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

DAVID ROBERTSON, and DANIEL RODNI,	)	JURY DEMAND
	)	
	)	Case No. 3:23-cv-00770
Plaintiffs,	)	
	)	Judge: Campbell
v.	)	
	)	Magistrate: Holmes
RYAN UPCHURCH,	)	
	)	
Defendant.	)	

FIRST AMENDED COMPLAINT

Introduction

> "The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty."

Rosenblatt v. Baer, 383 U.S. 75, 92 (1966) (Stewart, J., concurring).

1. This Amended Complaint is filed pursuant to FRCP 15(a)(1)A).

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

3. Ryan Upchurch is a media personality, musician, and prolific "YouTuber" who has approximately 3,140,000 subscribers on YouTube as of the date of this filing.

4. 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.

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

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 of the above paragraphs.

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

31. On August 7th, a family friend 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.

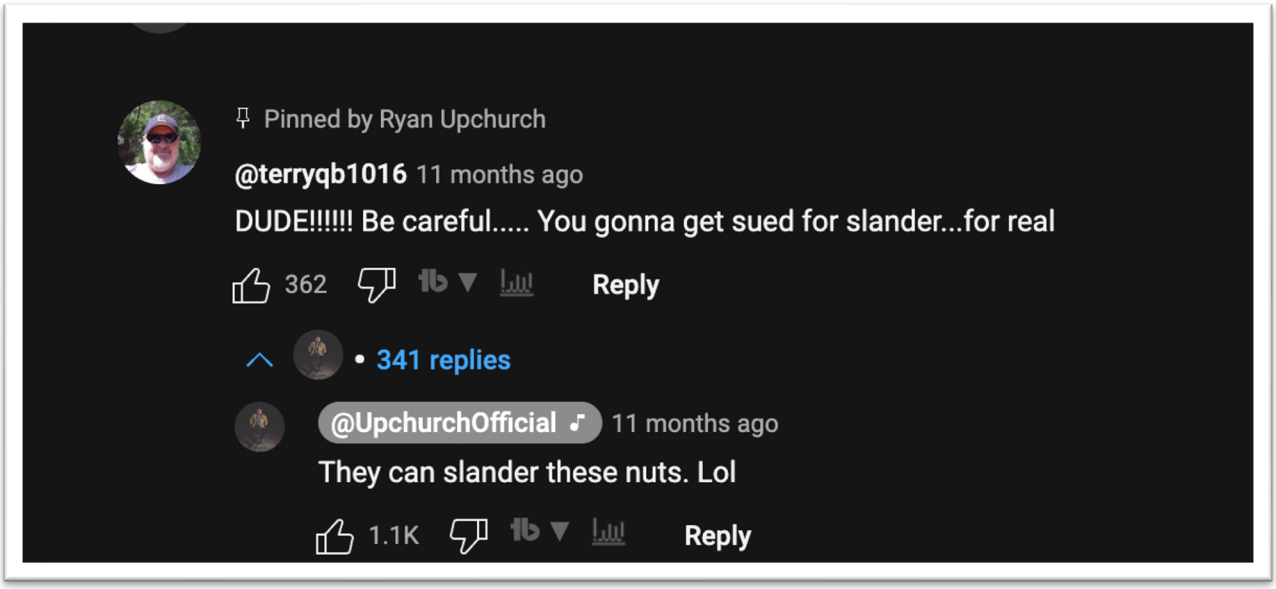
34. At this time, the whereabouts of Kiely Rodni were unknown.

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):

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



38. In a video posted on August 20, 2022, Upchurch falsely claimed that various other YouTube "true crime" would-be sleuths, 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 Kiely 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 speculating that "Ickedmel" was a "sex trafficing [sic] code word."[2]

41. Both Ickedmel and Xanamayx were subjected to online harassment by self-admitted followers of Ryan Upchurch.

42. Upchurch thus has a pattern of publishing reckless false views and subjecting the target of those views to online harassment, cyberbullying, threats, and intimidation perpetrated by self-admitted followers of Upchurch, also known as "creek squad" members.

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[2] https://www.youtube.com/watch?v=nvpAIrEuWUs, titled: ""*Ickedmel" is a sex trafficking* [sic] *code word.* 👀," upload date August 20, 2022.

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

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

44. 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]

45. Upchurch became aware on August 21, 2022, that Kiely Rodni's body had been recovered by the amateur dive team known as "Adventures with Purpose" ("AWP").

46. In fact, Upchurch's discovery that Kiely Rodni's body had been found can be viewed in real-time, as he was participating in a YouTube "live" when AWP posted to Facebook that they had recovered Kiely Rodni's body.[4]

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[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

[4] https://www.youtube.com/watch?v=2zW2L5Z6iPs, *Ryan Upchurch says a nice prayer for Kiely Rodni right after we found out she was found*, uploaded August 21, 2022, last visited August 1, 2023.

47. In this video, Upchurch purported to offer a "prayer" for "Kiely" and "Kiely's family":

> "May we pray for Kiely, Kiely's family, Kiely's friends. And I want to say that, **nobody should really be doing anything about this now. There really shouldn't be anything put anywhere that's gonna make her mom even more devastated than she's already gonna be."**
>
> (Emphasis added.)

48. That is, Upchurch accepted on August 21, 2022, that Kiely Rodni was real.

49. Upchurch accepted on August 21, 2022, that Kiely had died.

50. Upchurch understood as of August 21, 2022, that further online posting ("anything put anywhere") relating to Kiely Rodni could traumatize Kiely's family.

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

52. 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."

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

53. 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.)

54. 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."

55. 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."[5]

[5] https://people.com/crime/kiely-rodnis-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

56. 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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57. 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."[6]

58. 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.

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

60. Two days later, Upchurch uploaded a video promoting his own music.[7]

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

[7] https://www.youtube.com/watch?v=CdnlxZzgxww, *Upchurch "SUPERSTAR" (OFFICIAL MUSIC VIDEO)*, uploaded August 24, 2022.

IV. On August 28, 2022, Upchurch posts a video in which he accuses the Placer County Sheriff's Office of being a "fake police department," states there "ain't no dead body," "ain't no Kiely Rodni," "it's bullshit," "it's fake" and says the police are involved in faking Kiely Rodni's existence and death.

61. Plaintiff incorporates all above paragraphs.

62. On August 28, 2022, Upchurch uploaded a video titled: "Kiely Rodni case = no answers, no proof of anything & false info THATS ALL."[8]

63. In this video, Upchurch played a video of a law enforcement press conference attended by various law enforcement agencies providing updates on the recovery of Kiely Rodni's body and the status of the investigation.

64. Upchurch then commented:

> "All this stuff is fucking bullshit. Yeah you heard me right. All this shit is bullshit . All of it. It's all bullshit. Show me one thing that's real. You can't. There ain't one . . .
>
> There ain't no fucking dead girl, bro. There ain't . . .
>
> There is no actual crime. The only crime that is going on is a fucking, a scam to get GoFundMe money . . .

[8] Available at https://web.archive.org/web/20220830035820/https://www.youtube.com/watch?v=IOa-c9_BBUg, last visited August 1, 2023.

> There's a bunch of impostor, bullshit, thrown together news sites on the internet that's pushing the shit and being like, "hit the GoFundMe!" Yeah, that's all this is bro. That's all this is. That's all the Kiely Rodni thing is.
>
> Why you think when the police said: "hey, we found the car and Kiely's body" and Sammy got on Instagram and was like "no they didn't"? Because, they didn't. There ain't no body. There ain't no Kiely Rodni. It's bullshit. It's fake.
>
> If you switch around the letters to the name "Kiely Rodni," the way they spell it, it comes out as "I killed Ronnie."

65. Upchurch continued, in the same video, to state that the police were somehow involved in faking Kiely Rodni's existence and death:

> How can you fake a death? Well, fuck, dude, if you're the police. I mean, shit, I mean, hello. You can make some bullshit documents, get a bullshit car, fucking get a bullshit tag, make a bullshit profile with a bullshit person, fucking, I don't know, fucking, get rid of the car, be like, fuck, dude, this person's missing, we got to find them, GoFundMe. Free money. Hello.

66. Upchurch then continued to post the address of the Placer County Sheriff's Office's Tahoe Substation location, 2501 N Lake Boulevard, Tahoe City, CA 96145, and falsely stated: "it is a fake police department, fam."

67. Upchurch referred to the Tahoe substation location of the Placer County Sheriff's Office, which is listed on the Placer County official government website[9], as "the bullshit Placer Sheriff's Office," continuing: "there is a fake Sheriff's Office, bro."

68. Upchurch concluded this video with the statement: "I'm done with internet crime stuff. I'm not interested anymore."

69. Upchurch removed this video from his public YouTube profile on August 30, 2022.

70. In the short time the video was live, it garnered 181,146 views.

[9] https://www.placer.ca.gov/Directory.aspx?DID=120, last visited August 1, 2023.

V. 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.

72. Plaintiff incorporates all above paragraphs.

73. Ryan Upchurch was not, in fact, "done with internet crime stuff" as he stated on August 28, 2022.

74. 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."[10]

75. 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."

76. 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.

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

> 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 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 Kiely Rodney existing … show me anything that indicates this is real. You can't. 'Cause it ain't. It's a scam.

77. This video had 247,138 views as of the date of this filing.

78. Kiely Rodni was a real person.

79. David Robertson is the grandfather of Kiely Rodni.

80. Daniel Rodni is the father of Kiely Rodni

81. David Robertson has no relation to Callie Ross.

82. Daniel Rodni has no relation to Callie Ross.

83. David Robertson did not participate in a GoFundMe "scam."

84. Daniel Rodni did not participate in a GoFundMe "scam."

85. On September 1, 2022, Upchurch posted a video titled: "Found another picture of Kiely's CRV on google earth 👀."[11] This video was a phone screen recording of Upchurch performing internet searches relating to Plaintiff Daniel Rodni.

86. In this video, Upchurch searched for "kiely rodnis dad, "Daniel Rodni," and posted a phone number and address for Daniel Rodni.

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

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

89. This video has 146,352 views at the time of this filing.

90. 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.

[11] https://www.youtube.com/watch?v=XBAcDiy88cA, upload date September 1, 2022, last visited July 26, 2023.

91. On September 3, 2022, Upchurch uploaded a video titled ""CALLIE RODNI" (Random Access Memory) 👾 #kielyrodni."[12]

92. 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."

93. In this video, Upchurch posted photographs of Plaintiff David Robertson, with quotation marks around the phrases "Kiely Rodni's grandpa" and "Kiely's grandpa."

[12] https://www.youtube.com/watch?v=1Mm77xUV5to, uploaded September 3, 2022, last visited July 26, 2023.

94. This video has 241,652 views at the time of this filing.

95. 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."[13]

96. In this video, Upchurch asserted that Kiely Rodni, Daniel Rodni, David Robertson, and Kiely Rodni's mother were "not real."

97. 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.

98. This video has 325,925 views at the time of this filing.

99. On September 7, 2022, Upchurch uploaded a video titled: "Still no pictures of Kiely Rodni at this party? #kielyrodni #upchurch"[14].

100. 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

[13] https://www.youtube.com/shorts/d0iqtY_8mKI, uploaded September 3, 2022, last visited July 26, 2023.
[14] 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.

101. 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?

102. This video has 122,703 views at the time of this filing.

103. The next day, Upchurch uploaded a music video, titled "WINDA TINT."[15]

[15] https://www.youtube.com/watch?v=5lqIuY40I2s, last visited August 1, 2023.

VI. On October 13, 2022, the results of Kiely Rodni's autopsy report are widely circulated. No foul play is suspected. The manner of death is accidental. The investigation is noted as "Closed – Accident."

104. Plaintiff incorporates all above paragraphs.

105. On October 13, 2022, news outlets began to report the results of the Coroner's "Final Report of Investigation" into the tragic death of Kiely Rodni.

106. In relevant part, the Coroner's report concluded that the "manner of death" was "Accident."

107. The "Cause of Death" was noted as "drowning."

108. A narrative report by Sgt. Jason Clinkinbeard noted as follows:

> "I have recently reviewed the pathologist's final report of autopsy, which listed the cause of death in this case as, "Drowning." There were no other significant contributing conditions listed. I conferred with Detective Sonnier and he told me there was no indication of foul play regarding the criminal investigation into the death of Kiely. The manner of death in this case has been determined to be accidental.
>
> Case disposition: Closed – Accident"

109. In relevant part, the report identifies the decedent as Kiely Mai Rodni.

110. The report also mentions Plaintiff Daniel Rodni in a section titled "Next-of-Kin".

111. Mainstream news outlets essentially stopped reporting on the Kiely Rodni case after the autopsy report was released in October 2022.

112. 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)."[16]

113. 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.

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

115. This video has 138,388 views at the time of this filing.

116. 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

[16] https://www.youtube.com/watch?v=t2eH3mUhHoc, uploaded December 22, 2022.

have proof 🤣🤣🤣🤣 Streaming revenue must be going down."

117. 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 curruption. Cause I'm a good guy & im rich. Fighting evil that is rich. Cause that's what I do."

118. A photo of this exchange is below:

119. This lawsuit was originally filed on July 28, 2023.

120. Various YouTube channels discussed the filing of the lawsuit and the allegations it contains.

121. On July 30, 2023, Upchurch posted a message to his "Community" on YouTube.[17]

122. The message read: "

> "I'm not at all sorry for anything I've ever said on the internet. At all. What so ever. And never will be. period. Thats all i wanted to say lol"

17 https://www.youtube.com/post/Ugkx7KkEmUgip_SedUK5EfA263RX3EtJoNB0, last visited August 1, 2023.

CAUSES OF ACTION

I. Defamation

123. Plaintiffs incorporate all above paragraphs.

124. In addition to the statements described above, Plaintiffs submit various video files, **Exhibit A**, of various defamatory statements made by Upchurch in his video broadcasts. (These files will be manually filed with the Clerk.)

125. 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.

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

127. 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.

128. Upchurch's false claims that Plaintiffs were involved in a GoFundMe scam imputed criminal activity to Plaintiffs, defaming them.

129. 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.

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

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

132. As a result of Upchurch's false statements, Plaintiffs suffered personal humiliation and mental anguish and suffering.

133. Each Plaintiff has received therapy for psychological injuries specifically attributable, as documented in the medical records, to the conduct of Ryan Upchurch.

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

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

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

137. 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. Defamation per se under California Law

138. Plaintiffs incorporate all above paragraphs.

139. For the same reasons Upchurch may be held liable under California law (and, alternatively, Tennessee law) for defamation, he may be held liable under California law for defamation per se.

140. Upchurch's false comments accusing Plaintiffs of participation in a GoFundMe "scam" falsely accuse Plaintiffs of committing acts of moral turpitude, including fraud.

141. Upchurch's false comments accusing Plaintiffs of participation in a GoFundMe "scam" while pretending to be Kiely Rodni's family while, in Upchurch's twisted telling, in fact belonging to the family of Callie Ross, falsely accuse Plaintiffs of crimes of moral turpitude.

142. For these reasons, Upchurch may be held liable under California Civil Code § 46.

143. Plaintiff specifically avers that California's anti-SLAPP law has no application in the Middle District of Tennessee, as Judge Richardson held in *Lampo Group, LLC v. Paffrath*, 2019 WL 3305143, at *4 (M.D. Tenn. Case No. 3:18-cv-01402, July 23 2019) ("Because Rules 8,

12, and 56 are valid under the Rules Enabling Act and the Constitution and govern the same basic question as the California anti-SLAPP statute, the motion-to-strike procedure created by the California anti-SLAPP statute cannot apply in federal court".)

III. False Light Invasion of Privacy

144. Plaintiff incorporates all above paragraphs.

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

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

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

148. 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.

149. 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."

150. 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.

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

152. 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).

IV. Intentional Infliction of Emotional Distress

153. Plaintiffs incorporate all above paragraphs.

154. 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.

155. 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.

156. 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.

157. 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."

158. 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.

159. 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.

160. 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.

V. Negligent Infliction of Emotional Distress

161. Plaintiff incorporates all above paragraphs.

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

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

VI. Damages and Choice of Law

164. Plaintiff incorporates all above paragraphs.

165. Plaintiffs specifically aver that the law of California with respect to the substantive causes of action, 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.

166. 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.

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

168. Plaintiffs pray for a recovery of all compensatory damages available under the laws of California (or, alternatively, Tennessee), including damages to their reputation, financial losses, emotional distress, and punitive damages, based on Upchurch's outrageous, intentional, reckless, and conscious-shocking tortious actions.

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

Respectfully submitted,

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