

D62 Michael L. Kern

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FILED
Los Angeles Superior Court

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A6010*

JUN 05 2009

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL DISTRICT

11 JOHN IBARRA, an individual,
12 Plaintiff,
13 vs.
14 JACOB CHRISTOPHER ORTIZ, also
15 known as TITO ORTIZ, an
16 individual; PUNISHMENT
17 ATHLETICS ENTERPRISES, a
18 California Corporation; DAVID
19 C. CARPINELLO, an individual;
20 JUSTIN BOLDUC, an individual;
21 PUNCH DRUNK GAMER, INC., a
22 Colorado Corporation; YAHOO!,
23 INC., a Delaware corporation;
24 CHICKIP, LLC, a California
25 Limited Liability Company
26 doing business under the
27 fictitious business name Cage
28 Potato; SERGE MARCHES, an
individual; DARRAGH CREAMER,
an individual; SKY GLOBAL
SPORTS, LLC., a California
Limited Liability Company
doing business under the
fictitious business name of
FIGHT SPORTS MAGAZINE; KRIS
KARKOSKI, an individual; JIM
BANKOFF, an individual; TYLER
BLESZINSKI, an individual;
LAUREN FISHER, an individual;
SPORTSBLOGS, INC., a Delaware

CASE NO.

BC415273

COMPLAINT FOR:

- 1. DEFAMATION;
- 2. INVASION OF PRIVACY (FALSE LIGHT);
- 3. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS; AND
- 4. NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

CITY/CASE: KC915273 LEA/DEF#:
RECEIPT #: 02H465980079
DATE PAID: 06/05/09 02:55:58 PM
PAYMENT: \$350.00
RECEIVED:
CHECK: 350.00
CASH:
CHANGE:
CARD:

ORIGINAL

1 Corporation doing business
2 under the fictitious business
3 name BLOODY ELBOW; JOSH
4 KAMPSCHMIDT, an individual;
5 ROBYN LASS, an individual;
6 FUTURE US, INC., a California
7 corporation, doing business
8 under the fictitious business
9 name of BALLHYPE; PRAMIT
10 MOHAPATRA, an individual,
11 BROWN RECLUSE MEDIA, LLC., a
12 Limited Liability Company
13 doing business under the
14 fictitious business name
15 FIGHTTICKER; MATT BOONE, an
16 individual; CHRIS HOWIE, an
17 individual; CLICKSPARK, LLC,
18 a New York Limited Liability
19 Company doing business under
20 the fictitious business name
21 MMA NEWS; SAM CAPLAN, an
22 individual; FIVE OUNCES OF
23 PAIN, an entity of unknown
24 form; HOUSTON CHRONICLE; and
25 DOES 1 through 40, Inclusive,

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18 Plaintiff JOHN IBARRA ("Plaintiff"), for his complaint,
19 alleges as follows:

20 THE PARTIES

21 1. Plaintiff JOHN IBARRA ("Plaintiff") is, and at all times
22 herein mentioned was, an individual, residing in the State of
23 California, County of Los Angeles.

24 2. Plaintiff is informed and believes and thereon alleges
25 that, Defendant JACOB CHRISTOPHER ORTIZ, also known as TITO ORTIZ
26 ("Defendant Ortiz") is, and at all times herein mentioned was, an
27 individual, residing and/or transacting business in the State of

1 California.

2 3. Plaintiff is informed and believes and thereon alleges
3 that Defendant PUNISHMENT ATHLETICS ENTERPRISES a California
4 Corporation ("Punishment Athletics") is, and at all times mentioned
5 herein was, a corporation organized and existing by virtue of the
6 laws of the State of California and engaged in business in the
7 County of Los Angeles, State of California.

8 4. Plaintiff is informed and believes and thereon alleges
9 that, Defendant DAVID C. CARPINELLO ("Defendant Carpinello") is,
10 and at all times herein mentioned was, an individual, residing
11 and/or transacting business in the State of Colorado.

12 5. Plaintiff is informed and believes and thereon alleges
13 that, Defendant JUSTIN BOLDUC ("Defendant Bolduc") is, and at all
14 times herein mentioned was, an individual, residing and/or
15 transacting business in the State of Colorado.

16 6. Plaintiff is informed and believes and thereon alleges
17 that Defendant PUNCH DRUNK GAMER, a Colorado Corporation ("Punch
18 Drunk") is, and at all times mentioned herein was, a corporation
19 organized and existing by virtue of the laws of the State of
20 Colorado and engaged in business in the County of Littleton, State
21 of Colorado.

22 7. Plaintiff is informed and believes and thereon alleges
23 that Defendant YAHOO!, INC. ("Yahoo!") is, and at all times
24 mentioned herein was, a corporation organized and existing by
25 virtue of the laws of the State of Delaware and engaged in business
26 in the County of Los Angeles, State of California.

27 8. Plaintiff is informed and believes and thereon alleges

1 that Defendant CHIKIP, LLC, ("CHIKIP") is, and at all times
2 mentioned herein was, a limited liability company organized and
3 existing by virtue of the laws of the State of California and
4 engaged in business in the County of Los Angeles, State of
5 California.

6 9. Plaintiff is informed and believes and thereon alleges
7 that, Defendant SERGE MARCHES ("Defendant Marches") is, and at all
8 times herein mentioned was, an individual, residing and/or
9 transacting business in the State of California.

10 10. Plaintiff is informed and believes and thereon alleges
11 that, Defendant DARRAGH CREAMER ("Defendant Creamer") is, and at
12 all times herein mentioned was, an individual, residing and/or
13 transacting business in the State of California.

14 11. Plaintiff is informed and believes and thereon alleges
15 that Defendant SKY GLOBAL SPORTS, LLC ("Sky Global") is, and at all
16 times mentioned herein was, a limited liability company organized
17 and existing by virtue of the laws of the State of California and
18 engaged in business in the County of Los Angeles, State of
19 California.

20 12. Plaintiff is informed and believes and thereon alleges
21 that, Defendant JIM BANKOFF ("Defendant Bankoff") is, and at all
22 times herein mentioned was, an individual, residing and/or
23 transacting business in the State of California.

24 13. Plaintiff is informed and believes and thereon alleges
25 that, Defendant TYLER BLESZINSKI ("Defendant Beleszinkyi") is, and
26 at all times herein mentioned was, an individual, residing and/or
27 transacting business in the State of California.

1 14. Plaintiff is informed and believes and thereon alleges
2 that, Defendant LAUREN FISHER ("Defendant Bankoff") is, and at all
3 times herein mentioned was, an individual, residing and/or
4 transacting business in the State of California.

5 15. Plaintiff is informed and believes and thereon alleges
6 that Defendant SPORTSBLOGS, INC. ("Sportsblogs") is, and at all
7 times mentioned herein was, a corporation organized and existing by
8 virtue of the laws of the State of California and engaged in
9 business in the County of Los Angeles, State of California.

10 16. Plaintiff is informed and believes and thereon alleges
11 that, Defendant JOSH KAMPSCHMIDT ("Defendant Kampschmidt") is, and
12 at all times herein mentioned was, an individual, residing and/or
13 transacting business in the State of California.

14 17. Plaintiff is informed and believes and thereon alleges
15 that, Defendant ROBYN LASS ("Defendant Lass") is, and at all times
16 herein mentioned was, an individual, residing and/or transacting
17 business in the State of California.

18 18. Plaintiff is informed and believes and thereon alleges
19 that Defendant FUTURE U.S., INC. ("Future, U.S.") is, and at all
20 times mentioned herein was, a corporation organized and existing by
21 virtue of the laws of the State of California and engaged in
22 business in the County of Los Angeles, State of California.

23 19. Plaintiff is informed and believes and thereon alleges
24 that, Defendant PRAMIT MOHAPATRA ("Defendant Mohapatra") is, and at
25 all times herein mentioned was, an individual, residing and/or
26 transacting business in the State of California.

27 20. Plaintiff is informed and believes and thereon alleges

1 that Defendant BROWN RECLUSE MEDIA, LLC ("Brown Recluse") is, and
2 at all times mentioned herein was, a limited liability corporation
3 organized and existing by virtue of the laws of the State of
4 California and engaged in business in the County of Los Angeles,
5 State of California.

6 21. Plaintiff is informed and believes and thereon alleges
7 that, Defendant MATT BOONE ("Defendant Boone") is, and at all times
8 herein mentioned was, an individual, residing and/or transacting
9 business in the State of California.

10 22. Plaintiff is informed and believes and thereon alleges
11 that, Defendant CHRIS HOWIE ("Defendant Howie") is, and at all
12 times herein mentioned was, an individual, residing and/or
13 transacting business in the State of California.

14 23. Plaintiff is informed and believes and thereon alleges
15 that Defendant CLICK SPARK, LLC ("Click Spark") is, and at all
16 times mentioned herein was, a limited liability corporation
17 organized and existing by virtue of the laws of the State of
18 California and engaged in business in the County of Los Angeles,
19 State of California.

20 24. Plaintiff is informed and believes and thereon alleges
21 that, Defendant SAM KAPLAN ("Defendant Kaplan") is, and at all
22 times herein mentioned was, an individual, residing and/or
23 transacting business in the State of California.

24 25. Plaintiff is informed and believes and thereon alleges
25 that Defendant FIVE OUNCES OF PAIN ("Five Ounces") is, and at all
26 times mentioned herein was an entity of unknown form, engaged in
27 business in the County of Los Angeles, State of California.

1 26. Plaintiff is informed and believes and thereon alleges
2 that Defendant HOUSTON CHRONICLE ("Houston Chronicle") is, and at
3 all times mentioned herein was, a corporation organized and
4 existing by virtue of the laws of the State of Texas and engaged in
5 business in the County of Los Angeles, State of California.

6 27. Plaintiff is informed and believes and thereon alleges
7 that, Defendant KRIS KARKOSKI ("Defendant Karkoski") is, and at all
8 times herein mentioned was, an individual, residing and/or
9 transacting business in the State of California.

10 28. The true names and capacities, whether individual,
11 corporate, associate or otherwise of defendants DOES 1 through 40,
12 inclusive, are unknown to Plaintiff who therefore sues said
13 Defendants by such fictitious names. Plaintiff is informed and
14 believes and based thereon alleges that each of the fictitiously
15 named defendants is responsible in some manner for the events,
16 acts, occurrences and liabilities alleged and referred to herein.
17 Plaintiff will seek to amend this Complaint to allege the true
18 names and capacities of these DOE Defendants when the same are
19 ascertained.

20 29. Plaintiff is informed and believes and based thereon
21 alleges that at all times mentioned herein each of the Defendants
22 were, and now are, acting as the employee, agent, principal,
23 officer, partner, joint venturer, alter ego, co-conspirator,
24 director or other representative of one or more of the remaining
25 defendants and, in doing the things herein mentioned, was acting
26 within the scope and course of such employment, agency,
27 partnership, joint venture, conspiracy or other relationship, and

1 with the permission, authorization, ratification and consent of the
2 other defendants.

3 30. Plaintiff is informed and believes that DOES 1 through 10
4 are alter egos of Defendants; are otherwise responsible for their
5 activities. When the true names and capacities of these DOES have
6 been ascertained, Plaintiff will amend this Complaint accordingly.

7 31. Plaintiff is informed and believes and thereon alleges
8 that, at all times herein mentioned, each Defendant, was the agent,
9 employee, and joint venturer of each other Defendant, and in doing
10 the things herein alleged was acting within the course and scope of
11 such agency, employment and joint venture and with the permission
12 and consent of such other Defendants.

13 GENERAL ALLEGATIONS

14 32. During the last twenty-eight years, Plaintiff has been
15 engaged in the pugilist and the mixed martial arts industries.
16 Plaintiff has trained and/or worked with more than fifteen world
17 champions in such fields and both Olympic Gold medal winners and
18 Amateur champions. In addition, Plaintiff is the founder of USA
19 MMA, Inc., a non-profit organization that organizes amateur MMA
20 shows nationwide, the co-founder of the National Trainer and Cutman
21 Association, the founder of the World Class MMA and Boxing, Inc.
22 fitness club and has been the recipient of numerous awards in the
23 industry.

24 33. During the period from July, 2005 through July, 2008,
25 Plaintiff was the trainer and manager of Quinton "Rampage" Jackson
26 ("Jackson"), a well known mixed martial artist and a prominent
27 figure in the Ultimate Fighting Champion industry. During this

APR 11 2008 10:00 AM

1 period, Jackson obtained six straight wins, including a UFC
2 championship. On his sixth win, Jackson became the first and only
3 undisputed light heavyweight champion of the world.

4 FIRST CAUSE OF ACTION

5 (Defamation Against All Defendants)

6 34. Plaintiff repeats, repleads and realleges paragraphs 1
7 through 33, inclusive, of this Complaint and incorporates the same
8 herein by the reference as though set forth in full.

9 35. Defendant Ortiz is a well known mixed martial artist and
10 former Ultimate Fighting Championship fighter and one of the
11 sports' biggest stars.

12 36. On or about September of 2008, Defendant Ortiz gave an
13 interview to Defendant Carpinello in which he made false, malicious
14 and libelous statements that Plaintiff is a "thief" and has stolen
15 from and taken "advantage of Rampage." This publication continues
16 to be published on the website of Defendant Punch Drunk Gamer. A
17 true and copy of the publication is attached hereto as Exhibit "A"
18 and incorporated herein by this reference as though fully set
19 forth.

20 37. Subsequent to that time, numerous MMA and UFC related
21 websites published the comments made by Ortiz and in some
22 instances, added defamatory remarks to their publications.

23 38. By way of example, Defendant ChikiP published an article
24 entitled "Tito Ortiz Confirms Juanito Ibarra's Scumbaggery" which
25 contained a large photograph of Plaintiff with a quote below it
26 from the well known film "Scarface." The quote states "Ju know
27 what a 'chazzer' is, Juanito? Thassa pig that don't fly straight."

AMERICAN BAR ASSOCIATION
2008-2009

1 39. By way of further example, Defendants Future US, Inc.
2 and Five Ounces of Pain published articles which falsely claim that
3 since Rampage Jackson fired Plaintiff, Rampage Jackson has all but
4 been removed from an industry related lawsuit filed by White
5 Chocolate Management against Plaintiff and Jackson for \$10 million.

6 40. Defendants published the foregoing statements with the
7 intent to disparage Plaintiff, personally, and in his business,
8 trade and profession.

9 41. The information contained in and implied by the
10 publication conveys false and defamatory information that Plaintiff
11 is dishonest; that Plaintiff has stolen from his fighters; that
12 Plaintiff is not trustworthy; that Plaintiff places his own
13 personal interests ahead of the fighters he manages; that Plaintiff
14 engages in self-dealing; that Plaintiff is liable for the claims
15 brought by White Chocolate against Plaintiff and Rampage; and that
16 the foregoing information has been confirmed by Defendant Ortiz.

17 42. Defendants created their websites and magazines to
18 provide news and gossip about the UFC and the MMA worldwide.
19 Defendants orchestrated these publicity campaigns to promote
20 themselves and their companies, in press releases and internet
21 publications through a campaign of false, defamatory and malicious
22 accusations against Plaintiff.

23 43. Defendants conveyed such false and defamatory meanings
24 through each of their specific statements as well as the
25 combination of such statements and the juxtaposition of words,
26 which in the aggregate in each publication, and in the context of
27 all publications, conveyed the foregoing defamatory and false

1 meanings of and concerning Plaintiff.

2 44. Each of the statements posted by Defendants, and the
3 implications therefrom, is false, libelous and damaging to
4 Plaintiff, both professionally and personally and are tremendously
5 damaging to Plaintiff's personal and professional reputation.

6 45. At the time of Defendants' publications of these false
7 and defamatory statements, implications and meanings, Defendants
8 knew of their falsity or were made with reckless disregard as to
9 their truth or falsity and failed to use reasonable care to
10 determine the truth or falsity of each statement set forth above.

11 46. The statements made above would be highly offensive to
12 the reasonable person.

13 47. Plaintiff is a private citizen and his reputation is not
14 a matter of public concern.

15 48. Defendants' false and defamatory campaign of self-
16 promotion was published continuously over the internet twenty-four
17 hours a day, seven days a week and continues unabated to this day.

18 49. As a direct and proximate result of Defendants' false and
19 defamatory campaign of self-promotion, Plaintiff has suffered
20 actual and consequential damages, including but not limited to
21 damages to his reputation. Plaintiff has sustained and will sustain
22 damages and suffered anxiety, worry, mental anguish and emotional
23 distress, and other incidental damages, attorneys' fees and out of
24 pocket costs, in an amount not yet ascertained but within the
25 jurisdiction of this Court. Plaintiff will seek leave to amend
26 this Complaint to allege the exact amount of his damages when the
27 same have been finally ascertained.

1 50. Defendants' conduct was undertaken with the intent to
2 injure Plaintiff, or with a willful and conscious disregard of his
3 rights, and constitutes clear and convincing evidence of
4 despicable, outrageous, oppressive and malicious conduct pursuant
5 to Section 3294 of the California Code of Civil Procedure.
6 Plaintiff is entitled to punitive and exemplary damages against
7 Defendants for the sake of example and to punish Defendants for
8 their unlawful conduct.

9 **SECOND CAUSE OF ACTION**

10 **(For Invasion of Privacy (False Light) Against All Defendants)**

11 51. Plaintiff repeats, repleads and realleges paragraphs 1
12 through 50, inclusive, of this Complaint and incorporates the same
13 herein by the reference as though set forth in full.

14 52. The statements made by Defendants as alleged herein placed
15 Plaintiff in a false light.

16 53. As a direct and proximate result of Defendants' conduct,
17 Plaintiff has suffered actual and consequential damages, including
18 but not limited to damages to his reputation. Plaintiff has
19 sustained and will sustain damages and suffered anxiety, worry,
20 mental anguish and emotional distress, and other incidental
21 damages, attorneys' fees and out of pocket costs, in an amount not
22 yet ascertained but within the jurisdiction of this Court.
23 Plaintiff will seek leave to amend this Complaint to allege the
24 exact amount of his damages when the same have been finally
25 ascertained.

26 54. Defendants' conduct was undertaken with the intent to
27 injure Plaintiff, or with a willful and conscious disregard of his

1 rights, and constitutes clear and convincing evidence of
2 despicable, outrageous, oppressive and malicious conduct pursuant
3 to Section 3294 of the California Code of Civil Procedure.
4 Plaintiff is entitled to punitive and exemplary damages against
5 Defendants for the sake of example and to punish Defendants for
6 their unlawful conduct.

7 THIRD CAUSE OF ACTION

8 (For Intentional Infliction of Emotional Distress Against All
9 Defendants)

10 55. Plaintiff repeats, repleads and realleges paragraphs 1
11 through 54, inclusive, of this Complaint and incorporates the same
12 herein by the reference as though set forth in full.

13 56. This conduct complained of was extreme and outrageous and
14 done for the purpose of unlawfully hurting Plaintiff, while knowing
15 that Defendants' conduct was likely to cause Plaintiff to incur
16 extreme emotional distress.

17 57. As a direct and proximate result of said Defendants'
18 conduct, Plaintiff has sustained and will sustain damages and
19 suffered anxiety, worry, mental anguish and emotional distress, and
20 other incidental damages, attorneys' fees and out of pocket costs,
21 in an amount not yet ascertained but within the jurisdiction of
22 this Court. Plaintiff will seek leave to amend this Complaint to
23 allege the exact amount of his damages when the same have been
24 finally ascertained.

25 58. Defendants' conduct was undertaken with the intent to
26 injure Plaintiff, or with a willful and conscious disregard of his
27 rights, and constitutes clear and convincing evidence of

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1 despicable, outrageous, oppressive and malicious conduct pursuant
2 to Section 3294 of the California Code of Civil Procedure.
3 Plaintiff is entitled to punitive and exemplary damages against
4 Defendants for the sake of example and to punish Defendants for
5 their unlawful conduct.

6 **FOURTH CAUSE OF ACTION**

7 **(For Negligent Infliction of Emotional Distress Against All**
8 **Defendants)**

9 59. Plaintiff repeats, repleads and realleges paragraphs 1
10 through 58, inclusive, of this Complaint and incorporates the same
11 herein by the reference as though set forth in full.

12 60. Defendants, in making and publishing the false and
13 defamatory about Plaintiff and engaging in the conduct described
14 above, negligently caused Plaintiff extreme emotional distress.

15 61. Defendants' conduct, as alleged hereinabove, was
16 unlawful and outrageous, and done for the purpose of unlawfully
17 intimidating and hurting Plaintiff.

18 62. As a direct and proximate result of said Defendants'
19 conduct, Plaintiff has sustained and will sustain damages and
20 suffered anxiety, worry, mental anguish and emotional distress, and
21 other incidental damages, attorneys' fees and out of pocket costs,
22 in an amount not yet ascertained but within the jurisdiction of
23 this Court. Plaintiff will seek leave to amend this Complaint to
24 allege the exact amount of his damages when the same have been
25 finally ascertained.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, individually, and each of them, as follows:

On The First Cause Of Action:

1. For compensatory and consequential damages in an amount to be proved at trial but which amount exceeds this Court's jurisdictional minimum.

On the First, Second and Third Causes of Action:

1. For exemplary and punitive damages according to proof.

On All Causes Of Action

1. For reasonable costs incurred in this action.

2. For such other and further relief as the Court may deem just and proper.

DATED: June 4, 2009

KRANE & SMITH

By: 

SAMUEL KRANE

SAMUEL J. SMITH

Attorneys for Plaintiff

JOHN IBARRA

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