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6 Attorneys for Plaintiff Herring Networks, Inc.
7
8

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 HERRING NETWORKS, INC.,

13 Plaintiff,

14 v.

15 RACHEL MADDOW; COMCAST
16 CORPORATION; NBCUNIVERSAL
MEDIA, LLC; and MSNBC CABLE
17 L.L.C.,

18 Defendants.
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CASE NO. '19CV1713 JAH BGS

**COMPLAINT FOR DEFAMATION
AND DAMAGES**

DEMAND FOR JURY TRIAL

MILLER BARONDESS, LLP

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1 Plaintiff Herring Networks, Inc., (“Plaintiff” or “Herring Networks”), by and
2 through its undersigned attorneys, alleges against Defendants Rachel Maddow,
3 Comcast Corporation (“Comcast”), NBCUniversal Media, LLC (“NBC Universal”),
4 and MSNBC Cable LLC (“MSNBC Cable”) (collectively, “Defendants”), as
5 follows:

6 **INTRODUCTION**

7 1. Plaintiff owns and operates One America News Network (“OAN”), an
8 independent media organization focused on providing national and international
9 news coverage. OAN’s news channel has risen rapidly in prominence and
10 popularity. OAN has become an important voice in American news, providing
11 Americans with a conservative alternative to the major liberal news outlets.

12 2. Comcast is the nation’s largest provider of cable television. Comcast
13 has refused to carry OAN as part of its cable programming because OAN counters
14 the liberal politics of Comcast’s own news channel, MSNBC.

15 3. In July 2019, OAN’s President, Charles Herring, called out and
16 objected to Comcast’s anti-competitive censorship of OAN in an email to Comcast’s
17 President of Content Acquisition.

18 4. A week later, MSNBC’s most popular show—The Rachel Maddow
19 Show—opened with a hit piece on OAN. The show’s host, Rachel Maddow
20 (“Maddow”), told her audience that OAN “*really literally is paid Russian*
21 *propaganda*” (emphasis added).

22 5. Maddow’s statement is utterly and completely false. OAN is wholly
23 owned and financed by the Herrings, an American family. OAN has never been
24 paid or received a penny from Russia or the Russian government.

25 6. Defendants made this false claim to smear OAN’s reputation in
26 retaliation for Plaintiff’s insistence that Defendants treat OAN fairly and offer the
27 OAN news channel to Comcast subscribers.

28 7. By this action, OAN seeks to hold Defendants accountable for their

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1 malicious and reprehensible conduct.

2 **PARTIES**

3 8. Plaintiff is a California corporation with its principal place of business
4 in San Diego, California.

5 9. Maddow is an individual residing in New York, New York.

6 10. Comcast is a Pennsylvania corporation with its principal place of
7 business in Philadelphia, Pennsylvania.

8 11. NBC Universal is a Delaware limited liability company with its
9 principal place of business in Los Angeles, California.

10 12. MSNBC Cable is a Delaware limited liability company with its
11 principal place of business in New York, New York.

12 **JURISDICTION AND VENUE**

13 13. This Court has subject matter jurisdiction over Plaintiff’s claim for
14 defamation pursuant to 28 U.S.C. § 1332 because the claim is between citizens of
15 different states and the amount in controversy exceeds \$75,000. Plaintiff is a citizen
16 of California. Maddow is a citizen of New York. Comcast is a citizen of
17 Pennsylvania. NBC Universal is a citizen of Pennsylvania and Delaware, by virtue
18 of the citizenship of its sole member. MSNBC Cable is a citizen of Pennsylvania
19 and Delaware by virtue of the citizenship of its member(s).

20 14. Venue is appropriate in this judicial district pursuant to 28 U.S.C. §
21 1391(b)(3) because Defendants are subject to personal jurisdiction in this District.

22 15. This Court has personal jurisdiction over Defendants because each
23 Defendant conducts business and/or owns property in California. Therefore, each
24 Defendant has sufficient contacts with the State of California so as to render the
25 exercise of jurisdiction over them proper. The claim alleged herein arises from
26 Defendants’ contacts with the State of California.

27 **FACTS**

28 16. The Herring family launched OAN on July 4, 2013, to deliver timely

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1 national and international news 24 hours a day. The OAN channel is carried on
2 satellite, cable and streaming providers.

3 17. OAN features news programming, political talk shows, and special
4 documentary-style reports. In just a few years, OAN has become the fourth-highest
5 rated national news network as measured by a leading cable provider and is greatly
6 outperforming other emerging cable news networks. OAN is a leading conservative
7 voice in American news.

8 18. OAN is owned and operated by Herring Networks, which is wholly-
9 owned by members of the Herring family. The Herrings are proud, dedicated and
10 loyal Americans; and they alone own and finance OAN.

11 19. Defendant Comcast is both the largest cable provider in the United
12 States and a major entertainment company with numerous cable and broadcast
13 channels. Among its news channels is MSNBC, which Comcast owns and operates
14 through its subsidiaries NBC Universal and MSNBC Cable. MSNBC caters to and
15 promotes liberal politics.

16 20. Despite OAN’s rapid rise and growing audience, Comcast has refused
17 to carry OAN on its cable service. Comcast refuses to carry OAN because it
18 counters the liberal message of MSNBC. By this blatant censorship, Comcast is
19 depriving millions of its subscribers from hearing a different viewpoint.

20 21. On July 15, 2019, Charles Herring (“Herring”) emailed Gregory
21 Rigdon, the President of Content Acquisition for Comcast. Herring made a case for
22 adding OAN to the Comcast platform and stated his concern that Comcast is
23 refusing to carry OAN because Comcast opposes including another conservative
24 counter channel to counter MSNBC.

25 22. Exactly one week after that email, the most popular show on Comcast’s
26 news channel, MSNBC, ran a hit piece on OAN. It happened like this:

27 **A. Kristian Rouz and The Daily Beast Article**

28 23. One of OAN’s employees is a young man named Kristian Rouz

1 (“Rouz”). Rouz collects and analyzes articles from other sources and writes articles
2 based on those sources for OAN. Rouz’s articles go through OAN’s editorial
3 process before they are published. Rouz does not have decision-making authority
4 with respect to the content that is aired on OAN.

5 24. Rouz was born in the Ukraine. When he moved to the United States,
6 he had no friends or family here. To make ends meet, Rouz began writing articles
7 for Sputnik News in 2014. Sputnik News is affiliated with the Russian government,
8 but Rouz chose the topics and viewpoints of the articles he wrote for Sputnik News.
9 Rouz’s articles provided updates about various topics in global economics and
10 international finance.

11 25. The headlines of Rouz’s articles for Sputnik News include: “N. Ireland
12 Pessimistic About UK Economy Amid Weaker Regional Growth – Poll”; “South
13 Africa’s Struggling Utility Eskom Raises \$361 Mln to Keep Lights On”; “Japan Q1
14 GDP Beats Expectations Despite Weak Consumer Spending”; and “Turkish Central
15 Bank Relaxes Policy, Warns Against FX Purchases to Support Lira.”

16 26. Rouz has never been a staff employee of Sputnik News. He worked as
17 a freelancer for Sputnik News and his work there had no relation to his work for
18 OAN. Rouz submitted articles to Sputnik on his own and would receive
19 approximately \$40 if the articles were accepted.

20 27. On July 22, 2019, the Daily Beast—an online publication—published
21 an article entitled, “Trump’s New Favorite Channel Employs Kremlin-Paid
22 Journalist.” The article was written by Kevin Poulsen (“Poulsen”), also known as
23 “Dark Dante”—the first computer hacker ever to be charged with espionage against
24 the United States government.

25 28. Poulsen spent 17 months as a fugitive from the law before being
26 arrested in 1991. In 1995, Poulson pleaded guilty to seven counts of conspiracy,
27 fraud and intercepting wire communications. He received the longest prison
28 sentence ever for a computer hacker at that time. United States law enforcement has

1 referred to him as “the Hannibal Lecter of computer crime.”

2 29. Poulsen’s article identified Rouz as “on the payroll” of Sputnik News.
3 But Poulsen did not identify any facts tying Rouz’s work for OAN to Sputnik News
4 or the Russian government; and that is because there never have been, and are, no
5 such facts.

6 **B. Rachel Maddow**

7 30. Maddow is a liberal television host with a show on MSNBC called
8 “The Rachel Maddow Show.”

9 31. Maddow is obsessed with conspiracy-mongering about a connection
10 between Russia and President Donald Trump. Her obsession is so pronounced that
11 even other media outlets have called her out for her lack of journalistic integrity.

12 32. On March 28, 2019, for example, the Guardian published an editorial
13 entitled, “Will Rachel Maddow Face a Reckoning Over Her Trump-Russia
14 Coverage?” And a March 27, 2019, editorial published in Politico noted: “For the
15 past two years, Rachel Maddow has been a hero of her own spy-thriller.” The
16 editorial details Maddow’s “deep delusion” with Russian conspiracies.

17 33. On April 12, 2017, The Intercept published an article entitled
18 “MSNBC’s Rachel Maddow Sees A ‘Russia Connection’ Lurking Around Every
19 Corner.” The article noted that MSNBC and Maddow have “played a key role in
20 stoking the frenzy over Trump’s alleged involvement with Russian meddling in the
21 U.S. presidential race[.]”

22 34. The Intercept conducted a quantitative study of all 28 episodes of The
23 Rachel Maddow Show in the six-week period between February 20 and March 21,
24 2017. Russia-focused segments accounted for 53 percent of these broadcasts. In 16
25 of the 28 episodes analyzed, Russia comprised either all or a substantial part of the
26 “A-block,” the show’s headlining and lengthiest segment.

27 **C. Rachael Maddow’s Malicious and False Claim that OAN “Really**
28 **Literally is Paid Russian Propaganda”**

1 35. On July 22, 2019, Maddow’s show featured a segment on OAN
2 entitled, “Staffer on Trump-favored network is on propaganda Kremlin payroll.” A
3 copy of the transcript for the segment is attached hereto as Exhibit A (and the video
4 will be shown at trial).

5 36. The segment was part and parcel of Maddow’s obsession with drawing
6 connections between President Trump and the Russian government. Maddow began
7 by stating that President Trump gave OAN a “pass for access to the White House
8 grounds and a permanent seat in the White House briefing.” Maddow noted that
9 President Trump “quot[ed] this little news outlet and frequently t[old] people that
10 they should be watching them.”

11 37. Maddow proceeded to report on Poulsen’s article in The Daily Beast.
12 Maddow failed to mention Poulsen’s shadowy, criminal history.

13 38. Then, Maddow made a new, false and maliciously defamatory claim—
14 a claim not in Poulsen’s Daily Beast article. Maddow said, “In this case, the most
15 obsequiously pro-Trump right wing news outlet in America *really literally is paid*
16 *Russian propaganda*” (emphasis added).

17 39. Maddow’s claim that OAN “really literally is paid Russian
18 propaganda” is false and intended to malign and harm OAN. OAN is not paid by
19 the Russian government. In fact, OAN has taken no money outside the Herring
20 family whatsoever. None of OAN’s content comes from the Russian government.

21 **D. Defendants’ Defense: “Literally” Doesn’t Mean “Literally”**

22 40. On July 25, 2019, OAN wrote to Comcast and Maddow pursuant to
23 Code of Civil Procedure § 48, demanding a retraction of this false statement.
24 Copies of these letters are attached hereto as Exhibits B and C.

25 41. Defendants refused to retract or correct their defamatory statement
26 about OAN. On August 6, 2019, counsel for NBC Universal claimed that when
27 Maddow—a graduate of Stanford and Oxford Universities and a Rhodes Scholar—
28 said, “literally,” she actually meant, “*not being literally true.*” (emphasis added).

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1 42. The lawyer’s letter argued, bizarrely, that “literally” was the “kind of
2 figure of speech that connoted opinion.” Attached hereto as Exhibit D is a copy of
3 NBC Universal’s letter.

4 43. Maddow’s statement was not opinion. Moreover, it implied facts that
5 were not in the Daily Beast article, including:

- 6 • OAN is paid by the Russian government for running content prepared
- 7 for or at the direction of the Russian government; and/or
- 8 • Rouz is paid by the Russian government for preparing content for OAN
- 9 for or at the direction of the Russian government.

10 44. These assertions were intended to be, and are, false and malicious
11 and/or were made with reckless disregard for the truth. They were made because
12 OAN, unlike MSNBC, presents a conservative viewpoint and to retaliate against
13 OAN for calling out Defendants for their anti-competitive censorship in refusing to
14 distribute OAN.

15 **FIRST CAUSE OF ACTION**

16 **(Defamation)**

17 45. Plaintiff repeats and re-alleges the allegations contained in the
18 preceding and subsequent paragraphs of this Complaint, as though set forth fully
19 herein.

20 46. Maddow, MSNBC Cable, NBC Universal, and Comcast made a false
21 statement about Plaintiff. Specifically, on July 22, 2019, Maddow made the
22 statement during a segment on The Rachel Maddow Show that OAN “really literally
23 is paid Russian propaganda.” Viewers of the segment reasonably understood that
24 this statement was about Plaintiff.

25 47. MSNBC Cable, NBC Universal, and Comcast took a responsible part
26 in the publication of this statement. The statement was published on MSNBC
27 Cable’s cable-news channel, and MSNBC Cable has editorial control over the
28 content of The Rachel Maddow Show. Upon information and belief, Comcast and

1 NBC Universal were involved in the statement as retaliation for Plaintiff's
2 insistence that Defendants treat OAN fairly and offer its news channel to Comcast
3 subscribers.

4 48. Maddow's assertion that OAN "really literally is paid Russian
5 propaganda" was a false statement of fact. OAN is not paid by the Russian
6 government, none of OAN's content comes from the Russian government, and OAN
7 is not owned or controlled by Russia.

8 49. Additionally, the statement implied the following false assertions of
9 fact:

- 10 • OAN is paid by the Russian government for running content prepared
11 for or at the direction of the Russian government; and/or
- 12 • Rouz is paid by the Russian government for preparing content for OAN
13 for or at the direction of the Russian government.

14 50. Maddow, MSNBC Cable, NBC Universal and Comcast knew this
15 statement was false and acted maliciously and/or with reckless disregard as to its
16 truth.

17 51. Because of the facts and circumstances known to the viewers, the
18 statement tended to injure Plaintiff's news business and exposed Plaintiff to hatred,
19 contempt and ridicule and discouraged others from associating and dealing with
20 Plaintiff, including by discouraging advertising on OAN's news channel.

21 52. This statement constitutes defamation *per se* because it is damaging on
22 its face to Plaintiff's business and reputation; indeed, the statement amounts to a
23 charge of treason and disloyalty to the United States of America.

24 53. Plaintiff has suffered harm to its business and reputation and incurred
25 expenses to correct the false statement. Among other things, OAN generates
26 revenue from advertising, and the false statement has and/or will result in lost
27 revenues for Plaintiff.

28 54. Maddow, MSNBC Cable, NBC Universal, and Comcast acted with

1 oppression, fraud and malice. Plaintiff is therefore entitled to punitive damages.

2 55. Plaintiff has complied with Code of Civil Procedure § 48a. Plaintiff
3 demanded correction of Defendants’ false statement on July 25, 2019. Defendants
4 refused.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully prays for a judgment against Defendants
7 for:

- 8 (1) Compensatory damages in excess of \$10,000,000, or as will be proven at
- 9 trial;
- 10 (2) Punitive damages;
- 11 (3) Prejudgment interest;
- 12 (4) Attorneys’ fees;
- 13 (5) Costs of suit; and
- 14 (6) Such other relief that the Court deems proper.

15
16 DATED: September 9, 2019

MILLER BARONDESS, LLP

17
18
19 By: /s/ Amnon Z. Siegel

AMNON Z. SIEGEL

Attorneys for Plaintiff

MILLER BARONDESS, LLP

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury.

DATED: September 9, 2019

MILLER BARONDESS, LLP

By: /s/ Amnon Z. Siegel
AMNON Z. SIEGEL
Attorneys for Plaintiff

MILLER BARONDESS, LLP

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EXHIBIT A



Rachel Maddow Transcripts / Rachel Maddow

Justice Stevens praised as “brilliant man”. TRANSCRIPT: 7/22/19, The Rachel Maddow.

07/22/19 09:00 PM

Guests:

David Glosser

Transcript:

RACHEL MADDOW, MSNBC HOST: Thank you very much, Joy. Much appreciate it, my friend. Thanks a lot.

Thanks to you at home for joining us this hour. Happy to have you here this Monday night.

If the FOX News Channel is insufficient pro-Trump for you, you may or may not know that there is another boutique little news outlet that is designed specifically for Trump mega fans. It`s called One America – One America News Network.

The Trump White House gave this boutique outfit a hard pass for access to the White House grounds and a permanent seat in the White House briefing room. Remember when the White House used to hold press briefings? They had a seat for those.

President Trump also started quoting this little news outlet and frequently telling people that they should be watching them, praising their ratings,

which is the highest possible praise from this president, right?

Today has been a more ridiculous than most day in the news and there is a ton going on, and we've got a very busy show. But I have to tell you, perhaps the single most perfectly formed story of the day, the single most like sparkly story of the entire day is this scoop from reporter Kevin Paulson at "The Daily Beast" who has sussed out that Trump's favorite more Trumpier than Fox TV network, the one that the president has been promoting and telling everyone they should watch and is better than Fox, turns out that network has a full time on air reporter who covers U.S. politics who is simultaneously on the payroll of the Kremlin. What?

Because at the same time he works for Trump's favorite One America News team, he is also being paid by the Russian government to produce government-funded pro-Putin propaganda for a Russian government funded propaganda outfit called Sputnik. Sputnik, of course, had a key role in the Russian government's intervention in the 2016 election to help Trump, according to the intelligence committee's assessment of that attack. Sputnik has also formally registered with the U.S. Justice Department as an agent of a foreign power.

I mean, there is a lot of news today, but among the giblets the news gods dropped off their plates for us to eat off the floor today is the actual news that this super right wing news outlet that the president has repeatedly endorsed as a preferable alternative to Fox News, because he

thinks Fox is insufficiently pro-Trump, so now he likes this is other outlet better. We literally learned today that that outlet the president is promoting shares staff with the Kremlin.

I mean, what? I mean, it's an easy thing to throw out, you know, like an epitaph in the Trump era, right? Hey, that looks like Russian propaganda.

In this case, the most obsequiously pro-Trump right wing news outlet in America really literally is paid Russian propaganda. They're on air U.S. politics reporter is paid by the Russian government to produce propaganda for that government.

I mean, this is the kind of news we are supposed to take in stride these days. And we do our best.

That is just one of the things we learned today. And I guess you just swallow that and then you move on. And we expect that they won't fire their Kremlin staffer and we expect that the president will keep promoting them, and we expect that other right wing news outlets wonder if they should have a Kremlin staffer doing U.S. politics reporting, too.

It probably makes it easier to get the message. I mean – anyway, let's get to it. As I said, there is a lot going on. And given all of the drama that's happening right now in Washington and how much more dramatic it's going to get in Washington over the next two days, I actually want to start tonight with something in Washington that was a tremendously solemn

EXHIBIT B

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July 25, 2019

LOUIS R. MILLER
DIRECT DIAL: (310) 552-5251
SMILLER@MILLERBARONDESS.COM

VIA CERTIFIED MAIL

Brian Roberts
Comcast Corporation
Comcast Center
1701 John F. Kennedy Blvd.
Philadelphia, PA 19103

Re: Notice to Retract Defamatory Statements Regarding One America News Network

Mr. Roberts:

Please be advised that our firm has been retained by One America News Network (“OAN”) concerning the July 22, 2019 episode of the Rachel Maddow Show, in which Rachel Maddow maliciously slandered OAN. I am writing to you as the top executive responsible for MSNBC. This letter serves as a demand that MSNBC, by and through Rachel Maddow and/or otherwise, publicly correct her defamatory statements in accordance with California Civil Code § 48a.

Maddow falsely claimed—without a shred of evidence—that OAN “really literally is paid Russian propaganda.” That is false. OAN has never received a single penny from the Russian government. The assertion that OAN is paid to disseminate propaganda on behalf of a foreign government is more than a mere falsehood—it amounts to an accusation of treason. Maddow’s comments were beyond the pale and unbecoming of any respectable news organization.

It also appears that the unwarranted attack on OAN was retaliation for OAN’s suggestion that Comcast is refusing to carry it for non-business reasons. On July 15, 2019, Charles Herring emailed Gregory Rigdon, the President of Content Acquisition for Comcast. Herring made the compelling business case for adding OAN and also stated his concern that Comcast is refusing to carry OAN because OAN’s coverage “generally counters the voice of MSNBC.” Exactly one week after that email, MSNBC’s number one show opens with a hit piece on OAN. This does not appear to be a mere coincidence. Tellingly, nobody at MSNBC or Comcast made any effort to reach out to OAN for comment prior to airing the defamatory statements.

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Mr. Brian Roberts
July 25, 2019
Page 2

Here are the facts: OAN is an independent and family-owned media company focused on providing national and international news coverage. OAN is solely owned and operated by Herring Networks, Inc., which in turn is wholly-owned by members of the Herring family. The Herrings are a proud, dedicated and loyal American family. They launched OAN on July 4, 2013, to deliver timely national and international news 24 hours a day.

OAN features political analysis programming, political talk shows, and special documentary-style reports. In just a few years, OAN has become the fourth-highest rated national news network as measured by a leading cable provider and is greatly outperforming other emerging cable news networks. The Herrings launched OAN on their own and with their own money. They took no outside investment whatsoever and have never had any involvement with the Russian government.

The malicious claim that OAN is a Russian propaganda operation is vile, sensationalistic reporting. MSNBC and Ms. Maddow should immediately retract this defamatory statement.

Kristian Rouz, the young man whom Maddow attacked, is employed by OAN as a news aggregator. His job is to collect and analyze articles from other sources and write articles based on those sources. He is paid by OAN—not the Russian government—for the content he creates for OAN. Every article he writes goes through OAN's editorial process. Mr. Rouz has never had decision-making authority with respect to the content that is aired on OAN. His outside work for other media outlets has no relation to—or bearing on—his work for OAN.

In her zeal, we think Ms. Maddow singled out Mr. Rouz because of his nationality and sought to malign him because she thought he is from Russia; in fact, he was born in the Ukraine. If she had taken a minute to check Mr. Rouz out, she would have found that contrary to her false and discriminatory accusation, he is a hard-working, honest journalist trying to earn a living and support himself. In that regard, I attach for your information a statement signed by Mr. Rouz and request that you instruct Ms. Maddow to check people out before she seeks to destroy their livelihood.

The falsehoods disseminated by Ms. Maddow are even more problematic considering that the Daily Beast article on which the episode was based was authored by Kevin Poulsen, also known as “Dark Dante”—the first computer hacker ever to be charged with espionage against the United States government. Rather than face the charges against him, Poulsen spent 17 months as a fugitive from the law before being arrested in 1991.

In 1995, Mr. Poulson pleaded guilty to seven counts of conspiracy, fraud, and intercepting wire communications. He received the longest sentence ever for a computer hacker at that time. United States law enforcement has referred to him as “the Hannibal Lecter of computer crime.” Of course, Ms. Maddow made no mention of the shadowy source of the article

MILLER BARONDESS, LLP

Mr. Brian Roberts
July 25, 2019
Page 3

in her statements; instead, she made it seem like the story written by Mr. Poulsen came from a credible news source.

Maddow's assertion that OAN is a Russian propaganda operation is utterly false and defamatory. Our client will not stand by and allow these lies to be disseminated.

We hereby demand that you:

1. Immediately cease and desist in publishing defamatory statements about our client, whether the statements are made by you or by third parties;
2. Issue a public retraction of the defamatory statements, making clear that OAN is not paid Russian propaganda;

This letter puts you on notice that should you refuse to comply with our demands by August 15, 2019, we will recommend that our client pursue all legal avenues to protect its interests, including damages and attorneys' fees and costs incurred as a result of your actions. We reserve all our rights and remedies.

Sincerely,



Louis R. Miller

LRM

cc: Kimberly D. Harris

Statement on My Writing for Sputnik News

I am not a staff employee of Sputnik News, and have never been;

I have been writing articles for Sputnik about global economics and international finance;

I was free to choose the topics and angles for my articles according to my own views;

I have never written propaganda, disinformation, or unverified information;

I could write whenever I want, as many articles I want – but not exceeding 25 articles per month;

I had approximately 1300 articles over the past 4.5 years at roughly \$40 per article, totaling at some \$11,500 per year;

I wrote these articles to make ends meet and survive – as I had no family or friends in the U.S., and I was unemployed in this country for roughly 2 years.

Kristian Rouz, 7/23/2019



GZJ ØDKV'E''

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July 25, 2019

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VIA CERTIFIED MAIL & EMAIL

Rachel Maddow
The Rachel Maddow Show
Floor 4 West
30 Rockefeller Plaza
New York, NY 10112

Re: Notice to Retract Defamatory Statements Regarding One America News Network

Ms. Maddow:

Please be advised that our firm has been retained by One America News Network (“OAN”) concerning the July 22, 2019 episode of the Rachel Maddow Show, in which you maliciously slandered OAN. This letter serves as a demand that MSNBC, by and through yourself and/or otherwise, publicly correct your defamatory statements in accordance with California Civil Code § 48a.

You falsely claimed—without a shred of evidence—that OAN “really literally is paid Russian propaganda.” That is false. OAN has never received a single penny from the Russian government. The assertion that OAN is paid to disseminate propaganda on behalf of a foreign government is more than a mere falsehood—it amounts to an accusation of treason. Your comments were beyond the pale and unbecoming of a reporter at any respectable news organization.

It also appears that the unwarranted attack on OAN was retaliation for OAN’s suggestion that Comcast is refusing to carry it for non-business reasons. On July 15, 2019, Charles Herring emailed Gregory Rigdon, the President of Content Acquisition for Comcast. Herring made the compelling business case for adding OAN and also stated his concern that Comcast is refusing to carry OAN because OAN’s coverage “generally counters the voice of MSNBC.” Exactly one week after that email, MSNBC’s number one show opens with a hit piece on OAN. This does not appear to be a mere coincidence. Tellingly, nobody at MSNBC or Comcast made any effort to reach out to OAN for comment prior to airing the defamatory statements.

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Ms. Rachel Maddow
July 25, 2019
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Here are the facts: OAN is an independent and family-owned media company focused on providing national and international news coverage. OAN is solely owned and operated by Herring Networks, Inc., which in turn is wholly-owned by members of the Herring family. The Herrings are a proud, dedicated and loyal American family. They launched OAN on July 4, 2013, to deliver timely national and international news 24 hours a day.

OAN features political analysis programming, political talk shows, and special documentary-style reports. In just a few years, OAN has become the fourth-highest rated national news network as measured by a leading cable provider and is greatly outperforming other emerging cable news networks. The Herrings launched OAN on their own and with their own money. They took no outside investment whatsoever and have never had any involvement with the Russian government.

The malicious claim that OAN is a Russian propaganda operation is vile, sensationalistic reporting. You should immediately retract this defamatory statement.

Kristian Rouz, the young man whom you attacked, is employed by OAN as a news aggregator. His job is to collect and analyze articles from other sources and write articles based on those sources. He is paid by OAN—not the Russian government—for the content he creates for OAN. Every article he writes goes through OAN's editorial process. Mr. Rouz has never had decision-making authority with respect to the content that is aired on OAN. His outside work for other media outlets has no relation to—or bearing on—his work for OAN.

In your zeal, we think you singled out Mr. Rouz because of his nationality and sought to malign him because he you though he is from Russia; in fact, he was born in the Ukraine. If you had taken a minute to check Mr. Rouz out, you would have found that contrary to your false and discriminatory accusation, he is a hard-working, honest journalist trying to earn a living and support himself. In that regard, I attach for your information a statement signed by Mr. Rouz and request that you check people out before you seek to destroy their livelihood.

The falsehoods you disseminated are even more problematic considering that the Daily Beast article on which your episode was based was authored by Kevin Poulsen, also known as “Dark Dante”—the first computer hacker ever to be charged with espionage against the United States government. Rather than face the charges against him, Poulsen spent 17 months as a fugitive from the law before being arrested in 1991.

In 1995, Mr. Poulson pleaded guilty to seven counts of conspiracy, fraud, and intercepting wire communications. He received the longest sentence ever for a computer hacker at that time. United States law enforcement has referred to him as “the Hannibal Lecter of computer crime.” Of course, you made no mention of the shadowy source of the article in your

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Ms. Rachel Maddow
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statements; instead, you made it seem like the story written by Mr. Poulsen came from a credible news source.

Your assertion that OAN is a Russian propaganda operation is utterly false and defamatory. Our client will not stand by and allow these lies to be disseminated.

We hereby demand that you:

1. Immediately cease and desist in publishing defamatory statements about our client, whether the statements are made by you or by third parties;
2. Issue a public retraction of the defamatory statements, making clear that OAN is not paid Russian propaganda;

This letter puts you on notice that should you refuse to comply with our demands by August 15, 2019, we will recommend that our client pursue all legal avenues to protect its interests, including damages and attorneys' fees and costs incurred as a result of your actions. We reserve all our rights and remedies.

Sincerely,



Louis R. Miller

LRM

cc: Kimberly D. Harris

Statement on My Writing for Sputnik News

I am not a staff employee of Sputnik News, and have never been;

I have been writing articles for Sputnik about global economics and international finance;

I was free to choose the topics and angles for my articles according to my own views;

I have never written propaganda, disinformation, or unverified information;

I could write whenever I want, as many articles I want – but not exceeding 25 articles per month;

I had approximately 1300 articles over the past 4.5 years at roughly \$40 per article, totaling at some \$11,500 per year;

I wrote these articles to make ends meet and survive – as I had no family or friends in the U.S., and I was unemployed in this country for roughly 2 years.

Kristian Rouz, 7/23/2019



EXHIBIT D

August 6, 2019

Via E-mail & Federal Express

NBCUniversal

Louis R. Miller
Miller Barondess, LLP
1999 Avenue of the Stars
Suite 1000
Los Angeles, California 90067
(310) 552-4400
smiller@millerbarondess.com

Re: *The Rachel Maddow Show*

Dear Mr. Miller:

I am writing in response to your July 25, 2019 letter concerning statements made about your client, One America News Network (“OAN”), on July 22, 2019 during The Rachel Maddow Show on MSNBC. While discussing an article published that same day by The Daily Beast concerning OAN reporter Kristian Rouz’s simultaneous employment with the Russian government-funded outlet Sputnik, Ms. Maddow expressed her reaction to this report by stating that OAN “really literally is paid Russian propaganda.” Your letter claims that this statement is false and defamatory. Your client, however, cannot state a valid legal claim for defamation.

Your letter acknowledges that Mr. Rouz writes for Sputnik — indeed, it makes clear that Mr. Rouz has written 1,300 articles for the outlet, which is nearly one article per day for the past four and a half years. Importantly, your letter also does not dispute the fundamental fact that Sputnik is funded by the Russian government. Nor could you. The United States intelligence community has determined that Sputnik played a key role in the Russian government’s interference in the 2016 election and the Department of Justice ordered Sputnik’s affiliated U.S. entities to formally register as foreign agents. Mr. Rouz’s compensation for the more than one thousand articles he wrote for Sputnik was essentially paid for by the Russian government.

You also do not dispute that Mr. Rouz is employed by and writes for OAN. Indeed, you state that his job includes collecting and analyzing articles from other sources and writing articles for OAN based on those other sources. OAN, therefore, publishes content collected or created by a journalist who is also paid by the Russian government for writing over a thousand articles. Ms. Maddow’s recounting of this arrangement is substantially true and therefore not actionable.

Ms. Maddow's statement about OAN is also a protected opinion based on disclosed facts. In her broadcast, she stated the facts acknowledged in your letter concerning Mr. Rouz's compensation by Sputnik and Sputnik's funding by the Russian government. She then expressed her view that the implication of these facts is that OAN "really literally is paid Russian propaganda." Merriam-Webster defines "literally" to mean "in effect" and states that it is "used in an exaggerated way to emphasize a statement or description that is not literally true or possible." Similarly, Oxford Dictionaries defines "literally" to mean "[u]sed for emphasis while not being literally true." Ms. Maddow's comment could not have been reasonably understood to mean that the Russian government made checks payable to OAN; indeed, she specifically noted who was paid by Sputnik. Use of the word "literally" here is the kind of figure of speech that connotes opinion and thus cannot give rise to a defamation claim. See *Cochran v. NYP Holdings*, 210 F.3d 1036, 1038 (9th Cir. 2000) (*per curiam*).

Your client, therefore, cannot assert a valid claim against The Rachel Maddow Show arising from the challenged statement. If you have any questions, or would like to further discuss this matter, please feel free to contact me at amy.wolf@nbcuni.com.

Best regards,



Amy Wolf
Counsel, NBCUniversal News Group