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February 8, 2024

VIA EMAIL TO: hfl@wisecarter.com

Deep South Today d/b/a Mississippi Today
c/o: Henry Laird
2510 14th Street, Ste. 1125
Gulfport, Mississippi 39501

Re: Notice of Suit Under Miss. Code Ann. § 95-1-5(1)

Dear Henry:

Pursuant to Miss. Code Ann. § 95-1-5(1), former-Governor Phil Bryant sends this correspondence to notify Mississippi Today and John Doe that they libeled him in a May 8, 2023, article titled "Read Mississippi Today's Pulitzer Prize-winning series 'The Backchannel.'" I am sending this correspondence to you as the authorized agent of Mississippi Today and likely the authorized agent of the yet-to-be-discovered author of the article. Please notify me immediately if you are not authorized to accept this notice on their behalf. If you are authorized, I would appreciate it if you would volunteer the identity the person who authored the article in order to avoid the necessity of my learning the identity in discovery and amending the complaint once more.

Bryant demands that Mississippi Today and the undisclosed author publish full-and-fair corrections of their false and defamatory statements that are prominently displayed on Mississippi Today's webpage and promoted in its social media accounts; that Mississippi Today and the undisclosed author publicly apologize for having made false, misleading, and defamatory statements concerning Bryant; and that Mississippi Today and the undisclosed author issue public retractions within 10 days of receiving this notice. This demand is intended to comply with Miss. Code Ann. § 95-1-5(2). Should Mississippi Today fail to comply with this demand, Bryant will seek leave of court to file and serve an amended complaint that includes the claims outlined in this notice.

I. Wolfe's false and defamatory statements

A. The first offending statement

The May 8, 2023, article contends that "The Backchannel" investigation found that "Bryant was set, just days after leaving office, **to receive stock** in a Favre-affiliated drug company that had received state welfare dollars." (emphasis in original). The bolded and underlined portion in the sentence hyperlinked to an April 4, 2022, article authored by Mississippi Today investigative reporter Anna Wolfe that is titled, "Phil Bryant had his sights set on a payout as welfare funds

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flowed to Brett Favre." The April 4, 2022, article contained numerous false and defamatory statements that clarify what Wolfe meant by "Bryant planned on entering into business," including:

- "Bryant was ***all set to accept stock in the company hours after he left office*** – then arrests were made."

- "Former Mississippi Gov. Phil Bryant used the authority of his office, the weight of his political influence and the power of his connections to help his friend and retired NFL quarterback Brett Favre boost a fledgling pharmaceutical venture. Then ***he tried to cash in on the project when he left office***, text messages show."

- "As governor, Bryant assisted Prevacus, the company at the center of Mississippi's ongoing welfare embezzlement scandal, in finding investors and gaining favor with federal regulators. Then, ***two days after he left office, Bryant agreed by text to accept stock in the company***."

- "The scientist and governor did not discuss, at least by text, Bryant investing his own funds into Vanlandingham's venture. ***The conversations involved Bryant becoming a shareholder in exchange for the help he provided as governor*** and planned to provide after his term."

(emphasis added).

Bryant was not "set, just days after leaving office, to receive stock" in Prevacus; he was not "all set to accept stock in the company hours after he left office;" he did not try "to cash in on the project when he left office;" he did not agree "by text to accept stock" in Prevacus "two days after he left office;" and, "the conversations" between Bryant and Jake Vanlandingham most certainly do not involve "Bryant becoming a shareholder in exchange for the help he provided as governor." Mississippi Today's statement in the May 8, 2023, article and the several statements made in the April 4, 2022, article are false, libelous, and made with actual malice.

B. The second offending statement

The May 8, 2023, article also contends that "The Backchannel" investigation found that "Bryant helped Favre **secure welfare funding** for USM volleyball stadium." (emphasis in original). The bolded and underlined portion in the sentence hyperlinked to a September 13, 2022, article authored by Wolfe that is titled, "Former Gov. Phil Bryant helped Brett Favre secure welfare funding for USM volleyball stadium, texts reveal."

Bryant did not help Favre secure welfare funding for the USM volleyball facility, and a fair reading of all available evidence does not render such a conclusion. As Wolfe recognized in the September 13, 2022, article, "Bufkin's latest motion includes texts that the attorney picked, not entire text threads, and may only reflect one side of the story." Mississippi Today and John Doe decided to endorse as fact the "side of the story" offered by the attorney for an admitted felon,

and has ignored the fair and objective evidence that Bryant subsequently filed in the Hinds County litigation and published on the internet. Mississippi Today's statement is false, libelous, and made with actual malice.

II. Bryant's defamation cause of action

The four elements of Bryant's defamation claim against Mississippi Today and John Doe are (1) a false and defamatory statement concerning Bryant; (2) an unprivileged publication of the false and defamatory statement to a third party or third parties; (3) fault amounting to actual malice; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Hudson v. WLOX, Inc.*, 108 So. 3d 429, 434 (Miss. Ct. App. 2012).

A. Wolfe's statements are false.

1. The first offending statement

Mississippi Today and John Doe have no evidence to support their claims that "Bryant was set, just days after leaving office, to receive stock in a Favre-affiliated drug company that had received state welfare dollars." The relevant facts are as follows:

1. On December 6, 2018, Vanlandingham wrote a group text message to Bryant and Favre that reads: "Good evening, Governor – Following up my friend on FDA connections. Also wanted to say Brett and I are hopeful to get a group of investors together perhaps with your help and come up to Jackson. We want you to know we want you on the team and can offer stock. We don't know the rules but are willing to do what is needed to bring you on board. Grateful for your help!!!" Favre responded, "Amen to that!!" Bryant replied, "Just let me know and we will call a team meeting at the Governor's Mansion."

It is apparent from the face of the text exchange that Vanlandingham did not offer stock to Bryant. Vanlandingham wrote that Prevacus "can offer stock" and admitted that he did not "know the rules." Bryant did not address the stock issue in his reply. No reasonable person could read this exchange as Vanlandingham offering and Bryant accepting stock in Prevacus.

2. In the early evening of December 26, 2018, representatives from the governor's office picked up Favre and Vanlandingham from the airport and drove them to the Governor's Mansion. Favre, Vanlandingham, and Bryant discussed Prevacus in the mansion. Vanlandingham asked Bryant if he could accept stock in Prevacus during this meeting. Bryant immediately informed Vanlandingham that he could not and would not accept stock in Prevacus for anything he may do while in office. Favre, Vanlandingham, and Bryant subsequently traveled together in a motor vehicle to Walker's Drive-Inn for the dinner meeting that Wolfe has addressed in her reporting.

Bryant repeatedly denied agreeing to accept stock in Prevacus during his 3-hour interview with Wolfe on April 2, 2022; Vanlandingham told Wolfe in an interview that Bryant did not agree

to accept stock in Prevacus; and, Mississippi Today has no information from Favre regarding the matter. Bryant is confident that Favre will testify (if he has not already) that he personally witnessed Bryant immediately reject Vanlandingham's stock offer.

3. On December 2, 2019, Vanlandingham sent a text message to Bryant that asked, "Governor, can we bring you onboard with ownership now?" Bryant responded, "Cannot till January 15th. But would love to talk then. This is the type of thing I love to be a part of. Something that saves lives…."

At least two points arise from this text that are apparent to an unbiased observer. First, considering Vanlandingham's message from a year prior ("we … can offer stock" [but] "we don't know the rules") with his current question ("can we bring you onboard with ownership *now*?"), it is apparent that Vanlandingham learned Bryant could not accept stock for services performed while in office. This is entirely consistent with Bryant explaining to Vanlandingham that he could not accept stock in Prevacus for assistance he provided the company while in office.

Second, Bryant told Vanlandingham that he would "love to talk" after he left office about "ownership" because "[t]his is the type of thing" that he would "love to be a part of … [s]omething that saves lives." This language reveals that Bryant did not accept a stock or ownership offer. Bryant communicated that he would discuss ownership after he left office. Thus, the status of the matter at this point was that (1) Bryant had refused to accept stock for services performed in office and (2) Bryant had not addressed whether he or his firm, Bryant Songy Snell (BSS), would accept stock for services performed after he left office.

4. On January 16, 2020, Vanlandingham texted the following to Bryant: "Now that you're unemployed I'd like to give you a company package for all your help. Let me know when you come up for air but know we want and need you on our team!!!" Bryant replied, "Sounds good. Where would be the best place to meet. I am now going to get on it hard."

Several points arise from this text message exchange that are apparent to an unbiased observer. First, Vanlandingham did not offer "a company package" in his text. He instead wrote that he would "like to give" Bryant a company package – a message that plainly suggests Bryant has not previously accepted stock or ownership and that Bryant could reject whatever it is that Vanlandingham may offer.

Second, Vanlandingham did not specify the terms of the "company package" that he would "like to give" Bryant. The absence of specifics suggests the lack of any agreement or understanding of proposed terms. The phrase "company package" is vague and its meaning is ambiguous.

Third, Vanlandingham did not specify the "help" he referenced and he certainly did not say that he was offering Bryant "a company package" in exchange for services Bryant had already performed. Practically speaking, it makes very little sense for Vanlandingham to offer Bryant stock for something Bryant had already done. The more reasonable interpretation is that Vanlandingham is attempting to entice Bryant or BSS to accept Prevacus as a client.

Fourth, Bryant plainly did not agree to accept a "company package." He instead indicated that he would like "to meet" with Vanlandingham to discuss further details. The "get on it hard" language is rhetorical hyperbole.

Fifth, as for whether Bryant or BSS could ethically or legally assist Prevacus after Bryant left office, Bryant explained to Wolfe in his 3-hour interview that "[b]efore any agreement (with Prevacus hypothetically made), it would have had to go through our internal review here with lawyers, and then we would have asked (Ethics Commission director) Tom Hood, 'Can you review it?' We hired an attorney at Butler Snow to begin to review anything that we were doing so that we made sure. So yeah, it wouldn't have just been, 'OK, let's go to work.' It's just not that easy."

5. On January 22, 2020, Bryant participated in a telephone call with Vanlandingham and Poncho James. Toward the end of the call, Vanlandingham said that he wanted to talk about a stock offer. Bryant said the matter could be addressed on a later occasion. Bryant told Wolfe about this telephone discussion in his interview: "At the end of the conversation, [Vanlandingham] said, 'And oh by the way we need to talk about some stock.' And I just said, 'Well, you know, we'll get together later on.' And I never called him back."

Once again, Bryant did not accept stock, ownership, or a company package from Vanlandingham or Prevacus. Mississippi Today has no evidence whatsoever to contradict Bryant's summary of the telephone call. Additionally, Bryant's summary is entirely consistent with Vanlandingham's broad account to Wolfe of his dealings with Bryant.[1] Vanlandingham said:

> The governor was always straight up. There was never any stock exchanged. There was never any money exchanged. He just wanted to help. And we never did a deal for him to come on with his consulting firm and that could be because this (the arrests) happened. We were probably working towards having the governor, post-governorship, help us, and I think that would have been great.

While Bryant has "always been straight up," the same cannot be said for Mississippi Today. It has repeatedly published egregious lies about Bryant in an effort to raise funds, win awards, and impact Mississippi politics. Enough is enough.

2. The second offending statement

Mississippi Today has no objective evidence to support its claim that "Bryant helped Favre secure welfare funding for [the] USM volleyball stadium." On the contrary, a fair and objective analysis of the evidence available to Mississippi Today shows that Bryant had no involvement with the $5 million payment from MCEC to the USM Athletic Foundation. When Favre approached Bryant for assistance with covering Favre's remaining $1.4 million debt on the facility, Bryant declined. Favre ultimately paid that debt with his own funds.

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[1] https://mississippitoday.org/2022/04/04/phil-bryant-brett-favre-welfare-scandal-payout/.

B. Wolfe's statements are defamatory in nature.

A defamatory statement "tends to injure one's reputation, and thereby expose him to public hatred, contempt or ridicule, degrade him in society, lessen him in public esteem or lower him in the confidence of the community." Weems & Weems, *Miss. Law of Torts*, § 11-1(b) (citing, *Lawrence v. Evans*, 573 So. 2d 695 (Miss. 1990); *Fulton v. Mississippi Publishers Corp.*, 498 So. 2d 1215, 1217 (Miss. 1986) (citing, *Ferguson v. Watkins*, 448 So. 2d 271, 275 (Miss. 1984)).

The May 8, 2023, statement regarding Bryant being "set...to receive stock" in Prevacus, when read in conjunction with the statements in the April 4, 2022, article, accuses Bryant of agreeing to accept stock in Prevacus for services he performed while in office. Mississippi Today and John Doe have accused Bryant of a felony that is punishable in the state penitentiary for up to 10 years, that would subject Bryant to a fine of as much as $5,000.00, and that would disqualify Bryant from ever again holding public office. *See*, Miss. Code. Ann. § 97-11-53. The first offending statement in the May 8, 2023, article is defamatory per se.

The May 8, 2023, statement that "Bryant helped Favre secure welfare funding for [the] USM volleyball stadium" accuses Bryant of misdirecting TANF funds to the USM Athletic Foundation to pay for the construction of the volleyball facility. As you well know, Zach New has pleaded guilty to a federal crime associated with the misdirection of this funding, and MDHS has accused several defendants in a civil lawsuit of bearing varying degrees of responsibility for the misdirection of this funding. Bryant has not been charged with a crime, and he is not a defendant in the civil suit – and for good reason. He had nothing to do with the $5 million payment to the USM Athletic Foundation. Your accusation is defamatory per se.

C. The statements at issue were published to third parties.

"Publication requires a communication of the statement to another person or persons." *Miss. Law of Torts* at § 11-1(d). Mississippi Today's statements are widely published on the internet and social media for anyone with an internet connection to read. Publication cannot be reasonably contested. The statements can be found at the following link:

https://mississippitoday.org/2023/05/08/pulitzer-prize-winning-backchannel/

D. The statements were made with actual malice.

The Mississippi Law of Torts explains the actual malice requirement as follows:

> In order to recover for defamation, public officials and public figures must prove by clear and convincing evidence that the defendant acted with "actual malice." "Actual malice," sometimes also referred to as "*Times* malice," is a term of art with a very precise meaning. Ill will or personal spite does not constitute actual malice. Actual malice is present when a statement is made "with knowledge that it was false or with reckless disregard of whether it was false or not." "Knowledge of falsity" needs no elaborate definition. "Reckless

> disregard" means that the defendant made the false publication with a high degree of awareness of probable falsity, or that he "entertained serious doubts as to the truth of his publication." Negligence, either with regard to knowledge of the falsity or reckless disregard, is not sufficient to establish actual malice.

Id. at § 11-2(a) (internal citations omitted).

The libelous statements that Mississippi Today wrote on May 8, 2023, are part of a years-long campaign to harm Bryant. As outlined in Bryant's proposed Third Amended Complaint [MEC Doc. #120-1], Mississippi Today's coordinated effort to defame Bryant and destroy his reputation commenced on December 16, 2021, when former-United States Representative Ronnie Shows interviewed Wolfe on his radio program.[2] Mississippi Today published an edited interview transcript on its website.[3] The following exchange occurred during the interview:

> **Shows:** Like they say, follow the money. Follow the money and you'll find out.
>
> Well, Anna, what's your next step in your story? Are you going to keep staying on top of it or what?
>
> **Wolfe:** Oh yeah. I think the big questions that I have now that I'm trying to answer are the big questions that everyone has about how far up the chain this is going to go. ***And if the people that are investigating this and have the power to do something about it, if they're really going to go after everyone that they should, and everyone who should be held accountable, namely the former governor Phil Bryant.***

(emphasis added).

Wolfe accused Bryant of committing a crime; she said prosecutors should "go after" him; and she said a jury should hold Bryant "accountable." Wolfe's comments are false, slanderous, and inconsistent with the information she gathered during her reporting. Mississippi Today's publication of Wolfe's remarks is libelous.

Wolfe first made her libelous claim that Bryant agreed to accept stock in Prevacus for services Bryant performed while in office on April 4, 2022, in the scandalous article titled, "Phil Bryant had his sights on a payout as welfare funds flowed to Brett Favre." Bryant did not timely sue Wolfe or Mississippi Today for claims arising from Wolfe's December 16, 2021, remarks or her April 4, 2022, written statements. He opted to hold fire and not involve the courts, hoping Mississippi Today and Wolfe would cease making defamatory statements and that the matter would fade away.

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[2] The program was broadcast on MJMG 92.1 in Hattiesburg, Mississippi.

[3] https://mississippitoday.org/2021/12/23/anna-wolfe-mississippi-welfare-fraud-case/ (emphasis added).

Bryant was wrong. Four months later, on August 11, 2022, Mississippi Today chief executive officer Mary Margaret White claimed in the publication's mid-year impact report that Wolfe's reporting revealed "***Bryant's misuse and squandering of at least $77 million in federal funds.***" (emphasis added). Bryant did not misuse and squander $77 million of federal welfare funds, and Wolfe did not report that he did. Bryant served Mississippi Today with statutory notice that the accusation was libelous and demanded an apology, retraction, and correction. Mississippi Today refused to comply with Bryant's demand, further evidencing the publication's actual malice.

Mississippi Today and its leadership increased the severity of their accusations on February 22, 2023. While serving on a panel at the 16th Annual Knight Media Forum in Miami, Florida, White boasted to a live audience of 600 journalists, journalism industry professionals, financiers, and Knight Foundation employees that Mississippi Today "***broke the story about $77 million in welfare funds, intended for the poorest people in the poorest state in the nation, being embezzled by [a] former governor and his bureaucratic cronies and used on pet projects like a state-of-the-art volleyball stadium at Brett Favre's alma mater.***" (emphasis added). The Knight Foundation posted White's presentation on the internet for anyone to view and share.

Although the friendly audience laughed and applauded, White's remarks were not well received back home. Broadcast and print media throughout Mississippi republished White's inflammatory claim. Editorials and opinion columns noted the brazenness of White's claim and the lack of evidence supporting it. For the first time, Mississippi Today was criticized for publishing false and incendiary remarks about Bryant.

Mississippi Today editor-in-chief Adam Ganucheau and Wolfe addressed the editorials criticizing White's embezzlement accusation during the May 10, 2023, episode of Mississippi Today's podcast, "The Other Side." They denied that White or any other person affiliated with Mississippi Today had accused Bryant of committing a crime. Their statements were outright misrepresentations calculated to mislead the podcast's listeners and to preserve a thin veneer of impartiality for the publication.

Bryant served White and Mississippi Today with written notice of defamation and demanded that White apologize, retract, and correct her slanderous embezzlement accusation. Bryant also demanded that Wolfe and Ganucheau retract, correct, and apologize for their false and misleading misrepresentations during the podcast. White did not apologize for accusing Bryant of embezzling $77 million of welfare funds and did not retract and correct her false and slanderous remark. Instead, she said that prosecutors had not charged Bryant with a crime.

White's accusation and subsequent statement convey that Bryant embezzled $77 million of public funds, but criminal authorities have failed to prosecute him. White's message is consistent with Wolfe's comments 14-months earlier, consistent with Wolfe's defamatory claim that Bryant agreed to accept payment for services performed in office, and consistent with the libelous statements White wrote in Mississippi Today's mid-year impact report. Adding insult to injury, Ganucheau and Wolfe did not apologize or retract and correct the false and misleading

misinformation they supplied during the podcast. These failures to retract, correct, and apologize for the remarks further underscores the actual malice motivating Wolfe, White, Ganucheau, and Mississippi Today.

Wolfe won the Pulitzer Prize on May 8, 2023, for "The Backchannel" series. In an award announcement, Ganucheau claimed the series "revealed for the first time how *former Gov. Phil Bryant used his office to steer the spending of millions of federal welfare dollars – money intended to help the state's poorest residents – to benefit his family and friends, including NFL Hall of Fame quarterback Brett Favre.*" (emphasis added). Bryant did not use his office to steer the spending of millions of federal welfare dollars to benefit his family and friends, and Wolfe's articles did not reveal that he did. Ganucheau's accusation is consistent with Wolfe's slanderous comment during the radio interview, Wolfe's libelous statements in her April 4, 2022, article, White's libelous statement in the impact report, and White's slanderous accusation during the panel presentation.

Bryant served Mississippi Today and Ganucheau with statutory notices that the accusation was libelous and demanded apologies, retractions, and corrections. Mississippi Today and Ganucheau refused to comply with Bryant's demands. Ganucheau even threatened Bryant with abuse of process and frivolous litigation claims if he added Ganucheau as a defendant. Ganucheau's refusal to retract, correct, and apologize for his defamatory writing, in combination with his threat, amplifies the malice motivating his libelous accusation and the several defamatory accusations made by his Mississippi Today colleagues.

On September 22, 2023, Wolfe once again libeled Bryant when she wrote that Bryant "planned on entering into business" with and "agreed to accept a company package" from Prevacus. It is apparent that Wolfe knew her statements were false when she published them. The Journalist's Resource interviewed Ganucheau and Wolfe after "The Backchannel" was published to obtain "tips for journalists navigating . . . complex investigations."[4] The Journalist's Resource noted the following concerning Wolfe's attempt to determine whether Bryant violated any laws in conjunction with the MDHS scandal:

> Wolfe did reach out to legal experts to try to report whether laws had been broken, but the case was too "sprawling" for those experts to comment definitively, Ganucheau says.

In other words, Wolfe failed to find a "legal expert" to support her accusation that Bryant violated Miss. Code Ann. § 97-11-53 or any other criminal statute; she knew that the state auditor had not charged Bryant with violating any criminal laws; and she knew that state and federal prosecutors had not charged Bryant with a crime. Undeterred, Wolfe accused Bryant of engaging in a crime anyway. Wolfe's conduct satisfies the definition of constitutional actual malice.

Most recently, on December 19, 2023, Wolfe wrote the following in her article titled "Mississippi Welfare Funds Would Up in a Ghanaian Gold Bar Hoax, Court Filing Alleges":

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[4] https://journalistsresource.org/media/mississippi-today-welfare-scandal/.

> But after months of stringing the scientist along, Martin finally told Vanlandingham he would have to first put up $25,000 to help pay for a "geological analysis" for the land that Martin said his overseas investor required.
>
> Vanlandingham tried to find the money, but the scientist's contacts had dried up and he was experiencing deep personal financial problems, according to his texts. He was forced to sell his family's home to pay the taxes for Prevacus, he said, and ask his mom for a loan to get into a rental. Martin tried to put him at ease by saying things like, "I know what we are doing is pleasing to God."
>
> Vanlandingham tried to get Favre to secure the $25,000 through an investment in Prevacus from one of his fellow professional athletes, but they wouldn't bite.
>
> ***Then Favre suggested they ask the then-Mississippi governor for help and offer him stock in the company. Bryant bit.*** The men met with several others for dinner in Jackson at Walker's Drive-In in late December of 2018.

(emphasis added).

The most reasonable interpretation of Wolfe's writing is that Bryant committed to invest $25,000 in Prevacus and agreed to accept stock in the company. Bryant did not commit to invest $25,000 in Prevacus and did not agree to accept stock in the company. Wolfe's statement is false, intentionally misleading, and defamatory.

Wolfe also wrote in the article above that "Bryant, who is suing Mississippi Today for defamation and ***has sent threats to the news outlet for continuing to report this story***, declined through an attorney to answer questions about this story or respond to allegations in the latest court filing." (emphasis added).

Wolfe similarly wrote in the article titled "Court Filing Alleges Gov. Phil Bryant Directed Welfare Funds for Illegal Volleyball and Concussion Drug Projects" that "[t]hrough his attorney, Bryant declined to answer questions about the allegations made in the Dec. 12 filing. Bryant, who is suing Mississippi Today for defamation, ***has sent threats to the news outlet for continuing to report this story, including basic updates about public court documents.***" (emphasis added).

These statements are false, intentionally misleading, and defamatory. Bryant did not threaten Mississippi Today "for continuing to report this story," nor has he threatened Mississippi Today for reporting on "basic updates about public court documents." To be clear, Anna Wolfe emailed Denton Gibbes on December 14, 2023, seeking information from Bryant, despite knowing Bryant is engaged in a lawsuit against her employer. I have previously instructed Wolfe to stop attempting to communicate with Bryant through anyone other than me. Wolfe's email to Gibbes reads:

Hey Denton,

I'm working on a story about the latest filing in the MDHS civil suit. In it, MCEC alleges that Bryant directed funds to the volleyball stadium and Prevacus projects. It also suggests Bryant traveled to Ghana in August of 2019 because Prevacus' founder had lost money to a scammer in the country. A press release says Bryant was in the country mid-August 2019 to strengthen ties between investors in Mississippi and Ghana. That appears to reference the situation with Prevacus. Regardless, which investors were Bryant representing and what became of this visit? The latest filing also references a text from Bryant to Favre in which Bryant is discussing efforts to secure MDHS funds for the volleyball project, uses a sunglasses smiley emoji and says "funny how that happened." But this text doesn't appear in Bryant's text production. Do we know what happened to it? Bryant sent "funny how that happened" shortly after sending a text, which does appear in the production, where Bryant says, "Met with Nancy tonight. We are pushing forward." Can you give me a call or provide any comment for this story?

Gibbes forwarded Wolfe's email to me. I emailed a response to Wolfe and copied you and Gibbes. My email reads:

Ms. Wolfe:

Denton Gibbes forwarded your email to him to me. As you are well aware, Governor Bryant has sued your publication and Mary Margaret White. I have copied their attorney on this email.

I have previously advised you to cease communications with Bryant and anyone on his behalf. You should communicate with me, and only me, and through Mr. Laird.

Any further attempts to obtain information from my client directly or indirectly that do not go through me will result in my seeking sanctions from the court against Mississippi Today. This is your final warning.

Within an hour, I followed up with you. My email to you reads:

I feel like we've developed a good rapport.

In that vein, as a courtesy to you, I'll tell you that the text message that Wolfe references has nothing to do with volleyball or Prevacus and was not responsive to the subpoenas served on Bryant on the MCEC/MDHS case. Wolfe should tread very carefully in her upcoming article.

On the following day, you emailed me a series of questions. Your email reads:

Mississippi Today would like to know for a story it is preparing the answers to some questions about Mr. Bryant's trip to Ghana in August 2019.

What was the purpose of the visit?

Will he tell us the details on how and when he started and ended planning the trip?

In the MCEC civil litigation, it alleges that Jake Vanlandingham asked for Mr. Bryant's help with allegedly being scammed in an investment or investments in Ghana. Did Mr. Bryant have any involvement with trying to help Mr. Vanlandingham, and if so, what are the details of that involvement?

I responded to you within 10 minutes of receiving your email. My email to you reads:

I'm driving to Frisco, TX. I'll speak with the governor after I arrive. I don't know if he's inclined to engage with Mississippi Today, considering its well-documented penchant for lying and defamation. If a statement is made, it will come from me and I can't write it while driving.

What follows is not for publication –

I believe the Ghana trip had to do with assisting with a malaria outbreak. I think there was a Mississippi company that made some device that could help. I'm sure the trip had several people and a documented schedule. I'm confident that I can retrieve more information about it.

Nancy New's lawyer wrote in a counterclaim that "upon information and belief" Bryant knew about Vanlandingham's investment loss and traveled to Ghana to recoup it, or something to that effect. That's an absurd claim that's wholly devoid of evidentiary support. Bryant didn't know anything about Vanlandingham's investment or loss or involvement with anything having to do with Ghana. If Wolfe writes otherwise, I promise you that she's the next defendant in our case.

Wolfe should ask where the proof is for all things New alleged on information and belief. New's claims are ridiculous.

You followed up with me on December 18, 2023, asking, "Does Mr. Bryant have a statement?" I responded approximately an hour later, writing, "Not for MS Today. Given its previous writings and the statements of its employees, we do not believe MS Today is trustworthy or reliable."

As is plain from the communications, I reminded Wolfe that I had already warned her about her attempts to circumvent me in her efforts to obtain information from my client. I told Wolfe and you that I would seek sanctions from Mississippi Today if Wolfe ever did this again. I also

warned that Bryant would sue Wolfe for defamation if she reported that Bryant's trip to Ghana was related to Vanlandingham's investment.[5] Wolfe's mischaracterization of my communications is another outright lie calculated to garner sympathy and mislead her readership.

E. Libel per se

"Under Mississippi law, all libel is actionable per se, meaning the plaintiff need not prove special harm." *In re Murray*, No. 20-01587-KMS, 2023 WL 310344, *5 (S.D. Miss. Jan. 18, 2023) (quoting *Brewer v. Memphis Publ'g Co.*, 626 F.2d 1238, 1245-46 (5th Cir. 1980)). "The Mississippi Supreme Court has held that, where a defamatory statement is actionable per se, damages need not be pled or proved, but are presumed to have resulted from the defamatory statement." *Miss. Law of Torts* at § 11:16 (citing *Henry v. Collins*, 253 Miss. 34, 158 So. 2d 28, 32 (1963), judgment rev'd on other grounds, 380 U.S. 356, 85 S. Ct. 992, 13 L. Ed. 2d 892 (1965); *Travis v. Hunt*, 224 Miss. 193, 79 So. 2d 734, 735 (1955)).

Under Mississippi law, the accusations levied by Mississippi Today and John Doe are actionable per se. Accordingly, Bryant does not need to plead or prove damages to sustain his libel claim. Damages are presumed.

III. Bryant's false light invasion of privacy cause of action

The elements of a false light invasion of privacy claim are (1) the false light in which Wolfe placed Bryant would be highly offensive to a reasonable person, and (2) Wolfe had knowledge of or acted in reckless disregard as to the falsity of her accusations and the false light in which Bryant would be placed. Weems & Weems, Mississippi Law of Torts § 13:5, *False Light Invasion of Privacy* (2nd ed., Dec. 2022 Update) (citing *Cook v. Mardi Gras Casino Corp.*, 697 So. 2d 378, 382 (Miss. 1997); *Prescott v. Bay St. Louis Newspapers, Inc.*, 497 So. 2d 77, 79 (Miss. 1986)). As with his defamation claims, Bryant must prove Wolfe acted with actual malice to establish the fault element of his false light claim. *Time, Inc. v. Hill*, 385 U.S. 374, 87 S.Ct. 534, 17 L.Ed.2d 456 (1967).

The false light in which Mississippi Today and John Doe placed Bryant would be highly offensive to a reasonable person. Mississippi Today and John Doe had knowledge of or acted in reckless disregard of the falsity of their accusations and the light in which they placed Bryant. Accordingly, Mississippi Today and John Doe are liable for false light invasion of privacy.

IV. Bryant's respondeat superior cause of action

John Doe made his/her false and libelous accusation while acting within the course and scope of his/her employment with Mississippi Today. John Doe had actual or apparent authority to make his/her false and libelous accusations. Mississippi Today is vicariously liable for the

[5] My warning apparently worked. Wolfe did not report that Bryant's trip to Ghana was related to Vanlandingham's investment.

damage caused by John Doe's false and libelous accusations under the common law doctrine of respondeat superior. The doctrine of respondeat superior also renders John Doe and Mississippi Today jointly and severally liable for any judgment returned in Bryant's favor on his libel and false light claims against John Doe.

V. Bryant's entitlement to punitive damages, attorneys' fees, and costs

"The Supreme Court has stated that '[i]t is rarely the case that the compensatory damages to which the plaintiff is entitled . . . can be adequately measured by the extent of his pecuniary loss and when malice is shown . . . exemplary damages may be awarded.'" *Miss. Law of Torts* at § 11-18 (quoting *Henry v. Pearson*, 253 Miss. 62, 158 So. 2d 695, 703 (Miss. 1963), *judgment rev'd on other grounds*, 380 U.S. 356, 85 S. Ct. 992, 13 L. Ed. 2d 892 (1965)).

"The Mississippi Supreme Court has, in at least one decision, endorsed the awarding of punitive damages for defamation even in the absence of an award of actual damages." *Id.* The Court explained:

> Where the defamation complained of is actionable per se, it is generally held that punitive damages may be awarded even though the amount of actual damages is neither found nor shown, for in such a case the requirement of showing actual damages as the basis of an award of exemplary damages is satisfied by the presumption of injury which arises from a showing of libel or slander that is actionable per se.

Id. (quoting *Newson v. Henry*, 443 So. 2d 817, 824 (Miss. 1983), which quoted 50 Am. Jur. 2d, *Libel and Slander* § 352 (1970)).

Considering the malicious nature of the statements and that they are components of a years-long campaign to destroy Bryant's reputation with false and defamatory claims, Bryant will likely recover punitive damages in a civil action against Mississippi Today, White, Ganucheau, Wolfe, and John Doe (assuming the fictitious defendant is not one of the aforementioned individuals). Bryant will also likely recover attorneys' fees and costs in a civil action against these defendants. *Cronier v. ALR Partners, L.P.*, 309 So. 3d 556, 559 (Miss. Ct. App. 2020). As the Mississippi Court of Appeals observed, "an actual award of punitive damages is not a prerequisite for an award of attorney's fees; rather, attorney's fees are warranted where 'the awarding of punitive damages would have been justified,' even if punitive damages are not awarded." *Id.* (quoting *Tunica County v. Town of Tunica*, 227 So. 3d 1007, 1029 (Miss. 2017)).

VI. Insurance coverage

Bryant has discovered that Mississippi Today only carries $1 million of liability insurance coverage for defamation and false light invasion of privacy claims. $1 million of insurance coverage is woefully inadequate to pay for the compensatory and punitive damages, attorneys' fees, costs, and pre- and post-judgment interest that Bryant seeks against the defendants in the

Madison County action. The attorneys' fees and costs of bringing this suit alone should exceed that amount.

John Doe should strongly consider demanding that Mississippi Today's insurance carrier immediately settle this case within policy limits. John Doe should also consider obtaining independent counsel to defend his/her interest in avoiding an excess verdict that places him/her at risk of financial disaster. An adverse verdict in the Madison County litigation will not be dischargeable in bankruptcy. *Matter of Scarbrough*, 836 F.3d 447, 455 (5th Cir. 2016) ("Scarbrough next argues that the bankruptcy court erred in finding the defamation judgment nondischargeable under § 523(a)(6) for willful and malicious conduct. The bankruptcy court affirmed the state court's finding that Scarbrough engaged in defamation and defamation per se. 'Defamation is a false statement about a person, published to a third party, without legal excuse, which damages the person's reputation.' *Fiber Sys. Int'l Inc. v. Roehrs*, 470 F.3d 1150, 1161 (5th Cir. 2006) (citation omitted). In cases of defamation per se, the statements at issue are so obviously hurtful that they require no proof of injury to be actionable. *Id.* Several incidents lead this court to affirm the lower court's judgment. Among them was Scarbrough's (1) false reporting to Adult Protective Services; (2) posting a video of a personal family conflict on YouTube in an attempt to hinder JoAnn Purser's bid for a school board seat; and (3) conspiring to make false statements and reports that JoAnn Purser threatened to kill others and that Appellees consumed illegal drugs. *See, e.g.*, *French v. French*, 385 S.W.3d 61, 72 (Tex. App.—Waco 2012, pet. denied) ('A statement that falsely charges a person with the commission of a crime is defamatory per se.' (citing *Leyendecker & Assocs., Inc. v. Wechter*, 683 S.W.2d 369, 374 (Tex. 1984))). We find no error in the lower court's ruling.")

CONCLUSION

The Mississippi Supreme Court has explained that "[w]hile a newspaper publishing company is granted some leeway in its reporting, they may not misstate the facts or otherwise misconstrue the truth." *Whitten v. Commercial Dispatch Pub. Co., Inc.*, 487 So. 2d 843, 846 (Miss. 1986). Mississippi Today's libelous statements misstate the facts, misconstrue the truth, and are integral to a Mississippi Today's malicious scheme to destroy Bryant's reputation.

Bryant showed Mississippi Today, Wolfe, White, and Ganucheau grace for too long. No more. Every actionable false and defamatory statement published by Mississippi Today and its employees about Bryant that we discover will be included in this suit. As Bryant has already explained, it is time for Mississippi Today, White, Ganucheau, and Wolfe to put up admissible evidence to support their defamation or admit their claims are baseless and pay. This case is not going away.

Sincerely,

William M. Quinn II