venturing with Hearst according to its 2020 Corus copyright (updating the original 2007 press release headlined "HEARST CORPORATION AND CORUS ENTERTAINMENT PARTNER. . . .") as shown in **Exhibit 15.** In the following pull-quote, Hearst's Motion

[4] In *Lawlor v. National Screen Service Corp*., 349 US 322, 328 - Supreme Court 1955 "conspiracy and monopoly" was litigated for "injunctive relief" akin to Plaintiff's Complaint. Lawlor's side alleged "that five other producers . . . joined the conspiracy" as joint tortfeasors. National Screen's enterprise was alleged to control the market by "nearly 100%." In the case at bar, the Defendants have gained the same "nearly 100%" control over mRNA vaccines and bioelectronic hydrogels used therein to treat or prevent infectious diseases in competition with Plaintiff's OxySilver and 528 industry.

falsely dissociates from Corus, and lies about its May 2018 "hit piece" ("Article II") damaging Horowitz and his 528 industry as the Complaint details:

> [I]n May 2018, "Hearst's Corus Entertainment" published another "hit piece" in *Global News*. Compl. ¶¶ 11, 42, 109, 246, 270. However, Corus Entertainment and Global News are not entities owned by The Hearst Corporation or any of its subsidiaries, and Plaintiff presents no facts that would support any plausible claim against Hearst for the actions of Corus Entertainment and/or Global News. Regardless, the claim concerning the May 2018 article (*id.* ¶¶ 270, 278) would be barred by the single action doctrine and the statute of limitations (*see infra* p. 15) and is not of and concerning Plaintiff because he is not mentioned in the article. (ECF No. 63 Footnote 2 p. 3.)

"Ownership" is not necessary to establish liability of privies, according to the U.S. Supreme Court in *Lawlor*[1] that ruled that joint tortfeasors include companies "close enough" to the Defendants "to bring them all within the scope of the" proceeding. The "outer bounds of the rule of privity and allied concepts," the Supreme Court noted, "being defined by Restatement, Judgments, § 83, Comment a: [are] 'those who control an action although not parties to it . . . ; those whose interests are represented by a party to the action . . . '" Thus, Defendant Hearst is liable in privity with actor Corus as the publisher of *Global News* that represents the interest of Hearst and the other Defendants in smearing and damaging the Plaintiff's 528 industry, its products and services. In *Copperweld Corp. v. Independence Tube Corp*., 467 US 752, the Supreme Court (1984) voided the "intra-enterprise conspiracy doctrine with respect to corporations and their wholly owned subsidiaries." But this did "not cripple antitrust enforcement" brought against co-conspiring presumably independent companies.

a. Plaintiff evidences the Hearst/Corus partnership and "horizontal privity" of interest disparaging and unfairly competing against Plaintiff and his products.

Amplifying the *Lawler* ruling pursuant to the facts in the instant Compliant, according to *Black's Law Dictionary* (Eight Edition, 2006, p. 1237) *privity* is defined as: "The connection or relationship between two parties, each having a legal recognized interest in the same subject matter . . . ; mutuality of interest." Both partners, Hearst and Corus, shared

"mutuality of interest" in disparaging Horowitz as "radical" and smearing his 528 commerce. "Horizontal privity" in Commercial law is defined as "The legal relationship between a party and a nonparty who is related to the party" (*Id*.) as Hearst and Corus are.

Exhibit 15 proves Hearst's partnership and *horizontal privity* of interest with Corus Entertainment in Canada and the U.S., publishing false and misleading information to disparage Horowitz's '528 industry,' 528Records.com, 528Radio.com, and related 528 products, including "OxySilver™ with 528."

Exhibit 16 shows the Hearst/Corus/*Global News* "hit piece" of May, 2018 (i.e., Article II) that smears Horowitz's 528 industry, disparages Plaintiff's 528 products, *and misrepresents and converts Horowitz's intellectual property and writings*. Plaintiff alleges this wrongdoing was done to damage Horowitz's celebrity; 528 industry; commerce in the music industry internationally; and consumer health products markets.

Hearst falsely defends this Article II in its Motion (p. 3, footnote 2) stating it, "is not of and concerning Plaintiff because he is not mentioned in the article." Deviously, Hearst neglects two (2) emboldened LINKS in that Article II. (**Exhibit 16**) The first "LINK I" takes readers to Horowitz's 528Records.com musical transposition service. (**Exhibit 17**) The second neighboring "LINK II" takes readers to a "Battleground Earth" Article ("Article III"; **Exhibit 19**) that falsely appears to be Horowitz's article. Article III's deceptive appearance as Horowitz's publication evidences copyright infringement, consumer fraud, and identity theft. Article III accommodates Hearst's unfair and deceptive trade by convincing readers that Horowitz's 528 industry is "radical," so that consumers and music lovers would be confused and put-off by this label and the "conspiracy theories" abounding on that linked Battleground Earth website. (**Exhibits 19** and **21**-**25**) The common subject of Articles II and III is frequencies in musical tuning and their impact on health. Article II mostly promotes the alternative "432Hz tuning" that Horowitz's publications caused to be considered as an "alternative instrument tuning" for better health and spiritual well-being. But Horowitz is not credited by Hearst/Corus for this, nor even mentioned in Article II's 432Hz coverage. In Article III, Horowitz is fraudulently misrepresented as the author. This Battleground Earth Article III makes it appear that Horowitz published this article on Wes Penre's website on

"Friday, October 22, 2010"---five years *before* Horowitz actually published the original article.

Article II considers the "standard tuning" that was institutionally established at A=440Hz. **Exhibit 16** shows Article II was presumably written by Hearst/Corus agent Alan Cross. Article II is capricious and malicious in referencing 528Hz and Horowitz's writing as "radical." Hearst's agent, radio personality Cross, describes his LINK I to Horowitz's 528Record.com as follows:

> "The more radical among middle "A" haters insist that the true frequency should be 528Hz because it's a 'digital bio-holographic precipitation crystallization [and] miraculous manifestation of divine frequency vibrations.' I have no idea what that means."

The Hearst/Corus partners published LINK II to Penre's Article III that corroborates the alleged conspiracy and joint action to disparage and deprive the Plaintiff and his 528 industry as wacky undesirable competition engaging in "conspiracy theories" rather than scientific facts. This evidence of malicious joint action publishing multiple disparaging articles damaging the Plaintiff is dispositive of Hearst's Motion to Dismiss. "To survive a motion for summary judgment . . . a plaintiff seeking damages for a violation of [restraint of trade law, 15 U.S.C.] § 1 must present evidence 'that tends to exclude the possibility' that the alleged conspirators acted independently. 465 U. S., at 764." *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475, 588 US 574 - Supreme Court 1986. Horowitz has provided this evidence of Hearst's pattern and practice of disparaging the Plaintiff by exhibiting Articles I, II, and III, proving joint action to disparage Horowitz by Hearst and Corus.

The Hearst/Corus Articles I and II, and LINKS I and II, provide convincing proof of these joint actors engaged in joint actions evidencing the Defendants' anti-competitive conspiracy. This is not "consistent with permissible competition as with illegal conspiracy." *Id.*, at 588. Hearst's defense hangs itself by evidencing: (a) the company's fraudulent concealment of its partnership with Corus acting as co-conspirators; and (b) the capricious dismissal of Articles I thru III and LINKS I and

II that prove clearly-and-convincingly Horowitz Claim VI for Civil Anti-trust Conspiracy is justified. *Id*., at 588.

Exhibit 17 further evidences Hearst's fraud and malice against Horowitz's intellectual property linked from Article II (in the above quote) to 528Records.com co-owned by Horowitz. Compare below the actual quote written by Horowitz and copyrighted in 2012. It is posted on the left side column of Horowitz's 528Records.com home page. This heralds "**You are the Music,**" clarified thusly:

> "You are a digital biohologra phic precipitation, crystallization, miraculous manifestation, of Divine frequency vibrations, coming out of Water. Get it? You are the music, echoing universally, eternally, hydrosonically, with your heart at 528!"

Comparing those two quotes—the one Horowitz wrote with the one Hearst's partner published--evidences Hearst/Corus's joint wrongdoing, including *copyright infringement* committed to misrepresent and disparage the Plaintiff's 528 industry, smear Horowitz as its pioneer, and compete unfairly and deceptively against Horowitz's commerce.[5] As the above pull-quote shows, the actual infringed material written by Horowitz references *human beings* ("**You**"), not the "528Hz" frequency as Hearst/Corus misrepresented. Hearst's agent Cross evidences his malice by writing, "I have no idea what that means," knowing he edited the converted work.[6]

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[5] **Exhibit 18** shows Hearst/Corus/*Global News'* advertising of a competing anti-microbial "natural" health product, supplementing the partners' pharmaceutical ads, all competing against Horowitz's 528 products and services.

[6] Horowitz's complete quote makes clear his meaning and relevance to the Defendants' alleged wrongdoing in genetic engineering. Rather than the Defendants' risky vaccine hydrogels broadcasting frequencies of energy transmitting data to and from DNA, and presumably to computers too according to scientific reports (such as **Exhibit 6**), Horowitz's OxySilver broadcasts the 528 frequency of sound safely, "hydrosonically," through water-filled bodies. The secular versus religious conflict and competition is apparent. The "528Hz" frequency referenced in the Hearst Article I, and Hearst/Corus Article II, is not manmade bioelectronics. It is a natural 'biospiritual' energy impacting *human beings*. Hearst/Corus clearly misappropriated and edited Horowitz's writing to confuse consumers and conceal these facts. The publishers vicariously disparaged 528 advocates as "radical," all to damage Horowitz's reputability, 528 industry, and competitive enterprise in 'medicinal music,' 'frequency therapeutics,' and religious theology.

3. Hearst's Joint Actors Plagiarized and Infringed on Plaintiff's Copyright to Smear Horowitz, Confuse Consumers, and Damage Plaintiff's 528 industry.

Exhibit 17 compounds evidence of the malicious intent of Hearst/Corus to disparage and damage the Plaintiff and his 528 industry in a conspiracy to commit unfair and deceptive trade. **Exhibit 17** links to **Exhibits 18** and **19.** The latter evidences where the Hearst/Corus Article II's second LINK takes readers—to Article III that shows more illegal conversions of Horowitz's writings, and also the theft of his personal identity. Hearst's Article II copyright infringement is compounded by more infringement on Horowitz's copyrighted material shown in Article III that LINK II in Article II accesses by clicking the blue word "quote":

> I quote from one of the many online articles on the subject: "The monopolization of the music industry features this imposed frequency that is 'herding' populations into greater aggression, psychosocial agitation, and emotional distress predisposing people to physical illnesses and financial impositions profiting the agents, agencies, and companies engaged in the monopoly."

Exhibit 19 evidences Hearst/Corus directing readers not to Horowitz's source publication for the above quote. Instead, the Article II LINK II goes to Article III that shows copyright infringement and theft of Horowitz's author identity; all evidencing Hearst's joint actions with agents working to damage Horowitz commercially. **Exhibit 19** evidences Hearst's pattern and practice of publishing information, and linking to articles, that damage the Plaintiff's reputability and prospective business advantage. **Exhibit 19** also evidences unfair and deceptive trade "*counter-intelligence*" profiting Hearst and its cohorts in this alleged racketeering enterprise 'protection racket' and civil conspiracy to disparage and damage Horowitz and his properties.

This **Exhibit 19** (Article III) converts Horowitz's name, article title, and abstract. It falsely appears to be one of the Horowitz's articles. Titled "Musical Cult Control: The Rockefeller Foundation's War on Consciousness Through the Imposition of

A=440Hz Standard Tuning" was converted by presumably "Battleground Earth" publisher and Anonymous organization advertiser, "Wes Penre."

a. Hearst plagiarism, copyright infringement, and identity theft links state actors by this chain of records fraudulently concealing the syndicate's abuse of the Internet to discredit Horowitz, destroy his 528 industry, to compete unfairly.

The Hearst/Corus LINK II takes readers to presumably "Wes Penre's blog" named "Battleground Earth" (a.k.a., "battleofearth.wordpress.com/"; **Exhibit 19**) where the competitors are evidenced converting Horowitz's identity, his article title and article abstract, on "October 22, 2010," *presumably*. The trouble is, Horowitz did not write this precise title, nor abstract, until five year later, May 7, 2015. The Plaintiff never authorized this evidence of the Civil Conspiracy (Claim VI) to commit unfair and deceptive trade damaging the Plaintiff and his OxySilver sales.

Exhibit 20 is a screenshot of Horowitz's actual source article showing the date of Horowitz's publication as May 7, 2015. The publication was intended to support Horowitz's research, public education, and religious commerce promoting 528Hz awareness and its benefits to health and spirituality.

Alternatively, **Exhibit 21** is a screenshot of presumably Penre's **"REPLY" to his own article** in which the Hearst agent converts and obfuscates Horowitz's copyrighted material. In this ruse, Penre states, "We are not here to combat dark forces." Penre then intermingles "conspiracy theories" and "spiritual work" to discredit both, vicariously Horowitz too, infringing on Horowitz's copyright shown in **Exhibit 22,** and violating Florida Statute 817.568 by personal identification theft**.**

Exhibit 23 shows Penre's "Illuminati-News" publication that repeatedly features images of the "BLACK ANGEL". This is the icon of the self-described American "intelligence agent" allegedly named "David Ryker."

Exhibit 26 evidences Ryker infiltrating Horowitz's organization through Plaintiff's partner, Sherri Kane, on October 13, 2016, soliciting Horowitz and Kane to sign this "NONDISCLOSURE AGREEMENT" pursuant to Ryker's alleged

administration of the infamous "hacktivist" organization called "Anonymous". **Exhibit 27** is a true and correct copy of Ryker's confidentiality agreement with header and footer captioned "TOP SECRET//COMINT//REL TO USA". This was e-mailed by presumably Ryker to Kane and Horowitz after Ryker alleged that he directed Anonymous in privity with U.S. intelligence agencies.

Exhibit 28 evidences three of Ryker's many graphics published by Anonymous to allegedly pressure Hawaii law enforcers to indict DMT-trafficking money-laundering lawyer, Paul J. Sulla, Jr., for persecuting and prosecuting the Plaintiff, and stealing Horowitz's real properties in Hawaii by forgery and fraud between 2009 and 2016.[7]

Exhibits 22 thru **25** compound evidence of Defendants' Enterprise abusing "conspiracy theories" to obfuscate real conspiracies, including the Civil Conspiracy (Count VI) damaging competitor Horowitz. This chain of records evidences Hearst's ties to the intelligence community's online publishing activity,[8] contemporaneous with:

(1) Hearst's *Popular Mechanics* article misrepresenting the 528 frequency, related technologies, OxySilver's ingredients, and Horowitz's religious character.

(2) Passage of the National Biodefense Strategy Act (NBSA) encouraging counter-intelligence operations to neutralize "vaccination hesitancy" especially among religious leaders who espouse reasonable concerns, such as Horowitz;

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[7] It must be presumed from these facts that both Penre and Ryker are counter-intelligence agents promoted by Hearst/Corus to confuse consumers about Horowitz's reputability, and damage the Plaintiff's 528 industry and product sales.

[8] Penre's original *website design* was first published in 2010 as shown in **Exhibit 22**. The original design continued to be used for publishing "conspiracy theory" propaganda until 2016 when the original website design was changed to its current appearance in **Exhibit 19**. **Exhibit 25** evidences the first appearance of the current web design for Penre's BattleofEarth blog in 2016. **Exhibit 25** proves the change in web-design happened in-or-around 2016, sometime after July 18, 2015. (See: **Exhibit 23**.) Penre's blog features BLACK ANGEL and Anonymous propaganda. **Exhibit 25** records the Wayback Archive of the Hearst/Corus May 13, 2018 promoted blog as it appeared on November 5, 2016 showing the same original web-design. All these facts compound evidence of Defendants' fraudulent concealment of the Defendants' covert joint actions.[3]

(3) DARPA's financing of the ADEPT program (Autonomous Diagnostics to Enable Prevention and Therapeutics) focused on Horowitz's field of competition;[9]

(4) DARPA's initiation of the Pandemic Prevention Platform (P3) program competing against OxySilver with 528 by the rapid manufacture of antibody treatments as Moderna contracted to do for the Defense Department;

(5) Founding of OxySilver competitor Galvani Bioelectronics with Pfizer's parent, GlaxoSmithKlein ("GSK") partnered with Google's parent Alphabet Inc. and its subsidiary Verily Life Sciences (announced August 1, 2016; **Exhibit 30**).

(6) "Frequency Therapeutics" biotech "start-up" additionally competing against OxySilver with 528 involving Pfizer's former Senior Vice President, John LaMattina, as the company's Scientific Advisory Board director. (**Exhibit 31**)

(7) Hearst joint-venturer, Conde Naste, publisher of Health Pharma's *WIRED* magazine, reports on infiltrating the Plaintiff's educational conference largely to disparage 'anti-vaxxers". (**Exhibit 32**)

(8) Hearst's Article I (*Popular Mechanics* smear) is spun into another feature published by *Forbes* on December 10, 2016 (**Exhibit 8**), wherein Plaintiff's religion and religious-based natural products were specifically identified and disparaged.[10]

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[9] ADEPT fast-tracked responses to "threats posed by natural and engineered diseases and toxins. . . novel methods for rapidly manufacturing new types of vaccines with increased potency; novel tools to engineer mammalian cells for targeted drug delivery and in vivo [bioelectronic] diagnostics; and novel methods to impart near-immediate immunity to an individual using antibodies. . . . easily manufactured at scale using largely synthetic processes . . ." "The hypothesis was that rather than delivering antigens to the immune system, we could deliver genes that encode the antigen and allow the human body to produce the antigen from its own cells, triggering a protective immune response [precisely what Pfizer's and Moderna's mRNA vaccines claim to do].(**Exhibit 29**)

[10] On December 10, 2016, *Forbes*, that is intertwined with Hearst Healthcare and Pfizer et. al. through "Forbes Healthcare Virtual Summit," inter alia, revised and linked to Hearst's *Popular Mechanic*s feature article. *Forbes* embellished Hearst's Article I by publishing that Horowitz is "trying to sell treatments that compete with existing treatments approved and supported by legitimate government agencies such as the Food and Drug Administration (FDA) and the scientific community."

To the contrary, Horowitz draws from the scientific community to advance novel products that compete against pharmaceuticals. *Forbes* added, "Len Horowitz" "describes himself as the "King of Natural Healing." That is FALSE. The Plaintiff has never described himself as the "King of Natural Healing." Horowitz has been described by others as the "King David of Natural Healing." Forbes intentionally deleted the reference to "King David" to deny Horowitz's religious identity, divert from Horowitz's 528 bio-electric "key of the house of David" musical revelations, and offend others leading the natural healing community.

Forbes also disparaged Horowitz, stating he "has been trying to sell an herbal cream that he claims will make skin cancer fall off your body in less than 3 weeks." That too is FALSE. The referenced product is a "black salve," not a cream. Further, the salve has been successfully used by health professionals internationally for more than a century to prompt immunological rejections of otherwise growing, potentially deadly, skin cancers. (See: **Exhibit 33**)

Summarily, the Complaint adequately cites facts proven true by the attached exhibits. These exhibits corroborate Hearst's complicity in the claimed Civil Conspiracy causing Plaintiff's "sales of OxySilver to decrease." ECF No. 63 ("Motion") ¶ 1, 2. Hearst's Article I clearly falsified OxySilver's ingredients and therapeutic function. Hearst fraudulently concealed its partnerships and privies-in-interest in its Civil Conspiracy to damage Horowitz's reputation and competition. Hearst disparaged Horowitz's "528" frequency industry; smeared the Plaintiff's religious identity and natural healing communities; deprived Plaintiff's free and fair religious commerce with OxySilver and other products; and directed consumers to competing products and a sham blog published by presumably an unscrupulous counter-intelligence agent named "Penre" to confuse consumers and compound the Plaintiff's commercial damage. Hearst's LINK II to agent Penre proves conversion of Horowitz's copyrighted intellectual property and personal identity. These covert actions crippled Horowitz's celebrity, and discredited Plaintiff's leadership in the religious community pursuant to vaccination-hesitancy. This is how the Defendants unfairly and deceptively undermined the Plaintiff's products, sales, and services that compete against Defendants' drug and vaccine commerce. Hearst's wrongful actions, deceptions, and conversions of Horowitz's intellectual and industrial properties are especially profitable to the Defendants' 'frequency therapeutics' monopoly, against which Horowitz's bioenergetic OxySilver with 528 competes.

ARGUMENT

I. ARTICLE III SUBJECT MATTER JURISDICTION EXISTS BECAUSE PLAINTIFF IS DIRECTLY DAMAGED BY HEARST'S ALLEGED TORTS.

To plead Article III standing, "the plaintiff must 'clearly . . . allege facts demonstrating"' that it has "(1) suffered an injury in fact; (2) that is fairly traceable to the challenged conduct of the defendant; and (3) that is likely to be redressed by a

favorable judicial decision." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540,1547, 1548 (2016), *as revised* (May 24, 2016). The Plaintiff has satisfied all three elements by the aforementioned facts and exhibits. The Plaintiff: (1) lost OxySilver and other sales; (2) fairly traceable to the discrediting publications and property conversions of Hearst and its privies-in-interest favoring Hearst's drug Enterprise; and (3) enjoining Hearst and co-Defendants from smearing the Plaintiff, his products, and 528 industry, can stop these damaging injustices from compounding. Standing exists where "the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." *Warth v. Seldin*, 422 U.S. 490, 498 (1975).[11]

In the case at bar, Horowitz evidences he "suffered an injury in fact" when his OxySilver sales and professional reputation was damaged by Hearst's enterprise that includes state actors and drug merchants, including Schein and Hearst's First Databank partnered with McKesson Corp. These companies were previously labeled a "racketeering enterprise" in the case of *New England Carpenters Health Benefits, et. al. v. First Databank, Inc. and McKesson Corp*. (1:05-cv-11148-PBS, District of Massachusetts). Therein, as here, the Defendants were ruled to have committed unfair competition and deceptive trade. (**Exhibit 14**) Likewise, in this instant case, Plaintiff's "injury was causally connected to the defendant's action" (*Id*.) as pled in the Complaint and further evidenced herein.

A. Hearst baselessly argues to deny the Plaintiff's Article III standing.

Hearst baselessly argues that "Plaintiff's alleged economic damages, i.e., that OxySilver sales 'plummeted' between 2008 and 2011 (Compl. ¶ 76)" could not be attributed to Hearst publications in 2016 or 2018; and this "decline in sales

[11] The relevant prudential consideration here is that Plaintiff Horowitz has asserted his own legal rights and interests rather than those of third parties. *Bischoff v. Osceola City*., 222 F.3d 874, 883 (11th Cir. 2000); accord *Warth*, 422 U.S. at 499.

beginning *seven or eight years* prior to the Article's publication," cannot be "fairly traceable to Hearst as required for Article III standing." (M, p. 5 ¶ 2)

To the contrary, Plaintiff has not only pled facts and attached exhibits herein controverting Hearst's preclusion, but the Complaint (¶¶ 74-76) does likewise. **Exhibits 26** thru **28** evidence the Hearst drug enterprise acted between 2008 and 2011 through dimethytryptamine ("DMT") trafficker and co-conspirators, Paul J. Sulla, Jr. and Alma C. Ott, to deprive Horowitz's civil rights, due process rights, and religious property rights. The "Subject" of the e-mail from "Black Angel" to Horowitz in 2016 shown in **Exhibit 26** records, "We may have Hester" referencing Paul Sulla's shill and sham "Foreclosing Mortgagee" complicit in forging Horowitz's Mortgage to convert his health spa and religious property in Hawaii on May 15, 2009, subject to ongoing litigations in state and federal court cases. The Complaint further details these facts involving Hearst between 2008 thru 2011 as follows:

> 74. Soon thereafter, by 2009 through to the present, the Plaintiff was repeatedly gang-stalked, harassed, defamed, censored, discredited, and personally, professionally, and commercially damaged by online agents and media provocateurs presumably allied with the Defendants.
>
> 75. HOROWITZ's media interviews similarly vanished. The Plaintiff had been a "regular" guest on *Coast-to-CoastAM* broadcasting to approximately 7 million listeners through iHeartMedia, Inc. and Clear Channel Communications, Inc., companies that partner in joint-ventures with HEARST through A&E Networks and ABC Disney Television. Suddenly this regularity diminished and subsequently terminated altogether after broadcasters directed HOROWITZ to conceal the identities of the lead agents known to be directing the defamatory cyber-attacks against the Plaintiff.
>
> 76. Soon, OxySilver™ sales plummeted from approximately $1 million annually between 2008 to 2010, to less than $200,000.00 in 2011, 2012 and forward.

Exhibits 42 thru **44** evidence DARPA financing of DMT research pilot-studied by Sulla's son and his privies in hallucinogenic drug trafficking from Hawaii to the mainland. **Exhibits 43** and **44** evidence the same DMT testing lab Moderna uses under DARPA contract to determine the risks of mRNA hydrogel drug administration—Charles River Labs, doing DARPA's hallucinogenic drug development studies.

Accordingly, Hearst's Motion must be denied because Hearst's main argument is baseless and controverted by material facts in dispute. Hearst's Motion to Dismiss lacks truth, and falsely alleges defects in the Complaint that obscure Hearst's history of wrongdoings with co-conspirators, beginning in-or-around 2008-09, "fairly traceable" to Hearst, and damaging the Plaintiff.

B. Plaintiff's "reputational harm" from Hearst's false publications is sufficient to establish Article III standing.

Hearst argues without citing case law that Plaintiff's alleged "reputational harm' is "insufficient to establish Article III standing because they are conclusory and speculative."

To the contrary, the U.S. Supreme Court in *Lexmark Intern. v. Static Control*, 134 S. Ct. 1377, 1384, 1391 (2014) considered consumer confusion caused by false publications to be actionable under the Lanham Act. Hearst's link to Penre's BattleofEarth blog in 2018 with partner Corus, inter alia, makes Hearst similarly accountable for "two distinct bases of liability: false association, § 1125(a)(1)(A), and false advertising, § 1125(a)(1)(B)." (*Id.*)

Hearst's agent, Penre, falsely associated Horowitz's name with Penre's publication that falsely advertised unsubstantiated conspiracy theories thereby discrediting Horowitz causing "reputational harm." "[A] competitor who is forced out of business by a defendant's false advertising generally will be able to sue for its losses. . . ." Horowitz was forced to declare bankruptcy in 2016, shortly after Hearst's disparaging *Popular Mechanics* Article I was published (fraudulently concealing Hearst's partners in its unfair and deceptive drug trade. See: **Exhibit 34.**) "[O]nly direct competitors [can] sue for false advertising." *Id* @ 1391. And Plaintiff is Hearst's direct competitor.

Hearst's secular drug enterprise directly competes against the Plaintiff's non-drug religious enterprise. Thus, the Plaintiff has Article III standing to sue

Hearst for injury caused by Hearst and its agents' false advertising advancing unfair and deceptive trade (with damages exceeding $10 million since 2009). Horowitz's 2016 bankruptcy (**Exhibit 34**); $400,000.00 to $600,000 in lost annual OxySilver sales since 2011 (**Exhibit 35**), and more losses, are pled in the Complaint and attached hereto as **Exhibit 35**. These facts give Plaintiff Article III standing in accordance with *Lexmar.* (*Id*)

II. THE COMPLAINT AGAINST HEARST SUFFICIENTLY PLEADS FACTS TO STATE A CLAIM FOR RELIEF THAT IS PLAUSIBLE ON ITS FACE.

A motion to dismiss under Rule 12(b)(6) must not be granted when the plaintiff is entitled to relief as a matter of law, assuming the truth of the factual allegations. *Ironworkers Local Union 68 v. Astrazeneca Pharm.*, 634 F.3d 1352, 1359 (11th Cir. 2011). If there is a "case or controversy" pursuant to Article III, a plaintiff stands properly, and the complaint must be adjudicated. 12(b)(1). *Fla. Family Policy Council v. Freeman*, 561 F.3d 1246, 1253 (11th Cir. 2009). The aforementioned pleadings—facts and exhibits—provide factual allegations satisfying the Plaintiff's Article III standing and this Court's jurisdiction.

III. THE PLAINTIFF ALLEGES VIABLE FDUTPA CLAIMS.

Hearst argues lamely that all of the Plaintiff's FDUTPA counts (I-IV) should be dismissed because the Complaint "falls far short of minimal pleading standards." ECF No. 63 ("Motion") p. 9, Section C. Hearst raises "three independently sufficient reasons" that are each ***baseless***.

"**First**", Hearst argues "Under Florida law, a single publication sustains a single cause of action." *Bongino v. Daily Beast Co.*, 477 F. Supp. 3d 1310, 1320 (S.D. Fla. 2020). But this case at bar evidences multiple publications used by Hearst and its drug Enterprise to compete against Horowitz's products and services unfairly and deceptively. This is not a claim for "defamation" as Hearst erroneously argues.

"**Second,**" Hearst wrongly argues its single 2016 *Popular Mechanics* publication does not contain "commercial speech." This is wrong because each of the aforementioned multiple offending publications, Articles I thru III, smeared Horowitz's 528 frequency, 528 products, 528 industry, and/or OxySilver with 528 as a bioelectric alternative to Defendants' drug commerce. So Hearst's argument does not make sense, or even comport with its case law. "[T]he [FDUTPA] statute applies only to commercial speech—or, 'expression related solely to the economic interests of the speaker and its audience." (Id.) It is unreasonable to presume Hearst's speech was anything other than commercial, expressed to influence "the economic interests of the speaker and its audience."(Id.) Hearst further argues falsely stating, "The Article does not propose any commercial transaction or promote a product or service." That too is *false*. The 2016 Hearst Article I (Doc. 63-1; **Exhibit 1**) disparagingly states (at 11/21, last ¶) below the bold insert "ADVERTISEMENT-CONTINUE READING BELOW":

> Len Horowitz's lecture on 528 hertz. While Len fussed with the projector, Sherri set out boxes of nutritional supplements and crystal pyramids for sale. Their flagship product, OxySilver, retailed for $49.40. It contained one listed ingredient: purified water, though its nutritional table also included 5 micrograms of colloidal silver.

That commercial description is *false*. The nutritional table does not state "5 micrograms of colloidal silver." It states "5 mcgs" of "Silver" (at 3 ppm). Hearst added the word "colloidal" to disparage OxySilver commerce by falsely lumping the product in with what government officials and the media have conditioned consumers to reject—*colloidal silvers.* Those products may cause graying of the skin and the unsightly condition called *argyria*. Hearst knows this, or should have known OxySilver is not "colloidal silver," and been honest in its Article I, ironically titled, "Climb Aboard, Ye Who Seek The Truth."(**Exhibit 1**)

Hearst further misrepresents (at M, p. 10 ¶ 3) "The Article [I] expresses opinions and observations on the [reporter's] experience." In "Truth" the word "opinion" does not appear anywhere in the article; and the author certainly did not

"experience" 5mcg of "colloidal silver," or even the 13,000 Gauss electromagnetic field broadcasting from the "crystal pyramids" Hearst mentioned for the Plaintiff's discrediting. Hearst's offending Articles in 2018 and 2016 were "commercial speech because they . . propose a commercial transaction' [and do not] 'communicate information [accurately nor completely, nor], express opinion, . . . [nor] recite grievances." *Edward Lewis Tobinick, MD v. Novella*, 848 F.3d 935, 950 (11th Cir. 2017).

Consequently, because Hearst's articles are "commercial speech," the FDUTPA applies and Hearst's Motion to Dismiss should be denied. *Gorran v. Atkins Nutritionals, Inc.*, 279 F. App'x 40, 42 (2d Cir. 2008) (Florida law)

Third, the Plaintiff seeks injunctive relief to enjoin Hearst's unfair and deceptive commercial smearing of the Plaintiff, damaging the Plaintiff's reputability and causing him and his privies lost product sales that are actual damages. *Toca v. Tutco, LLC*, 430 F. Supp. 3d 1313, 1328 (S.D. Fla. 2020) Contrary to Hearst's Motion (pp. 11-12), Rule 9(b) should not preclude the Complainant's FDUTPA claims because the Plaintiff has not claimed fraud. Also contrary to Hearst's Motion (p. 12), Horowitz's FDUTPA allegations against Hearst are sufficient to withstand the Motion. Plaintiff's **Claim II** (¶ 216) cites Hearst for falsely advertising Moderna's and Pfizer's mRNA vaccines as "safe" with partners NBC/Comcast and MSNBC, and unfairly and deceptively competing against OxySilver's safety and sales. **Claim III** in the Complaint (¶¶ 225 and 226) alleges FDUTPA violations pursuant to advertising the mRNA vaccines as having "an efficacy rate of 90 percent." The Plaintiff and many experts object venomously to this allegedly reckless misrepresentation. **Claim IV** brings a "Unfair Competition" FDUTPA claim against Hearst and its "media partners" in drug-trafficking and protection-racketeering as alleged in ¶ 246, causing Plaintiff's damages from restraint of trade as summarized in ¶ 250 . **Claim V** alleges "Tortious Interference with Prospective Business Advantage" detailing Hearst's damaging acts with its privies-in-interest in ¶¶ 256 thru 282 with relief requested in ¶¶ 283-285. **Claim VI** alleges a "Civil Conspiracy" tort against all of the named

Defendants, including Hearst; for which **Claim VIII** is brought for "Injunctive Relef." (Hearst is not considered in Claim VII, exclusively involving Schein.)

Accordingly, contrary to Hearst's Motion, Plaintiff's allegations are adequately detailed in accordance with Rule 8(a) pleading standards, and clearly put Hearst "on notice of the specific acts [it is] alleged to have committed." *Inkgraph Techno, LLC v. Tripathy*, No. 20-CV-2554, 2021 WL 398487, at *2 (M.D. Fla. Feb. 4, 2021). Hearst's Motion must, therefore, be denied.

A. Hearst's Multi-smear Articles I thru III Discredits Its "Single Claim" Defense.

"In Florida, a single publication gives rise to a single cause of action." *Callaway Land & Cattle Co. v. Banyon Lakes C. Corp.*, 831 So.2d 204, 208 (Fla. 4th DCA 2002) (citation omitted). This is why Hearst defends willfully-blind to its multiple publications and partners smearing the Plaintiff's reputability, misrepresenting his products, besmirching his religious identity, converting his intellectual properties with scienter; and disparaging his 528 industry maliciously.

By ignoring Hearst's pattern-and-practice of publishing anti-Horowitz propaganda, Hearst argues Horowitz should be deprived of his tortious interference Claim V. All of this wrongdoing favors Hearst's monopolistic drug enterprise that generally controls healthcare's computerization, data-mining, and genetic bioelectronic industry. Hearst's collusive Articles I thru III are akin to 'protection racketeering." These publication divert liability by concealing facts and risks to consumers. They demonize Plaintiff's safe alternative, OxySilver, and deprive citizens of their right to choose OxySilver or not by informed consent.

To evade liability for Hearst's tortious interference damaging the Plaintiff's OxySilver sales, his 528 industrial property and 528 radio broadcasting services, and Horowitz's religious commerce too, Hearst denies its media and drug company partnerships. Hearst pleads to dismiss multiple offending publications by Hearst partners and privies, including complicit partner Corus Entertainment (**Exhibits 15**

and **16)**; the Conde' Nast and PubWorX conglomerate (**Exhibit 37)**;); *WIRED* (**Exhibit 32**) and *Forbes* (**Exhibit 33**); with additional partners VIMEO (**Exhibit 37**), Apple Inc., iTunes (**Exhibit 38),** and iHeartRadio (**Exhibits 39** and **40)** inter alia. This publishing cartel tortiously interfered with Plaintiff's business contracts, and from 2008 to the present, caused the Plaintiff financial losses by besmirching Horowitz's reputability and 528 healing industry.

Hearst's propaganda tortiously-interfered with Plaintiff's: (1) "regular" broadcasting contract with George Noory on *Coast-to-CoastAM* terminating Horowitz's presence on Hearst's affiliates Premier Radio Networks, Clear Channel, and iHeart Radio as detailed in the Complaint in ¶¶ 75 and 262 ("HOROWITZ's media interviews similarly vanished."); (2) broadcasting contract with VIMEO that was terminated unjustly; and (3) music publishing and sales contract with CD Baby as evidenced by **Exhibits 40** and **41** that shows iHeartRADIO's conversion of Horowitz's *Solfeggio Eclectica* CD album for which the Plaintiff has received no compensation at all. So Hearst's monopoly not only smears Horowitz's reputability, but controls his music substantially.

Hearst's "single claim"defense fails in light of multiple offending Hearst publications, lack of any defamation claim by the Plaintiff, and because "Florida courts have recognized that the [§ 770.01] statute does not apply to private parties" such as Horowitz. Quoting, *Five for Entertainment SA v. Rodriguez*, 877 F. Supp. 2d 1321 - Dist. Court, SD Florida 2012.

IV. IRREPARABLE HARM TO PLAINTIFF JUSTIFIES INJUNCTIVE RELIEF

"According to well-established principles of equity" discussed by the U.S. Supreme Court in the patent infringement case of *eBay Inc. v. Mercexchange, Ll*, 547 US 388 - Supreme Court 2006 (with copyrights and trademarks similarly construed as commercial properties) "a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief." Horowitz has complied by

demonstrating: (1) that he has suffered irreparable injuries to his 528 industry, international celebrity, and religious and scientific communities whose members have been increasingly ostracized for daring to object to the Defendants' secular healthcare narrative, medical risks, and religious freedom deprivations like the Plaintiff has for more than a decade by the Defendants' actions; (2) that Plaintiff's remedies available at law, such as monetary damages, are *inadequate* to compensate Horowitz and his religious community for the severe distress and related illnesses suffered, such as the death of Plaintiff's beloved business partner, Sherri Kane, who died on January 7, 2021, from a series of strokes proximal to the Defendants' aforementioned wrongdoings; (3) that, considering the balance of hardships between the Plaintiff and the Defendants, a remedy in equity enjoining Hearst's enterprise from continuing to disparage Horowitz, his religious identity, his 528 industry, products, and services is warranted; and (4) that the public interest would be greatly served by permanently enjoining the Defendants from any further smearing of Horowitz for advocating honest science, religious freedoms, consumers' health, safety, and informed consent neglected by way of Defendants' concealed pharmaceutical risks and captured regulators. *Id*. at 392. For these reasons, Plaintiff seeks relief to enjoin compounding irreparable harm to Horowitz, his businesses, his reputation, and his free exercise of religion and expression of religious thought caused by Hearst and its privies-in-interest. Mounting irreparable harm has been sufficiently detailed in the Complaint ¶¶ 333-334. To deprive the Plaintiff/whistleblower of injunctive relief vicariously deprives Horowitz of his right to practice his passion for public health and consumer protection, and condemns him to suffer "Neglect of Duty to Prevent," a violation of 42 U.S.C. § 1986.

Accordingly, Hearst's Motion should be denied. Horowitz has met his burden to plead the necessary elements required for injunctive relief, including showing "actual success on the merits." *See Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1097 (11th Cir. 2004).

Contrary to Hearst's Motion, Plaintiff does not claim defamation in lieu of his tortious interference claim and statute of limitations. This is not a terminal error as Hearst argues for the Court to favor its erroneous "single claim doctrine" defense. The Complaint states that Plaintiff "waived claim for Defamation per se." (Compl. p. 13, ftnt. 3.). Horowitz did that having first discovered the elements required for his filed claims following his viewing and analysis of "Event 201" in early January, 2020. Horowitz considered that this "time of discovery" provided facts tolling the statute of limitations for tortious interference under the doctrine of "inherently unknowable injury", ***BTIG, LLC v. Palantir Technologies, Inc.*, C.A. No. N19C-08-314 EMD CCLD (Del. Sup. Ct. Jan. 3, 2020), citing** *Brown*, 820 A.2d 362, 366 (Del. 2003). In other words, Hearst benefitted from its agents' denials of libel as author Bronwen Dickie did in Article I, fraudulently concealing complicit partners in the their conspiracy to damage Plaintiff's commerce by repeated smearing.

V. HEARST IS NOT ENTITLED TO ATTORNEY FEES AND COSTS PURSUANT TO FLORIDA'S ANTI-SLAPP STATUTE

Hearst argues Plaintiff's Complaint is meritless, "abusive," and that Florida's anti-SLAPP Statute protects its "rights of free speech in connection with public issues" raised in Article I, neglecting Articles II and III. Fla. Stat. § 768.295(1). Hearst's pattern-and-practice of concealing facts, publishing propaganda, and smearing the Plaintiff, disparaging his 528 industry, and mocking his religious identity and bioelectric/metaphysical theology, is not frivolous nor actionable under § 768.295(1) as 'meritless' counter-suit. Nor is misrepresenting and besmearching OxySilver's ingredients and scientifically-established 528 frequency dynamics. The shoe is on the other foot. By filing its meritless anti-SLAPP claim, Hearst acts to deprive Horowitz of his "free speech in connection with public issues," and that is illegal. Such clever misrepresentations abound in Hearst's Motion, as exemplified by its footnote 5. There, Hearst alleges that Plaintiff should

be punished for making good on his promise of "exposing *Popular Mechanics* and the people behind it." Double-standard law is practiced by Hearst, for sure.

In all fairness, Plaintiff pleads that this Court not reward Hearst and the other Defendants for their inequity, by dismissing this Complaint and denying Plaintiff's liberty to amend his Complaint if necessary. Plaintiff requests due process to enjoin damage, and compensate him for the harm he has suffered.

Respectfully submitted.

DATED: May 7, 2021

/s Leonard G. Horowitz
Plaintiff, pro se

_____
Leonard G. Horowitz

DECLARATION

I, LEONARD G. HOROWITZ, declare under the pains and penalties of perjury at law that the following aforementioned facts are true to the best of my knowledge and belief, and allegations against Defendant Hearst that I made above are well-evidenced by corroborating Exhibits 1 thru 44 attached hereto. I further declare that if I am called to testify before this Court on these matters, I shall do so competently.

1) I am an individual over the age of twenty-one (21) years, a resident of Lee County in the State of Florida.

2) I affirm that Exhibits 1 thru 44 attached to this Opposition filing are true and correct copies of the original documents in my possession. They evidence my extensive research beginning in January 2020, without which the Defendants' joint actions with state actors, and motives for conspiring to disparage me and my commercial interest could not be known.

Respectfully submitted,

DATED: May 7, 2021

___/s Leonard G. Horowitz_____
Leonard G. Horowitz, pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May 2021, I filed a true and correct copy of the foregoing "Plaintiff's Opposition to Hearst's Motion to Dismiss" including Exhibits 1 thru 44, with the Court's Clerk for customary E-filing. I further certify that I served by E-Mail a copy of the filed Opposition document to the following participant(s):

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Horowitz v. Pfizer, et. al.; Certificate of Service for 'Plaintiff's Opposition to Hearst's Motion to Dismiss.'