

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

NYSCEE

JAMES R. HAEFNER and RICHARD CRAWFORD, ON BEHALF
OF THEMSELVES and as REPRESENTATIVES OF THE CLASS

Index No. _____/2008

Plaintiff(s),

08150189

-against-

Summons

NEW YORK MEDIA, LLC, PRIMEDIA,
INC., MARK JACOBSON, FRANK
LUCAS, and GROVE/ATLANTIC, INC.,

Date Index No. _____

Defendant(s).

NEW YORK COUNTY CLERK'S OFFICE
FILED
OCT 22 2008

To the above named Defendant(s)

GROVE/ATLANTIC, INC.

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is § 503, CPLR, PRINCIPAL OFFICE OF DEFENDANT GROVE/ATLANTIC, INC. which is 841 BROADWAY, 4TH FLOOR, NEW YORK, NY 10003-4793.

Dated: NEW YORK, NY

October 22, 2008

CAREY & ASSOCIATES LLC

by _____

MICHAEL Q CAREY

Attorneys for Plaintiff

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CourthouseNews.com

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

-----X
**JAMES R. HAEFNER AND RICHARD
CRAWFORD, ON BEHALF OF
THEMSELVES AND AS
REPRESENTATIVES OF THE CLASS,**

08150189

PLAINTIFFS,

INDEX NO.

V.

COMPLAINT

**NEW YORK MEDIA, LLC, PRIMEDIA,
INC., MARK JACOBSON, FRANK
LUCAS, AND GROVE/ATLANTIC, INC.,**

DEFENDANTS.

-----X

CLASS ACTION COMPLAINT

James R. Haefner and Richard Crawford, Plaintiffs, on behalf of themselves and as representatives of the Class, by their attorneys, Dominic F. Amorosa and Carey & Associates LLC, bring this action against Defendants, New York Media LLC, Primedia, Inc., Mark Jacobson, Grove/Atlantic, Inc. and Frank Lucas, and respectfully allege the following upon information and belief:

THE PARTIES

1. Plaintiff James R. Haefner is a former officer of the New York Police Department (“NYPD”) and a resident of the State of New York.
2. Plaintiff Richard Crawford is a former Special Agent of the United States

Drug Enforcement Administration (“**DEA**”) and a resident of the State of Florida.

3. The proposed class is comprised of approximately 9 former Special Agents of DEA and 3 former officers of the NYPD, including the Plaintiffs, who searched the house of Frank Lucas on January 28, 1975 in Teaneck, New Jersey.

4. Defendant New York Media, LLC (“**New York Media**”) was formed under the laws of Delaware, is authorized to do business in the State of New York, and has its principal place of business at 444 Madison Avenue, New York, New York. New York Media owns and publishes New York Magazine, a weekly publication that is sold in hard copy to over 400,000 people. New York Media acquired New York Magazine in 2003 from defendant, Primedia, Inc.

5. Defendant Primedia, Inc. (“**Primedia**”) is a corporation formed under the laws of Delaware, is authorized to do business in the State of New York, and has its principle place of business at 745 Fifth Avenue, New York, New York.

6. Defendant Mark Jacobson (“**Jacobson**”) is a writer and contributing editor of New York Magazine who resides in the State of New York.

7. Defendant Frank Lucas resides in the State of New Jersey.

8. Defendant Grove/Atlantic, Inc. (“**Grove/Atlantic**”) is a corporation formed under the laws of the State of New York, with its principal place of business at 841 Broadway, New York, New York. Grove/Atlantic is in the business of publishing

books.

THE FACTS

9. This class action involves the publication and republication of defamatory and libelous *per se* statements of and concerning Plaintiffs and the class.

A. THE SEARCH OF LUCAS' HOUSE ON JANUARY 28, 1975 AND HIS PROSECUTION

10. In the early 1970's, Lucas was a major narcotics' trafficker.

11. Lucas became a target of New York City's DEA, the NYPD and the United States Attorney's Office for the Southern District of New York ("USAO") as a result of his criminal activity.

12. After an intensive investigation, Haefner and Crawford and other members of the Class arrested Lucas on January 28, 1975 at this house in Teaneck, New Jersey.

13. At the time of his arrest, Plaintiffs and other members of the Class searched Lucas' house legally, pursuant to a warrant, and seized \$585,000 in currency.

14. The currency, which was in \$5, \$10, and \$20 bills, was the product of one week or one weekend's receipts from Lucas' narcotics' business.

15. Lucas was tried in September 1975 by the USAO, convicted and sentenced to 40 years' imprisonment.

16. The proofs at Lucas' criminal proceedings demonstrated beyond a

reasonable doubt that the search of his house was legal and proper.

17. The proofs at Lucas' criminal proceedings demonstrated beyond a reasonable doubt that Plaintiffs and other members of the Class seized only \$585,000 in currency from Lucas' house at the time of the search.

18. The search, arrest and prosecution of Lucas received media attention and the public generally became aware that Plaintiffs and the other members of the Class investigated Lucas, searched his house and seized currency.

B. THE 2000 PUBLICATION OF "THE RETURN OF SUPERFLY"

19. On August 7, 2000, Primedia published an article in New York Magazine entitled "The Return of Superfly" ("**Superfly**").

20. Jacobsen is the author of Superfly.

21. Superfly purports to relate, in part, to the criminal activities of Lucas, including the search of his house on January 28, 1975.

22. Jacobson wrote the following passage in Superfly with respect to the search of Lucas' house:

"Those motherfuckers just came in," Lucas says now, sitting in a car across the street from the split-level house where he played pickup games with members of the Knicks. For years, he has contended that the cops took a lot more than \$585,000 from him. "Five hundred eighty-five thousand, what's that? Shit. In Vegas, I'd lose 500 G's playing baccarat with a green-

headed where in half an hour.” According to Lucas, agents took something on the order of “9 to 10 million dollars” from him that fateful evening. (“**Superfly Libel**”).

23. Lucas’ accusations in the Superfly Libel were intentionally and knowingly false.

24. Lucas knew that his false accusations would be published in New York Magazine.

25. In 2000, prior to publication of the Superfly Libel in New York Magazine, Lucas, Jacobson and Primedia could reasonably foresee that, in the future, others would republish the Superfly Libel in one form or another.

26. As described below, NBC Universal, Inc., New York Media, Grove/Atlantic, Jacobson, Lucas and others republished the Superfly Libel.

27. Jacobson and Primedia knew or should have known that Lucas’ statements were false and libelous.

28. Jacobson and Primedia had access to different sources, including, among others, Lucas’ court proceedings in 1975, to verify that the Superfly Libel was false.

29. Jacobson had access to such sources and knew he had not adequately and reasonably investigated the facts of Lucas’ claim prior to the publication of

Superfly.

30. Primedia had access to such sources and knew it had not adequately and reasonably investigated the facts of Lucas' claim prior to the publication of Superfly.

31. A reasonable investigation prior to publication would have determined that Lucas' accusations were false.

32. Jacobson and Primedia each ignored that it would have required the complicity of every single law enforcement officer at the scene of the search to commit the alleged theft.

33. Jacobson and Primedia each ignored that it would have required truckloads to remove 9 to 10 million dollars in currency from Lucas' house.

34. Jacobson and Primedia each ignored that no law enforcement officer was ever arrested or convicted concerning the search of Lucas' house.

35. Jacobson and Primedia each ignored that Lucas had informed law enforcement officials following his conviction that the cash he had in his house at the time of the search amounted to a week's or a week-end's receipts from his narcotics' business and that the figure of \$585,000 sounded correct in terms of how much he had at the time at his house.

36. At least two former Special Agents of the DEA, one of whom participated in

the search of Lucas' house, told Jacobson, prior to his publication of Superfly, that Lucas' accusations were false.

C. PROFIT FROM A NEW AUDIENCE WAS THE MOTIVE FOR THE 2007 REPUBLICATION OF THE SUPERFLY LIBEL

37. The Superfly Libel was a sensational allegation of law enforcement corruption.

38. In 2000, Jacobson, Lucas and Primedia published the Superfly Libel in New York Magazine, to sell more copies of New York Magazine and to earn more profit.

39. Jacobson, Lucas, Primedia, and New York Media knew each could sell their rights and interests in Superfly and the Superfly Libel.

40. Superfly was republished approximately seven years after its initial publication.

41. The republication of Superfly in and after 2007 was not a delayed circulation of the original edition.

42. Jacobson, Lucas and New York Media knew and intended that republication of the Superfly Libel in a film or other form of media would, and it did, reach a new and wider viewing audience.

43. Jacobson, Lucas and New York Media knew and intended that republication

of the Superfly Libel would be profitable and beneficial for them.

D. THE SUPERFLY LIBEL WAS RE-PUBLISHED IN THE FILM, AMERICAN GANGSTER

44. Superfly attracted the attention of NBC Universal, Inc. (“NBC”), owner of Universal Studios, and NBC acquired the rights to Superfly.
45. Jacobson, Lucas and New York Media sold rights in Superfly to NBC.
46. Jacobson, Lucas and New York Media sold rights in Superfly with the intent to reach a new and wider audience for the Superfly Libel.
47. In 2007, NBC produced a film based upon Superfly entitled “American Gangster.”
48. NBC utilized Superfly and the Superfly Libel as a factual basis for American Gangster.
49. American Gangster was released to the public on November 2, 2007.
50. American Gangster asserted that it was based upon a true story and identified that true story as Superfly.
51. American Gangster purports to represent the true story of Lucas’ narcotics’ activities, his investigation, arrest, the search of his house and his prosecution by law enforcement authorities.
52. American Gangster depicted a false and libelous version of the search of

Lucas' home by Plaintiffs and the class members on January 28, 1975.

53. The search depicted in the film mirrored the Superfly Libel, although it did not use the true names of plaintiffs and the class.

54. One of the characters that searched Lucas' house, playing the part of a plaintiff and member of the Class, stated during the search: the "Feds are going to come in and *take* everything, and they are going to *take* it all, but not before I get my gratuity." (Emphasis Added).

55. The search shown in the film presented the law enforcement officers on the search as corrupt.

56. The search shown in the film presented the law enforcement officers on the search as the persons who stole cash from Lucas' home at the time of the search.

57. Ordinary viewers of American Gangster, having read that it was based upon a true story, Superfly, concluded that Plaintiffs and the Class stole cash from Lucas's house.

58. Jacobson, Lucas and New York Media knew and could foresee that NBC would republish the Superfly Libel in a film.

59. Jacobson, Lucas and New York Media intended to reach the audience of American Gangster with the Superfly Libel.

60. Through NBC and American Gangster, the Superfly Libel reached millions of people in theaters in the United States.

E. THE SUPERFLY LIBEL WAS RE-PUBLISHED ON THE WEBSITE OF NEW YORK MAGAZINE

61. On October 25, 2007, Jacobson and New York Media, with the intent to reach a new and wider audience for Superfly, republished Superfly on the website of New York Magazine.

62. As a result of the republication of Superfly on the New York Magazine website, Jacobson, Lucas and New York Media reached a new and wider audience for Superfly.

63. With the republication of Superfly on the New York Magazine website, New York Media solicited comments from new readers.

64. Over three hundred readers made comments on Superfly.

65. The first reader comment occurred on November 1, 2007.

66. On October 25, 2007, New York Media also published in New York Magazine and on its website an article entitled, "Lords of Dope town."

67. Jacobson was the author of Lords of Dope town.

68. Lords of Dope town relates to the narcotics' trafficking competition in the early 1970's between Lucas and Nicky Barnes, another major narcotics trafficker

in New York City.

69. Jacobson and New York Media published Lords of Dopetown in anticipation of the November 2, 2007 release of American Gangster to the public.

70. The first web pages of Superfly and Lords of Dopetown were cross-linked on and after October 25, 2007.

71. The first page of Lords of Dopetown on the New York Magazine website contained the following note with a link to Superfly: "SEE ALSO Mark Jacobson's 2000 Profile of Frank Lucas".

72. The first page of Superfly re-published on the New York Magazine website contained a cross-link to Lords of Dopetown.

73. Jacobson and New York Media published Lords of Dopetown with the intent that Superfly reach a wider audience.

74. Through the publication of Lords of Dopetown, Superfly reached those who visited the website for Lords of Dopetown, a new and wider audience.

F. THE SUPERFLY LIBEL WAS RE-PUBLISHED ON THE WEBSITE OF IFC.COM

75. After October 25, 2007, Jacobson, Lucas and New York Media, with the intent to reach a new and wider audience for Superfly, republished Superfly on websites other than that of New York Magazine.

76. As a result of the republication of Superfly on other websites, Jacobson, Lucas and New York Media reached a new and wider audience for Superfly.

77. On October 29, 2007, a few days before the release of American Gangster, Jacobson, Lucas and New York Media caused the Superfly Libel to be republished in an article that appeared in IFC film news on the IFC.com website.

78. The IFC web site article, entitled "American Gangster", was written by Matt Singer and provided a link to the website of New York Magazine which contained Superfly.

79. The IFC film news article stated: "Mark Jacobson's article about Lucas, 'The Return of Superfly,' is still available for free here, and is worth a read if you're interested in the story and the film."

80. Individuals who read the IFC film news article followed the link and read Superfly.

81. IFC and New York Magazine provided the free link in an effort to reach, and they did reach, a new and wider audience for Superfly: the audience of IFC film news and of the materials on the IFC.com website.

82. Defendants could foresee that IFC and other publishers, both web and hard copy, would republish Superfly and the Superfly Libel in connection with the release and promotion of American Gangster.

G. THE SUPERFLY LIBEL WAS RE-PUBLISHED IN A BOOK

83. On or after November 2, 2007, Grove/Atlantic published a book by Jacobson entitled, “American Gangster and Other Tales of New York” (“**Jacobson Tales**”).

84. The Jacobson Tales contained a collection of articles written by Mark Jacobson, including “American Gangster, a.k.a. The Haint of Harlem, the Frank Lucas Story.”

85. The article included the Superfly Libel in the following passage at page 25, deletions from the Superfly Libel shown by a ~~strike-through~~, and additions shown in [brackets]:

“Those motherfuckers just came in,” Lucas says now, [more than twenty-five years later, as he sits] ~~sitting~~ in a car across the street from the [surprisingly modest] split-level house where[, prior to his arrest] he played pickup games with members of the [New York] Knicks. For years, ~~he~~ [Lucas] has contended that the cops took a lot more than \$585,000 from him [when he was busted]. “~~Five hundred eighty five thousand, what’s that?~~ [585 Gs ...] Shit. ~~In~~ [I’d go to] Vegas, I’d lose 500 G’s ~~playing baccarat with a green-headed whore in half an~~ [and lose \$485,000 in a half] hour.” According to Lucas [Frank, federal] agents took something on the order of “~~9 to 10~~ [nine to ten] million dollars” from him that fateful evening.

86. The libel stated in the Superfly Libel is identical in all material respects to the libel republished by Jacobson, Lucas, New York Media, and Grove/Atlantic in the Jacobson Tales.

87. Jacobson, Lucas, New York Media, and Grove/Atlantic republished the Superfly Libel with the intent to reach a new and wider audience.

88. The publication of Jacobson Tales, including the republication of the Superfly Libel, was an effort by Jacobson, Lucas, New York Media, and Grove/Atlantic to capitalize upon the substantial publicity relating to the release of American Gangster and to reach an additional new audience for the Superfly Libel, including the millions of people who had viewed and were expected to view American Gangster.

89. By republishing the Superfly Libel in the Jacobson Tales, Jacobson, Lucas, New York Media, and Grove/Atlantic reached a new and wider audience.

90. Approximately 98,000 persons bought the Jacobson Tales.

CLASS ACTION ALLEGATIONS

91. The proposed class in this case is comprised of 13 former law enforcement officers who searched Lucas' house on January 28, 1975.

92. The proposed class in this case is so numerous that joinder of all members is impracticable.

93. Questions of law and fact common to the class predominate over any questions affecting only individual members.

94. The claims or defenses of the representative parties are typical of the claims or defenses of the class.
95. The representative parties will fairly and adequately protect the interests of the class.
96. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

JURISDICTION AND VENUE

97. This Court has jurisdiction over Jacobsen, New York Media, Primedia, and Grove/Atlantic pursuant to § 301 of the Civil Practice Law and Rules of the State of New York (“CPLR”).
98. This Court has such jurisdiction over Jacobson because Jacobson is a domiciliary of New York State and is doing business in New York State.
99. This Court has such jurisdiction over Grove/Atlantic because it is doing business in New York State as a domestic business corporation.
100. This Court has such jurisdiction over New York Media as a foreign limited liability company and over Primedia as a foreign business corporation, because each is authorized to do and is doing business in New York State.
101. This Court has jurisdiction over Lucas pursuant to § 302(a)(1), C.P.L.R. because Lucas transacted business in New York State.

102. The amount in controversy exceeds Five Million Dollars (\$5,000,000).

103. Venue is proper in New York County, pursuant to § 503, C.P.L.R., as one or more of the defendants resides in, and has its principal office in, New York County.

FIRST CAUSE OF ACTION

Republication of the Superfly Libel on the New York Magazine Website as Against Primedia, Jacobson, Lucas and New York Media

104. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 as though fully set forth here.

105. On October 25, 2007, Defendants Jacobson, Lucas and New York Media republished the Superfly Libel on the New York Magazine website.

106. Primedia, Jacobson, Lucas and New York Media knew of or recklessly disregarded the falsity of the Superfly Libel.

107. The republication of the Superfly Libel in New York Magazine gave “credibility” to the Superfly Libel.

108. Primedia, Jacobson, Lucas and New York Media knew of or recklessly disregarded that republication of the Superfly Libel would give credibility to the Superfly Libel.

109. Primedia could foresee that the Superfly Libel would be republished after

August 8, 2000.

110. The republication of the Superfly Libel was the natural and probable consequence of its original publication.

111. There was only one search of Lucas' house by law enforcement authorities.

112. As a result of the publication and republication of the Superfly Libel, numerous people now believe Plaintiffs and the Class members are thieves and corrupt law enforcement officials.

113. Plaintiffs and the Class members are employed, including employment directly and indirectly related to their employment, and expertise acquired, as Special Agents of the DEA and as officers of the NYPD.

114. Publication of the Superfly Libel has damaged Plaintiffs and the Class members in their employment.

115. Plaintiffs and the Class members are honest and courageous former and current law enforcement officers.

116. The Superfly Libel exposed and exposes Plaintiffs and the class members to hatred, contempt, disgrace, shame, and ridicule.

117. The public and friends and relatives of Plaintiffs and the Class members who have read the Superfly Libel, including the Superfly Libel in the form published by

Grove/Atlantic in the Jacobson Tales, or viewed American Gangster, and knew from media reports that Plaintiffs and members of the Class participated in the search, have questioned Plaintiffs and members of the Class.

118. Such persons have questioned Plaintiffs and members of the Class regarding the legality of the search of Lucas' house and the truth of the Superfly Libel.

119. The Superfly Libel has adversely affected and affects the reputations for integrity and honesty of Plaintiffs and the Class members.

120. The Superfly Libel and the public's reaction to it have embarrassed Plaintiffs and the Class members and caused them emotional harm and distress.

121. The publication of the Superfly Libel was not privileged in any manner.

122. As a direct and proximate cause of the publication and republication of the Superfly Libel, Plaintiffs and the Class members have been damaged in an amount, to be determined at trial, believed to be in excess of \$5,000,000, exclusive of interest and costs.

SECOND CAUSE OF ACTION

Re-publication of the Superfly Libel on the IFC.com
Website as Against Defendants Primedia, Jacobson,
Lucas and New York Media

123. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 and 105 through 122 as though fully set forth here.

124. On or about October 28, 2007, Defendants Jacobson, Lucas and New York Media published and republished the Superfly Libel on the IFC.com website.

125. Primedia could foresee that the Superfly Libel would be republished on a website in 2007.

126. As a direct and proximate cause of the publication and republication of the Superfly Libel, Plaintiffs and the Class members have been damaged in an amount, to be determined at trial, believed to be in excess of \$5,000,000, exclusive of interest and costs.

THIRD CAUSE OF ACTION

Re-Publication of the Superfly Libel In American Gangster As Against Defendants Primedia, Jacobson, Lucas and New York Media

127. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 and 105 through 122 as though fully set forth here.

128. On November 2, 2007, Defendants Jacobson, Lucas and New York Media published and republished the Superfly Libel in American Gangster.

129. Primedia, Jacobson, Lucas and New York Media could foresee that the Superfly Libel would be republished in 2007 as part of a film.

130. As a direct and proximate cause of the publication and republication of the Superfly Libel, Plaintiffs and the Class members have been damaged in an amount,

to be determined at trial, believed to be in excess of \$5,000,000, exclusive of interest and costs.

FOURTH CAUSE OF ACTION

Re-Publication of the Superfly Libel in the Jacobson Tales As Against All Defendants

131. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 and 105 through 122 as though fully set forth here.

132. On or after November 2, 2007, Defendants Grove/Atlantic, Jacobson, Lucas and New York Media published and republished the Superfly Libel in the Jacobson Tales.

133. Primedia could foresee that the Superfly Libel would be republished in a book in 2007.

134. As a direct and proximate cause of the publication and republication of the Superfly Libel, Plaintiffs and the Class members have been damaged in an amount, to be determined at trial, believed to be in excess of \$5,000,000, exclusive of interest and costs.

FIFTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress As Against All Defendants

135. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 and 105 through 122 as though fully set forth here.

136. Each defendant intended the publication of the Superfly Libel to expose, and publication did expose, Plaintiffs and the Class members to humiliation, hatred, contempt and ridicule.

137. As a direct and proximate cause of the publication and republication of the Superfly Libel, Plaintiffs and the Class have suffered damages in the form of severe emotional distress in an amount not less than \$5,000,000.

DEMAND FOR JUDGMENT

WHEREFORE, Plaintiffs and the Class members demand that judgment be entered against Defendants as follows:

138. On the First through Fifth Causes of Action, against Primedia, Jacobson, Lucas and New York Media, awarding compensatory damages in an amount to be determined at trial, in an amount of \$5,000,000 or more;

139. On the Fourth and Fifth Causes of Action, against Grove/Atlantic, awarding compensatory damages in an amount to be determined at trial, in an amount of \$5,000,000 or more;

140. On the First through Fifth Causes of Action, awarding punitive damages of \$50,000,000;

141. On the First through Fifth Causes of Action, granting a permanent injunction against further publication of the Superfly Libel;

142. Awarding prejudgment and post-judgment interest;
143. Awarding costs and attorneys' fees in an amount to be determined at trial;
and
144. Awarding such other relief, legal or equitable, that the Court deems proper
and just.

Dated: October 22, 2008
New York, New York

Respectfully submitted,

/s/ DOMINIC F. AMOROSA

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