



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

RAUL ARMENTA JR. AND SHANNON
ARMENTA, INDIVIDUALLY AND ON
BEHALF OF THEIR MINOR SON, H.A.,

Plaintiffs,

v.

G/O MEDIA INC., D/B/A DEADSPIN,

Defendant.

Civ. No. _____

JURY TRIAL DEMANDED

COMPLAINT

1. Nine-year-old H.A. loves the Kansas City Chiefs—and he loves his family’s Chumash-Indian heritage. On November 26, 2023, H.A. displayed that love by attending the Chiefs-Raiders NFL football game wearing a Chiefs jersey and necklace, his face painted half-red and half-black, and a costume headdress—just as Chiefs fans and other avid sports fans have done for decades.



2. During the CBS television broadcast, H.A. was shown for three seconds, where the audience can clearly see his red-and-black face paint. Immediately thereafter, CBS panned to a Raiders fan in black-and-white face paint. Together, they represented fervent fans with their faces painted for game-day battle, each wearing their team's respective colors and costume garb:



3. Those few seconds provided just the opportunity for Deadspin Senior Writer Carron Phillips to, on behalf of himself and his employer Deadspin, maliciously and wantonly attack a nine-year-old boy and his parents for Phillips' own race-drenched political agenda. By selectively capturing from the CBS broadcast an image of H.A. showing only the one side of his face with black paint on it—an effort that took laser-focused precision to accomplish given how quickly the boy appeared on screen—Phillips and Deadspin deliberately omitted the half of H.A.'s face with red paint on it.

4. Armed with this misleadingly-edited photo, Phillips wrote an article,

published by Deadspin, entitled “The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress” (“the Article”).

The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress

They're doubling up on the racism. Are you going to say anything, Roger Goodell?

By Carron J. Phillips Published 9 hours ago





Chiefs fan on Sunday in Native American headdress and Black face. Screenshot: CBS

It takes a lot to disrespect two groups of people at once. But on Sunday afternoon in Las Vegas, a Kansas City Chiefs fan found a way to hate Black people and the Native Americans at the same time.

5. The Article falsely alleged that H.A. had “found a way to hate Black people and the Native Americans at the same time.” It alleged that H.A.’s parents, Shannon and Raul, “taught” H.A. “racism and hate” at home. It intentionally painted a picture of the Armenta Family as anti-Black, anti-Native American bigots who proudly engaged in the worst kind of racist conduct motivated by their family’s hatred for Black and Native Americans.

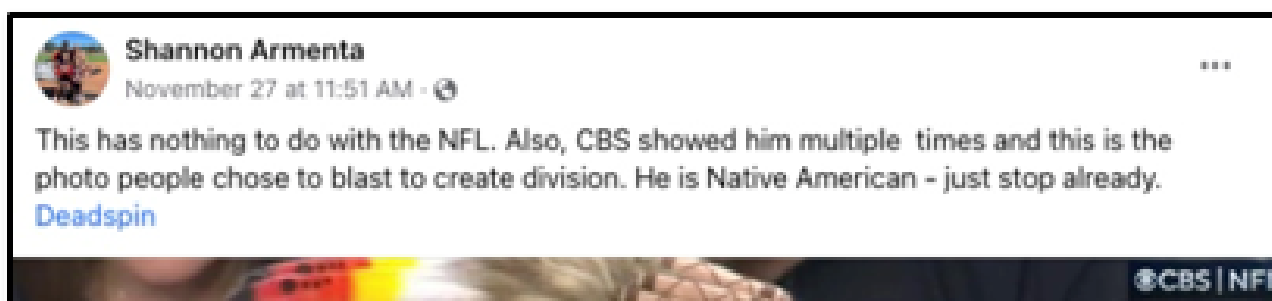
6. The problem with Phillips' Article: literally none of it was true. H.A. did not wear blackface. "Blackface" is "dark makeup worn to mimic the appearance of a Black person and especially to mock or ridicule Black people."¹ Before this controversy, nine-year-old H.A. had no idea what blackface was or the racist history behind it. And he certainly did not wear black paint on half of his face to mimic or mock Black people. He is a child, and until Deadspin and Phillips' malicious accusation, it never occurred to nine-year-old H.A. that a person could hate another for the color of their skin. The truth is that H.A.'s face was painted in Chiefs' team colors, black and red, split down the middle—just as myriad fans and team regalia have for decades.

7. Nor does H.A. hate Native Americans. He *is* Native American. And H.A.'s parents, Raul and Shannon Armenta, did not teach H.A. to hate Native Americans at home. H.A.'s father, Raul, belongs to the Santa Ynez Band of Chumash Indians, and he works on the tribal reservation. And H.A.'s grandfather was a tribal elder. Throughout his childhood, H.A.'s parents have taught H.A. and his siblings the proud heritage, culture, and traditions of their tribe—and they celebrate that culture and history proudly. H.A. did not wear a costume headdress because he was "taught hate at home"—he wore it because he loves the Kansas City

¹ <https://www.merriam-webster.com/dictionary/blackface>.

Chiefs' football team and because he loves his Native American heritage.

8. By noon the same day Deadspin published the Article, Deadspin's account on the social media site X (formerly Twitter) was flooded with comments showing H.A.'s full face. At 11:51 AM, H.A.'s mother, Shannon, posted on Facebook that H.A. was Native American and pleaded with Deadspin to "just stop already" in its attempt to create division:



9. Deadspin and Phillips saw all this. The day the Article was published, they acknowledged that they had seen H.A.'s full face, yet they intentionally elected not to do anything to mitigate the damage done. Instead, Phillips took to X to call his critics "idiots."

10. Later, Deadspin republished the Article with an intentionally misleading update (the "Republication") that doubled down and further defamed the Armenta family. It maintained all of the defamatory falsehoods with full knowledge—and ample evidence—of their falsehood.

11. Over the next two weeks, the Armenta Family repeatedly wrote to Deadspin demanding that it retract the Article and apologize to the Armenta Family.

Deadspin did not retract the Article, and it did not apologize. Rather, it published a series of further “updates” that not only failed to correct the record, but instead established that Deadspin fully understood the Article’s highly damaging and defamatory nature—while maliciously refusing to back down. And Deadspin’s lawyers threatened the Armenta family with counter-legal action should Raul and Shannon attempt to hold Phillips and Deadspin accountable for their false and defamatory Article.

12. Deadspin’s lies have caused the Armenta Family enormous damage. They have exposed the family to a barrage of hate, including death threats (“I’m going to kill [H.A.] with a wood chipper”) and insults (calling H.A. a “p-ssy,” a “mother fucker,” and a “n-gg-r”). They have made Raul a pariah at work, forcing the family to consider moving out of state. And they have branded a nine-year-old child with false allegations that will live forever online. H.A. has already suffered significantly—his test scores and grades have dropped in school, and he has shown emotional damage from the onslaught of negative attention.

13. Deadspin has gone too far. H.A. should not have to live with his face being plastered on social media alongside false and defamatory accusations of racist conduct. His parents should not be forced to live with the false and defamatory allegation that they are teaching “hate in the home.” And Raul and Shannon will *not* be bullied by Deadspin’s threat of counter-legal action for vindicating their

rights—and the rights of their nine-year old son. The Armenta Family brings this lawsuit to set the record straight and to hold Deadspin accountable for willfully spreading incendiary lies about a nine-year-old child who it chose as a vehicle for its race-baiting agenda.

THE PARTIES AND RELEVANT NON-PARTIES

14. Plaintiff H.A. is a nine-year-old minor who lives with his parents Raul and Shannon in Buellton, California.

15. Plaintiff Raul Armenta Jr. is H.A.’s father, and he is a member of the Santa Ynez Band of Chumash Mission Indians, an indigenous people of California. He is a Project Manager for the tribe and serves on the tribe’s Powwow Committee. His father is Raul Armenta, a tribal leader serving his fifth consecutive two-year term on the tribe’s Business Committee, and his grandfather was Manual Armenta, a tribal elder who passed away in 2012. Raul Jr. is a resident and domiciliary of California.

16. Plaintiff Shannon Armenta is H.A.’s mother and is a resident and domiciliary of California.

17. Defendant G/O Media, Inc. is a media company headquartered in New York and incorporated in Delaware that operates Deadspin, a sports blog, as one of its brands. G/O Media describes itself as “a premium digital publishing company with a portfolio of brands defined by journalism that is thought-leading, independent

and rabidly passionate,” and claims that its sites “boast enviable engagement metrics.”

18. Non-party Carron J. Phillips is an employee of G/O Media, Inc. as a Senior Writer. He authored the false and defamatory Article.

FACTUAL ALLEGATIONS

Phillips Meticulously Screen Captures and Edits a Photo from a CBS Football Broadcast to Smear Nine-Year-Old H.A. as Wearing Blackface, Falsely Claiming H.A. Hates Black People

19. On November 26, 2023, H.A.’s parents Shannon and Raul took him to a Chiefs vs. Raiders game in Las Vegas, where they sat in the front row. H.A. wore a Chiefs headdress, a Chiefs jersey, and a Chiefs necklace that players could sign. Before the game, Raul helped him paint his face in Chiefs colors: the right side was jet black, and the left was red, split evenly down the middle.²

20. Although the Chiefs’ official colors are red, gold and white, many Chiefs fans wear red and black to the team’s games as a show of support. Taylor Swift is one prominent example, recently wearing red and black to support her boyfriend, Chiefs tight end, Travis Kelce. Another prominent example: the Chiefs’ Super Bowl LVII jersey is black, with red and gold numbering:

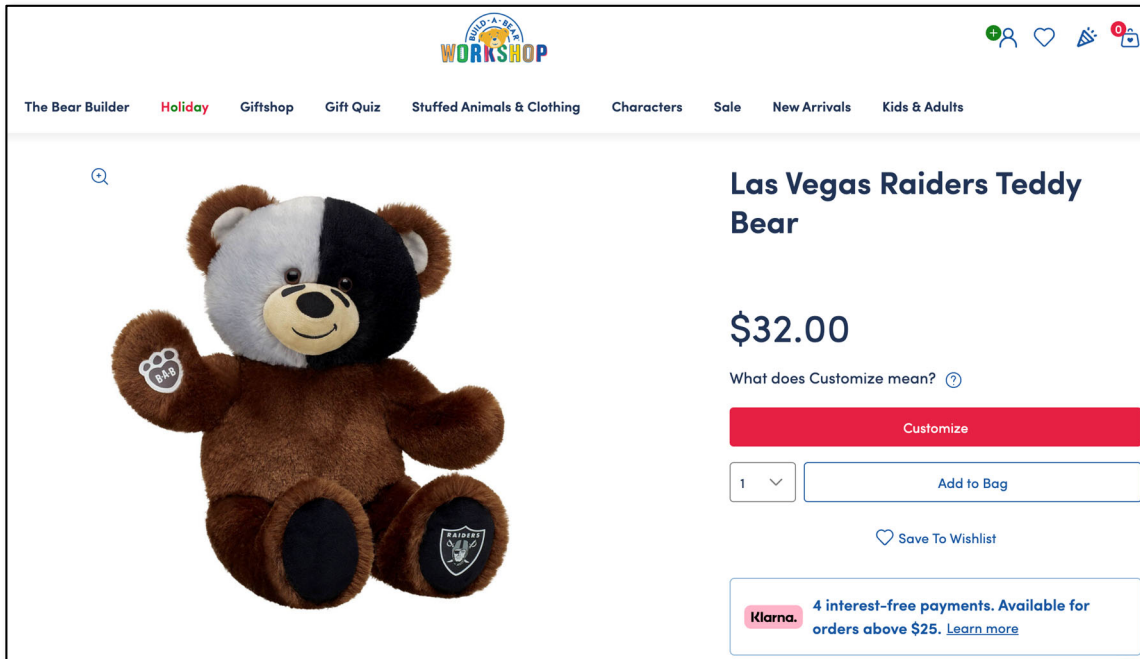
² The Chiefs’ official colors are red, gold and white, although black is featured commonly and prominently by Chiefs fans, and used as the outline around the “arrowhead” on Chiefs helmets.



21. Before the game, H.A. made team gestures at the players, and was delighted when players repeated those gestures back at him. Even the Raiders' own cheerleaders—several of whom are Black—gladly posed in a picture with H.A., smiling and beaming at the nine-year-old boy and his team spirit:



22. Black face paint is also a common component of many NFL fans' outfits—and is even featured on team-themed toys and teddy bears:





23. A CBS broadcast of the Chiefs vs. Raiders game showed H.A. for approximately three seconds. H.A.’s red-and-black face was fully visible in the broadcast. Carron Phillips, a Senior Writer for Deadspin, saw the broadcast, homed in on a split second where only the black side of the face paint was visible, and smelled an opportunity.

24. Phillips—or another Deadspin employee at Phillips’ direction— isolated and screen-captured one frame in the clip to make it look like H.A. was wearing only black face paint. He then used that image (“the Misleading Picture”) as the foundation of the false and defamatory Article that caused tremendous damage to H.A. and his family—creating a huge controversy where none existed, driving heavy traffic to Deadspin’s website, and massively raising Phillips’ profile.

25. Deadspin published the Article at 10:45 AM on November 27. The Misleading Picture is front-and-center; it shows H.A. from a side angle, making his

whole face look black. Its caption gives credit to CBS for Deadspin's screenshot of the image, which demonstrates Deadspin's selective editing of it:



26. Accusing people of engaging in racist acts has long been Phillips' modus operandi; his career is based on it. His recent articles include: "Ryan Tannehill's 'support' for young Titans quarterbacks depends on if they're white"³; "We know why Simone Biles doesn't get the same attention as Taylor Swift at NFL games" (because she is Black),⁴ and "The Chicago Bears haven't won a playoff

³ Carron J. Phillips, Ryan Tannehill's 'support' for young Titans quarterbacks depends on if they're white, Deadspin (Nov. 13, 2023), <https://deadspin.com/ryan-tannehill-will-levis-mailek-willis-nfl-titans-1851016916>.

⁴ Carron J. Phillips, We know why Simone Biles doesn't get the same attention as Taylor Swift at NFL games (the subheading labels Taylor Swift "America's white sweetheart."), Deadspin (Nov. 3, 2023), <https://deadspin.com/nfl-taylor-swift-simone-biles-travis-kelce-chiefs-1850989654>.

game since Lovie Smith. Their next head coach should be Black.”⁵ He has declared to the public that “America is racist as hell”⁶ and has authored dozens of articles to support this inflammatory narrative. Phillips has also declared that he and other people of color are “tired of going high”—taking the high road—because “[a]lways having to be the bigger person is not only unfair but extremely exhausting.”⁷ Instead of “going high,” Phillips would take out his racist “exhaustion” on a child and his family.

27. Deadspin and Phillips never thought that H.A. was actually wearing blackface. But Deadspin does, after all, employ Phillips—someone who makes his livelihood through vicious race-baiting—and they each hoped to gain notoriety with this entirely false but inflammatory accusation. More important for Deadspin was to make another salacious headline to generate “clicks” and thereby generate ad

⁵ Carron J. Phillips, The Chicago Bears haven’t won a playoff game since Lovie Smith. Their next head coach should be Black, Deadspin (Oct. 2, 2023), https://deadspin.com/matt-eberflus-chicago-bears-black-head-coaches-lovie-1850891810?utm_source=dlvr.it&utm_medium=twitter.

⁶ Carron J. Phillips, Why what happened in Charlottesville over weekend was the most American part of 2017, NY Post (Aug. 14, 2017, 12:58 P.M.) <https://www.nydailynews.com/2017/08/14/why-what-happened-in-charlottesville-over-weekend-was-the-most-american-part-of-2017/>.

⁷ Carron J. Phillips, A black teenage wrestler with dreads, a racist referee, and the importance of how the media needs to handle sensitive subjects, NY Daily News (Dec. 21, 2018, 5:20 P.M.), <https://www.nydailynews.com/2018/12/21/a-black-teenage-wrestler-with-dreads-a-racist-referee-and-the-importance-of-how-the-media-needs-to-handle-sensitive-subjects/>.

revenue to prop up its ailing business.

28. Blackface has an incredibly charged history in the United States, beginning with racist “minstrel shows” where white performers “characterized blacks as lazy, ignorant, superstitious, hypersexual, and prone to thievery and cowardice.”⁸ The first widely known blackface character was “Jim Crow,” who came to be the namesake for laws that enforced racial segregation across the United States. The wearing of blackface by performers has become synonymous with the endorsement of vile racist stereotypes and white supremacy.

29. Even the mere association with blackface can have devastating effects on a person’s reputation and career. In 2021, a University of Michigan music professor was forced to resign after showing students a 1965 version of *Othello* in which Laurence Olivier performed in blackface. In 2018, news anchor Megyn Kelly downplayed the harm associated with wearing black makeup as part of a Halloween costume, which led to a national scandal and her being fired by NBC.⁹ Phillips, as someone steeped in the language of racism, well understood the gravity—and the likely fallout as a result—of his false accusation.

⁸ National Museum of African American History & Culture, “Blackface: The Birth of An American Stereotype.” <https://nmaahc.si.edu/explore/stories/blackface-birth-american-stereotype>.

⁹ Lynn Elber and Mark Kennedy, NBC cancels Megyn Kelly’s show after blackface controversy, AP News (Oct. 26, 2018, 4:39 P.M.), <https://apnews.com/article/a84a7250b109411591ed6b976be800a0>.

***Deadspin’s Defamatory Article Falsely Accuses H.A.’s
Parents of Teaching Hate in Their Home***

30. The Article made a series of false factual assertions. It asserted that H.A. was “in Black face”; that he was “doubling up on the racism”; and that “[o]n Sunday afternoon in Las Vegas, [H.A.] found a way to hate Black people and the Native Americans at the same time.”

31. The Article claimed that H.A.’s costume “was as if Jon Gruden’s emails had come to life”—falsely implying that his outfit was comparable to disgraced Raiders coach Jon Gruden’s history of shocking racist behavior, including an email in which he remarked that the Black head of the NFL Players Association had “lips the size of michellin tires.”¹⁰

32. The Article further made explicit, false statements about Shannon and Raul. It claimed that H.A.’s conduct of wearing blackface and a Native American headdress, and the NFL’s failure to “speak out against it,” indicated that the league was failing “to stop racism and hate from being taught in the home”—a clear accusation that Raul and Shannon taught H.A. to hate Black and Native American people out of a racist animus. The Article also stated that “[t]his [H.A.] is what happens when you ban books, stand against Critical Race Theory, and try to erase

¹⁰ Andrew Beaton, Jon Gruden Uses Racial Trope to Describe NFLPA Chief DeMaurice Smith in 2011 Email, The Wall Street Journal (Oct. 8, 2021, 8:09 P.M.), <https://www.wsj.com/articles/jon-gruden-email-demaurence-smith-11633721045?mod=e2tw>.

centuries of hate. You give future generations [H.A.] the ammunition they need to evolve and recreate racism better than before.” This line had a double purpose: it further clarified Deadspin’s intent to accuse Shannon and Raul of teaching “hate ... in the home,” and implied that H.A.’s innocent costume was *even worse* than America’s racist past, which includes slavery, Jim Crow laws, and lynching, by declaring H.A. to have “recreate[d] racism better than before.”

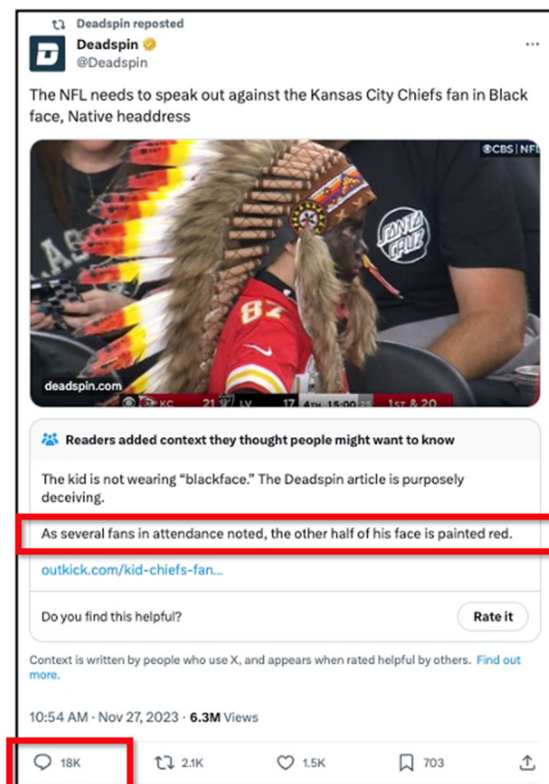
33. Phillips’ accusation that H.A. engaged in racist conduct towards Blacks and Native Americans—and that Shannon and Raul taught him to engage in that conduct—is false and defamatory. H.A. was not wearing blackface, and thus Deadspin’s allegations that he hates Black people, and that Shannon and Raul taught him to do so, are false and entirely baseless. The Armentas *are* Native American, and thus any claim that H.A. hates Native American people, or that Shannon and Raul taught him to do so, are also false and defamatory. Rather, Shannon and Raul taught H.A. to love and appreciate his heritage—and they immediately stated so publicly.

Deadspin’s Article is Almost Immediately Debunked

34. Within hours of the Article’s publication, thousands of social media posts proved Deadspin wrong on the fundamental underpinnings of the Article: H.A. was not wearing blackface, and H.A. did not hate Native Americans because he *is* Native American. H.A. was not engaging in a public display of racist conduct

towards Black and Native American people. Shannon and Raul had not “taught him” to hate. Instead, he was an innocent child enjoying a football game dressed in team colors and regalia.

35. After Deadspin posted the Article on X, users immediately replied to its post with photos which showed that H.A. was simply wearing team colors. Deadspin’s post would ultimately rack up more than 18,000 comments, which led X to flag the post with a “community note” that clarified its falsity:



36. That day at 11:51 AM—about an hour after Deadspin published the Article—Shannon posted to Facebook, tagging Deadspin: “**This has nothing to do with the NFL. Also, CBS showed him multiple times and this is the photo people**

chose to blast to create division. He is Native American – just stop already.”

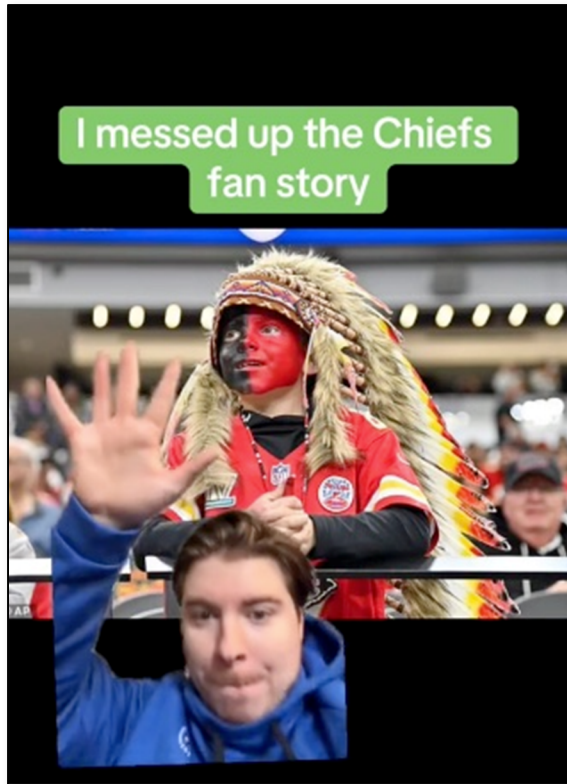
Media outlets quickly confirmed that not only is H.A. Native American; his father works for his tribe, and his grandfather is a tribal leader.¹¹

37. Others who initially spread the false allegations quickly apologized and corrected the record. One sports reporter, Jack McGuire at Barstool Sports, did exactly what Deadspin was obligated to do: acknowledged that he “messed up” by reporting that H.A. was wearing blackface without inquiring into the full context.¹² McGuire said: “[I]t has come out that [H.A.] is Native American,” “[h]is grandfather is part of the Chumash Tribe, and a member of the Santa Ynez Band of Chumash Indians. I have since taken down this TikTok, and the apology should be as loud as the accusation. So here’s my TikTok saying I am sorry, and also I am an idiot. ... The story is not as simple as just something on the TV, and as somebody who preaches that, I should have done that.”

38. That is what a decent person does when he gets swept up in the moment and goes way past the line.

¹¹ The young Kansas City Chiefs fan Deadspin tried to cancel over false ‘black face’ and racism accusations is Native American, The Post Millennial (Nov. 28, 2023), https://thepostmillennial.com/breaking-the-young-kansas-city-chiefs-fan-deadspin-tried-to-cancel-over-false-black-face-and-racism-accusations-is-native-american#google_vignette.

¹² Jack McGuire, I should’ve been better, TikTok (Nov. 29, 2023), <https://www.tiktok.com/@jackmacbarstool/video/7306914127589412138>.



***Deadspin and Phillips Refuse to Correct the Article and
Instead Double Down on Their False Narrative***

39. On the afternoon of November 27, Phillips took the opposite approach to McGuire by posting on X: “For the idiots in my mentions who are treating this as some harmless act because the other side of his face was painted red, I could make the argument that it makes it even worse. Y’all are the ones who hate Mexicans but wear sombreros on Cinco.” The post linked to the Article, and the Misleading Picture of H.A.’s face was visible in the embedded photo. At the time of this post, Phillips had complete knowledge of the depth of the falsity of his claims.

40. For three days, the Article’s headline and defamatory first paragraph remained unchanged. The Misleading Picture remained unchanged. And then, on

November 30, Deadspin republished the Article with an “update” featuring a quote from the Chumash Indian tribe Deadspin claimed supported its false narrative.



41. The update in the Republication read: The “Santa Ynez Band of Chumash Indians, whom **the fan and his family are affiliated with, have released a statement condemning the** ‘wearing regalia as part of a costume or participating in any other type of cultural appropriation.’”

42. Incredibly, Deadspin’s update mischaracterized the tribe’s statement. The tribe did not “condemn” H.A.’s costume; it clarified that it “does not endorse” regalia in general, while acknowledging that H.A.’s headdress and face paint were “his way of supporting his favorite team.”

43. On December 3, the Armenta Family sent Deadspin a letter explaining

that the Article was false and defamatory, and demanding that Deadspin retract it and apologize to the family.

44. Deadspin refused. On December 9, Deadspin *once again* updated the story while failing to fix it. In that update, Deadspin removed explicit references to H.A. but maintained the focus on the story on “a young fan” who had allegedly committed wrongdoing—H.A. It also appended an “Editor’s Note” that called its targeting of H.A. “unfortunate,” as its “intended focus was on the NFL and its checkered history on race”—a backhanded and revisionist non-apology that left its core allegations unchanged.

45. Deadspin then updated the story on December 12 a final time, making only minor edits to scrub two explicit references to “racism” and one to “cultural appropriation.” It also added a line, questioning why Native American headdresses are not banned in “every stadium in the league”—a dishonest attempt to reframe the gist of the original story. This second update only underscored Deadspin’s subjective understanding that the Armentas’ demand was meritorious, and the Article’s entire premise—that H.A. engaged in a public display of racist conduct towards Black and Native American people, and that Shannon and Raul taught him to do so—was false and defamatory.

46. On December 14, the Armenta Family clarified, in a second retraction demand to Deadspin, that its half-hearted updates were unacceptable. That second

demand specified numerous false and defamatory statements that Deadspin was obligated to retract.

47. Deadspin remained unrepentant. It responded with a letter to the Armentas belittling them and downplaying the harm they have suffered. Deadspin denied all culpability, stated that its updates “mitigate[d] any damages,” and then threatened to subject Shannon and Raul—the parents of a nine-year-old boy who Deadspin falsely accused of wearing blackface and hating his own Native American brethren—to “the possibility of paying our legal fees” should they elect to file a legal claim to vindicate their and their son’s rights.

48. That letter also falsely claimed that Deadspin’s update “fully addressed [the Armentas’] stated concerns and constitute[d] a correction pursuant to [California’s retraction] statute.” Yet it did not constitute a correction or retraction of any kind. It was both equivocal and incomplete. No impartial reader would consider Deadspin’s updates a reasonable and satisfactory retraction under the circumstances. Phillips, meanwhile, locked his X account to prevent further backlash and fallout from his false and defamatory Article.

Deadspin Has Caused Significant, Long-lasting Damage to the Armenta Family

49. Deadspin’s false claims have exposed the Armenta Family to a barrage of hatred and ridicule. Below is just a sample of the vitriol directed at them after Deadspin published the Article:



50. The Armenta Family has also received dozens of hateful messages, including death threats and unhinged harangues calling H.A. a “p-ssy,” a “mother fucker,” and a “n-gg-r”, such as the below:



51. This has damaged the Armenta Family in many ways. First, the attacks have damaged Raul Armenta's relationships at work and caused the Armenta Family considerable distress. On a recent interview, Raul said that he is "mad," "upset," and that H.A. is "devastated." "The damage is already done," he continued. "Now there's comments all over."¹³ This was before the hate began in earnest.

52. Since November, Raul has experienced a stark change in the behavior of his colleagues at work, colleagues who still have the misimpression that he has taught his child to hate in his home. In the Native American community—a community that has historically suffered from racial and cultural discrimination itself—allegations that Raul has taught his son to hate Black people and allowed his son to wear blackface are especially harmful. Raul was once a highly-respected member of a close-knit team, and now is treated as an outcast. He has had to take significant leave from work to deal with the cascading crises and has expended significant funds to help H.A. navigate the harm. Raul has worried about his and his family's future in the Chumash Indian community and among his friends. These are only some examples of the significant reputational and emotional harm resulting

¹³ Victor Nava, 9-year-old Chiefs fan branded a racist by Deadspin reporter admits he's 'nervous' about attention, dad says it's 'too late' for apology, NY Post (Nov. 30, 2023, 12:07 A.M), <https://nypost.com/2023/11/30/news/young-kansas-city-chiefs-fan-labeled-a-racist-by-deadspin-reporter-holden-armenta-speaks-out-its-a-little-scary/>.

from the Article's false attacks.

53. Similarly, Shannon Armenta has suffered significant reputational damage since Deadspin ignored her repeated pleas to stop “blast[ing] her family just to create division.” Like Raul, many of Shannon's friends and peers are in the tribal community, where allegations of racist conduct directed toward other racial and ethnic minorities are viewed with particular disdain. Because Deadspin falsely accused her of teaching H.A. to hate Black people in her home and allowing H.A. to wear blackface to a football game, many of her friends no longer speak to her on social media and in public. Shannon has had to devote significant time to H.A.'s emotional and social well-being after the attacks from the Article and had to confront troubling incidents at H.A.'s school because of it. As only one example, Shannon and Raul have signed H.A. up for sports activities far away from his community because the Article poisoned H.A.'s relationships (and their relationships with the parents of H.A.'s former friends). Shannon drives more than 80 miles round trip twice a week to take H.A. to these distant activities. She has suffered significant emotional strain and worries for her son's and her family's future. Again, these are only some examples of the harm Shannon has suffered since Deadspin published the Article.

54. Shannon and Raul, now outcast from their community, are considering selling their house and moving out of the state.

55. H.A., meanwhile, has greatly struggled in school due to the unwanted and unwarranted attention from the Article. Last year, when he began third grade, he scored “at/above benchmark” on a standardized reading test. This year, after Deadspin’s defamatory attack, he scored so low that the testing company recommended an “intervention.” His classmates bully him, and some question his Native American heritage. He has lost many friendships. He has begun seeing a therapist. He and his parents have had to spent considerable time and suffered considerable heartache trying to find new friends that are not infected with the controversy created by the Article.

56. Most gravely, H.A. has suffered a devastating loss for a nine-year old boy—the innocence of youth, and the deep, unencumbered love for his favorite football team and its players.

57. Sadly, H.A. will never know a life in which his face and name are not inextricably linked to false accusations of racist conduct. When you Google H.A.’s name, the first result states that he has “been accused of racism by a reporter” for Deadspin. The second alleges that the “article alleged that [the Armenta’s] son, [H.A.], exhibited racist behavior[.]” The third describes what happened to H.A. as a “viral hit piece.”

58. The internet, as Deadspin knows, is forever. When H.A. applies to colleges, admissions committees will judge him on Deadspin’s misleading side-

angle screenshot, an image that Phillips framed to evince America’s worst historical sins. He will be forced to explain the accusations to new acquaintances, potential friends, and potential employers—that he was not wearing blackface and he does not hate Native Americans. He did not ask for this, he did not deserve it, and he should not have to live with it without redress.

COUNT I – DEFAMATION *PER SE*
(FOR THE NOVEMBER 27 ARTICLE)

59. Plaintiffs repeat and allege paragraphs 1-58 as if set forth fully herein.

60. On November 27, 2023, Defendant Deadspin published on its website the Article authored by Phillips headlined “The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress.”

61. Deadspin and Phillips, publishing as a representative of G/O Media, made the following false and defamatory statements of fact about the Armenta Family on Deadspin in the Article:

- a) A photo that Deadspin selectively and misleadingly edited to make H.A. appear as if he was wearing blackface, and its caption alleging that he was the “**Chiefs fan on Sunday in . . . Black face.**”
- b) The title of the Article, “The NFL needs to speak out against **the Kansas City Chiefs fan in Black face, Native headdress.**”
- c) “[O]n Sunday afternoon in Las Vegas, **a Kansas City Chiefs fan [H.A.] found a way to hate Black people and the Native Americans at the same time.**”
- d) H.A. and his family are “**doubling up on the racism.**”
- e) “**The image of a Chiefs fan in Black face ... leads to so many**

unanswered questions.”

- f) H.A.’s costume “was as if Jon Gruden’s emails had come to life.”
- g) “This [H.A.] is what happens when you ban books, stand against Critical Race Theory, and try to erase centuries of hate. **You give future generations [H.A.] the ammunition they need to evolve and recreate racism better than before.**”
- h) “The image of a **Chiefs fan in Black face wearing a Native headdress during a road game leads to so many unanswered questions.** ... The **answers** to all of those questions lead back to the NFL. ... While it isn’t the league’s responsibility to stop **racism and hate from being taught in the home**, they are a league that has relentlessly participated in prejudice.”

62. Defendant’s statements are reasonably understood to be statements of fact about H.A., Raul Armenta, and Shannon Armenta, and those statements were understood by people who saw and read them to be statements of fact about H.A., Raul Armenta, and Shannon Armenta.

63. Defendant’s image and statements convey, and are reasonably understood to convey, three distinct defamatory messages: first, that H.A. wore blackface to the Chiefs vs. Raiders game on November 26, a public display of vile racist conduct towards Black people; second, that H.A. hates Native Americans and demonstrated that hate by wearing a Native American headdress to the game; and third, that H.A.’s parents Raul and Shannon Armenta “taught” H.A. to “hate [Black people and Native Americans] in the home” as demonstrated by H.A.’s conduct.

64. Defendant’s image and statements are false and defamatory.

65. **First**, H.A. did not wear blackface; he wore his favorite team’s colors,

black and red. Because he did not wear blackface, Deadspin's accusation that H.A. engaged in racist conduct towards Black people is false. Moreover, H.A. does not hate Black people.

66. **Second**, H.A. does not hate Native Americans—H.A. is Native American. Thus, Deadspin's accusation that he engaged in racist conduct towards Native Americans by wearing a Native American headdress is false.

67. **Third**, Raul and Shannon Armenta did not teach, and they have never “taught” H.A. to “hate [Black people and Native Americans] in the home”—quite the opposite. Raul and Shannon Armenta have never taught H.A. to engage in or supported racist acts against either Black people or Native Americans—in fact, they are Native Americans and are proud of their heritage.

68. The Article, which is less than 1,000 words long, uses the words “racism” or “racist” nine times, and “hate” five times, further bolstering the above statements’ defamatory intent and impact.

69. Defendant’s statements are defamatory *per se* because they are defamatory on their face. They expose H.A., Raul Armenta and Shannon Armenta to hatred, ridicule, or contempt, and at least a substantial and respectable minority of the community understood them to be defamatory.

70. Defendant had no applicable privilege or legal authorization to publish their defamatory statements or, if it did, abused that privilege.

71. Defendant published its defamatory statements with negligence and/or actual malice. H.A. is not a public figure—he is a nine-year-old boy—and therefore only needs to prove negligence to recover. Nor are his parents public figures. In this instance, however, Defendant knew its statements were false, or recklessly disregarded the truth or falsity of its statements.

72. Specifically, Defendant acted with actual malice because: (1) Phillips and Deadspin knew that H.A. was wearing Kansas City Chiefs’ team colors at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing black face paint must hate Black people; (2) Phillips and Deadspin knew that H.A. was wearing Kansas City Chiefs’ team colors and a costume headdress at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing a Native American costume headdress must hate Native American people; (3) Defendant selectively screen captured an image of H.A. to make it appear his face was painted fully black after seeing H.A.’s face was painted half red and half black, then falsely accused him wearing blackface; (4) Defendant was motivated by hostility and ill will toward H.A. and his family because Phillips sought to target and harm H.A. for his costume because that costume did not align with Phillips’ own politics; (5) Defendant had a financial motive to publish defamatory falsehoods about H.A. and his family; and

(6) Defendant refused to retract or correct its false and defamatory statements, and instead, doubled down by republishing the Article and threatening the Armenta Family.

73. Even if Deadspin and Phillips did not selectively edit the Misleading Picture (or direct someone at Deadspin to selectively edit it), but simply found it online, Deadspin still acted with gross negligence. Reporters are ethically obligated to reach out to subjects of negative news coverage for comment¹⁴—and have even more of an acute responsibility to avoid harming small children. In fact, the Society for Professional Journalists counsels that “private people have a greater right to control information about themselves than public figures and others who seek power, influence or attention. Weigh the consequences of publishing or broadcasting personal information.”¹⁵ Yet Phillips, a professional journalist, failed to reach out to the Armenta Family for comment. Had he done so, he would have learned that H.A. was wearing red-and-black facepaint—not blackface—and that H.A. is Native American. As evidenced by Phillips’ tweet thereafter, it would not have mattered to Defendants’ and they would have published the Article anyway.

74. As described above, Defendant acted with common law malice,

¹⁴ Society for Professional Journalists, Code of Ethics: “Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing.” <https://www.spj.org/ethicscode.asp>

¹⁵ *Id.*

intending to cause injury to Plaintiffs, and its behavior constitutes a willful and conscious disregard of their rights. Among the other acts described herein, Defendant repeatedly doubled down on its false narrative over a course of weeks, despite knowing that its statements had no basis in fact. This serial display of contempt for Plaintiffs' rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary damages under applicable law.

75. As a direct and foreseeable result of Defendant's false and defamatory statements, H.A., Shannon and Raul Armenta have suffered significant reputational and economic harm as detailed above.

COUNT II – DEFAMATION BY IMPLICATION
(FOR IMPLICATIONS IN THE NOVEMBER 27 ARTICLE)

76. Plaintiffs repeat and allege paragraphs 1-75 as if set forth fully herein.

77. On November 27, 2023, Defendant Deadspin published on its website the Article authored by Phillips headlined "The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress."

78. Defendant made a series of false statements about the Armenta Family on Deadspin and X that were reasonably capable of sustaining an incorrect and defamatory implication that Shannon and Raul Armenta had dressed H.A. in blackface, and that H.A. dressed in blackface because his parents had "taught" "racism and hate" "in the home."

79. Specifically, Defendant juxtaposed the following statements of fact to

create that defamatory implication:

- a) A photo that Deadspin selectively and misleadingly edited to make H.A. appear as if he was wearing blackface.
- b) “The image of a **Chiefs fan in Black face** wearing a Native headdress during a road game leads to **so many unanswered questions.**”
- c) “The **answers** to all of those questions lead back to the NFL. ... While it isn’t the league’s responsibility to stop **racism and hate from being taught in the home**, they are a league that has relentlessly participated in prejudice.”

80. This implication is false and defamatory for reasons described above. Because H.A. was not wearing blackface, Shannon and Raul Armenta could not have dressed him in it. Because H.A. was not engaging in a racist act against Native Americans—and is in fact Native American himself—Shannon and Raul Armenta could not have taught him “racism and hate” leading to or stemming from that act.

81. Defendant intended these statements to be interpreted as a concrete, factual allegation of wrongful conduct. Given H.A.’s age, Defendant’s accusation that Shannon and Raul Armenta taught him to hate in their home, and Defendant’s only basis for these statements being its false accusations that H.A. was wearing blackface and wrongfully dressed in a Native American headdress, readers could only interpret this juxtaposition as implying that Shannon and Raul Armenta dressed their child as such.

82. Defendant had no applicable privilege or legal authorization to publish its defamatory statements or, if it did, abused that privilege.

83. Specifically, Defendant acted with actual malice because: (1) Phillips and Deadspin knew that H.A. was wearing Kansas City Chiefs' team colors at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing black face paint must hate Black people; (2) Phillips and Deadspin knew that H.A. was wearing Kansas City Chiefs' team colors and a costume headdress at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing a Native American costume headdress must hate Native American people; (3) Defendant selectively screen captured an image of H.A. to make it appear his face was painted fully black despite knowing his face was painted half red and half black, then falsely accused him wearing blackface; (4) Defendant was motivated by hostility and ill will toward H.A. and his family because Phillips sought to target and harm H.A. for wearing a costume that did not align with Phillips' own politics; (5) Defendant had a financial motive to publish defamatory falsehoods about H.A. and his family; and (6) Defendant refused to retract or correct its false and defamatory statements, and instead, doubled down by republishing the Article and threatening the Armenta Family.

84. As described above, Defendant acted with common law malice, intending to cause injury to Plaintiffs, and constituting a willful and conscious disregard of their rights. Among the other acts described herein, Defendant

repeatedly doubled down on its narrative over a course of weeks, despite knowing that its statements and/or implications had literally no basis in fact. This serial display of contempt for Plaintiffs' rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary damages under applicable law.

85. As a direct and foreseeable result of Defendant's false and defamatory statements, Shannon and Raul Armenta have suffered significant reputational and economic harm as detailed above.

COUNT III – DEFAMATION PER SE
(FOR THE NOVEMBER 30 REPUBLICATION)

86. Plaintiffs repeat and allege paragraphs 1-85 as if set forth fully herein.

87. On November 30, 2023, Defendant Deadspin published on its website the Article authored by Phillips headlined "The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress[,]" also referred to herein as the "Republication." The Republication includes the November 27, 2023 Article in full, with an all-caps "(UPDATE)" in its title and a new byline "Santa Ynez Band of Chumash Indians condemns 'wearing regalia as part of a costume.'"

88. Deadspin and Phillips, publishing as a representative of G/O Media, made the following false and defamatory statements of fact about the Armenta Family on Deadspin in the Republication:

- a) A photo that Deadspin selectively and misleadingly edited to make H.A. appear as if he was wearing blackface, and its caption alleging that he was the "**Chiefs fan on Sunday in . . . Black face.**"

- b) The title of the Article, “The NFL needs to speak out against **the Kansas City Chiefs fan in Black face, Native headdress**”
- c) “[O]n Sunday afternoon in Las Vegas, **a Kansas City Chiefs fan [H.A.] found a way to hate Black people and the Native Americans at the same time.**”
- d) H.A. and his family are “**doubling up on the racism.**”
- e) “**The image of a Chiefs fan in Black face** ... leads to so many unanswered questions.”
- f) H.A.’s costume “was as if Jon Gruden’s emails had come to life.”
- g) “This [H.A.] is what happens when you ban books, stand against Critical Race Theory, and try to erase centuries of hate. **You give future generations [H.A.] the ammunition they need to evolve and recreate racism better than before.**”
- h) “The image of a **Chiefs fan in Black face wearing a Native headdress during a road game leads to so many unanswered questions.** ... The **answers** to all of those questions lead back to the NFL. ... While it isn’t the league’s responsibility to stop **racism and hate from being taught in the home**, they are a league that has relentlessly participated in prejudice.”

89. Defendant’s statements are reasonably understood to be statements of fact about H.A., Raul Armenta, and Shannon Armenta, and those statements were understood by people who saw and read them to be statements of fact about H.A., Raul Armenta, and Shannon Armenta.

90. Defendant’s image and statements convey, and are reasonably understood to convey, three distinct defamatory messages: first, that H.A. wore blackface to the Chiefs vs. Raiders game on November 26, a public display of vile racist conduct towards Black people; second, that H.A. hates Native Americans and

demonstrated that hate by wearing a Native American headdress to the game, and third, that H.A.’s parents Raul and Shannon Armenta “taught” H.A. to “hate [Black people and Native Americans] in the home” as demonstrated by H.A.’s conduct.

91. Defendant’s image and statements are false and defamatory.

92. **First**, H.A. did not wear blackface; he wore his favorite team’s colors, black and red. Because he did not wear blackface, Deadspin’s accusation that H.A. engaged in racist conduct towards Black people is false. Moreover, H.A. does not hate Black people.

93. **Second**, H.A. does not hate Native Americans—H.A. is Native American. Thus, Deadspin’s accusation that he engaged in racist conduct towards Native Americans by wearing a Native American headdress is false.

94. **Third**, Raul and Shannon Armenta did not teach, and they have never “taught” H.A. to “hate [Black people and Native Americans] in the home”—quite the opposite. Raul and Shannon Armenta have never taught H.A. to engage in or supported racist acts against either Black people or Native Americans—in fact, they are Native Americans and are proud of their heritage.

95. The Article, which is less than 1,000 words long, uses the words “racism” or “racist” nine times, and “hate” five times, further bolstering the above statements’ defamatory intent and impact.

96. Defendant’s statements are defamatory *per se* because they are

defamatory on their face. They expose H.A., Raul Armenta and Shannon Armenta to hatred, ridicule, or contempt, and at least a substantial and respectable minority of the community understood them to be defamatory.

97. Defendant had no applicable privilege or legal authorization to publish their defamatory statements or, if it did, abused that privilege.

98. Defendant published its defamatory statements with negligence and/or actual malice. H.A. is not a public figure—he is a nine-year-old boy—and therefore only needs to prove negligence to recover. Nor are his parents public figures. In this instance, however, Defendant knew its statements were false, or recklessly disregarded the truth or falsity of its statements when it republished them in full on November 30.

99. Specifically, Defendant acted with actual malice because: (1) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing black face paint must hate Black people; (2) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors and a costume headdress at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further the preconceived narrative that anyone wearing a Native American costume headdress must hate Native American people (3) Defendant selectively screen captured an

image of H.A. to make it appear his face was painted fully black despite knowing his face was painted half red and half black, then falsely accused him wearing blackface; (4) Defendant was motivated by hostility and ill will toward H.A. and his family because Phillips sought to target and harm H.A. and his family for his costume because that costume did not align with Phillips' own politics; (5) Defendant had a financial motive to publish defamatory falsehoods about H.A. and his family; (6) thousands of commentators on X and several media reports informed Defendant that H.A.'s face was both black and red, and therefore he was not wearing blackface, in such volume that X appended a "community note" before the Republication that he was not wearing blackface; (7) commentators, including H.A.'s mother Shannon Armenta, stated that H.A. was Native American, but Defendant republished its false allegations despite knowing that those allegations were false; and (8) Defendant refused to retract or correct its false and defamatory statements, and instead doubled down by republishing the Article and threatening the Armenta Family.

100. Even if Deadspin and Phillips did not selectively edit the Misleading Picture (or direct someone at Deadspin to selectively edit it), but simply found it online, Deadspin still acted with gross negligence. Reporters are ethically obligated

to reach out to subjects of negative news coverage for comment¹⁶—and have even more of an acute responsibility to avoid harming small children. In fact, the Society for Professional Journalists counsels that “private people have a greater right to control information about themselves than public figures and others who seek power, influence or attention. Weigh the consequences of publishing or broadcasting personal information.”¹⁷ Yet Phillips, a professional journalist, failed to reach out to the Armenta Family for comment.

101. As described above, Defendant acted with common law malice, intending to cause injury to Plaintiffs, and its behavior constitutes a willful and conscious disregard of their rights. Among the other acts described herein, Defendant repeatedly doubled down on its false narrative over a course of weeks, despite knowing that its statements had no basis in fact. This serial display of contempt for Plaintiffs’ rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary damages under applicable law.

102. As a direct and foreseeable result of Defendant’s false and defamatory statements, H.A., Shannon and Raul Armenta have suffered significant reputational and economic harm as detailed above.

¹⁶ Society for Professional Journalists, Code of Ethics: “Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing.” <https://www.spj.org/ethicscode.asp>

¹⁷ *Id.*

COUNT IV – DEFAMATION BY IMPLICATION
(FOR THE NOVEMBER 30 REPUBLICATION)

103. Plaintiffs repeat and allege paragraphs 1-102 as if set forth fully herein.

104. Defendant made a series of false statements about the Armenta Family on Deadspin and X that were reasonably capable of sustaining an incorrect and defamatory implication that Shannon and Raul Armenta had dressed H.A. in blackface, and that H.A. dressed in Blackface because his parents had “taught” “racism and hate” “in the home.”

105. Specifically, Defendant juxtaposed the following statements of fact to create that defamatory implication:

- a) A photo that Deadspin selectively and misleadingly edited to make H.A. appear as if he was wearing blackface.
- b) “The image of a **Chiefs fan in Black face** wearing a Native headdress during a road game leads to **so many unanswered questions.**”
- c) “The **answers** to all of those questions lead back to the NFL. ... While it isn’t the league’s responsibility to stop **racism and hate from being taught in the home**, they are a league that has relentlessly participated in prejudice.”

106. This implication is false and defamatory for reasons described above. Because H.A. was not wearing blackface, Shannon and Raul Armenta could not have dressed him in it. Because H.A. was not engaging in a racist act against Native Americans—and is in fact Native American himself—Shannon and Raul Armenta could not have taught him “racism and hate” leading to or stemming from that act.

107. Defendant intended these statements to be interpreted as a concrete,

factual allegation of wrongful conduct. Given H.A.'s age, Defendant's accusation that Shannon and Raul Armenta taught him to hate in their home, and Defendant's only basis for these statements being its false accusations that H.A. was wearing blackface and wrongfully dressed in a Native American headdress, readers could only interpret this juxtaposition as implying that Shannon and Raul Armenta dressed their child as such.

108. Defendant had no applicable privilege or legal authorization to publish its defamatory statements or, if it did, abused that privilege.

109. Specifically, Defendant acted with actual malice because: (1) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing black face paint must hate Black people; (2) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors and a costume headdress at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further the preconceived narrative that anyone wearing a Native American costume headdress must hate Native American people (3) Defendant selectively screen captured an image of H.A. to make it appear his face was painted fully black despite knowing his face was painted half red and half black, then falsely accused him of wearing blackface; (4) Defendant was motivated by hostility and ill will toward H.A. and his

family because Phillips sought to target and harm H.A. and his family for his costume because that costume did not align with Phillips' own politics; (5) Defendant had a financial motive to publish defamatory falsehoods about H.A. and his family; (6) thousands of commentators on X and several media reports informed Defendant that H.A.'s face was both black and red, and therefore he was not wearing blackface, in such volume that X appended a "community note" before the Republication that he was not wearing blackface; (7) commentators, including H.A.'s mother Shannon Armenta, stated that H.A. was Native American, but Defendant republished its false allegations despite knowing that those allegations were false, and (8) Defendant refused to retract or correct its false and defamatory statements, and instead, doubled down by republishing the Article and threatening the Armenta Family.

110. As described above, Defendant acted with common law malice, intending to cause injury to Plaintiffs, and constituting a willful and conscious disregard of their rights. Among the other acts described herein, Defendant repeatedly doubled down on its narrative over a course of weeks, despite knowing that its statements and/or implications had literally no basis in fact. This serial display of contempt for Plaintiffs' rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary damages under applicable law.

111. As a direct and foreseeable result of Defendant's false and defamatory

statements, Shannon and Raul Armenta have suffered significant reputational and economic harm as detailed above.

COUNT V – DEFAMATION PER SE
(FOR THE DECEMBER 7 UPDATE)

112. Plaintiffs repeat and allege paragraphs 1-111 as if set forth fully herein.

113. On December 7, 2023, Defendant Deadspin published on its website another update of the Article authored by Phillips headlined “The NFL needs to speak out against the Kansas City Chiefs fan in Black face, Native headdress[.]”

114. Deadspin and Phillips, publishing as a representative of G/O Media, made the following false and defamatory statements of fact about the Armenta Family on Deadspin in the Republication:

- a) “It takes a lot to disrespect two groups of people at once. But on Sunday afternoon in Las Vegas, **someone in the stands at the Kansas City Chiefs game found a way**, leading to lots of unanswered questions.”
- b) “The answers to those questions lead back to the NFL. **While it isn’t the league’s responsibility to stop racism**, they are a league that has relentlessly participated in prejudice.”
- c) “This is what happens when you ban books, stand against Critical Race Theory, and try to erase centuries of hate. **You give future generations the ammunition they need to evolve and recreate racism better than before.**”
- d) “As of now, the league hasn’t released a statement **on what took place in the stands in Las Vegas on Sunday.**”

115. Defendant’s statements are reasonably understood to be statements of fact about H.A., Raul Armenta, and Shannon Armenta, and those statements were

understood by people who saw and read them to be statements of fact about H.A., Raul Armenta, and Shannon Armenta. This is because, due to the incredible press coverage that the Article and the Republication had generated, a reasonable reader would interpret statements such as “**someone in the stands at the Kansas City Chiefs game**” to be about H.A. Similarly, a reasonable reader would interpret the phrase of “**it isn’t the league’s responsibility to stop racism**” to refer to H.A. and his family as reported in the November 27 Article. The alleged “**future generation**” who was “**evolve[ing] and recreat[ing] racism better than before**” was a clear reference to H.A., and “**what took place in the stands in Las Vegas on Sunday**” was again a reference to H.A. and his parents, namely that they dressed him in blackface and allowed him to wear a Native American headdress because they hate Black people and Native Americans.

116. Defendant’s image and statements convey, and are reasonably understood to convey, three distinct defamatory messages: first, that H.A. wore blackface to the Chiefs vs. Raiders game on November 26, a public display of vile racist conduct towards Black people; second, that H.A. hates Native Americans and demonstrated that hate by wearing a Native American headdress to the game, and third, that H.A.’s parents Raul and Shannon Armenta “taught” H.A. to “hate [Black people and Native Americans] in the home” as demonstrated by H.A.’s conduct.

117. Defendant’s image and statements are false and defamatory.

118. **First**, H.A. did not wear blackface; he wore his favorite team's colors, black and red. Because he did not wear blackface, Deadspin's accusation that H.A. engaged in racist conduct towards Black people is false. Moreover, H.A. does not hate Black people.

119. **Second**, H.A. does not hate Native Americans—H.A. is Native American. Thus, Deadspin's accusation that he engaged in racist conduct towards Native Americans by wearing a Native American headdress is false.

120. **Third**, Raul and Shannon Armenta did not teach, and they have never “taught” H.A. to “hate [Black people and Native Americans] in the home”—quite the opposite. Raul and Shannon Armenta have never taught H.A. to engage in or supported racist acts against either Black people or Native Americans—in fact, they are Native Americans and are proud of their heritage.

121. The Article, which is less than 1,000 words long, uses the words “racism” or “racist” nine times, and “hate” five times, further bolstering the above statements' defamatory intent and impact.

122. Defendant's statements are defamatory *per se* because they are defamatory on their face. They expose H.A., Raul Armenta and Shannon Armenta to hatred, ridicule, or contempt, and at least a substantial and respectable minority of the community understood them to be defamatory.

123. Defendant had no applicable privilege or legal authorization to publish

its defamatory statements or, if it did, abused that privilege.

124. Defendant published its defamatory statements with negligence and/or actual malice. H.A. is not a public figure—he is a nine-year-old boy—and therefore only needs to prove negligence to recover. Nor are his parents public figures. In this instance, however, Defendant knew its statements were false, or recklessly disregarded the truth or falsity of its statements.

125. Specifically, Defendant acted with actual malice because: (1) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further his preconceived narrative that anyone wearing black face paint must hate Black people; (2) Deadspin and Phillips knew that H.A. was wearing Kansas City Chiefs' team colors and a costume headdress at a football game at the time Phillips wrote the Article for Deadspin but published it anyway to further the preconceived narrative that anyone wearing a Native American costume headdress must hate Native American people (3) Defendant selectively screen captured an image of H.A. to make it appear his face was painted fully black despite knowing his face was painted half red and half black, then falsely accused him wearing blackface; (4) Defendant was motivated by hostility and ill will toward H.A. and his family because Phillips sought to target and harm H.A. and his family for his costume because that costume did not align with Phillips' own politics; (5)

Defendant had a financial motive to publish defamatory falsehoods about H.A. and his family; (6) thousands of commentators on X and several media reports informed Defendant that H.A.'s face was both black and red, and therefore he was not wearing blackface, and in such volume that X appended a "community note" before the Republication that he was not wearing blackface; (7) commentators, including H.A.'s mother Shannon Armenta, stated that H.A. was Native American, but Defendant republished its false allegations despite knowing that those allegations were false; and (8) Defendant refused to retract or correct its false and defamatory statements, and instead, doubled down by republishing the Article and threatening the Armenta Family.

126. As described above, Defendant acted with common law malice, intending to cause injury to Plaintiffs, and its behavior constitutes a willful and conscious disregard of their rights. Among the other acts described herein, Defendant repeatedly doubled down on its false narrative over a course of weeks, despite knowing that its statements had no basis in fact. This serial display of contempt for Plaintiffs' rights shows an intent to injure and despicable conduct sufficient to justify an award of exemplary damages under applicable law.

127. As a direct and foreseeable result of Defendant's false and defamatory statements, H.A., Shannon and Raul Armenta have suffered significant reputational and economic harm as detailed above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in Plaintiffs' favor, and against Defendant, as follows:

- (1) awarding the Armenta Family actual and presumed damages to be specifically determined at trial;
- (2) awarding the Armenta Family punitive and/or exemplary damages;
- (3) awarding the Armenta Family a narrowly-tailored injunction prohibiting the republication of any statement or image adjudicated to be false and defamatory;
- (4) awarding the Armenta Family all costs, disbursements, fees, and interest as authorized by law; and
- (5) such other and additional remedies as the Court may deem just and proper.

A JURY TRIAL IS DEMANDED.

Dated: February 6, 2024

Respectfully submitted,

Of Counsel:

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