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County of San Diego  
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5 Attorneys for Plaintiff NICHOLAS NADHIR  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION**

10 NICHOLAS NADHIR, an individual,

11 Plaintiff,

12 vs.

13 JOHN DOE, an individual; and DOES 2  
14 through 10, inclusive,

15 Defendants.

Case No. 37-2018-00036325-CU-DF-CTL

**FIRST AMENDED COMPLAINT FOR:**

1. **Defamation;**
2. **Violation of Cal. Penal Code § 528.5;**
3. **Invasion of Privacy – Appropriation of Name or Likeness; and**
4. **Intentional Infliction of Emotional Distress**

[IMAGED FILE]

Judge: Hon. Joel R. Wohlfeil  
Dept: C-73

Complaint Filed: July 20, 2018  
Trial Date: TBD

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21 Plaintiff NICHOLAS NADHIR complains and alleges against Defendants JOHN DOE and  
22 DOES 2 through 10 (collectively “Defendants”), as follows:

23 **PARTIES, JURISDICTION AND VENUE**

- 24 1. Plaintiff is an individual currently residing in San Diego, California.
- 25 2. Defendant JOHN DOE in an individual whose name and residence are presently  
26 unknown to Plaintiff.
- 27 3. Plaintiff is unaware of the true names and capacities of defendants Does 2 through  
28 10, and therefore sues them by those fictitious names. Plaintiff reserves the right to amend this

1 complaint to identify those defendants by name and capacity after that information is ascertained.

2 4. Each of the Defendants was the servant, employee and/or agent of the other  
3 Defendants, and every act or omission alleged in this complaint was committed within the course and  
4 scope of that service, employment and/or agency. Accordingly, each of the Defendants may be held  
5 liable for the acts and omissions alleged in this complaint.

6 5. Venue is proper in the county of San Diego because Plaintiff resides in San Diego  
7 and because the wrongful conduct alleged below was directed at Plaintiff and other residents of San  
8 Diego County.

9 **FACTUAL ALLEGATIONS**

10 6. Beginning June 7, 2018, Plaintiff began receiving requests to follow his personal  
11 Instagram account from accounts with names like “shantell.does.not.want.this.” Plaintiff initially  
12 ignored these follow requests, denying and deleting them, as he believed them to be spam messages.

13 7. On Sunday June 10, 2018, Plaintiff had lunch with family friends after attending  
14 church. At that lunch Plaintiff was introduced to a young woman named Shantell. (Plaintiff is not  
15 using Shantell’s last name in this complaint to protect her privacy.)

16 8. On June 11, 2018, Plaintiff viewed a direct message to his personal Instagram  
17 account sent on June 9, 2018 from a user utilizing the name “nick.check.your.dm.request.” The  
18 message stated, among other things, that: “Shantell is finding this whole thing very stressful and as  
19 an invasion of privacy, she is not happy and is being pressured by her family.” The message further  
20 stated: “Tell the moms and aunts to just drop the whole thing.” Plaintiff then informed Shantell’s  
21 family that he had received the message, as he had no idea why the sender sent such a message.

22 9. On June 13, 2018, Plaintiff received an Instagram follow request from  
23 “shantl.ant.is.driving.her.crazy.” Plaintiff denied the follow request, and responded to the earlier  
24 message from nick.check.your.dm.request by telling the sender to “stop spamming and harassing  
25 me, immediately.”

26 10. Approximately one week later, on June 21 2018, one of Shantell’s family members  
27 shared with Plaintiff a screenshot of a text message conversation between an unknown person and  
28 someone referred to as “Nicholas N”. The texts from “Nicholas N.” were falsely attributed to

1 Plaintiff. The statements that the impersonator made included comments about Shantell and her  
2 family, such as:

- 3 a. “Her dad is a buffoon[;]”
- 4 b. “I should talk to her for a few months and leave her right after I’m done with  
5 her[;]” and
- 6 c. “She has a Very (sic) nice body[.]”

7 Plaintiff never wrote any such text messages.

8 11. Upon information and belief, Defendants impersonated Plaintiff with the intent of  
9 disseminating the false statements to Plaintiff’s acquaintances, including Shantell and her family  
10 members, thereby damaging Plaintiff’s personal relationships and his reputation, and causing  
11 Plaintiff emotional distress.

12 12. Also upon information and belief on June 21, 2018, another of Shantell’s family  
13 members tried to contact the nick.check.your.dm.request user on Instagram, sending a message that  
14 said to stop harassing Plaintiff. Upon information and belief, the nick.check.your.dm.request user  
15 then created a new Instagram profile named “please.help.her” and responded through that account.  
16 The nick.check.your.dm.request user then made several false statements about Plaintiff, including  
17 among other things:

- 18 a. “He put on a good show when they met, he sees her as a piece of meat.”
- 19 b. “He thought her dad was a buffoon.”
- 20 c. “Ask nick off (sic) all the jew girls he’s been with. Shantell will be no  
21 different to him and he will leave her once he’s done with her.”

22 13. Upon information and belief, the user who made these false statements about  
23 Plaintiff reasonably understood that the statements would portray Plaintiff as promiscuous, as  
24 lacking moral character, and as unfit to date Shantell. The user also intended that the false  
25 statements would be conveyed to Shantell and asked Shantell’s relative “to warn her.”

26 14. Upon information and belief Shantell’s relative responded to the “please.help.her”  
27 response, providing his phone number and asking the user to stop messaging and call him if the user  
28 had anything further to say. Upon information and belief, the user then created a new Instagram

1 profile named “help.shantel.now” and responded: “Don’t make this about you. You know who this  
2 is. ... you (sic) must think I’m really dumb if you think I’m going to call you.”

3 15. Since initiating this lawsuit, Plaintiff has discovered that screenshots of an additional  
4 text message conversation between an unknown person and the impersonator “Nicholas” or “NN”  
5 were circulated amongst Plaintiff’s acquaintances. Upon information and belief, the impersonator  
6 used Instagram to distribute the screenshots of the fraudulent text message conversation. In that  
7 conversation, the impersonator made additional false and harmful statements that were attributed to  
8 Plaintiff. Those statements included, among other things:

9 a. “I think I’ll be able to get something out of her or at least sleep with her  
10 within a month or two.”

11 b. “It’s worked with the other girls so far so it should work with her too.”

12 c. “[O]nce I’m bored with her and use the shit out of her I will leave her and go  
13 on to the next one.”

14 16. Plaintiff has also discovered additional defamatory statements that were sent to  
15 Shantell and/or her family members via Instagram. These include:

16 a. “[Nick] has ruined a lot of Chaldean girls reputations in Michigan, Chicago  
17 and some in San Diego.”

18 b. “I don’t want this loser family to ruin another girl.”

19 17. Plaintiff has been emotionally traumatized by being the victim of these persistent,  
20 malicious and false attacks on his character by unknown persons, as well as the victim of an  
21 unknown impersonator. Plaintiff’s personal relationships and his reputation in his community have  
22 been damaged. Plaintiff is anxious and further emotionally distraught by the likelihood that he  
23 remains ignorant of additional false statements that have been, and will continue to be, attributed to  
24 him. Plaintiff is further concerned that if these outrageous acts continue unabated, they will  
25 negatively impact his professional reputation.

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1 **FIRST CAUSE OF ACTION**

2 **(Defamation Against All Defendants)**

3 18. Plaintiff re-alleges and incorporates by reference all of the allegations set forth above  
4 as if restated fully herein.

5 19. The statements above, both those made about Plaintiff and those falsely attributed to  
6 Plaintiff, were false, and the maker of those statements knew they were false, failed to use  
7 reasonable care to determine the truth or falsity of the statements, and/or acted with reckless  
8 disregard for the truth.

9 20. The statements above were made to defame Plaintiff and in an attempt to injure  
10 Plaintiff with regard to his occupation, to expose him to hatred, contempt, ridicule, or obloquy, to  
11 cause him to be shunned or avoided, and/or to discourage others from associating with Plaintiff.

12 21. The statements above were made and published to persons other than Plaintiff, and  
13 were directed to people who had recently met and/or interacted with Plaintiff.

14 22. The statements above were defamatory without the necessity of explanatory matter.

15 23. In committing the aforementioned acts regarding postings, publications and  
16 statements regarding Plaintiff, the Defendants acted with fraud, malice, and oppression justifying  
17 the imposition of punitive and exemplary damages.

18 24. Unless and until enjoined and restrained by this Court, Defendants' defamatory  
19 statements, online harassment, bullying, and wrongful conduct will continue to injure Plaintiff with  
20 regard to his occupation, to expose him to hatred, contempt, ridicule, or obloquy, to cause him to be  
21 shunned or avoided, and/or to discourage others from associating with Plaintiff.

22 25. Defendants' conduct, if not restrained, will cause great and irreparable injury to  
23 Plaintiff, including to Plaintiff's reputation, in a way not easy to quantify and compensate through  
24 an award of damages. Plaintiff will have no adequate remedy at law for the injuries that would  
25 result if Defendants were to continue their online harassment and defamation of Plaintiff.

26 26. Therefore, Defendants' wrongful conduct should be temporarily enjoined during the  
27 pendency of this case, and permanently enjoined thereafter by this Court.

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1 **SECOND CAUSE OF ACTION**

2 **(Violation of Cal. Penal Code § 528.5 Against All Defendants)**

3 27. Plaintiff re-alleges and incorporates by reference all of the allegations set forth above  
4 as if restated fully herein.

5 28. Upon information and belief, Defendants impersonated Plaintiff through electronic  
6 means, including via text message, by opening false Instagram accounts, and by opening false email  
7 accounts.

8 29. Upon information and belief, Defendants' knowingly engaged in the impersonation  
9 of Plaintiff, without his consent, for the purpose of harming and intimidating Plaintiff.

10 30. Upon information and belief, Defendants' impersonation was credible, as persons  
11 who reasonably believed that Plaintiff said the things that the Defendants' said while impersonating  
12 Plaintiff, confronted Plaintiff and his family members about the false statements.

13 31. Defendants' acts of impersonating Plaintiff caused injury to Plaintiff by causing  
14 Plaintiff to suffer severe emotional distress, harming his reputation, and by damaging his personal  
15 relationships.

16 32. Defendants' conduct, if not restrained, will cause great and irreparable injury to  
17 Plaintiff, including to Plaintiff's reputation, in a way not easy to quantify and compensate through  
18 an award of damages. Plaintiff will have no adequate remedy at law for the injuries that would  
19 result if Defendants were to continue to impersonate Plaintiff.

20 33. Therefore, Defendants' wrongful conduct should be temporarily enjoined during the  
21 pendency of this case, and permanently enjoined thereafter by this Court

22 34. Pursuant to California Penal Code § 528.5, Plaintiff is entitled to injunctive relief and  
23 compensatory damages, and other equitable relief.

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1 **THIRD CAUSE OF ACTION**

2 **(Invasion of Privacy - Appropriation of Name or Likeness**

3 **Against All Defendants)**

4 35. Plaintiff re-alleges and incorporates by reference all of the allegations set forth above  
5 as if restated fully herein.

6 36. Defendants violated Plaintiff's right to privacy by using Plaintiff's name without  
7 Plaintiff's consent.

8 37. Upon information and belief, Defendants gained a personal advantage by using  
9 Plaintiff's name and attributing the false statements to Plaintiff. The full extent to which Defendants  
10 benefitted from the use of Plaintiff's name cannot be known without discovery.

11 38. Defendants' use of Plaintiff's name to spread false statements has caused Plaintiff  
12 severe emotional distress and has intruded on his peace of mind.

13 39. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

14 40. In committing the aforementioned acts, regarding the use of Plaintiff's identity and  
15 dissemination of false conversations purportedly involving Plaintiff, the Defendants acted with  
16 fraud, malice, and oppression justifying the imposition of punitive and exemplary damages.

17 41. Defendants' conduct, if not restrained, will cause great and irreparable injury to  
18 Plaintiff, including to Plaintiff's reputation, in a way not easy to quantify and compensate through  
19 an award of damages. Plaintiff will have no adequate remedy at law for the injuries that would  
20 result if Defendants were to continue their appropriation of Plaintiff's name.

21 42. Therefore, Defendants' wrongful conduct should be temporarily enjoined during the  
22 pendency of this case, and permanently enjoined thereafter by this Court.

23 **FOURTH CAUSE OF ACTION**

24 **(Intentional Infliction of Emotional Distress Against All Defendants)**

25 43. Plaintiff re-alleges and incorporates by reference all of the allegations set forth above  
26 as if restated fully herein.

27 44. Defendants' conduct in opening multiple Instagram and/or email accounts, using  
28 those accounts to harass Plaintiff and defame Plaintiff to his acquaintances, using electronic means

1 to impersonate Plaintiff, and attributing salacious and derogatory statements to Plaintiff, in a  
2 persistent pattern of malicious conduct, was extreme and outrageous.

3 45. Upon information and belief, Defendants intended to cause Plaintiff to suffer  
4 emotional distress, as shown by their continued conduct even after discovering that Plaintiff knew  
5 their malicious acts. Or, Defendants acted with reckless disregard of the probability that Plaintiff  
6 would suffer emotional distress, knowing that Plaintiff would likely learn of their conduct.

7 46. As a result of Defendants' conduct, Plaintiff suffered and continues to suffer severe  
8 emotional distress, including anxiety, nervousness, worry, and humiliation. Plaintiff's emotional  
9 distress is of such substantial quantity and enduring quality that no reasonable man in a civilized  
10 society should be expected to endure it.

11 47. Defendants' conduct was a substantial factor in causing Plaintiff's severe emotional  
12 distress.

13 48. In committing the aforementioned acts, regarding the intentional infliction of  
14 emotional distress on Plaintiff, the Defendants acted with fraud, malice, and oppression justifying  
15 the imposition of punitive and exemplary damages.

16 49. Defendants' conduct, if not restrained, will cause great and irreparable injury to  
17 Plaintiff, including to Plaintiff's reputation, in a way not easy to quantify and compensate through  
18 an award of damages. Plaintiff will have no adequate remedy at law for the injuries that would  
19 result if Defendants were to continue to inflict emotional harm on Plaintiff.

20 50. Therefore, Defendants' wrongful conduct should be temporarily enjoined during the  
21 pendency of this case, and permanently enjoined thereafter by this Court.

22 **REQUEST FOR RELIEF**

23 Plaintiff asks the Court to grant the following relief:

- 24 1. On all causes of action, for monetary damages according to proof;
- 25 2. On all causes of action, for an order and judgment enjoining Defendants from  
26 continuing their conduct intended to harm Plaintiff;
- 27 3. On all causes of action, for the costs of suit herein incurred;
- 28 4. On the First, Third, and Fourth Causes of Action, for punitive and exemplary




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damages;

5. On all causes of action, for such other and further legal and equitable relief as this Court deems proper.

Dated: January 31, 2019

**CALDARELLI HEJMANOWSKI PAGE & LEER LLP**

By:   
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Attorneys for Plaintiff NICHOLAS NADHIR