

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

OLGA ZAYTSEVA, YANA ROMANOVA,
OLGA VILUKHINA,

Plaintiffs and Counterclaim
Defendants,

v.

GRIGORY RODCHENKOV,

Defendant and Counterclaim and
Third-Party Plaintiff,

v.

MIKHAIL PROKHOROV and JOHN DOES 1
through 5,

Third-Party Defendants.

Index No. 151550/2018

**GRIGORY RODCHENKOV'S ANSWER,
COUNTERCLAIMS AND THIRD-PARTY COMPLAINT**

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PRELIMINARY STATEMENT

During the 2014 Olympic Winter Games in Sochi, Russia (the “Sochi Games”), Dr. Grigory Rodchenkov was the Director of the Sochi Laboratory, an accredited laboratory that Russia established purportedly to comply with World Anti-Doping Agency (“WADA”) regulations concerning anti-doping control. In reality, the Sochi Lab was used to carry out a Russian state-sponsored doping conspiracy through which Russian athletes who used prohibited performance-enhancing drugs to obtain an improper advantage at the Sochi Games were protected and their violations concealed. This doping program was ordered and overseen by Russian officials in multiple state agencies, including the Ministry of Sports (“MOS”), the Center for Sports Preparation (“CSP”), which was overseen by and affiliated with the MOS, and the Federal Security Service (“FSB”), the successor agency to the KGB. In his capacity as the Sochi Lab’s Director, Dr. Rodchenkov assisted in the doping conspiracy. The Sochi scheme was part of a pattern of systematic doping by Russian athletes, facilitated by state conspirators including Dr. Rodchenkov, that had taken place for years across a variety of sporting events.

Dr. Rodchenkov helped facilitate the Sochi scheme in two principal ways. First, in the years before the Sochi Games, Dr. Rodchenkov had developed a new three-steroid cocktail, referred to as the “Duchess Cocktail,” which administered micro-doses of hard-to-detect steroids sublingually (by swishing in the athletes’ mouths), thus keeping the steroids out of the athletes’ digestive systems and making detection even more difficult. Second, in order to ensure that doping by Russia’s Olympic athletes would be concealed, Dr. Rodchenkov oversaw a process during the Sochi Games to swap potentially “dirty” urine samples of protected Russian athletes with “clean” urine from the same athletes, which had been collected and stored by the CSP prior to the athletes’ doping. The MOS decided which athletes would be protected in this manner, and

listed them in a spreadsheet, referred to as the “Duchess List,” which was provided to Dr. Rodchenkov. This urine-swapping scheme depended upon a method developed by the FSB to open the supposedly tamper-proof bottles in which athletes’ urine samples were stored after collection at various sites on the Sochi campus. All these actors—the MOS, the CSP, the FSB, Dr. Rodchenkov and his team at the Sochi Lab, and Russian Olympic athletes and their coaches—came together during the Sochi Games to carry out the plot.

The Sochi scheme went undetected and was a phenomenal success. Russia achieved historic results with a total of 33 medals. The Sochi Lab, despite the presence of observers and laboratory experts, was able to falsely report all the Russian athletes as “clean” while finding a number of other international competitors as having taken prohibited substances, thus disqualifying them from competition.

The Sochi scheme’s success did not last, however. It started to fall apart in late 2014, when German television aired a documentary claiming that Russian officials, including Dr. Rodchenkov, facilitated doping by Russian athletes at international competitions. As Russian officials issued false denials and scrambled to conceal evidence of their culpability, Dr. Rodchenkov came to fear that higher Russian authorities would set him up to take the fall for state-facilitated doping. Dr. Rodchenkov’s fears were confirmed when he was told by a friend within the government that Russian authorities were planning his “suicide.” Dr. Rodchenkov decided to flee Russia for the United States, determined to become a whistleblower and reveal the Sochi scheme and its responsible parties to the world.

Dr. Rodchenkov told his story to *The New York Times*, which published a blockbuster article on May 12, 2016, entitled “Russian Insider Says State-Run Doping Fueled Olympic

Gold.”¹ The article accurately described in detail, based upon information and evidence provided by Dr. Rodchenkov, how Russia had effectively corrupted anti-doping controls and managed to operate a state-sponsored doping scheme at the Sochi Games without detection.

Dr. Rodchenkov’s disclosures shocked the world of international sports. Soon after the May 12, 2016 story which revealed the Sochi scheme was published, WADA commissioned Professor Richard H. McLaren—a Canadian law professor, attorney and expert in international sports law—to conduct an independent investigation into Dr. Rodchenkov’s claims. Professor McLaren ultimately issued two reports, dated July 18, 2016 and December 9, 2016, which concluded based on substantial evidence, including forensic analyses and testimony by multiple witnesses, including Dr. Rodchenkov and others, that Dr. Rodchenkov’s claims of a Russian state-sponsored doping conspiracy were true beyond a reasonable doubt.

With Professor McLaren’s investigation having confirmed Russia’s doping scheme at the Sochi Games, the International Olympic Committee (“IOC”) initiated two Disciplinary Commissions to impose appropriate sanctions. However, before those Commissions made any decisions, the IOC retained additional experts for forensic analysis. Those experts confirmed that the objective evidence fully corroborated Dr. Rodchenkov’s explanation of the Sochi scheme and established that the urine samples of many Russian athletes who had competed at the Sochi Games were tampered with. The bottles bore marks that indicated they had been surreptitiously opened; analysis of the urine revealed that it had been manipulated in a manner that was consistent with Dr. Rodchenkov’s testimony (the urine samples of some athletes even revealed DNA from other persons); and one athlete’s urine still held trace amounts of two of the

¹ Rebecca R. Ruiz & Michael Schwirtz, *Russian Insider Says State-Run Doping Fueled Olympic Gold*, N.Y. TIMES, May 12, 2016, <https://www.nytimes.com/2016/05/13/sports/russia-doping-sochi-olympics-2014.html>.

three prohibited steroids used in the Duchess Cocktail. Based on this clear and objective evidence, Russia was sanctioned by the IOC and a number of Russian athletes were disqualified from the Olympics and required to return the medals they had won at the Sochi Games.

Dr. Rodchenkov's whistleblowing and cooperation with investigatory authorities has caused tremendous embarrassment for Russia, whose misconduct in international sports has been proven by undeniable evidence and sanctioned by the IOC. While supporting appeals by the sanctioned athletes,² Russian officials have focused their attention on Dr. Rodchenkov, the "turncoat" (as they have termed him), and have slandered him as a mentally ill fabricator.³ For instance, President Vladimir Putin himself has publicly denounced Dr. Rodchenkov as "an imbecile with obvious problems, who can hardly be trusted."⁴ A spokesperson for the Kremlin has said that Dr. Rodchenkov has "emotional if not mental problems, and it is obviously clear that he cannot be taken seriously."⁵ Not content to merely slander Dr. Rodchenkov's character and mental health, Russian officials have also publicly threatened Dr. Rodchenkov with bodily

² In appeals by sanctioned Russian athletes to the international Court of Arbitration of Sport ("CAS"), CAS affirmed the findings of anti-doping rule violations with respect to 11 Russian athletes (but modified the sanctions from a lifetime ban from the Olympic Games to a temporary ban) and annulled the sanctions imposed against 28 Russian athletes, finding that the evidence was insufficient to establish individual culpability in their specific cases. The CAS has not yet decided the appeals filed by Olga Zaytseva, Olga Vilukhina and Yana Romanova, the Plaintiffs in this case. *See The Court of Arbitration for Sport (CAS) Delivers Its Decisions in the Matter of 39 Russian Athletes v/ the IOC: 28 Appeals Upheld, 11 Partially Upheld*, COURT OF ARBITRATION FOR SPORT, Feb. 1, 2018, <https://goo.gl/pnr1Lr>.

³ See Neil MacFarquhar, *Russia Denies Doping at Sochi Olympics*, N.Y. TIMES, May 13, 2016, <https://www.nytimes.com/2016/05/14/world/europe/russia-olympics-doping.html> (reporting that the Kremlin's spokesperson characterized Dr. Rodchenkov's whistleblowing as "slander by a turncoat").

⁴ *Putin: Charges against Russian Athletes Based on Words of 'Imbecile with Obvious Problems'*, TASS, Jan. 30, 2018, <http://tass.com/sport/987588> (permanent link as of March 17, 2018 at <https://perma.cc/TT6M-YAE9>).

⁵ *Kremlin States WADA Informant's Latest Interview Reveals Mentally Disturbed Individual*, TASS, Feb. 12, 2018, <http://tass.com/sport/989623> (permanent link as of March 17, 2018 at <https://perma.cc/8AVK-RHSY>).

harm. Leonid Tyagachev, a former head of Russia’s Olympic Committee, announced that Dr. Rodchenkov “should be shot for lying, like Stalin would have done.”⁶

Immediately after *The New York Times* published its May 12, 2016 story based on its interviews with Dr. Rodchenkov, Yury Nagornykh, then the Russian Deputy Minister of Sports, reportedly disclosed that Russia was considering filing a defamation lawsuit against Dr. Rodchenkov.⁷ The campaign to discredit Dr. Rodchenkov initiated by Russian officials ultimately led to this lawsuit, funded and directed by Mikhail Prokhorov, a powerful Russian oligarch and one of the wealthiest persons in the world. Prokhorov solicited the named plaintiffs for the lawsuit, selected the attorneys to represent them, financed the litigation and issued public statements supporting the meritless claims against Dr. Rodchenkov.

Prokhorov has made no secret of his search for nominal plaintiffs to support a lawsuit against Dr. Rodchenkov. Immediately after the IOC sanctioned five Russian athletes for doping in connection with the Sochi Games, Prokhorov publicly announced in Russian state-owned media that if the sanctioned athletes would “decide to fight back to defend their honor and reputation, I will be prepared to provide any legal and financial support.”⁸ Prokhorov further exclaimed in the Russian press that Dr. Rodchenkov, the chairpersons of the IOC’s Disciplinary Commissions, and others in the IOC and WADA would all “have to pay” for the IOC’s sanctions, which Prokhorov called an “outrage.”⁹

⁶ Shaun Walker, *Russian Olympic Official Says Doping Whistleblower Should Be Executed*, THE GUARDIAN, Nov. 17, 2017, <https://www.theguardian.com/sport/2017/nov/17/russian-olympic-official-says-doping-whistleblower-should-be-executed>.

⁷ MacFarquhar, *Russia Denies Doping at Sochi Olympics*, *supra* note 3.

⁸ *Businessman Prokhorov Ready to Initiate Legal Proceedings against Rodchenkov in US*, TASS, Nov. 28, 2017, <http://tass.com/sport/977843> (permanent link as of March 17, 2018 at <https://perma.cc/2RFY-42YZ>).

⁹ *Id.*

This case—funded by Prokhorov and unknown others¹⁰—was filed against Dr. Rodchenkov on February 20, 2018. The named Plaintiffs are Olga Zaytseva, Yana Romanova and Olga Vilukhina, three Russian biathletes who the IOC has found responsible for anti-doping rule violations and who were required to forfeit the medals they had won in the Sochi Games. Dr. Rodchenkov had submitted testimony and other evidence related to the three biathletes to the IOC’s Disciplinary Commission. The Plaintiffs’ Complaint alleges that, contrary to the IOC’s findings, they are innocent of doping and that Dr. Rodchenkov has libeled them with false statements. Predictably, the Complaint parrots the Kremlin’s slander against Dr. Rodchenkov, tarring him as an “emotionally unstable liar, cheater, and criminal” who “moved” to the United States, the Complaint says, in order to somehow, without explanation, “cash in on his lies.”¹¹

The libel claim asserted against Dr. Rodchenkov by the Plaintiffs is frivolous, both factually and legally. Notably, the Complaint does not deny or even address in any manner the objective evidence that belies the athletes’ protestations of innocence. For instance, when asked by a reporter to explain the forensic evidence showing her culpability, Zaytseva and her attorney shrugged the question away by responding that they were “not doctors.”¹² Furthermore, the Plaintiffs’ claims have numerous legal infirmities that render them ripe for immediate dismissal, as demonstrated by Dr. Rodchenkov’s Motion to Dismiss filed with the Court on this same date.

The frivolous nature of this lawsuit belies any contention that its real purpose is to vindicate the rights of the Plaintiffs. In reality, the purpose of this lawsuit is to vexatiously

¹⁰ See Tariq Panja, *N.B.A. Owner Backs Lawsuit Against Russian Doping Whistle-Blower*, N.Y. TIMES, Feb. 20, 2018, <https://www.nytimes.com/2018/02/20/sports/olympics/russia-doping-prokhorov.html> (quoting the Plaintiffs’ attorney as saying, “There are a number of individuals who are providing support for this challenge, both financial and otherwise.” “Mr. Prokhorov is certainly one of them, but he’s not the only one.”).

¹¹ See, e.g., Compl. ¶¶ 84, 97, 107.

¹² Panja, *N.B.A. Owner Backs Lawsuit Against Russian Doping Whistle-Blower*, *supra* note 10.

harass and punish Dr. Rodchenkov for his whistleblowing and cooperation with legitimate investigatory authorities, as evidenced by the threats Prokhorov has leveled against Dr. Rodchenkov, the IOC and WADA. On information and belief, this lawsuit also represents an improper attempt to try to discern Dr. Rodchenkov's physical location, which Dr. Rodchenkov has endeavored to keep secret since his flight from Russia in order to protect himself from the substantial risk of bodily harm threatened by representatives of the Russian state.

This pleading proceeds in two parts. First, Dr. Rodchenkov answers the Plaintiffs' Complaint. In his answer, Dr. Rodchenkov admits in full his role in Russia's state-sponsored doping scheme before he fled the country for the United States. He denies any liability for libel for multiple reasons, not least because his whistleblowing regarding the Russian scheme has been truthful, as shown by the multiple independent investigations that have confirmed Dr. Rodchenkov's testimony. Any reputational harm the Plaintiffs have incurred follows entirely from the results of those independent investigations.

Second, in the Counterclaims and Third-Party Complaint portion of this pleading, Dr. Rodchenkov asserts counterclaims against Zaytseva, Romanova and Vilukhina, and third-party claims against Prokhorov and other persons currently unknown. Dr. Rodchenkov's counterparty and third-party claims are brought pursuant to New York's Anti-SLAPP Law, which protects the civil rights of persons, including whistleblowers like Dr. Rodchenkov, who come forward to comment on and participate in matters of public controversy and, as a consequence, find themselves victims of improper strategic lawsuits meant to punish their public participation (that is, "SLAPP" suits, or "Strategic Litigation against Public Participation"). Because this frivolous lawsuit against Dr. Rodchenkov is not intended to vindicate legitimate rights, but instead to harass and punish Dr. Rodchenkov for his truthful whistleblowing and cooperation with

legitimate investigatory authorities—and, on information and belief, to locate him and jeopardize his safety—Dr. Rodchenkov is entitled not only to dismissal of this action, but also to recoup his attorneys' fees and costs in defending the suit from Prokhorov, the Plaintiffs and any others who conspired with them. Furthermore, Dr. Rodchenkov seeks to have Prokhorov and the Plaintiffs required to pay punitive damages, to send the message that vexatious lawsuits meant to harass and punish whistleblowers for their protected public activities will not be tolerated in New York courts.

**DR. RODCHENKOV'S ANSWER TO THE COMPLAINT OF
OLGA ZAYTSEVA, YANA ROMANOVA AND OLGA VILUKHINA**

Dr. Grigory Rodchenkov answers the Complaint of Olga Zaytseva, Yana Romanova and Olga Vilukhina, dated February 20, 2018, as set forth below. The numbered paragraphs correspond to the same numbered paragraph of the Complaint.

RESPONSES TO PLAINTIFFS' ALLEGATIONS

1. Dr. Rodchenkov denies that he has committed “systematic libel” that has harmed the Plaintiffs in any manner. On the contrary, Dr. Rodchenkov’s whistleblowing regarding the Russian state-sponsored doping conspiracy that he and the Plaintiffs participated in has been truthful, as confirmed by multiple independent investigations, and any reputational harm the Plaintiffs have suffered is a result of their own conduct, including prohibited doping.

2. Dr. Rodchenkov admits that the Plaintiffs are biathletes, but he lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 2 of the Complaint.

3. Dr. Rodchenkov denies that he has made any libelous statements that have harmed the Plaintiffs in any manner. Dr. Rodchenkov admits that the Plaintiffs competed at the 2014 Olympic Winter Games in Sochi, Russia, and further admits that the Plaintiffs were subsequently stripped of their medals, but lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 3 of the Complaint relating to the Plaintiffs’ careers.

4. Dr. Rodchenkov admits that he is the former director of the Moscow Antidoping Centre (the “Moscow Lab”) and that he explained to *The New York Times*, which subsequently reported, how he had participated in a sophisticated doping conspiracy to switch the urine samples of Russian athletes at the Sochi Games so that they would not test positive for banned

substances. Dr. Rodchenkov denies the Complaint's characterization of the conspiracy as merely "alleged" because it has in fact been confirmed by multiple independent investigations conducted by WADA and the IOC.

5. Dr. Rodchenkov admits that *The New York Times* published an article on May 12, 2016, entitled "Russian Insider Says State-Run Doping Fueled Olympic Gold." This article speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint's characterization of the article.

6. Dr. Rodchenkov denies that he made any "false statements" and further denies the remainder of the allegations in paragraph 6 of the Complaint.

7. Dr. Rodchenkov denies that he made any "false allegations" and further denies the remainder of the allegations in paragraph 7 of the Complaint.

8. Dr. Rodchenkov denies the allegations in paragraph 8 of the Complaint.

9. Dr. Rodchenkov admits that he created a steroid cocktail referred to as the "Duchess Cocktail." The Plaintiffs each used the Duchess Cocktail in order to improve their performance at the Sochi Games. Dr. Rodchenkov further admits that he worked with others, including Russian officials, to conceal use of the Duchess Cocktail by Russian athletes such as the Plaintiffs. Dr. Rodchenkov denies the remainder of the allegations in paragraph 9 of the Complaint.

10. Dr. Rodchenkov admits that an Independent Commission initiated by WADA released a report dated November 9, 2015. This report speaks for itself, and Dr. Rodchenkov refers to the report for its contents. Dr. Rodchenkov denies the Complaint's characterization of the report.

11. Dr. Rodchenkov denies that he “lied.” Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 11 of the Complaint.

12. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Complaint.

13. Dr. Rodchenkov denies the allegations in paragraph 13 of the Complaint.

14. Dr. Rodchenkov denies that he “disseminated” any “vituperative lies” and further denies the remainder of the allegations in paragraph 14 of the Complaint.

15. Dr. Rodchenkov admits that *The New York Times* published an article on May 12, 2016, which set out Dr. Rodchenkov’s truthful claims in detail. This article speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint’s characterization of the article. Furthermore, Dr. Rodchenkov denies the Complaint’s characterization of Dr. Rodchenkov’s claims as merely “alleged” because they have in fact been confirmed by multiple independent investigations.

16. Dr. Rodchenkov admits the allegations in paragraph 16 of the Complaint.

17. Dr. Rodchenkov admits the allegations in paragraph 17 of the Complaint.

18. Dr. Rodchenkov denies the allegations in paragraph 18 of the Complaint, which incompletely quotes from the May 12, 2016 story in *The New York Times*, using ellipses to conspicuously omit important language from the article. The Complaint quotes the story as follows: “[h]e provided The [New York] Times with emails detailing doping efforts and a spreadsheet that he said was sent to him . . . It named the athletes involved in the doping program.” The Complaint’s ellipses omit the story’s explanation that the spreadsheet, which listed the Russian athletes whose doping was to be concealed, was provided to Dr. Rodchenkov,

The Times explains, “by the sports ministry.” Indeed, Dr. Rodchenkov received the spreadsheet from Aleksei Velikodny, the assistant to Yury Nagornykh, then the Russian Deputy Minister of Sports and a member of the Russian Olympic Committee, as a forensic electronic data analysis would later confirm. In any event, *The Times*’ article speaks for itself, and Dr. Rodchenkov refers to the article for its contents.

19. Dr. Rodchenkov admits that his whistleblowing efforts to expose the Russian state-sponsored doping conspiracy in which he and the Plaintiffs participated have included interviews with multiple media outlets, including *The New York Times* and *60 Minutes*. These stories speak for themselves, and Dr. Rodchenkov denies the Complaint’s characterization of them. Dr. Rodchenkov refers to the stories for their contents. Dr. Rodchenkov denies that he made any “false, defamatory statements” and further denies the remainder of the allegations in paragraph 19 of the Complaint.

20. Dr. Rodchenkov denies that he made any libelous statements.

21. Dr. Rodchenkov admits that on September 22, 2017, *The New York Times* published an opinion-editorial he wrote that states that he “disclosed indisputable evidence of widespread, state-sanctioned cheating.” This article speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint’s claim that the article was libelous and further denies the remainder of the allegations in paragraph 21 of the Complaint.

22. Dr. Rodchenkov admits that *The New York Times* published a story on November 28, 2017, which states that Russian officials had plans to transport from Moscow to Sochi “hundreds of ounces of clean urine that top athletes had for months collected in baby food jars and old soda bottles.” This article speaks for itself, and Dr. Rodchenkov refers to the article for

its contents. Dr. Rodchenkov denies the Complaint's claim that the article was libelous and further denies the remainder of the allegations in paragraph 22 of the Complaint.

23. Dr. Rodchenkov admits that *The New York Times* published a story on December 2, 2017, which explains that Russia's then Sports Minister, Vitaly Mutko, and then Deputy Sports Minister, Yury Nagornyykh, ordered Dr. Rodchenkov to tamper with more than 100 steroid-laced urine samples in Sochi to conceal cheating. Dr. Rodchenkov further admits that Nagornyykh had asked him to incriminate a Ukrainian athlete who posed a serious challenge to Russia's relay team during the Biathlon Champions Race, an exhibition race held in Moscow in early April 2013, but Dr. Rodchenkov refused to do so. The December 2, 2017 article in *The Times* speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint's claim that the article was libelous and further denies the remainder of the allegations in paragraph 23 of the Complaint.

24. Dr. Rodchenkov admits that he gave an interview to *60 Minutes*, which aired on February 11, 2018. This interview speaks for itself, and Dr. Rodchenkov refers to the interview for its contents. Dr. Rodchenkov denies the Complaint's claim that the interview was libelous and further denies the remainder of the allegations in paragraph 24 of the Complaint.

25. Dr. Rodchenkov admits that he discussed the Russian state-sponsored doping conspiracy during the *60 Minutes* interview, including the manner in which he worked with FSB agents to replace "dirty" urine samples with "clean" ones. This interview speaks for itself, and Dr. Rodchenkov refers to the interview for its content. Dr. Rodchenkov denies the Complaint's characterization of the interview. Furthermore, Dr. Rodchenkov denies the Complaint's characterization of the Russian doping conspiracy as merely "alleged" because it has in fact been confirmed by multiple independent investigations.

26. Dr. Rodchenkov admits that Professor Richard H. McLaren, a law professor at Western University in Canada, attorney and expert in international sports law, was commissioned by WADA to conduct an independent investigation into Dr. Rodchenkov's claims. Professor McLaren ultimately issued two reports, dated July 18, 2016 and December 9, 2016, which concluded based on substantial evidence, including multiple forensic analyses and testimony by other witnesses, that Dr. Rodchenkov's claims of a Russian state-sponsored doping conspiracy were true beyond a reasonable doubt. Professor McLaren's reports speak for themselves, and Dr. Rodchenkov refers to them for their contents. To the extent the Complaint attempts to suggest that Professor McLaren's reports were based on Dr. Rodchenkov's testimony alone, the suggestion is denied.

27. Dr. Rodchenkov admits that Professor McLaren's team released a so-called "Evidence Disclosure Package" (or "EDP"), which included certain evidence on which Professor McLaren's reports were based. Dr. Rodchenkov denies the remainder of the allegations in paragraph 27 of the Complaint.

28. Dr. Rodchenkov denies the allegations in paragraph 28 of the Complaint.

29. Dr. Rodchenkov admits that he assisted the IOC Disciplinary Commission chaired by Denis Oswald through the submission of affidavits that described the Russian state-sponsored doping conspiracy in which he and the Plaintiffs participated. Dr. Rodchenkov further admits that several of these affidavits specifically addressed the Plaintiffs and explained, among other things, that the Plaintiffs were included on the Duchess List, which specified the Russian athletes whose doping was to be concealed. Dr. Rodchenkov denies that the affidavits were "false" and further denies the remainder of the allegations in paragraph 29 of the Complaint. Dr. Rodchenkov refers to the affidavits for their contents.

30. Dr. Rodchenkov admits that on November 28, 2017 and December 1, 2017, the IOC found the Plaintiffs responsible for anti-doping violations while competing in the Sochi Games. However, Dr. Rodchenkov denies the Complaint's characterization of the reasons for the decisions. In Zaytseva's case, the Commission released a comprehensive opinion on December 22, 2017, which explained that her culpability was clearly established by substantial objective evidence, including multiple forensic analyses. Dr. Rodchenkov refers to the Commission's opinion for its content. To the extent the Complaint attempts to suggest that the Commission's decisions were based on Dr. Rodchenkov's testimony alone, the suggestion is denied. Dr. Rodchenkov further denies the remainder of the allegations in paragraph 30 of the Complaint.

31. Subject to Dr. Rodchenkov's answer to paragraph 30 of the Complaint, Dr. Rodchenkov admits the allegations in paragraph 31 of the Complaint.

32. Dr. Rodchenkov admits that he appeared in the "Doping Top Secret – Olympic Conspiracy (Part One)" documentary aired by ARD, in which he discussed Russian doping. This documentary speaks for itself, and Dr. Rodchenkov refers to the documentary for its contents. Dr. Rodchenkov denies the Complaint's characterization of the documentary and further denies the remainder of the allegations in paragraph 32 of the Complaint.

33. Dr. Rodchenkov denies the allegations in paragraph 33 of the Complaint.

34. Dr. Rodchenkov denies the allegations in paragraph 34 of the Complaint.

35. Dr. Rodchenkov admits, upon information and belief, that the IOC Disciplinary Commission's decisions in the Plaintiffs' cases, which found them responsible for anti-doping violations, have caused well-deserved reputational harm to them. Any such harm, however, is a result of the Plaintiffs' own conduct, including prohibited doping. Dr. Rodchenkov denies that

he has made any libelous statements and further denies the remainder of the allegations in paragraph 35 of the Complaint.

36. Dr. Rodchenkov denies that he has made any libelous statements that have harmed in the Plaintiffs in any manner.

37. Paragraph 37 of the Complaint contains no allegations of fact susceptible to admission or denial. Dr. Rodchenkov denies all liability.

38. Dr. Rodchenkov admits that Zaytseva is a biathlete, but he lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 38 of the Complaint.

39. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 of the Complaint.

40. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 of the Complaint.

41. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the Complaint.

42. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Complaint.

43. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 of the Complaint.

44. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 of the Complaint.

45. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Complaint.

46. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the Complaint.

47. Dr. Rodchenkov denies that he made any “false statements.” Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 47 of the Complaint.

48. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 of the Complaint.

49. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 of the Complaint.

50. Dr. Rodchenkov denies that he made any “false statements.” Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 50 of the Complaint.

51. Dr. Rodchenkov admits that Romanova is a biathlete, but he lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 51 of the Complaint.

52. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the Complaint.

53. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the Complaint.

54. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the Complaint.

55. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 of the Complaint.

56. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Complaint.

57. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Complaint.

58. Dr. Rodchenkov denies that he made any “false allegations.” Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 58 of the Complaint.

59. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Complaint.

60. Dr. Rodchenkov admits that Vilukhina is a biathlete, but he lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 60 of the Complaint.

61. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Complaint.

62. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 of the Complaint.

63. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Complaint.

64. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 of the Complaint.

65. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 of the Complaint.

66. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 of the Complaint.

67. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 67 of the Complaint.

68. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68 of the Complaint.

69. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69 of the Complaint.

70. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 70 of the Complaint.

71. Dr. Rodchenkov denies that he made any “false allegations.” Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 71 of the Complaint.

72. In order to protect himself from the substantial risk of bodily harm threatened by representatives of the Russian state, Dr. Rodchenkov respectfully declines to admit or deny the allegations in paragraph 72 of the Complaint. In any event, the allegations in paragraph 72 are irrelevant to the Plaintiffs’ libel claim and therefore do not require a response.

73. Paragraph 73 of the Complaint contains no allegations of fact susceptible to admission or denial. Dr. Rodchenkov does not contest the jurisdiction of this Court.

74. Dr. Rodchenkov denies that he made any “false claims.” Dr. Rodchenkov admits that he discussed the Russian state-sponsored doping conspiracy with *The New York Times* and that the paper has also published an opinion-editorial Dr. Rodchenkov authored. These articles speak for themselves, and Dr. Rodchenkov refers to the articles for their contents. Dr.

Rodchenkov denies the Complaint's characterization of the articles and further denies the remainder of the allegations in paragraph 74 of the Complaint.

75. Dr. Rodchenkov admits that he discussed the Russian state-sponsored doping conspiracy during a *60 Minutes* interview. This interview speaks for itself, and Dr. Rodchenkov refers to the interview for its contents. Dr. Rodchenkov denies the Complaint's characterization of the interview and further denies the remainder of the allegations in paragraph 75 of the Complaint.

76. Whether Dr. Rodchenkov has provided testimony to a grand jury is irrelevant to the Plaintiffs' libel claims. The allegations in paragraph 76 of the Complaint, therefore, require no response.

77. Dr. Rodchenkov denies the allegations in paragraph 77 of the Complaint.

78. Whether Dr. Rodchenkov has met with the U.S. Department of Justice is irrelevant to the Plaintiffs' libel claims. This allegation in paragraph 78 of the Complaint, therefore, requires no response. Dr. Rodchenkov admits that he provided truthful information to *The New York Times*. Dr. Rodchenkov denies the remainder of the allegations in paragraph 78 of the Complaint.

79. Paragraph 79 of the Complaint contains no allegations of fact susceptible to admission or denial. Dr. Rodchenkov does not contest venue in this Court.

80. Dr. Rodchenkov admits that *The New York Times* published an article on May 12, 2016, entitled "Russian Insider Says State-Run Doping Fueled Olympic Gold." This article speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint's characterization of the article. Dr. Rodchenkov lacks knowledge or

information sufficient to form a belief as to the truth of the statement that the “world began to implode” for the Plaintiffs on this date.

81. Dr. Rodchenkov admits that the May 12, 2016 article in *The New York Times* did not name the Plaintiffs. Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the remainder of the allegations in paragraph 81 of the Complaint.

82. Dr. Rodchenkov denies the allegations in paragraph 82 of the Complaint.

83. Dr. Rodchenkov denies the allegations in paragraph 83 of the Complaint.

84. Dr. Rodchenkov admits that he participated in the Russian state-sponsored doping conspiracy, as did the Plaintiffs, and as did numerous Russian officials. Dr. Rodchenkov denies the Complaint’s inflammatory and inaccurate characterization of him.

85. Dr. Rodchenkov admits that he participated in the Russian state-sponsored doping conspiracy, as did the Plaintiffs, and as did numerous Russian officials. Dr. Rodchenkov denies the Complaint’s inflammatory and inaccurate characterization of him.

86. Dr. Rodchenkov admits that he became the acting Director of the Moscow Lab in March 2005.

87. Dr. Rodchenkov admits that he was approved as Director of the Moscow Lab in July 2006 by Viacheslav Fetisov, then the head of the Federal Agency of Physical Culture and Sports of Russia.

88. Dr. Rodchenkov admits that in his role as director of the Moscow Lab, he conspired with Russian officials to develop doping protocols for combined use of performance-enhancing drugs in a dissolved alcohol-based “cocktail” form and to conceal the use of such drugs by Russian athletes from WADA, the IOC or anyone outside the doping conspiracy.

89. Dr. Rodchenkov admits that he has tested drugs on himself.

90. Dr. Rodchenkov admits that he participated in the Russian state-sponsored doping conspiracy, as did the Plaintiffs, and as did numerous Russian officials. Dr. Rodchenkov denies the Complaint's inflammatory and inaccurate characterization of him.

91. Dr. Rodchenkov denies the allegations in paragraph 91 of the Complaint.

92. Dr. Rodchenkov denies the allegations in paragraph 92 of the Complaint.

93. Dr. Rodchenkov admits that criminal proceedings related to performance-enhancing drugs distribution and related doping were initiated against him in 2011.

94. Dr. Rodchenkov admits the allegations in paragraph 94 of the Complaint.

95. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 95 of the Complaint.

96. Dr. Rodchenkov admits the allegations in paragraph 96 of the Complaint.

97. Dr. Rodchenkov admits that he was hospitalized as a result of a suicide attempt. Dr. Rodchenkov denies the Complaint's inflammatory reference to his "emotional instability." Since Dr. Rodchenkov has fled Russia and become a whistleblower with respect to the Russian state-sponsored doping conspiracy, Russian officials, including President Putin himself, have sought to discredit Dr. Rodchenkov's character in order to harass him and to distract from the truth of his claims. The Plaintiffs' Complaint, paid for by Prokhorov, parrots this same slander, demonstrating the vexatious nature of this case and Dr. Rodchenkov's entitlement to relief under New York's Anti-SLAPP Law, as further set out in Dr. Rodchenkov's Counterclaims and Third-Party Complaint.

98. Dr. Rodchenkov admits that he received subsequent treatment at the psychiatric clinic Hospital No. 14, but he denies the Complaint's allegation regarding when that treatment occurred. Dr. Rodchenkov received treatment at the clinic from March 22, 2011 to April 26,

2011. On April 25, 2011, Dr. Rodchenkov was diagnosed with “reactive depressive psychosis (depressive delusional syndrome) with true suicide attempt.”

99. Dr. Rodchenkov admits that he received a diagnosis on July 6, 2011, but he denies the Complaint’s characterization of it.

100. Dr. Rodchenkov admits that his sister, Marina Rodchenkova, pled guilty to charges against her, but denies the Complaint’s characterization of the charges and the timing of her plea. She was ultimately sentenced to 18 months in prison on December 27, 2012, well after Dr. Rodchenkov’s period of hospitalization. Additionally, in March 2013, she appealed and received two years of probation. Dr. Rodchenkov denies the remainder of the allegations in paragraph 100 of the Complaint.

101. Dr. Rodchenkov denies the allegations in paragraph 101 of the Complaint. Dr. Rodchenkov was not removed from his position as Director of the Moscow Lab during his hospitalization, as suggested by paragraph 101 of the Complaint. While Dr. Rodchenkov received treatment in the hospital, he was provided a computer to continue his work as Director of the Moscow Lab remotely.

102. Dr. Rodchenkov admits that *The New York Times* reported that Russia had the highest number of athletes caught doping in 2014 according to WADA statistics. The article speaks for itself, and Dr. Rodchenkov refers to the article for its contents. Dr. Rodchenkov denies the Complaint’s characterization of the article and further denies the remainder of the allegations in paragraph 102 of the Complaint.

103. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 103 of the Complaint.

104. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 104 of the Complaint.

105. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 105 of the Complaint. Furthermore, Dr. Rodchenkov notes that the Plaintiffs' touting of their successful doping tests is a red herring considering Russia's long-time scheme to effectively conceal doping, including by replacing possibly "dirty" urine samples with other "clean" urine.

106. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 106 of the Complaint. Furthermore, Dr. Rodchenkov notes that the Plaintiffs' touting of their successful doping tests is a red herring considering Russia's long-time scheme to effectively conceal doping, including by replacing possibly "dirty" urine samples with other "clean" urine.

107. Dr. Rodchenkov admits that he fled Russia to the United States. Dr. Rodchenkov denies the remainder of the allegations in paragraph 107 of the Complaint.

108. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 108 of the Complaint.

109. Dr. Rodchenkov admits that he has become a whistleblower regarding the Russian state-sponsored doping conspiracy. Dr. Rodchenkov denies the remainder of the allegations in paragraph 109 of the Complaint.

110. Dr. Rodchenkov admits that he has become a whistleblower regarding the Russian state-sponsored doping conspiracy. Dr. Rodchenkov denies the remainder of the allegations in paragraph 110 of the Complaint.

111. Dr. Rodchenkov admits that he is a subject of the documentary “Icarus.” This documentary speaks for itself, and Dr. Rodchenkov refers to the documentary for its contents. Dr. Rodchenkov denies the Complaint’s characterization of the documentary and further denies the remainder of the allegations in paragraph 111 of the Complaint.

112. The “Icarus” documentary speaks for itself, and Dr. Rodchenkov refers to the documentary for its contents. Dr. Rodchenkov denies the Complaint’s characterization of the documentary and further denies the remainder of the allegations in paragraph 112 of the Complaint.

113. Dr. Rodchenkov admits that he has assisted the IOC’s two Disciplinary Commissions through the submission of affidavits that described the Russian state-sponsored doping conspiracy in which he and the Plaintiffs participated. Some of those affidavits stated in part that Dr. Rodchenkov “know[s] many things about the history of doping in biathlon.” These affidavits speak for themselves, and Dr. Rodchenkov refers to them for their contents. Dr. Rodchenkov denies the Complaint’s characterization of the affidavits.

114. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint’s characterization of them.

115. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint’s characterization of them.

116. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint’s characterization of them.

117. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint’s characterization of them.

118. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint's characterization of them.

119. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint's characterization of them.

120. Dr. Rodchenkov denies the allegations in paragraph 120 of the Complaint.

121. Dr. Rodchenkov denies the allegations in paragraph 121 of the Complaint.

122. Dr. Rodchenkov denies the allegations in paragraph 122 of the Complaint.

123. These affidavits speak for themselves, and Dr. Rodchenkov refers to the affidavits for their contents. Dr. Rodchenkov denies the Complaint's characterization of the affidavits and further denies that the affidavit with respect to Vilukhina is incorrect in the manner alleged in paragraph 123 of the Complaint.

124. Dr. Rodchenkov denies the allegations in paragraph 124 of the Complaint.

125. Dr. Rodchenkov admits that Professor Richard H. McLaren's independent investigation of Russia's state-sponsored doping conspiracy was triggered in part by Dr. Rodchenkov's public statements. Dr. Rodchenkov denies that Professor McLaren's reports, dated July 18, 2016 and December 9, 2016, respectively, "deriv[ed] virtually all of their substance from Rodchenkov's false statements." On the contrary, the reports were based on substantial evidence, including multiple forensic analyses and testimony by other witnesses. These reports speak for themselves, and Dr. Rodchenkov refers to them for their contents. Furthermore, Dr. Rodchenkov's statements were not "false" but were instead truthful, as confirmed beyond a reasonable doubt by Professor McLaren's independent investigation.

126. Dr. Rodchenkov admits that he cooperated with Professor McLaren's investigation. Dr. Rodchenkov denies the remainder of the allegations in paragraph 126 of the Complaint.

127. Professor McLaren's reports speak for themselves, and Dr. Rodchenkov refers to the reports for their contents. Dr. Rodchenkov denies the Complaint's characterization of them.

128. Dr. Rodchenkov denies the allegations in paragraph 128 of the Complaint, which inaccurately quotes from Professor McLaren's second report. The Plaintiffs have used brackets to conspicuously omit important language from the report. The Complaint purports to quote the report as stating that the Duchess List "was prepared before Sochi and included athletes [who were providing Russian officials with] clean urine to be stored in the urine bank at the Command Center and used to swap the athletes' dirty urine for their own clean [samples] during the Games." In fact, the Complaint's first set of brackets masks the McLaren report's explanation that the athletes on the Duchess List were "known to be taking the cocktail"—that is, the Duchess Cocktail, a three-steroid cocktail that Dr. Rodchenkov developed and that the Plaintiffs used. In other words, Plaintiffs inaccurately quoted the McLaren report by omitting the report's statement that they, as athletes who were listed in the Duchess List, were "known to be" using prohibited steroids. In any event, Professor McLaren's reports speak for themselves, and Dr. Rodchenkov refers to the reports for their contents.

129. Dr. Rodchenkov denies the allegations in paragraph 129 of the Complaint.

130. Dr. Rodchenkov denies the allegations in paragraph 130 of the Complaint.

131. Dr. Rodchenkov denies the allegations in paragraph 131 of the Complaint.

132. Dr. Rodchenkov admits that the Plaintiffs underwent drug testing during the Sochi Games. Dr. Rodchenkov was involved in the Russian state-sponsored conspiracy to tamper with

the Plaintiffs' drug testing at Sochi in order to conceal the Plaintiffs' use of steroids. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 132 of the Complaint.

133. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 133 of the Complaint. Furthermore, Dr. Rodchenkov notes that the Plaintiffs' touting of their successful doping tests is a red herring considering Russia's long-time scheme to effectively conceal doping, including by replacing possibly "dirty" urine samples with other "clean" urine.

134. Dr. Rodchenkov admits that "certain other Russian athletes" have tested positive for drug use. Dr. Rodchenkov denies that the Plaintiffs, who have been determined by credible independent investigations to be dopers themselves, "stand in contrast" with these other athletes.

135. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 135 of the Complaint.

136. Dr. Rodchenkov denies the allegations in paragraph 136 of the Complaint.

137. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 137 of the Complaint.

138. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 138 of the Complaint.

139. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 139 of the Complaint.

140. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 140 of the Complaint.

141. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141 of the Complaint.

142. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 142 of the Complaint.

143. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143 of the Complaint.

144. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 144 of the Complaint.

145. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 145 of the Complaint.

146. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 146 of the Complaint.

147. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 147 of the Complaint.

148. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 148 of the Complaint.

149. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 149 of the Complaint.

150. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 150 of the Complaint.

151. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 151 of the Complaint.

152. Dr. Rodchenkov denies the allegations in paragraph 152 of the Complaint.

153. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 153 of the Complaint.

154. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 154 of the Complaint.

155. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 155 of the Complaint.

156. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 156 of the Complaint.

157. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 157 of the Complaint.

158. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 158 of the Complaint.

159. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 159 of the Complaint.

160. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 160 of the Complaint.

161. Dr. Rodchenkov denies the allegations in paragraph 161 of the Complaint.

162. Dr. Rodchenkov denies the allegations in paragraph 162 of the Complaint.

163. Dr. Rodchenkov denies the allegations in paragraph 163 of the Complaint.

164. Dr. Rodchenkov denies the allegations in paragraph 164 of the Complaint.

165. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 165 of the Complaint.

166. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 166 of the Complaint.

167. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 167 of the Complaint.

168. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 168 of the Complaint.

169. Dr. Rodchenkov denies the allegations in paragraph 169 of the Complaint.

170. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 170 of the Complaint.

171. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 171 of the Complaint.

172. Dr. Rodchenkov lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 172 of the Complaint.

173. Because the Plaintiffs use paragraph 173 of their Complaint to “repeat and re-allege” all allegations contained in prior paragraphs of their Complaint, Dr. Rodchenkov correspondingly repeats and re-answers all paragraphs as set out above.

174. Dr. Rodchenkov denies the allegations in paragraph 174 of the Complaint.

175. Dr. Rodchenkov denies the allegations in paragraph 175 of the Complaint.

176. Dr. Rodchenkov denies the allegations in paragraph 176 of the Complaint.

177. Dr. Rodchenkov denies the allegations in paragraph 177 of the Complaint.

EXHIBIT A. Dr. Rodchenkov admits that *The New York Times* made the publications and *60 Minutes* made the broadcast listed in the Complaint’s Exhibit A. These publications and the broadcast speak for themselves, and Dr. Rodchenkov refers to them for their contents. Dr.

Rodchenkov denies the characterizations of them in the Complaint and further denies that any statements in the publications and the broadcast are libelous in any manner.

EXHIBIT B. Dr. Rodchenkov admits that *The New York Times* made the publications listed in the Complaint's Exhibit B. These publications speak for themselves, and Dr. Rodchenkov refers to them for their contents. Dr. Rodchenkov denies the characterizations of them in the Complaint and further denies that any statements in the publications are libelous in any manner.

FIRST AFFIRMATIVE DEFENSE

The Defendant's challenged statements are true.

SECOND AFFIRMATIVE DEFENSE

The Complaint pleads conduct that is barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The Complaint pleads conduct that is privileged.

FOURTH AFFIRMATIVE DEFENSE

The Defendant's challenged statements are not "of and concerning" the Plaintiffs.

FIFTH AFFIRMATIVE DEFENSE

The Plaintiffs are libel-proof with respect to the subject matter of this case.

SIXTH AFFIRMATIVE DEFENSE

The Complaint fails to plead special damages.

SEVENTH AFFIRMATIVE DEFENSE

If any of the Defendant's challenged statements were untrue in any respect, which the Defendant denies, then such inaccuracy was not negligently made, or made with actual malice, or made with any other degree of culpability sufficient to hold the Defendant liable.

EIGHTH AFFIRMATIVE DEFENSE

The Defendant's challenged statements involved matters of public concern, and the Defendant did not act in a grossly irresponsible manner.

NINTH AFFIRMATIVE DEFENSE

The Defendant's challenged statements did not cause harm to the Plaintiffs.

TENTH AFFIRMATIVE DEFENSE

If any of the Defendant's challenged statements caused harm to the Plaintiffs, which the Defendant denies, then such harm is merely incremental and is insufficient to impose liability.

ELEVENTH AFFIRMATIVE DEFENSE

The Defendant is not responsible for the conduct of third parties.

TWELFTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by, and sanctionable pursuant to, the New York Anti-SLAPP Law.

THIRTEENTH AFFIRMATIVE DEFENSE

The relief requested by the Plaintiffs, if granted, would violate the First Amendment.

FOURTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by public policy principles embodied in New York law.

FIFTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by principles of international comity.

SIXTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs may not use this action to collaterally attack the findings against them by the IOC.

SEVENTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs may not use this action to collaterally attack the findings of the World Anti-Doping Agency.

EIGHTEENTH AFFIRMATIVE DEFENSE

To the extent the Plaintiffs seek to challenge any findings of the IOC's Disciplinary Commission, the Plaintiffs' sole remedy is with the Court of Arbitration for Sport.

**DR. RODCHENKOV'S COUNTERCLAIMS AGAINST OLGA ZAYTSEVA, YANA
ROMANOVA AND OLGA VILUKHINA, AND THIRD-PARTY COMPLAINT
AGAINST MIKHAIL PROKHOROV AND "JOHN DOES" 1 THROUGH 5**

Dr. Grigory Rodchenkov, for his counterclaims against Olga Zaytseva, Yana Romanova and Olga Vilukhina, and for his third-party claims against Mikhail Prokhorov and “John Does” 1 through 5, hereby alleges as follows:

NATURE OF ACTION

178. As set out in the preliminary statement, the libel claim asserted by Zaytseva, Romanova and Vilukhina in this lawsuit against Dr. Rodchenkov is frivolous for numerous reasons, both factual and legal, and is intended to harass and punish Dr. Rodchenkov for his whistleblowing and cooperation with legitimate investigatory authorities and, on information and belief, to discern Dr. Rodchenkov’s physical whereabouts, thus placing his life and health in imminent danger. New York law and public policy does not countenance such vexatious abuse of the courts. Dr. Rodchenkov therefore invokes his rights under the New York Anti-SLAPP Law, which provides remedies for victims of improper lawsuits intended to punish public participation. Dr. Rodchenkov seeks to recoup his attorneys’ fees and costs imposed in defending this action, as well as other compensatory damages. Additionally, Dr. Rodchenkov respectfully requests that the Court impose punitive damages, to send the message that lawsuits meant to harass and punish whistleblowers for their protected public activities will not be tolerated in New York courts.

PARTIES

179. Dr. Grigory Rodchenkov is the Defendant in—and victim of—this frivolous libel lawsuit brought by Zaytseva, Romanova and Vilukhina. In exercise of his civil rights provided by the New York Anti-SLAPP Law, Dr. Rodchenkov asserts counterclaims against Zaytseva,

Romanova and Vilukhina, and third-party claims against Prokhorov and “John Does” 1 through 5, seeking attorneys’ fees, costs, and compensatory and punitive damages.

180. Mikhail Prokhorov is the Russian oligarch who spearheaded this lawsuit against Dr. Rodchenkov. He solicited the Plaintiffs for the case, selected the attorneys to represent them, and financed and provided other assistance for the suit. Upon information and belief, he is the true party in control of this litigation. With respect to Dr. Rodchenkov’s claim under the Anti-SLAPP Law, Prokhorov is a Third-Party Defendant.

181. Olga Zaytseva is one of the named Plaintiffs in this lawsuit against Dr. Rodchenkov. With respect to Dr. Rodchenkov’s claim under the Anti-SLAPP Law, Zaytseva is a Counterclaim Defendant.

182. Yana Romanova is one of the named Plaintiffs in this lawsuit against Dr. Rodchenkov. With respect to Dr. Rodchenkov’s claim under the Anti-SLAPP Law, Romanova is a Counterclaim Defendant.

183. Olga Vilukhina is one of the named Plaintiffs in this lawsuit against Dr. Rodchenkov. With respect to Dr. Rodchenkov’s claim under the Anti-SLAPP Law, Vilukhina is a Counterclaim Defendant.

184. “John Does” 1 through 5 are individuals whose identities are currently unknown but who, upon information and belief, conspired with Prokhorov with respect to this lawsuit. When their identities are revealed in discovery, they will be individually named as Third-Party Defendants with respect to Dr. Rodchenkov’s claim under the Anti-SLAPP Law.

FACTUAL ALLEGATIONS

185. To place Zaytseva, Romanova and Vilukhina’s lawsuit against Dr. Rodchenkov in its proper context, it is important to understand the background circumstances from which this

case arises. Therefore, Dr. Rodchenkov provides the following explanation of the pertinent events that preceded the filing of this lawsuit against him:

A. The Russian State-Sponsored Doping Program at the 2014 Olympic Winter Games in Sochi, Russia

186. Between March 2005 and November 2015, Dr. Rodchenkov was the Director of the Moscow Lab in Moscow, Russia. The Moscow Lab was established ostensibly for purposes of anti-doping controls, and it was accredited by the World Anti-Doping Agency (“WADA”).

187. After it was decided that Russia would host the 2014 Olympic Winter Games in Sochi, Russia (the “Sochi Games”), Russian officials established a new laboratory (the “Sochi Lab”) purportedly to manage the event’s anti-doping controls. Dr. Rodchenkov served as the Sochi Lab’s Director.

188. During the Sochi Games, Dr. Rodchenkov was an important participant in a Russian state-sponsored program, in which Russian athletes who used prohibited performance-enhancing drugs to obtain an improper advantage were protected and their violations concealed. Russia’s doping program at the Sochi Games was ordered by Vitaly Mutko, then the Russian Minister of Sports¹³ (since promoted to Deputy Prime Minister of Russia), and was executed by Yury Nagornyykh, then the Deputy Minister of Sports and a member of the Russian Olympic Committee. The Sochi scheme was part of a pattern of systematic doping by Russian athletes, facilitated by state conspirators, that had taken place for years across a variety of sporting events.

¹³ Mutko’s title was “Minister of Sports, Tourism and Youth Policy” between 2008 and 2012 and “Minister of Sports” between 2012 and 2016.

189. Dr. Rodchenkov's participation in the Russian scheme for doping at the Sochi Games had two principal components, which can be summarized as follows:¹⁴

190. First, Dr. Rodchenkov had developed a new three-steroid cocktail referred to as the "Duchess Cocktail." This was necessary because it was discovered that the drugs previously used by Russian athletes were retained in the body and could be detected for up to five months, far longer than had been expected. Therefore, the Duchess Cocktail was designed to have a limited "wash-out" period, meaning that it would be undetectable in urine after a short period of time. After Dr. Rodchenkov determined that the Duchess Cocktail reliably had a wash-out period of three to five days, he taught Alexsei Kiushkin of the Russian Center for Sports Preparation ("CSP"), the assistant to Dr. Irina Rodionova, the head of the CSP, how to prepare the cocktail. Dr. Rodionova and Kiushkin proceeded to prepare and distribute the Duchess Cocktail to athletes and coaches for use in connection with the Sochi Games.

191. Second, Dr. Rodchenkov oversaw a scheme to swap urine samples of protected Russian athletes collected during in-competition testing for "clean" urine from the same athletes, which was collected and stored prior to their doping. This way, even if the Duchess Cocktail had not washed out of an athlete's body before a urine sample was collected, protected athletes could continue to use steroids right up until or during the Sochi Games. And for athletes whose steroids use ceased earlier, the urine swapping served as a sort of "insurance policy."

192. The Russian Ministry of Sport ("MOS")—in particular Deputy Minister Yury Nagornykh, working with Dr. Rodionova at the CSP, and with approval from Sports Minister Vitaly Mutko—determined which athletes were to be protected in this manner, which was

¹⁴ This summary is highly abbreviated. For a detailed explanation of the Russian state-sponsored doping scheme at the Sochi Games, see the affidavit of Dr. Rodchenkov, dated November 5, 2017, submitted to the IOC Disciplinary Commission chaired by Denis Oswald.

recorded in an Excel spreadsheet later referred to as the “Duchess List.” Dr. Rodchenkov was provided with the Duchess List by Nagornykh’s assistant, Aleksei Velikodny.

193. The urine-swapping scheme required elaborate preparations. When urine was collected from athletes for testing, it was stored in “BEREG-KIT” security bottles, manufactured by Berlinger Special AG, a Swiss company. These bottles were designed to be “tamper-proof,” meaning that once the urine was collected and the bottle was sealed, it could not be opened without destroying the seal. However, the Russian Federal Security Service (the “FSB”), the successor to the KGB, developed a method prior to the Sochi Games of opening the bottle without leaving apparent traces. The FSB maintained a secret Command Center adjacent to the Sochi Lab, where it had a team of agents who were able to open the bottles. Therefore, Dr. Rodchenkov and his staff assisted an FSB officer, Evgeny Blokhin, in clandestinely removing bottles containing urine samples of protected athletes from the Sochi Lab to the FSB Command Center. There, the bottles were opened by the FSB team, and then returned to the Sochi Lab by Blokhin. Dr. Rodchenkov and his staff poured out the potentially “dirty” urine and swapped it with “clean” urine that had previously been collected from the athletes prior to their steroid use. The clean, frozen urine samples were stored in the FSB Command Center until it was time to swap them for the urine collected during the Games.

194. Thus, Dr. Rodchenkov was an active participant in both the doping and the cover-up. There were other aspects of the Russian state-sponsored doping program, as well, in which Dr. Rodchenkov did not participate. For instance, upon information and belief, to account for the risk that urine may be shipped abroad for independent testing, Deputy Minister Nagornykh worked with the FSB to create a system to intercept the samples at the border.

195. The Sochi Games concluded on February 23, 2014. The doping program at Sochi was a tremendous success. Russia achieved historic results with a total of 33 medals—13 gold medals, 11 silver, and 9 bronze—and the Sochi Lab did not identify a single “dirty” Russian athlete. Meanwhile, the lab reported numerous adverse analytical findings for non-Russian athletes, who were consequently excluded from the Games. Russian President Vladimir Putin awarded Dr. Rodchenkov the Order of Friendship, a prestigious state decoration.

B. Threats Upon Dr. Rodchenkov’s Life and His Flight from Russia

196. On December 3, 2014, a German television station aired a documentary that claimed that Russian athletes systematically doped in international sports with state sanction and assistance. The documentary was based primarily on evidence from two Russian whistleblowers, Yuliya Stepanova and her husband Vitaliy Stepanov, who pointed to multiple Russian officials, including Dr. Rodchenkov and others, who they said facilitated doping by Russian athletes. The revelations put a spotlight on Dr. Rodchenkov and at the same time showed the bitter reaction that the truth would cause at the highest levels of the Russian government, as a spokesperson for President Putin denounced Stepanova as a “Judas.”¹⁵ Stepanova and her husband fled Russia, fearful for their safety. WADA promised that it would fully investigate the documentary’s allegations.

197. Immediately after the documentary aired, Dr. Rodchenkov, overseen by Deputy Minister Nagornykh, scrambled to destroy certain incriminating evidence at the Moscow Lab prior to an expected visit by WADA officials. On December 12, 2014, Mutko, the Minister of Sports, called Dr. Rodchenkov to express his pleasure with the cover-up efforts so far.

¹⁵ Lucy Ash, *Yuliya Stepanova: What do Russians Think of Doping Whistleblower?*, BBC News, Dec. 30, 2016, <http://www.bbc.com/news/magazine-38406627>.

198. Within the year, however, it became clear that further evidence of Russia’s systematic state-sponsored doping would eventually be exposed. In November 2015, WADA released a report itemizing widespread use of performance-enhancing drugs in Russian athletics. The report did not uncover how the Sochi scheme had been perpetrated, but it did find that Dr. Rodchenkov was responsible for doping concealment at the Moscow Lab. The report recommended that WADA’s accreditation of the Moscow Lab be suspended and that Dr. Rodchenkov be permanently removed from his position as the Lab’s Director.

199. On November 10, 2015, following the WADA report, Mutko—who was himself personally and directly involved in the doping scheme—asked that Dr. Rodchenkov resign as Director of Moscow Lab. Dr. Rodchenkov realized that Mutko and higher Russian authorities were setting him up as the scapegoat to take full blame for all that was and would be uncovered, and he immediately feared for his safety. Indeed, several days later, Dr. Rodchenkov was told by a friend within the government that Russian authorities were planning his “suicide.”

200. On November 17, 2015, Dr. Rodchenkov fled Russia for the United States, fearful for his fate if he were to remain in Russia. Well aware of, and not minimizing, his own personal responsibility for the scheme, Dr. Rodchenkov was determined to demonstrate to the world that he did not act alone in the doping conspiracy and that it was instead a widespread and well-orchestrated effort by the Russian authorities, involving multiple participants. Determined to become a whistleblower and reveal what he knew to the world, Dr. Rodchenkov brought with him to the United States certain electronic files and other evidence of the doping program.

201. The danger to Dr. Rodchenkov’s life was confirmed several months after he fled for the United States, when two of Dr. Rodchenkov’s former close colleagues died only weeks apart in February 2016 under mysterious circumstances. First, on February 3, 2016, the former

chairman of the Russian Anti-Doping Agency (“RUSADA”), Vyacheslav Sinev, was found dead with no cause announced. Then, on February 14, 2016, his successor as the Director of RUSADA at the time, Nikita Kamaev, was reported dead, purportedly from a heart attack. Both Sinev and Kamaev had been directly involved in Russia’s corruption of anti-doping controls. Additionally, Kamaev had told Dr. Rodchenkov shortly before his death that he was writing a tell-all book about Russian state-sponsored doping. This was confirmed by a report in Britain’s *Sunday Times* newspaper published shortly after his death.¹⁶

C. **Dr. Rodchenkov’s Whistleblowing to *The New York Times***

202. In early 2016, Dr. Rodchenkov approached *The New York Times* to reveal his story. This resulted in a blockbuster article published on May 12, 2016, entitled “Russian Insider Says State-Run Doping Fueled Olympic Gold.”¹⁷ Based on information and evidence provided by Dr. Rodchenkov, the article accurately described in detail how Russia had operated a state-sponsored doping scheme at the Sochi Games. The article provided the first public explanation of how Russia had accomplished such systematic doping without detection.

203. The day after the story was published, *The New York Times* reported that the Kremlin’s spokesperson, Dmitry Peskov, had slammed Dr. Rodchenkov on a conference call with Russian reporters as a “turncoat.”¹⁸ Furthermore, Deputy Sports Minister Nagornykh

¹⁶ See Nicholas Hellen, *Russian Doping Chief Wanted to Tell All*, THE TIMES, Feb. 21, 2016, <https://www.thetimes.co.uk/article/russian-doping-chief-wanted-to-tell-all-5b2xb57q0wl>.

¹⁷ Rebecca R. Ruiz & Michael Schwirtz, *Russian Insider Says State-Run Doping Fueled Olympic Gold*, N.Y. TIMES, May 12, 2016, <https://www.nytimes.com/2016/05/13/sports/russia-doping-sochi-olympics-2014.html>.

¹⁸ Neil MacFarquhar, *Russia Denies Doping at Sochi Olympics*, N.Y. TIMES, May 13, 2016, <https://www.nytimes.com/2016/05/14/world/europe/russia-olympics-doping.html>.

reportedly said on the call that Russia was considering filing a defamation lawsuit against Dr. Rodchenkov.¹⁹

D. The World Anti-Doping Agency’s Independent Investigation of Dr. Rodchenkov’s Claims

204. A week after the *New York Times* story was published, on May 19, 2016, WADA announced that it had appointed an Independent Person, Professor Richard H. McLaren, a law professor at Western University in Canada, attorney and expert in international sports law, to conduct an investigation into Dr. Rodchenkov’s claims.

205. Professor McLaren and his team conducted a series of witness interviews, including three interviews of Dr. Rodchenkov and a number of other witnesses who came forward on a confidential basis, reviewed thousands of documents, and conducted forensic analyses of hard drives, urine sample collection bottles, and individual athlete samples. Based on this evidence, Professor McLaren released an initial report on July 18, 2016, which found beyond a reasonable doubt that Dr. Rodchenkov’s claims were true and Russian authorities had indeed conspired to conceal the use of prohibited performance-enhancing drugs by Russian athletes at Sochi.²⁰ Two of the report’s “key findings” were as follows:

- [1.] The Sochi Laboratory operated a unique sample swapping methodology to enable doped Russian athletes to compete at the Games.
- [2.] The Ministry of Sport directed, controlled and oversaw the manipulation of athletes’ analytical results or sample swapping, with the active participation and assistance of the FSB, CSP, and both Moscow and Sochi Laboratories.²¹

¹⁹ *Id.*

²⁰ First Report of Richard H. McLaren, Independent Person in the World Anti-Doping Agency Investigation of Sochi Allegations, July 18, 2016, https://www.wada-ama.org/sites/default/files/resources/files/20160718_ip_report_newfinal.pdf.

²¹ *Id.* at 1.

206. Importantly, Professor McLaren reported that independent forensic analyses had corroborated Dr. Rodchenkov's testimony. For instance, Dr. Rodchenkov explained, as reported by *The New York Times*, that when urine was swapped at the Sochi Lab, he manipulated the clean urine to ensure that it matched as closely as possible to the specific gravity (the measure of the concentration of solutes in urine) that had been recorded with respect to the substituted urine. If more density was needed, Dr. Rodchenkov would add table salt. Professor McLaren analyzed the salt contents of a selection of Russian athletes' urine samples and, consistent with Dr. Rodchenkov's testimony, found that a number of urine samples had abnormally high salt contents.²² Furthermore, a forensic examination of the collection bottles revealed marks and scratches which indicated that they had been tampered with.²³ Both analyses, therefore, confirmed Dr. Rodchenkov's explanation of how urine had been swapped at Sochi.²⁴

207. On December 9, 2016, Professor McLaren released a second report which affirmed the initial report's findings and made additional conclusions based on further evidence that had been analyzed since the first report.²⁵ With respect to the doping scheme at the Sochi Games, the second report found:

The key findings of the 1st Report remain unchanged. The forensic testing, which is based on immutable facts, is conclusive. The evidence does not depend on verbal testimony to draw a conclusion. Rather, it tests the physical evidence and a conclusion is drawn from those results. The results of the forensic and

²² *Id.* at 15, 73-74.

²³ *Id.* at 15, 72-73.

²⁴ *Id.* at 15.

²⁵ Second Report of Richard H. McLaren, Independent Person in the World Anti-Doping Agency's Investigation of Sochi Allegations, Dec. 9, 2016, https://www.wada-ama.org/sites/default/files/resources/files/mclaren_report_part_ii_2.pdf.

laboratory analysis . . . establish that the conspiracy was perpetrated between 2011 and 2015.²⁶

208. Beyond the Sochi Games, the second report further discussed broader evidence of long-running systemic Russian state-sponsored doping across a variety of sports, with over a thousand Russian athletes in summer, winter, and Paralympic sports who could be identified as being involved in or benefiting from manipulations to conceal positive doping tests.²⁷

209. With the second report, Professor McLaren's team publicly released certain non-confidential evidence it had relied upon for the report, compiled in a so-called "Evidence Disclosure Package" (or "EDP") that was published online.²⁸ Due to an error in redacting the names of certain athletes in one of the documents included in the EDP, the evidence package publicly identified the three Plaintiffs as dopers. (The error was later corrected).

E. Further Investigation and Sanctions by Disciplinary Commissions Established by the International Olympic Committee

210. With Professor McLaren's independent investigation having confirmed Dr. Rodchenkov's claims of Russian state-sponsored doping at the Sochi Games, the International Olympic Committee (the "IOC"), the supreme authority of the Olympic Games, established two Disciplinary Commissions in July 2016. First, a Commission headed by Samuel Schmid, a member of the IOC Ethics Commission and a former President of the Swiss Confederation, was created to determine whether Russia had engaged in systematic manipulation of anti-doping rules during the Sochi Games. Second, a Commission headed by Denis Oswald, a member of the IOC and a former Olympic athlete, was formed to determine whether individual Russian athletes were guilty of anti-doping rule violations.

²⁶ *Id.* at 2.

²⁷ See *id.* at 2, 4-5.

²⁸ See *id.* at 4. The materials are available at <http://www.ipevidencedisclosurepackage.net>.

211. Dr. Rodchenkov submitted an affidavit, dated November 2, 2017, to the Schmid Commission, providing information within his personal knowledge about the Russian state-sponsored doping scheme. In addition to the information provided by Dr. Rodchenkov, the Schmid Commission analyzed and considered the McLaren reports, the evidence released in connection with the McLaren reports, additional forensic analyses that had been ordered by the IOC and other evidence. The Schmid Commission’s final report was issued on December 2, 2017.²⁹ Among other conclusions, the Schmid Commission found that Dr. Rodchenkov’s claims of urine swapping at Sochi, which Professor McLaren had previously confirmed, were further corroborated by the independent forensic analyses ordered by the IOC.³⁰ The Schmid Commission recommended that the IOC Executive Board take “appropriate measures that should be strong enough to effectively sanction the existence of a systemic manipulation of the anti-doping rules and system in Russia, as well as the legal responsibility of the various entities involved.”³¹

212. Based on the recommendation of the Schmid Commission, the IOC Executive Board decided on December 5, 2017, among other things:

- [1.] To suspend the Russian Olympic Committee (ROC) with immediate effect.
- [2.] Not to accredit any official from the Russian Ministry of Sport for the Olympic Winter Games PyeongChang 2018.
- [3.] To exclude the then Minister of Sport, Mr. Vitaly Mutko, and his then Deputy Minister, Mr. Yury Nagornykh, from any participation in all future Olympic Games.³²

²⁹ IOC Disciplinary Commission’s Report to the IOC Executive Board, INT’L OLYMPIC COMM., Dec. 2, 2017, <http://goo.gl/6SaLDa>.

³⁰ *Id.* at 24.

³¹ *Id.* at 28.

³² Decision of the IOC Executive Board, INT’L OLYMPIC COMM., Dec. 5, 2017, <http://goo.gl/DBG5SQ>.

213. The Oswald Commission, which was tasked with addressing doping violations by individual athletes, requested that Dr. Rodchenkov provide information to the Commission about 45 specific Russian athletes, including, as pertinent here, the biathletes Olga Zaytseva, Yana Romanova and Olga Vilukhina. Dr. Rodchenkov provided the information of which he was aware in a series of affidavits in late 2017.³³ Dr. Rodchenkov stated in the affidavits that he recalls that Zaytseva, Romanova and Vilukhina used the Duchess Cocktail prior to the Sochi Games. Furthermore, Dr. Rodchenkov noted that Zaytseva, Romanova and Vilukhina were all included on the Duchess List, which specified the athletes who were to be protected at Sochi.

214. On November 27, 2017, the Oswald Commission issued sanctions on five Russian athletes, including Romanova and Vilukhina.³⁴ Both Romanova³⁵ and Vilukhina³⁶ were found to have committed anti-doping rule violations, and both were disqualified from the events in which they had participated and required to return the medals they had won. The reasoning underlying the decisions was not disclosed, but was said to be provided “in due course.”³⁷

³³ The affidavits pertinent here were dated November 5, 2017 (general information and information specific to Vilukhina and Romanova) and November 18, 2017 (information specific to Zaytseva).

³⁴ *IOC Sanctions Five Russian Athletes and Publishes First Full Decision as Part of the Oswald Commission Findings*, INT’L OLYMPIC COMM., Nov. 27, 2017, <https://www.olympic.org/news/ioc-sanctions-five-russian-athletes-and-publishes-first-full-decision-as-part-of-the-oswald-commission-findings>.

³⁵ Decision in the Proceedings against Yana Romanova, Disciplinary Comm’n, INT’L OLYMPIC COMM., Nov. 27, 2017, <http://goo.gl/QUMSxf>.

³⁶ Decision in the Proceedings against Olga Vilukhina, Disciplinary Comm’n, INT’L OLYMPIC COMM., Nov. 27, 2017, <http://goo.gl/7k67u7>.

³⁷ *IOC Sanctions Five Russian Athletes and Publishes First Full Decision as Part of the Oswald Commission Findings*, *supra* note 34.

215. The Oswald Commission issued its decision in Zaytseva's case on December 1, 2017.³⁸ Zaytseva, like Romanova and Vilukhina, was found to have committed anti-doping rule violations, was disqualified from the events she had participated in and was required to return her medal.³⁹ The Oswald Commission issued a 45-page opinion on December 22, 2017, which set out in detail the evidence that proved Zaytseva's culpability.⁴⁰ The evidence included:

- a. ***Evidence Provided by Professor McLaren.*** The Oswald Commission considered Professor McLaren's reports, as well as evidence provided by him. The Commission found that the evidence Professor McLaren relied upon was "extremely strong" and persuasively demonstrated "the existence, during the Olympic Winter Games Sochi 2014, of a scheme in which the samples of protected Russian athletes, notably but not only athletes on a preselected list, were swapped, *i.e.* substituted with clean urine to allow these athletes to compete with immunity from doping controls."⁴¹ The Commission noted that Professor McLaren's findings were not based on Dr. Rodchenkov's testimony alone, but also on the testimony of other witnesses, as well as "forensic and analytical studies, which corroborated the implementation of the alleged scheme."⁴² The

³⁸ IOC Sanctions Three Russian Athletes as Part of Oswald Commission Findings, INT'L OLYMPIC COMM., Dec. 1, 2017, <https://www.olympic.org/news/ioc-sanctions-three-russian-athletes-as-part-of-oswald-commission-findings-2017-12-01>.

³⁹ Decision in the Proceedings against Olga Zaytseva, Disciplinary Comm'n, INT'L OLYMPIC COMM., Dec. 1, 2017, <http://goo.gl/wFFDhj> (operative part of decision only).

⁴⁰ Decision in the Proceedings against Olga Zaytseva, Disciplinary Comm'n, INT'L OLYMPIC COMM., Dec. 22, 2017, <http://goo.gl/t7rW3x> (full opinion).

⁴¹ *Id.* at 15.

⁴² *Id.*

Commission “concur[red]” with Professor McLaren’s conclusion that the Russian scheme was established beyond a reasonable doubt.⁴³

b. ***The Duchess List.*** As previously explained, prior to the Sochi Games, Aleksei Velikodny, the assistant to Yury Nagornykh, then the Russian Deputy Minister of Sports, provided Dr. Rodchenkov with the Duchess List, which listed the doped Russian athletes who were to be protected through the urine-swapping scheme. Importantly, Professor McLaren’s team had retrieved the Duchess List from Dr. Rodchenkov’s hard drive and analyzed the document’s metadata, which indicated that its author was indeed Velikodny. The Duchess List, therefore, was deemed to be authentic. Zaytseva’s name was included in the Duchess List, which the Oswald Commission considered to be “reliable evidence” that Zaytseva was “implicated in the scheme.”⁴⁴

c. ***Forensic Analysis of Bottle Tampering.*** Although Professor McLaren had already conducted an analysis of whether the urine sample bottles used by Russian athletes at the Sochi Games bore evidence that they had been tampered with, the Oswald Commission undertook a separate, additional analysis of the same issue. The Commission retained Professor Christophe Champod, a renowned criminologist at the University of Lausanne in Switzerland, to conduct a forensic analysis of the bottles.⁴⁵ Based on Professor Champod’s analysis, the

⁴³ *Id.*

⁴⁴ *Id.* at 18. The Oswald Commission’s decision in Zaytseva’s case states in one part that Zaytseva “was not in the Duchess List.” *Id.* at 17. This appears to be a clerical error. Zaytseva was in fact included in the list, as Dr. Rodchenkov stated in his affidavit to the Oswald Commission and as discussed in other parts of the Commission’s decision. *See, e.g., id.* at 32 (listing, as a “[s]pecific finding[] regarding the Athlete Zaytseva,” that she “is one of the athletes listed on the Duchess List”).

⁴⁵ *Id.* at 20.

Commission determined “with a high level of certainty that a significant number of samples were surreptitiously opened in a modus operandi that corresponds to the explanation provided by Dr. Rodchenkov.”⁴⁶ With respect to Zaytseva specifically, Professor Champod found “conclusive” marks that indicated tampering on two of her urine-sample bottles.⁴⁷

d. ***Forensic Analysis of Urine Salt Levels.*** As previously explained, when Dr. Rodchenkov swapped urine at the Sochi Lab, he manipulated the clean urine to ensure that it matched as closely as possible the specific gravity that had been recorded with respect to the substituted urine, and, if more density was needed, Dr. Rodchenkov would add table salt. Professor McLaren analyzed the salt content of a selection of Russian athletes’ urine samples and found that a number had salt contents higher than what should be found in human urine, which corroborated Dr. Rodchenkov’s testimony. However, the Oswald Commission elected to undertake a separate, additional analysis of the same issue.⁴⁸ For this analysis, the Commission retained Professor Michel Burnier of the Lausanne University Hospital.⁴⁹ Professor Burnier found numerous Russian urine samples with abnormally high levels of salt—including levels “out of renal physiological possibilities”—which, the Commission determined, provided “further objective and direct confirmation that samples were indeed manipulated in Sochi on a large

⁴⁶ *Id.* at 23.

⁴⁷ *Id.* at 32.

⁴⁸ *Id.* at 19.

⁴⁹ *Id.* at 23.

scale.”⁵⁰ With respect to Zaytseva specifically, Professor Burnier found that one of her urine samples, which was stored in a bottle that Professor Champod determined had been tampered with, had salt levels that were “clearly non-physiological.”⁵¹

e. **Forensic DNA Analysis.** When Dr. Rodchenkov swapped urine at the Sochi Lab, he replaced an athlete’s urine with previously collected clean urine from the same athlete. However, in addition to the urine Zaytseva provided at the Sochi Games, she also provided a separate urine sample in October 2014, about ten months after the Sochi Games had ended. This sample was compared to Zaytseva’s urine from Sochi, which revealed that this later sample was not Zaytseva’s alone, but it rather had a mixed DNA profile from at least two persons. This finding suggests that after the Sochi Games had ended, Zaytseva continued to use prohibited steroids and her conspirators continued to swap out her dirty samples, although they ran out of Zaytseva’s own clean urine and were therefore forced to resort to another person’s. The Oswald Commission considered this DNA analysis to be “further evidence of the involvement of [Zaytseva] in doping practices.”⁵²

216. To summarize, not only did Zaytseva’s name appear on the list of doped athletes who were to be protected by the Russian urine swapping scheme, with the authenticity of the document corroborated by its metadata, but furthermore, forensic analysis showed that the bottles that stored her urine had been tampered with, as had the urine itself. Based on this

⁵⁰ *Id.*

⁵¹ *Id.* at 32.

⁵² *Id.* at 20.

evidence, and in particular on the forensic evidence, the Oswald Commission concluded that there was “no place for any doubt” as to Zaytseva’s culpability as a doper.⁵³

217. Notably, Zaytseva was provided with the forensic evidence pertinent to her case prior to her hearing before the Oswald Commission.⁵⁴ And yet, Zaytseva and her counsel were unable to impeach the evidence. The Commission found that Zaytseva failed to “describe[] or ma[k]e plausible to any degree” any alternative theory, other than the scheme described by Dr. Rodchenkov, for the facts of bottle marks and excessive salt levels.⁵⁵ Furthermore, Zaytseva presented testimony from her own expert witnesses, but they, too, failed to “offer any alternative explanations for the presence of [the] marks [observed on Zaytseva’s urine sample bottles].”⁵⁶

218. Importantly, based on all the available evidence, the Oswald Commission also specifically determined that Dr. Rodchenkov had provided a completely credible account of events concerning doping at Sochi. Dr. Rodchenkov’s testimony was, as described by the Commission, “very precise,” “very clear,” and “very consistent,” and, critically, it was “systematically corroborated” by all available evidence.⁵⁷ The Commission wholly rejected any notion that Dr. Rodchenkov was fabricating charges against athletes, noting that, on the contrary, there was one Russian athlete who was believed to have been involved in doping and was involved in a disciplinary proceeding, but Dr. Rodchenkov had provided information which “was decisive for the purposes of clearing [the] athlete.”⁵⁸ The idea that Dr. Rodchenkov “would

⁵³ *Id.* at 32.

⁵⁴ *Id.* at 7-9.

⁵⁵ *Id.* at 29.

⁵⁶ *Id.* at 36.

⁵⁷ *Id.* at 25.

⁵⁸ *Id.*

simply invent stories against athletes” therefore had “no basis” whatsoever.⁵⁹ The Commission concluded that, “whichever wrongdoing he may have committed in the past,” Dr. Rodchenkov’s whistleblowing about the Sochi scheme and his testimony about the persons involved in it reflected Dr. Rodchenkov “telling the truth.”⁶⁰

219. For all these reasons, the Oswald Commission found Zaytseva liable for anti-doping rule violations. The Oswald Commission’s reasons for its decisions in Romanova’s and Vilukhina’s cases have not been released as of the date of this filing.

F. Retributive Slander, Threats and Harassment of Dr. Rodchenkov by Russian State Officials and the Oligarch Mikhail Prokhorov

220. Dr. Rodchenkov’s whistleblowing and cooperation with investigatory authorities has caused tremendous embarrassment for Russia, whose misconduct in international sports has been proven by undeniable evidence and sanctioned by the IOC. Besides supporting appeals by Russian athletes, Russian officials have focused their attention on Dr. Rodchenkov, the “turncoat” (as they have termed him), and have used the media, especially state-owned media, to slander him as a mentally ill fabricator.⁶¹

221. President Putin himself has participated in the campaign of harassment, telling TASS, a Russian state-owned media organization, that Dr. Rodchenkov was “an imbecile with obvious problems, who can hardly be trusted.”⁶²

⁵⁹ *Id.*

⁶⁰ *Id.* at 26.

⁶¹ See Neil MacFarquhar, *Russia Denies Doping at Sochi Olympics*, N.Y. TIMES, May 13, 2016, <https://www.nytimes.com/2016/05/14/world/europe/russia-olympics-doping.html> (reporting that the Kremlin’s spokesperson characterized Dr. Rodchenkov’s whistleblowing as “slander by a turncoat”).

⁶² *Putin: Charges against Russian Athletes Based on Words of ‘Imbecile with Obvious Problems’*, TASS, Jan. 30, 2018, <http://tass.com/sport/987588> (permanent link as of March 17, 2018 at <https://perma.cc/TT6M-YAE9>).

222. Dmitry Peskov, a spokesperson for the Kremlin, has been quoted in TASS as claiming that Dr. Rodchenkov has “emotional if not mental problems, and it is obviously clear that he cannot be taken seriously.”⁶³

223. Not content to merely slander Dr. Rodchenkov, certain Russian officials have publicly threatened Dr. Rodchenkov with bodily harm. Leonid Tyagachev, a former head of Russia’s Olympic Committee, reportedly said that “Rodchenkov should be shot for lying, like Stalin would have done.”⁶⁴

224. Slander, threats and harassment of this nature have become a fixture of Russian media stories. For this and other reasons, Dr. Rodchenkov has developed a well-founded fear that his life is in danger as a result of his whistleblowing.

225. After *The New York Times* published its blockbuster story based on Dr. Rodchenkov’s disclosures, Russian authorities initiated a criminal prosecution against him, in absentia, reportedly for abuse of power and illegal trafficking of potent and toxic substances.⁶⁵

226. Dr. Rodchenkov’s family, who stayed in Russia when he escaped to the United States, saw their property seized and their assets frozen, and Dr. Rodchenkov’s wife’s passport was confiscated.

227. Of course, none of the Russian officials who conspired with Dr. Rodchenkov at Sochi has been criminally prosecuted. Far from it, Vitaly Mutko, who oversaw the doping

⁶³ *Kremlin States WADA Informant’s Latest Interview Reveals Mentally Disturbed Individual*, TASS, Feb. 12, 2018, <http://tass.com/sport/989623> (permanent link as of March 17, 2018 at <https://perma.cc/8AVK-RHSY>).

⁶⁴ Shaun Walker, *Russian Olympic Official Says Doping Whistleblower Should Be Executed*, THE GUARDIAN, Nov. 17, 2017, <https://www.theguardian.com/sport/2017/nov/17/russian-olympic-official-says-doping-whistleblower-should-be-executed>.

⁶⁵ *Moscow City Court Upholds Arrest in Absentia of WADA Informer Rodchenkov*, TASS, Feb. 19, 2018, <http://tass.com/sport/990780> (permanent link as of March 17, 2018 at <https://perma.cc/2F3N-7F55>).

scheme from his perch as the Minister of Sports, has since been promoted to the Deputy Prime Minister of Russia.

228. The Kremlin has reportedly said that it will “defend[] [Russian] athletes” from the ramifications of Dr. Rodchenkov’s whistleblowing “with all possible means.”⁶⁶ Yury Nagornykh, then the Russian Deputy Minister of Sports, has reportedly disclosed that Russia considered filing a defamation lawsuit against Dr. Rodchenkov.⁶⁷

229. The threats of government-sponsored libel actions against Dr. Rodchenkov continue to this day. After the Court of Arbitration for Sport (“CAS”) recently affirmed liability findings against 11 Russian athletes and annulled the findings against 28 others (based on insufficient corroboration), Igor Lebedev, the deputy speaker of Russia’s lower house of parliament, concluded that these case-by-case adjudications somehow proved that “Rodchenkov lied about doping in our country.”⁶⁸ He proposed “to establish a commission which will gather all untrue publications about our athletes in Western media during this period and to sue them for libel. Let’s restore the fair name of Russian sports.”⁶⁹

230. In the end, however, it was not the Russian government directly, but instead Mikhail Prokhorov, a powerful Russian oligarch and one of the wealthiest persons in the world, who spearheaded this defamation lawsuit against Dr. Rodchenkov.

⁶⁶ *Moscow to Continue Defending Russian Athletes from Unfounded Doping Accusations – Kremlin*, TASS, Nov. 28, 2017, <http://tass.com/sport/977795> (permanent link as of March 17, 2018 at <https://perma.cc/E45Z-NK6S>).

⁶⁷ MacFarquhar, *Russia Denies Doping at Sochi Olympics*, *supra* note 61.

⁶⁸ *Russian Officials Say Rodchenkov Testimony Reveals WADA Informant’s Falsehood*, SPUTNIK, April 27, 2018, <https://sputniknews.com/analysis/201804271063979635-russian-officials-rodchenkov-testimony-falsehood/> (permanent link as of April 28, 2018 at <https://perma.cc/R98X-JBW8>).

⁶⁹ *Id.*

231. Russian oligarchs are business persons of the former Soviet republics who rapidly accumulated massive wealth during the era of privatization after the dissolution of the Soviet Union, often through corrupt means. Prokhorov, who became a billionaire through financial transactions with the Russian government, was asked on Russian television whether he had ever participated in corrupt dealings.⁷⁰ He reportedly shrugged and replied, “Yes, of course I participated in them. What, don’t I live in this country?”⁷¹

232. Prokhorov has reportedly been close with President Putin’s administration. For instance, Prokhorov has admitted that once, before he ran for public office in Russia affiliated with a party other than President Putin’s United Russia party, he first sought and acquired President Putin’s permission to run.⁷² For this and other reasons, although Prokhorov insists that he is independent, many have seen him as a “Kremlin stooge.”⁷³

233. On information and belief, Prokhorov has been well aware of Russia’s cheating in international athletic contests for years and he has, even before this lawsuit, attempted to suppress public exposure of Russia’s misconduct. For example, according to Dr. Irina Rodionova, the Russian medical doctor responsible for distributing steroids to athletes at the Sochi Games, Prokhorov paid to Irina Starykh, a Russian biathlete who was listed on the Duchess List along with Zaytseva, Romanova and Vilukhina, millions of rubles so that she would not disclose erythropoietin use.

234. On November 28, 2017, the day after the IOC announced that Romanova and Vilukhina were found to have committed anti-doping rule violations, Prokhorov, through

⁷⁰ Julia Ioffe, *The Master and Mikhail*, THE NEW YORKER, Feb. 27, 2012, <https://www.newyorker.com/magazine/2012/02/27/the-master-and-mikhail>.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

Russian state-owned media, solicited them for a lawsuit against Dr. Rodchenkov. “If Yana Romanova and Olga Vilukhina decide to fight back to defend their honor and reputation, I will be prepared to provide any legal and financial support,” Prokhorov announced in TASS.⁷⁴ Then, Prokhorov proceeded to threaten Dr. Rodchenkov, the chairpersons of the IOC’s Disciplinary Commissions, Samuel Schmid and Denis Oswald, and “their likes in the IOC and WADA,” insisting that they all “have to pay” for the IOC’s sanctions, which Prokhorov said were an “outrage”:

“It is essential to put an end to this absolute lawlessness, which is ruining the world of sports and the lives of people who have dedicated themselves entirely to sports careers and the national flag. It is essential to explain in the language of court rulings to all these [R]odchenkovs, [S]chmids, [O]swalds and their likes in the IOC and WADA that this outrage will cost them their reputation, profession and money. Everything has to be paid for. The price of injustice must double.”⁷⁵

235. Several days after Prokhorov’s threats, on December 1, 2017, the IOC, apparently undeterred, announced that Zaytseva and several other Russian athletes were found to be responsible for anti-doping rule violations.

236. Prokhorov apparently persuaded Zaytseva, Romanova and Vilukhina to lend their names to his desired lawsuit against Dr. Rodchenkov, which was filed in this Court on February 20, 2018. Predictably, the Complaint parrots the Kremlin’s slander against Dr. Rodchenkov’s character and mental health, tarring Dr. Rodchenkov as an “emotionally unstable liar, cheater,

⁷⁴ *Businessman Prokhorov Ready to Initiate Legal Proceedings against Rodchenkov in US*, TASS, Nov. 28, 2017, <http://tass.com/sport/977843> (permanent link as of March 17, 2018 at <https://perma.cc/2RFY-42YZ>).

⁷⁵ *Id.*

and criminal” who “moved” to the United States, the Complaint says, in order to somehow, without explanation, “cash in on his lies.”⁷⁶

237. The Complaint claims that Zaytseva, Romanova and Vilukhina never participated in the Russian doping conspiracy, and therefore, they claim, Dr. Rodchenkov has libeled them. Notably, however, the Complaint does not deny—or even address in any manner—the objective evidence that belies their protestations of innocence. According to a story in *The New York Times* about this lawsuit, when an attorney for the athletes was asked to explain the forensic evidence which showed that urine samples were tainted, he responded, “I’m not a doctor.”⁷⁷ Zaytseva fared no better when she speculated that the abnormally high salt content of her urine sample may be explained by her diet rich in red caviar and salted fish.⁷⁸ Suffice to say, Zaytseva’s baseless speculation is unsupported by any credible science. Like her lawyer, Zaytseva stressed to *The New York Times* that she, too, is “not a doctor or a chemist.”⁷⁹

238. Zaytseva, Romanova and Vilukhina’s lawsuit against Dr. Rodchenkov is wholly meritless. For one, the lawsuit is factually frivolous. The IOC found Zaytseva, Romanova and Vilukhina responsible for anti-doping rule violations based on fair proceedings in which they participated. Dr. Rodchenkov’s evidence was only a part of those proceedings. Any harm to their reputations is as a result of the IOC findings, which were made public. Simply stated, nothing that Dr. Rodchenkov said about Zaytseva, Romanova or Vilukhina in the course of those proceedings was untrue and he has not libeled them in any manner. Furthermore, the lawsuit has

⁷⁶ See, e.g., Compl. ¶¶ 84, 97, 107.

⁷⁷ Tariq Panja, *N.B.A. Owner Backs Lawsuit Against Russian Doping Whistle-Blower*, N.Y. TIMES, Feb. 20, 2018, <https://www.nytimes.com/2018/02/20/sports/olympics/russia-doping-prokhorov.html>.

⁷⁸ *Id.*

⁷⁹ *Id.*

numerous legal infirmities which render it ripe for immediate dismissal, as demonstrated by Dr. Rodchenkov's Motion to Dismiss filed with the Court simultaneously with this pleading.

239. The frivolous nature of this lawsuit belies any contention that its real purpose is to vindicate the rights of Zaytseva, Romanova and Vilukhina. Any effort to salvage their reputations properly lies in their appeals to the CAS, which have not yet been decided. In reality, this lawsuit is the result of efforts by Prokhorov and others, currently unknown, to vexatiously harass and punish Dr. Rodchenkov for his whistleblowing and cooperation with legitimate investigatory authorities. Indeed, Prokhorov essentially admitted as much when he boasted to Russian state-owned media that "all these [R]odchenkovs, [S]chmidts, [O]swalds and their likes in the IOC and WADA" would "pay" for the IOC's sanctions.⁸⁰

240. On information and belief, Zaytseva, Romanova and Vilukhina are not the true forces behind this lawsuit, which is instead controlled by Prokhorov and others. An attorney for Zaytseva, Romanova and Vilukhina has disclosed, as reported by *The New York Times*, that "[t]here are a number of other individuals who are providing support for this [lawsuit], both financial and otherwise."⁸¹ "Mr. Prokhorov is certainly one of them, but he's not the only one."⁸² The attorney refused to identify the others.

241. After this case was filed, Prokhorov admitted in a letter to Dr. Rodchenkov's counsel—which Prokhorov or somebody working with him "exclusively" provided to Russian state-owned media for publication⁸³—that he is financing this lawsuit.⁸⁴ Prokhorov's letter

⁸⁰ *Businessman Prokhorov Ready to Initiate Legal Proceedings against Rodchenkov in US*, *supra* note 74.

⁸¹ *Panja, N.B.A. Owner Backs Lawsuit Against Russian Doping Whistle-Blower*, *supra* note 77.

⁸² *Id.*

⁸³ See *Russian Tycoon Prokhorov Slams Allegations by US Attorney for WADA Informant*, TASS, March 6, 2018, <http://tass.com/sport/992895> (permanent link as of March 23, 2018 at <https://perma.cc/7ZGA-F76U>) (discussing Prokhorov's letter, "a copy of which was exclusively provided to TASS").

claimed incredibly that his “only motivation” for sponsoring this frivolous lawsuit is to “help[] Olga Zaytseva, Yana Romanova and Olga Vilukhina as they try to clear their names” from Dr. Rodchenkov’s “lies and deception.”⁸⁵ Unsurprisingly, Prokhorov’s letter, like the Complaint in this case, offered no rejoinder to the multiple forensic analyses and other objective evidence which has led independent investigators to conclude that Dr. Rodchenkov’s claims are true. Prokhorov’s purported “belie[f] in [Zaytseva, Romanova, and Vilukhina’s] innocence”⁸⁶ is, on information and belief, purely pretextual cover for Prokhorov’s patently improper lawsuit, which is actually intended to harass and punish Dr. Rodchenkov as retribution for, to quote Prokhorov, the “outrage”⁸⁷ of the IOC’s sanctions.

FIRST CAUSE OF ACTION (ANTI-SLAPP)

242. Dr. Rodchenkov re-alleges and incorporates by reference the preliminary statement and paragraphs 178 through 241 of this pleading.

243. New York law and public policy protects the civil rights of persons who are victims of meritless lawsuits which are intended to harass and punish participants in public controversies, such as Dr. Rodchenkov.

244. The definition of a SLAPP lawsuit under New York law includes “action[s]” and “claim[s]” that (a) are “brought by” “person[s] who ha[ve] applied for or obtained . . . permission to act from any government body” (including “any public authority, board or commission”), and (b) are “materially related to any efforts of the defendant to report on, comment on, . . . challenge or oppose such application or permission.” N.Y. Civ. Rights Law § 76-a.

⁸⁴ Letter from Mikhail Prokhorov to James Walden, dated March 1, 2018.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Businessman Prokhorov Ready to Initiate Legal Proceedings against Rodchenkov in US, supra* note 74.

245. The Olympic Charter is the constitution of the Olympic Movement and the Olympic Games. Under the Charter, “Nobody is entitled as of right to participate in the Olympic Games.” (Rule 44.3.) In order to participate in the Olympic Games, athletes “must respect and comply with the Olympic Charter and World Anti-Doping Code.” (Rule 40.) Compliance with anti-doping rules is “mandatory for the whole Olympic Movement.” (Rule 43.) The IOC, as the “supreme authority” of the Olympic Games (Rule 1.1), is vested with the authority to determine whether athletes are eligible to participate in the Games. (Rule 44.3.) “Any decision regarding the awarding, withdrawal or reallocation of any victory medal or diploma falls within the sole authority of the IOC.” (Rule 56.) However, in certain cases, IOC disciplinary decisions may be appealed to the CAS. (Rule 61.)

246. Olga Zaytseva, Yana Romanova and Olga Vilukhina have sought and obtained from the IOC permission to participate in the Olympic Games, have later participated in disciplinary proceedings conducted by the IOC and have now appealed their disqualifications by the IOC to CAS. In these and other respects, they are “person[s] who ha[ve] applied for or obtained . . . permission to act from” the IOC, an international “government body” within the meaning of N.Y. Civ. Rights Law § 76-a.

247. After the IOC established the Disciplinary Commission chaired by Denis Oswald to address doping by individual Russian athletes, Dr. Rodchenkov submitted affidavits to the Commission in the case of Zaytseva, Romanova and Vilukhina. He provided testimony and related evidence that these athletes had committed anti-doping rule violations. In this way, Dr. Rodchenkov “comment[ed] on, . . . challenge[d] [and] oppose[d]” the continued eligibility of Zaytseva, Romanova and Vilukhina as Olympic athletes and members of the Olympic Movement, within the meaning of N.Y. Civ. Rights Law § 76-a.

248. The Complaint filed by Zaytseva, Romanova and Vilukhina contends that they were “stripped” of their medals by the IOC “due to [Dr. Rodchenkov’s] defamatory statements and conduct.” (Compl. ¶ 3.) The Complaint proceeds to specifically point to Dr. Rodchenkov’s affidavits provided to the Oswald Commission. (*Id.* ¶¶ 29, 113-24.) The Plaintiffs seek money damages purportedly arising from Dr. Rodchenkov’s actions opposing the positions of Zaytseva, Romanova and Vilukhina. Therefore, this case is “materially related to . . . efforts of [Dr. Rodchenkov] to . . . comment on, . . . challenge [and] oppose” the continued eligibility of Zaytseva, Romanova and Vilukhina as Olympic athletes and members of the Olympic Movement, within the meaning of N.Y. Civ. Rights Law § 76-a.

249. All elements of section 76-a of the New York Civil Rights Law are satisfied, and as such, the lawsuit by Zaytseva, Romanova and Vilukhina against Dr. Rodchenkov is a SLAPP lawsuit as defined by New York law. Therefore, Dr. Rodchenkov, as the Defendant in this lawsuit, “may [now] maintain an action, claim, . . . or counterclaim to recover damages, including costs and attorney’s fees, from any person who commenced or continued [this] action.” N.Y. Civ. Rights Law § 70-a.

250. For the reasons set forth in the Motion to Dismiss that is filed contemporaneously with this Answer, Counterclaims and Third-Party Complaint, and for other reasons, this SLAPP lawsuit was “commenced . . . without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification or reversal of existing law.” N.Y. Civ. Rights Law § 70-a(1)(a). Therefore, Dr. Rodchenkov may recoup his attorneys’ fees and costs from Zaytseva, Romanova and Vilukhina.

251. On information and belief, Mikhail Prokhorov solicited the Plaintiffs for this lawsuit, selected the attorneys to represent them, financed and provided other support for the

lawsuit, and is effectively in control of it. Therefore, Prokhorov, in addition to the named Plaintiffs, is a “person who commenced or continued [this] action” within the meaning of N.Y. Civ. Rights Law § 70-a, and he is also liable to Dr. Rodchenkov for attorneys’ fees and costs.

252. Prokhorov and the Plaintiffs commenced this action “for the sole purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights.” N.Y. Civ. Rights Law § 70-a(1)(c). Therefore, Prokhorov and the Plaintiffs are liable for punitive damages. Additionally, Prokhorov and the Plaintiffs are liable for all compensatory damages incurred by Dr. Rodchenkov as a result of this lawsuit, including his attorneys’ fees and costs. N.Y. Civ. Rights Law § 70-a(1)(b).

253. All other such persons who conspired with Prokhorov, “John Doe” Third-Party Defendants whose identities are currently unknown, are similarly liable.

PRAYER FOR RELIEF

WHEREFORE, Grigory Rodchenkov respectfully prays for the following relief:

- (1) an order dismissing Plaintiffs’ claims;
- (2) attorneys’ fees and costs;
- (3) compensatory damages to be proven at trial;
- (4) punitive damages;
- (5) prejudgment interest; and
- (6) any other and further relief as the Court deems just and proper.

DATED: April 30, 2018
New York, New York

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