

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DAVID ROBERTSON, and	)	JURY DEMAND
DANIEL RODNI,	)	
	)	Case No.
Plaintiffs,	)	
	)	Judge:
v.	)	
	)	
RYAN UPCHURCH,	)	
	)	
Defendant.	)	

COMPLAINT

Introduction

1. This diversity action arises from the defamatory and tortious conduct of Defendant Ryan Upchurch, as explained below.

2. Ryan Upchurch is a media personality, musician, and prolific “YouTuber” who has approximately 3,110,000 subscribers on YouTube as of the date of this filing.

3. Upchurch began posting about the disappearance of Kiely Rodni, the granddaughter of Plaintiff David Robertson and the daughter of Plaintiff Daniel Rodni, after Kiely’s disappearance in August 2022 became a viral international news story.

4. There is an entire industry of “true crime” would-be sleuths posting all kinds of information on the internet.

5. Upchurch had not previously participated in so-called “true crime” YouTube but began to do so as the Kiely Rodni case became “news.”

6. Kiely Rodni disappeared after a party near Tahoe National Forest on August 6, 2022.

7. In the weeks following her disappearance, numerous online posters began wildly speculating as to “what really happened” to Kiely Rodni. (As it would ultimately turn out, Kiely died of drowning when her vehicle crashed into the Prosser Reservoir and became submerged below fourteen feet of water. No foul play was suspected.)

8. Ryan Upchurch was a prominent figure in this wild speculation.

9. After Kiely’s Rodni body had been found, and after authorities had publicly stated that an autopsy had confirmed her identity, Upchurch uploaded several videos making outlandish claims, including that Kiely Rodni, Daniel Rodni, and David Robertson were “not real” and that the entire tragic episode was a “scam” by Kiely’s family to raise money on a GoFundMe website.

10. Upchurch also published images of David Robertson and further published Daniel Rodni's former home address to his 3 million subscribers.

11. Mr. Upchurch has a loyal following of viewers who refer to themselves as the "creek squad."

12. Upchurch directed the "creek squad" to search for Kiely Rodni's vehicle and posted google earth images of Daniel Rodni's former home, falsely stating that he had "found" Kiely's car there.

13. While generating hundreds of thousand views on his videos relating to Kiely Rodni's disappearance, Upchurch promoted his own music, often uploading new music content between videos on the Kiely Rodni case.

14. Daniel Rodni essentially went into hiding, and made substantial investments in home security, surveillance, cameras, etc.

15. Several "creek squad" members made outlandish videos of their own.

16. One self-admitted creek squad member, named "Julio," made several videos under the moniker "An All American Cartel LLC."

17. Julio posted videos of the Lost Trail Lodge, a vacation resort operated by David Robertson.

18. In one of these videos, Julio speculated that the Rodni / Robertson family was performing child sacrifices at the lodge as part of a religious cult.

19. Several creek squad members flooded the Lodge's internet profiles with negative online reviews.

20. The negative attention directed to David Robertson and his lodge caused him to suffer financial losses.

21. David Robertson and Daniel Rodni have each experienced extreme emotional distress attributable to Upchurch's postings, compounding their already profound grief at the tragic loss of their granddaughter and daughter.

22. This lawsuit seeks to hold Upchurch accountable for his tortious actions and intentional misconduct, as outlined below.

PARTIES

23. David Robertson is a citizen and resident of California.

24. Daniel Rodni is a citizen and resident of California.

25. Ryan Upchurch is a citizen of Tennessee and resides in the Middle District of Tennessee.

JURISDICTION AND VENUE

26. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and because there is complete diversity of citizenship between the Plaintiff and the Defendants.

27. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this District and because Defendant resides in this District.

28. Suit is timely filed pursuant to a tolling agreement agreed to by all parties on February 13, 2023.

FACTUAL BACKGROUND

I. Kiely Rodni Disappears on August 6, 2022.

29. Plaintiffs incorporate all above paragraphs.

30. Kiely Rodni disappeared on August 6, 2022. Her disappearance became international news.

31. On August 7th, a family of Kiely's mother, Lindsey Nieman, created a GoFundMe page titled: "Support for the Family of Kiely Rodni".

32. Plaintiffs David Robertson and Daniel Rodni are members of the family of Kiely Rodni.

II. Upchurch posts his first video about Kiely Rodni on August 13, 2022, and soon accuses fellow YouTubers of involvement in Kiely's death.

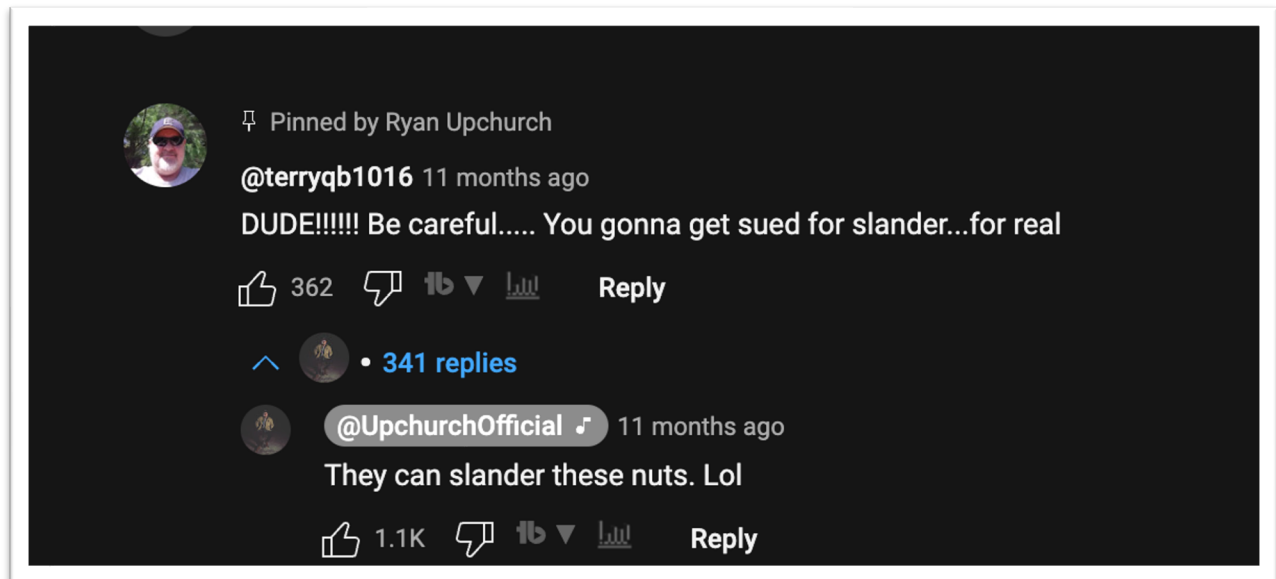
33. Ryan Upchurch began posting about Kiely Rodni on YouTube on August 13, 2022.

34. At this time, the whereabouts of Kiely Rodni were unknown.

35. In these videos, Upchurch offered outlandish "theories" of the truth of what happened to Kiely Rodni.

36. Upchurch initially theorized that a person named “Ronnie,” who was a caller to a YouTube show hosted by YouTuber “iCkEdMel”, was a “red herring” and a “made up character.”¹

37. In a comment reply to this video, “Red Flag Ronnie #2,” a YouTube user posted: DUDE!!!!!! Be careful.... You gonna get sued for slander...for real.” Upchurch replied to this user: “They can slander these nuts. Lol.” (screenshot below):



38. In a video posted on August 20, 2022, Upchurch falsely claimed that various other YouTube “true crime” would-be sleuths,

¹ <https://www.youtube.com/watch?v=LpIyq0NB8ps>, titled *Red Flag Ronnie #2*, upload date, August 17, 2022.

including YouTube personalities “XanamayX” and “iCkEdMeL” were responsible for or somehow involved in the death Kiely Rodni.

39. In the video, titled “EXACTLY what i [sic] think happened to Kiely Rodni #kielyrodni,” Upchurch suggested that XanamayX and iCkEdMeL were responsible for the disappearance of Kiely Rodni, stating:

If you look at the timeline of Kylie being there, Ronnie's seeing that and her [XanamayX] having a video of the party, **isn't it possible that they took her** which is why no kids seen [sic] this? And if that's what happened, that would explain why ichmel [sic] is acting crazy and being like “look everyone, Ronnie's real.”

[emphasis added.]

40. The same day, August 20, 2022, Upchurch uploaded a different video, this time wildly speculated that “Ickedmel” was a “sex trafficking [sic] code word.”²

² <https://www.youtube.com/watch?v=nvpAIrEuWUs>, ““*Ickedmel*” is a sex trafficking code word. 🤔,” upload date August 20, 2022.

III. Kiely Rodni's body is discovered on August 21, 2022.

41. Kiely Rodni's body was discovered on August 21, 2022.

42. That day, authorities publicly confirmed that the body was "more than likely" Kiely Rodni and that an autopsy had been ordered to confirm the identity.³

43. Authorities confirmed the identity of Kiely Rodni on August 23, 2022.

44. The Placer County, California Sheriff's Office posted the following statement to the Sheriff's public Facebook page on August 23, 2022:

"Today, an autopsy was conducted on the deceased individual who was found in the Prosser Reservoir on Sunday, August 21st. The Nevada County Sheriff-Coroner has identified the decedent as 16-year-old Kiely Rodni, of Truckee. The Placer County Sheriff's Office and the Nevada County Sheriff's Office are in communication with Kiely's family and offer our deepest condolences to them during this extremely difficult time. This is an ongoing investigation, and no other information is available at this time."

³ <https://www.cnn.com/2022/08/23/us/kiely-rodni-california-body-autopsy/index.html>, *Body discovered in submerged car confirmed to be missing California teen Kiely Rodni, police say*, last visited July 24, 2023

<https://www.facebook.com/photo/?fbid=429243672570855&set=a.217808103714414>, last visited July 24, 2023.

45. The Placer County Sheriff's Office attached the below image to this Facebook post. The image reads: "Identity of Kiely Rodni Confirmed."



(Image uploaded by Placer County Sheriff's Department on August 23, 2022.)

46. The Placer County Sheriff's Office publicly stated the Sheriff's Office was "in communication with Kiely's family and offer our deepest condolences to them during this extremely difficult time."

47. On August 22, 2022, Kiely Rodni's family released a public statement, which was widely reported. In the statement, the family asked for privacy to grieve: "Kindly excuse us as we retreat and dance privately to life's song while we celebrate our daughter's spirit and heal our souls."⁴

⁴ <https://people.com/crime/kiely-rodni-family-speaks-out-amidst-discovery-of-vehicle-and-remains/>, *Kiely Rodni's Family Speaks Out After Discovery of Vehicle and Remains: 'We Celebrate Her Spirit'*, last visited July 24, 2023

48. The full statement is reproduced below:

Family Statement Regarding Kiely Mae Rodni

FOR IMMEDIATE RELEASE

TRUCKEE, CALIF. (August 22, 2022) — Friends, Family, Law Enforcement, Media, and our Global Community:

We are eternally grateful for the love and support you have shown us in the last couple of weeks. We have weathered a storm of unfathomable force, and it is purely thanks to the army of warriors, matriarchs, healers, and helpers holding us up that we continue to stand today. Mr. Rogers famously told a story of “looking for the helpers” whenever he saw scary things in the news. We have not had to look for the helpers, as you have all come to our rescue in full force. We are forever indebted to you.

While we accept this sadness cast under death’s shadow, the rising sun shines light upon us, reminding us not to mourn our loss, but to celebrate Kiely’s spirit and the gift that we all received in knowing her. Kiely will surely remain with us even though we will not get her back.

There are certain occasions when words fail. Perhaps this is why our human nature has given us art, dance, and music, which all are often more effective ways to connect us to each other and our rawest emotions. Kindly excuse us as we retreat and dance privately to life’s song while we celebrate our daughter’s spirit and heal our souls.

In gratitude,

The Rodni-Nieman Family

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49. On August 22, the day after Kiely Rodni's body was found, Upchurch posted a video in which he appeared to express his condolences to "Kiely's mom, and Kiely's family, and Kiely's friends."⁵

50. That is, upon information and belief, Upchurch was aware on August 22, 2022, that the authorities had stated that they had recovered a body that was more than likely Kiely Rodni.

51. In the same video, Upchurch appeared to criticize other YouTubers for capitalizing on the Kiely Rodni case to promote themselves.

52. Two days later, Upchurch uploaded a video promoting his own music.⁶

⁵ <https://www.youtube.com/watch?v=buwEYDCcZh4>, *These people WILL be investigated over Kielys car. #kielyrodni*, uploaded August 22, 2022.

⁶ <https://www.youtube.com/watch?v=CdnlxZzgxxw>, *Upchurch "SUPERSTAR" (OFFICIAL MUSIC VIDEO)*, uploaded August 24, 2022.

IV. After Kiely Rodni's body is found and her identity is confirmed, Upchurch publicly claims Kiely Rodni is a "bullshit person," her family is "not real," and her death is a "scam" to raise money on GoFundMe.

53. On August 29, 2022, after Kiely Rodni's body had been found, and after authorities had confirmed Kiely's identity, and after Kiely's family had released a public statement, Upchurch uploaded a video titled:"" ZERO proof of Kiely Rodni situation being REAL."⁷

54. In this video, Upchurch stated: "Everyone telling me I should be ashamed of myself, how dare you, that, oh, this is faked—show me that it's real. Show me proof of Kiely Rodni."

55. Also in this video, Upchurch suggested the Kiely Rodni case was a "scam" to raise money through GoFundMe:

Do you realize that you can be a millionaire on GoFundMe by catfishing people with internet deaths? You could do it fast as fuck. Look at the Kiely Rodni GoFundMe. It's made \$63,000 in the past seven days. That's one GoFundMe for Kiely Rodni. If you have five GoFundMe's for each individual person that you catfish, fake a death with, all you need is three people. Three people. Three viral stories. You're a millionaire in two weeks. Now, that might raise red flags. There might be discrepancies in you getting your money, but, you see how, I just said that and explained that? That will be taken and interpreted by people who are in on the scheme, that are getting a cut of the money. I mean, why wouldn't they defend

⁷ <https://www.youtube.com/watch?v=xodSkojnAfA>, *ZERO proof of Kiely Rodni situation being REAL.*, uploaded August 29, 2022.

it. It's free money. It's free money that gets the heat off of you because everybody's looking for a bullshit person that you made up because, why, because you pushed a car in the lake?

...

Show me real proof of Kylie Rodney existing ... show me anything that indicates this is real. You can't. 'Cause it ain't. It's a scam.

56. This video had 246,835 views as of July 24, 2023.

57. Kiely Rodni was a real person.

58. On September 1, 2022, Upchurch posted a video titled: "Found another picture of Kiely's CRV on google earth 🤔." ⁸ This video was a phone screen recording of Upchurch performing internet searches relating to Plaintiff Daniel Rodni.

59. In this video, Upchurch searched for "kiely rodni's dad," "Daniel Rodni," and posted a phone number and address for Daniel Rodni.

60. Upchurch also posted a Google Earth recording purporting to locate Daniel Rodni's home.

⁸ <https://www.youtube.com/watch?v=XBACDiy88cA>, upload date September 1, 2022, last visited July 26, 2023.

61. Upchurch zoomed into a pixelated image, which, per the title of the video, he claimed was “another picture of Kielys CRV.”

62. This video has 146,301 views at the time of this filing.

63. As a result of this video and the ensuing negative attention he received, Daniel Rodni essentially went into hiding, and made substantial investments in home security, surveillance, cameras, etc.

64. On September 3, 2022, Upchurch uploaded a video titled ““CALLIE RODNI” (Random Access Memory) 🧠 #kielyrodni.”⁹

65. In this video, Upchurch stated:

“Kiely Rodni is not Kiely Rodni. Kiely Rodni is Callie Ross. Callie Ross’s dad is fake Kiely Rodni’s grandpa . . .

So if you look at Kiely, K-I-E-L-Y, and look at her situation, and who’s around her, look at the (air quotes) “grandpa”, because the grandpa on Kiely, K-I-E-L-Y’s page, is the dad on C-A-L-L-I-E’s page.”

66. In this video, Upchurch posted photographs of Plaintiff David Robertson, with quotation marks around the phrases “Kiely Rodni’s grandpa” and “Kiely’s grandpa.”

⁹ <https://www.youtube.com/watch?v=1Mm77xUV5to>, uploaded September 3, 2022, last visited July 26, 2023.



67. This video has 241,454 views at the time of this filing.

68. Also on September 3, 2022, Upchurch uploaded a YouTube Short video, titled: “Kiely Rodni is actually a woman named Callie Ross. Video coming in a hour.”¹⁰

69. In this video, Upchurch asserted that Kiely Rodni, Daniel Rodni, David Robertson, and Kiely Rodni’s mother were “not real.”

70. Specifically, Upchurch stated:

I would not say this unless I was 100% confident. Kiely Rodni is not real. Her grandfather is not real. Her dad is not real. Her mom is not real . . . All the pictures and videos you’re seeing of this Kiely Rodni person are actual pictures and videos from someone else named Callie, that are five to seven years old.

71. This video has 324,144 views at the time of this filing.

72. On September 7, 2022, Upchurch uploaded a video titled: “Still no pictures of Kiely Rodni at this party? #kielyrodni #upchurch”¹¹.

73. In this video, Upchurch stated:

“It’s been what, like four days since I made an update video on the Kiely Rodni case. Man, the comments are just flooded with snotty-nosed fucking idiots. When you gonna give that apology? When you gonna give that apology? Never. There you go. Does that make you happy? Probably not. You’re probably fucking tearing

¹⁰ https://www.youtube.com/shorts/d0igtY_8mKI, uploaded September 3, 2022, last visited July 26, 2023.

¹¹ <https://www.youtube.com/watch?v=Yv3yrI7SHow>, uploaded September 7, 2022, last visited July 26, 2023.

up your whole room right now. And I don't care. I still think the same exact thing. I don't know why everyone's in the comments being like why'd you change your story again? . . . No, it's still the same story, I still think it's bullshit. Still not buying it. Just not.

74. In this video, Upchurch again directly referred to Plaintiff David Robertson, stating:

The grandpa, why is the grandpa on Facebook and on YouTube telling people in the comments "leave me alone?" . . . What?

75. This video has 122,624 views at the time of this filing.

76. Upchurch continued to post about the Kiely Rodni case as late as December 22, 2022, when he uploaded a video titled: "Kiely Rodni ONLY logic (Part 1)."¹²

77. In this video, Upchurch stated:

Let's be honest with ourself [*sic*], at this point in the video, there is nothing to lead me to believe that this person is real. The Kiely Rodni person. There is nothing that shows me she's real yet.

78. In this video, Upchurch also reiterated his "theory" that Kiely Rodni was a girl named Callie Ross.

¹² <https://www.youtube.com/watch?v=t2eH3mUhHoc>, uploaded December 22, 2022.

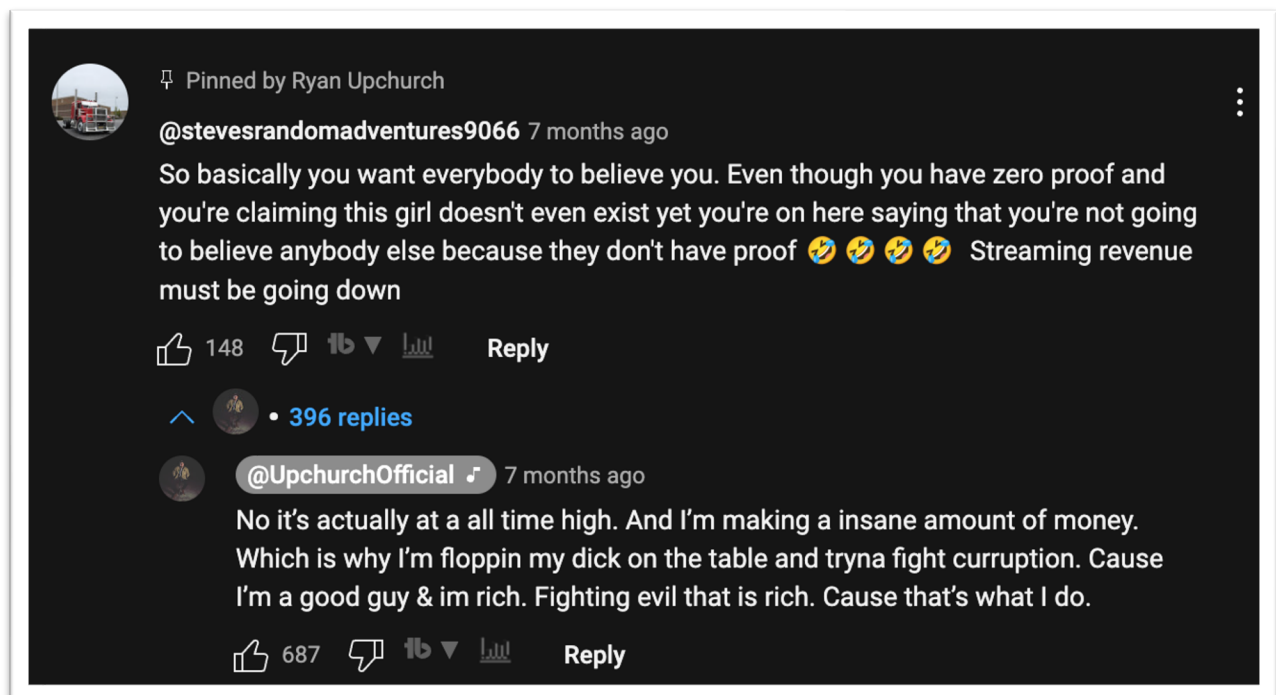
79. In a comment to this video, a YouTuber named @stevesrandomadventures9066 commented:

“So basically you want everybody to believe you. Even though you have zero proof and you're claiming this girl doesn't even exist yet you're on here saying that you're not going to believe anybody else because they don't have proof 🤔🤔🤔🤔 Streaming revenue must be going down.”

80. Upchurch replied to this comment:

“No it's actually at a all time high. And I'm making a insane amount of money. Which is why I'm floppin my dick on the table and tryna fight currupction. Cause I'm a good guy & im rich. Fighting evil that is rich. Cause that's what I do.”

81. A photo of this exchange is below:



CAUSES OF ACTION

I. Defamation

82. Plaintiffs incorporate all above paragraphs.

83. In addition to the statements described above, Plaintiffs submit a video montage, **Exhibit A**, of various defamatory statements made by Upchurch in his video broadcasts.

84. Upchurch published several statements of and concerning both David Robertson and Daniel Rodni through the broadcasting of his YouTube videos relating to the Kiely Rodni case.

85. Upchurch's false claims that Kiely Rodni was not real, David Robertson was not real, and Daniel Rodni were not real defamed Plaintiffs.

86. Upchurch's false claims that Kiely Rodni was a "bullshit person" and that her disappearance was a "scam" to raise money on GoFundMe defamed Plaintiffs.

87. Upchurch's false claims that Plaintiffs were in fact relatives of a person named Callie Ross, implying that Plaintiffs were actors

pretending to be someone other than they in fact were, defamed Plaintiffs.

88. Upchurch's false claims that Plaintiffs were involved in a scheme to "catfish fake a death" defamed Plaintiffs.

89. As a result of all these statements, Plaintiffs suffered reputational injury, financial losses, and emotional distress.

90. Upchurch made each of the above statements only after authorities had publicly identified Kiely Rodni and confirmed her identity.

91. Upchurch made each of the above statements only after Kiely Rodni's family had released a written statement confirming her death.

92. Upchurch thus made his false and defamatory publications with reckless disregard for the falsity of the statement.

93. At a minimum, Upchurch acted with negligence in failing to ascertain the truth of the false statements he published to his ~3 million YouTube subscribers.

II. False Light Invasion of Privacy

94. Plaintiff incorporates all above paragraphs.

95. For the same reasons that Upchurch may be held liable for defamation, he may be held liable for false light invasion of privacy.

96. Upchurch's false statements concerning the Plaintiffs placed them in a false light which would be highly offensive to a reasonable person.

97. It would be highly offensive to a reasonable person to be falsely accused of participating in a "scam" to profit from GoFundMe.

98. It would be highly offensive to a reasonable person to be falsely accused of having misrepresented themselves and their identities, lying about who they are, and who their loved ones are.

99. It would be highly offensive to a reasonable person to be accused of being "fake" and "not real" while grieving the tragic death of a loved one, whom Upchurch also referred to as "a bullshit person," "fake," and "not real."

100. It would be highly offensive to a reasonable person to be called "fake" and "not real" in the days after their daughter / granddaughter suffered a tragic fatal accident.

101. Upchurch acted with reckless disregard of the truth of these statements, as described above.

102. In fact, Upchurch himself appeared to understand the statements were false, as he had previously expressed condolences to “Kiely’s mom” (in a video published August 22), before later declaring “Kiely’s mom is not real” (in a video published September 3).

III. Intentional Infliction of Emotional Distress

103. Plaintiffs incorporate all above paragraphs.

104. As described above, Upchurch's conduct in uploading his defamatory videos was intentional, and he acted with reckless disregard for the falsity of his defamatory statements.

105. Upchurch chose to target members of a grieving family, who only days earlier had learned the tragic news that their 16-year-old daughter and granddaughter had died in a fatal accident.

106. In espousing his false claims, Upchurch capitalized on the media attention the Kiely Rodni disappearance had attracted to promote his own music and capture streaming revenue from YouTube views.

107. In fact, Upchurch openly bragged in the comments to one of these videos about making money from the Kiely Rodni case, stating: "I'm making a insane amount of money."

108. Upchurch directed his loyal band of followers, the "creek squad," to search for Kiely Rodni's car. He then uploaded a video claiming to have discovered the car at the home of Daniel Rodni. As a result of these actions, Daniel Rodni was subjected to an invasion of his privacy and personal security.

109. Upchurch's conduct in belittling a grieving family, accusing them of essentially being actors faking their loved one's death to profit from a "scam" to profit from GoFundMe, was outrageous conduct that no civilized society should tolerate.

110. As a result of Upchurch's videos and statements, Plaintiffs have suffered serious mental injury, each seeking therapy for psychological injuries specifically attributable, as documented in the medical records, to the conduct of Ryan Upchurch.

IV. Negligent Infliction of Emotional Distress

111. Plaintiff incorporates all above paragraphs.

112. For the reasons stated above, Upchurch may be held liable for negligent infliction of emotional distress.

113. As a result of Upchurch's video publications and false statements, Plaintiffs suffered serious mental injury, as described above.

V. Damages

114. Plaintiff incorporates all above paragraphs.

115. Plaintiffs specifically aver that the law of California with respect to the issue of remedies and damages should apply to this action, as Plaintiffs reside in California, all injuries complained occurred in California, and all treatment for such injuries occurred in California.

116. The parties have no relationship with each other except through the transmission of Upchurch's YouTube videos, which Plaintiffs were made aware of and viewed in California.

117. California thus has the most significant relationship to the parties and occurrence at issue, and California's law of damages should apply.

118. Plaintiffs pray for a recovery of all compensatory damages available under the law, including damages to their reputation, financial losses, emotional distress, and punitive damages, based on Upchurch's outrageous, intentional, reckless, and conscious-shocking tortious actions.

119. Plaintiff prays for a jury to try this action.

Respectfully submitted,

DAVID RANDOLPH SMITH & ASSOCIATES

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