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14 SNOPEs MEDIA GROUP, INC., formerly known and
15 having appeared as BARDAV INC

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF SAN DIEGO, CENTRAL DIVISION

18 PROPER MEDIA, LLC, a California limited
19 liability company; CHRISTOPHER RICHMOND,
20 an individual; and DREW SCHOENTRUP, an
21 individual,

22 Plaintiffs,

23 v.

24 BARDAV INC, a California corporation, and
25 DAVID MIKKELSON, an individual,

26 Defendants,

27 SNOPEs MEDIA GROUP, INC., formerly known
28 and having appeared as BARDAV INC a California
corporation,

Cross-Complainant,

v.

PROPER MEDIA, LLC, a California limited
liability company; DREW SCHOENTRUP, an
individual; CHRIS RICHMOND, an individual;
PUBLIFE LLC, a Puerto Rico limited liability
company; TYLER DUNN, an individual, and
ROES 1 through 50, inclusive,

Cross-Defendants.

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Superior Court of California,
County of San Diego

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Case No. 37-2017-00016311-CU-BC-CTL
(consolidated with Case No. 37-2018-00004335-
CU-MC-CTL)

**SECOND AMENDED AND
SUPPLEMENTAL CROSS-
COMPLAINT for:**

- (1) **BREACH OF CONTRACT;**
- (2) **BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING;**
- (3) **ACCOUNTING;**
- (4) **VIOLATION OF THE
CALIFORNIA
COMPREHENSIVE COMPUTER
DATA ACCESS AND FRAUD
ACT;**
- (5) **INTENTIONAL INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE;**
- (6) **CONVERSION;**
- (7) **VIOLATION OF PENAL CODE
§ 496;**
- (8) **BREACH OF FIDUCIARY DUTY;**
- (9) **AIDING AND ABETTING;**
- (10) **FRAUDULENT CONVEYANCE**
- (11) **VIOLATIONS OF CALIFORNIA
BUSINESS & PROFESSIONS
CODE SECTIONS 17200 *et seq.*;**
and
- (12) **DECLARATORY RELIEF**

Complaint Filed: May 4, 2017
Trial Date: October 4, 2019

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IMAGED FILE
DEMAND FOR JURY TRIAL

Defendant/Cross-Complainant SNOPEs MEDIA GROUP, INC., formerly known and having appeared as BARDAV INC, alleges as follows:

SUMMARY OF CROSS-ACTION

1. Snopes Media Group, Inc., formerly known as Bardav Inc (“Snopes Media Group” or “Cross-Complainant”) owns and operates the popular Snopes.com website, which it uses to support and advance the quality, authenticity, and accuracy of news media. Snopes Media Group and PROPER MEDIA, LLC (“Proper Media”) were parties to a written contract under which Proper Media agreed to provide certain services to Snopes Media Group for the Snopes.com website, subject to Snopes Media Group’s ultimate discretion. Proper Media failed to perform its contractual and legal obligations and Snopes Media Group eventually terminated the contract in accordance with its terms.

2. Both before and after the contractual relationship between Proper Media and Snopes Media Group was terminated, Proper Media withheld and continues to withhold money owed to Snopes Media Group. Further, Proper Media effectively held the Snopes.com website hostage by blocking Snopes Media Group from moving the website, advertising and other back-end functions to another service provider. DREW SCHOENTRUP (“Schoentrup”) and CHRISTOPHER RICHMOND (“Richmond”) are principals of Proper Media, and helped orchestrate Proper Media’s breaches and withholding of Snopes Media Group’s money and other property. Schoentrup and

1 Richmond used a shell limited liability company in Puerto Rico, PUBLIFE LLC (“Publife”), in
2 furtherance of these schemes.

3 3. Schoentrup, Richmond, Proper Media, and Publife received, concealed, embezzled
4 and used the money owed and belonging to Snopes Media Group.

5 4. TYLER DUNN (“Dunn”) is also a principal of Proper Media and participated in
6 Richmond and Schoentrup’s scheme to harm Snopes Media Group and embezzle and use money
7 owned and belonging to Snopes Media Group.

8 5. At the same time that Proper Media was and is inflicting external harm upon Snopes
9 Media Group, Proper Media’s principals, Schoentrup and Richmond, acted to paralyze Snopes
10 Media Group internally in an apparent effort to force Snopes Media Group to continue or
11 reestablish its business relationship with Proper Media. Among other things, Schoentrup purported
12 to hold a director position within Snopes Media Group in an effort to give the appearance that
13 Snopes Media Group had a deadlocked board. Similarly, Schoentrup and Richmond tried to claim
14 to control (via Proper Media) a 50% ownership stake in Snopes Media Group, despite the fact that
15 Proper Media held no interest and that Schoentrup and Richmond held, at most, a 20% shareholder
16 interest each—an interest they purchased using Snopes Media Group’s own funds. After the
17 resignation of Barbara Mikkelson, and although he was not an employee of the company,
18 Schoentrup also assumed the role of de facto bookkeeper for Snopes Media Group, a role he used
19 to conceal the withholding and embezzlement of millions of dollars of Snopes Media Group’s
20 advertising revenue for the benefit of himself, Richmond, Dunn, Proper Media, Publife, and their
21 businesses.

22 **THE PARTIES**

23 6. Defendant/Cross-Complainant Snopes Media Group is, and at all times mentioned
24 in this Second Amended and Supplemental Cross-Complaint (the “Cross-Complaint”) was, a
25 corporation duly organized and existing under and by virtue of the laws of the State of California,
26 and doing business within the State of California.

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1 7. Cross-Complainant is informed and believes, and on that basis alleges, that
2 Plaintiff/Cross-Defendant Proper Media is, and at all times mentioned in this Cross-Complaint was,
3 a California limited liability company with its principal place of business in San Diego, California.

4 8. Cross-Complainant is informed and believes, and on that basis alleges, that
5 Plaintiff/Cross-Defendant Schoentrup is an individual who presently resides in Puerto Rico.

6 9. Cross-Complainant is informed and believes, and on that basis alleges, that
7 Plaintiff/Cross-Defendant Richmond is an individual who presently resides in Puerto Rico.

8 10. Cross-Complainant is informed and believes, and on that basis alleges, that Cross-
9 Defendant Publife is, and at all times mentioned in this Cross-Complaint was, a Puerto Rico
10 limited liability company with a principal place of business in San Juan, Puerto Rico.

11 11. Cross-Complainant is informed and believes, and on that basis alleges, that
12 Plaintiff/Cross-Defendant Dunn is an individual who presently resides in the state of California.

13 12. The true names and capacities, whether individual, corporate, or otherwise of the
14 cross-defendants named in this Cross-Complaint as Roes 1 through 50, inclusive, are unknown to
15 Cross-Complainant. Cross-Complainant is informed and believes, and on that basis alleges, that
16 each of said fictitiously named cross-defendants is liable to Cross-Complainant on the causes of
17 action herein alleged and/or asserts some interest, legal or equitable, in the subject matter of this
18 action, and therefore Cross-Complainant sues said cross-defendants by said fictitious names.
19 Cross-Complainant will move to amend this Cross-Complaint when the true names and capacities
20 of said fictitiously named cross-defendants have been ascertained.

21 13. Proper Media, Richmond, Schoentrup, Dunn, Publife, and Roes 1 through 50 are
22 collectively referred to as the "Cross-Defendants" herein.

23 14. Cross-Complainant is informed and believes, and on that basis alleges, that at all
24 times mentioned in this Cross-Complaint the Cross-Defendants, and each of them, were the agents,
25 servants, employees, and/or alter egos of each of the other co-Cross-Defendants, and in doing the
26 things alleged in this Cross-Complaint were acting within the scope of their authority as such
27 agent, servant, employee, and/or alter ego, and with the permission and consent of their co-Cross-
28 Defendants.

ALTER EGO ALLEGATIONS

1
2 15. Cross-Complainant is informed and believes, and on that basis alleges, that at all
3 times mentioned in this Cross-Complaint some of the corporations, limited liability companies, and
4 entities named as cross-defendants herein, including without limitation, Proper Media, Publife,
5 Schoentrup, Richmond, and ROES 1 through 50 (collectively, the “Alter Egos”), and each of them,
6 were at all times relevant the alter egos of the other co-Cross-Defendants, including without
7 limitation, Cross-Defendants Richmond and Schoentrup, Proper Media, Publife and ROES 1
8 through 50.

9 16. Cross-Complainant is informed and believes, and on that basis alleges, that at all
10 times mentioned in this Cross-Complaint each of the Cross-Defendants dominated, influenced and
11 controlled each of the Alter Egos and the officers thereof as well as the business, property, and
12 affairs of each of said Alter Egos.

13 17. Cross-Complainant is informed and believes, and on that basis alleges, that at all
14 times mentioned in this Cross-Complaint there existed and now exists a unity of interest and
15 ownership between the Cross-Defendants and each of the Alter Egos; the individuality and
16 separateness of the Cross-Defendants and each of the Alter Egos have ceased.

17 18. Cross-Complainant is informed and believes, and on that basis alleges, that at all
18 times mentioned in this Cross-Complaint, and at all times since the incorporation or inception of
19 each Alter Ego, each Alter Ego has been and now is a mere shell and naked framework which the
20 co-Cross-Defendants used and continue to use as a conduit for the conduct of their personal
21 business, property and affairs.

22 19. Cross-Complainant is informed and believes, and on that basis alleges, that at all
23 times mentioned in this Cross-Complaint, each of the Alter Egos was created and continued
24 pursuant to a fraudulent plan, scheme, and device conceived and operated by each of the other
25 Cross-Defendants, whereby the income, revenue and profits of each of the Alter Egos were
26 diverted by each of the other Cross-Defendants to themselves.

27 20. Cross-Complainant is informed and believes, and on that basis alleges, that at all
28 times mentioned in this Cross-Complaint, each of the Alter Egos was organized by each of the co-

1 Cross-Defendants as a device to avoid individual liability and for the purpose of substituting
2 financially irresponsible entities in the place and stead of the co-Cross-Defendants, and
3 accordingly, each Alter Ego was formed with capitalization totally inadequate for the business in
4 which said entity was engaged.

5 21. Cross-Complainant is informed and believes, and on that basis alleges, that each of
6 the Alter Egos is undercapitalized and insolvent. Cross-Complainant is informed and believes, and
7 on that basis alleges, that the revenues and monies held by each of the Alter Egos have been
8 drained from the Alter Ego by the co-Cross-Defendants.

9 22. By virtue of the foregoing, adherence to the fiction of the existence of each of the
10 Alter Egos as separate entities would, under the circumstances, sanction a fraud and promote
11 injustice in that Cross-Complainant would be unable to realize upon any judgment in its favor,
12 among other reasons.

13 23. Cross-Complainant is informed and believes, and on that basis alleges, that at all
14 times mentioned in this Cross-Complaint, the Alter Egos and each of the other Cross-Defendants
15 acted for each other in connection with the conduct hereinafter alleged and that each of them
16 performed the acts complained of herein or breached the duties herein complained of as agents of
17 each other and each is therefore fully liable for the acts of the other.

18 **JURISDICTION AND VENUE**

19 24. This Court has jurisdiction over all causes of action asserted in this Cross-Complaint
20 pursuant to California Constitution, Article VI, section 10 and California Code of Civil Procedure
21 section 410.10 because the acts and omissions alleged herein were committed in the State of
22 California, because this is a civil action wherein the matter in controversy, exclusive of interest,
23 exceeds \$25,000, and because this case is a cause not given by statute to other trial courts.

24 25. Venue is proper in this Court pursuant to California Code of Civil Procedure section
25 395, because these claims are asserted in a cross-complaint to the above-captioned action filed in
26 this venue, Cross-Defendants reside and/or transact business within the County of San Diego, and
27 the unlawful conduct alleged herein was carried out, and had effects, in the County of San Diego.
28 Venue is proper in this district pursuant to Rule 1.2.2 of the San Diego Superior Court Rules.

1 **GENERAL ALLEGATIONS**

2 26. This action concerns the operation and control of the Snopes.com website, which is
3 owned by Snopes Media Group. Snopes Media Group is a California corporation founded in 2003
4 by then-husband and wife, David and Barbara Mikkelson. Since its formation Snopes Media
5 Group has been the ownership entity for the Snopes.com website, which Mr. Mikkelson first began
6 as a personal project in as early as 1994. Mr. and Mrs. Mikkelson were each directors of Snopes
7 Media Group until Mrs. Mikkelson sold her ownership interest in 2016, after which Mr. Mikkelson
8 became the sole member on the Snopes Media Group board of directors. Today, in addition to his
9 position as director, Mr. Mikkelson is the President, CEO and 50% shareholder of Snopes Media
10 Group.

11 27. On information and belief, Proper Media is an “internet media” company founded in
12 2015 by Schoentrup and Richmond. Proper Media advertises itself as owning, operating, and
13 representing web properties, working with website “publishers” and “advertising partners.”

14 **The General Service Agreement**

15 28. On or about August 11, 2015, Snopes Media Group, under its former name, Bardav
16 Inc, and Proper Media entered into a written one-year contract entitled the General Service
17 Agreement (“GSA”). Under the GSA, Proper Media agreed to provide certain services to Snopes
18 Media Group for the Snopes.com website during the term of the agreement. A true and correct
19 copy of the GSA is attached as Exhibit “A” hereto and is incorporated by reference herein.

20 29. The GSA was premised on the following recitals:

21 **Publisher:** Bardav, Inc., (Snopes)

22 * * *

23 **Agent:** Proper Media, LLC

24 * * *

25 WHEREAS, The Publisher is the owner and/or operator of
26 Snopes.com (the “Website”); and

27 WHEREAS, the Publisher wishes to retain the Agent to provide
28 content and website development services as well as advertising
sales and trafficking, as set forth in this Agreement (the
“Agreement”)

1 (Exhibit A, p. 1.)

2 30. The GSA had an initial term of 1 year commencing on August 11, 2015, and
3 thereafter reverted to renewable monthly terms until such time it is terminated by either party:

4 Effective Date: August 11, 2015

5 “Term” means the period commencing upon the effective date and
6 ending upon the termination of this agreement in accordance with
7 Section 7.

7 (Exhibit A, p. 1.)

8 **7. Term & Renewal**

9 7.1. Term: This Agreement shall remain in effect for a period of one
10 (1) year from the date hereon (the “Initial Term”). Either party may
11 terminate this Agreement by providing the other party with sixty
12 (60) days written notice, with or without cause, prior to the
13 expiration of the Initial Term. Unless previously terminated by
14 notice as provided above, at the end of the Initial Term this
15 Agreement shall renew for additional one (1) month terms (each a
16 “Renewal Term”) unless and until either party provides the other
17 party with written notice of termination, with or without cause, at
18 least sixty (60) days prior to renewal.

14 (Exhibit A, § 7.1, p. 4.)

15 31. The GSA also provided for immediate termination for cause upon Proper Media
16 breaching and failing to cure within ten days:

17 7.2. Termination by Publisher: Publisher may terminate this
18 Agreement by written notice to Agent if any of the following events
19 occur:

- 20 (i) Agent fails to pay any amount due to Publisher within ten
21 (10) days after Publisher gives Agent written notice of such
22 nonpayment; or
23 (ii) Agent is in material breach of any term, condition, or
24 provision of this Agreement and such breach is not cured
25 within ten (10) days after Publisher gives Agent notice of
26 such breach.

24 (Exhibit A, § 7.2, p. 4.)

25 32. Under the GSA, Snopes Media Group retained ultimate decision making on issues
26 regarding staffing, content, and editorial guidelines. (*See* Exhibit A, § 1, p. 2.)
27

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1 33. Among other tasks, Proper Media contracted to represent Snopes Media Group with
2 respect to advertisement procurement, placement, and management, subject to Snopes Media
3 Group’s ultimate discretion. (See Exhibit A, § 3, p. 2.) In connection therewith, Proper Media
4 agreed to provide Snopes Media Group with advertisement trafficking and reporting. (Exhibit A,
5 § 3.1, p. 2.) Proper Media also agreed to use its best efforts to ensure that the information in its
6 tracking system was accurate. (Exhibit A, § 3.2, p. 2.)

7 34. The GSA further provided that Proper Media would compensate Snopes Media
8 Group based on advertising invoicing on a monthly basis:

9 3.5. Agent Commission Rate: The Agent shall pay to Publisher all
10 amounts invoiced or to be invoiced by the Agent to advertisers for
11 advertising placed on the Website up to \$85,000 per month (the
12 “Baseline”) and fifty (50) percent of all amounts above the Baseline,
13 calculated on a monthly basis (“Net Revenue”).

14 (Exhibit A, § 3.5, p. 3.)

15 35. The remaining advertising revenue constituted the entirety of Proper Media’s
16 compensation (exclusive of authorized expense reimbursements) under the GSA: “Other than the
17 commissions in this Section, and the expense reimbursements in Section 5, Agent shall not be
18 entitled to any fixed compensation for its services.” (Exhibit A, § 3.7, p. 3.)

19 36. Proper Media was obligated to pay Snopes Media Group sums owed under the GSA
20 within forty-five (45) days of the end of each month, regardless of whether Proper Media had
21 received payment from the advertisers:

22 4.3. Payment to Publisher: Regardless of whether the Agent has
23 been paid by all Advertisers, the Agent shall pay Publisher the Net
24 Revenue for each month no later than forty-five (45) days from the
25 end of the month for which advertising was run on the Website
26 provided that that the 45th day falls on a weekday and, if it falls on a
27 weekend, the next business day. Publisher is responsible for all sales
28 taxes, use taxes and any other similar taxes imposed by any federal,
state or local governmental entity on the transactions contemplated
by this Agreement, excluding taxes based upon Agent’s net income.

(Exhibit A, § 4.3, p. 3.)

37. Proper Media was contractually obligated to invoice and collect all advertising
revenue for the Snopes.com website: “Agent’s Obligations: Agent shall invoice and collect all

1 advertising revenue from Advertisers for content sold by Agent for placement on the Website.”
2 (Exhibit A, § 4.1, p. 3.) Moreover, Schoentrup assured Snopes Media Group’s bookkeeper,
3 Barbara Mikkelson, that he would do his best to have invoices ready within two weeks after the
4 end of a calendar month.

5 38. Notably, the GSA did not require or enable Proper Media to host the Snopes.com
6 website or to control its hosting. Rather, the GSA provides that “[Proper Media] shall consolidate
7 [Snopes Media Group’s] existing server configuration to use load-balanced Linux servers paired
8 with a MySQL database server and a content delivery network[,]” without granting Proper Media
9 ownership or control over those servers. At all relevant times, the decision of how and where to
10 host the Snopes.com website remained within Snopes Media Group’s sole ultimate discretion.

11 **The Stock Purchase Agreement**

12 39. In 2015, David and Barbara Mikkelson divorced, after which each retained an
13 independent fifty percent (50%) ownership interest in Snopes Media Group.

14 40. In April 2016, Schoentrup and Richmond offered to buy Barbara Mikkelson’s
15 ownership interest in Snopes Media Group at a price Schoentrup described as “generous” given
16 that “[they] would be buying a non-controlling stake in the company.” Schoentrup informed
17 Barbara Mikkelson that three other owners of Proper Media would be “cut in for a small
18 percentage” of the purchase of Barbara Mikkelson’s ownership interest.

19 41. On or about July 1, 2016, pursuant to a written Stock Purchase Agreement (the
20 “SPA”), Barbara Mikkelson sold her 50% ownership interest in Snopes Media Group to
21 Schoentrup, Richmond, Dunn, and Defendants Vincent Green, and Ryan Miller, in the following
22 percentages:¹

Name	Purchase Percentage	Overall Ownership in Snopes Media Group
Drew Schoentrup:	40%	20%
Christopher Richmond:	40%	20%
Tyler Dunn:	6.68%	3.34%
Vincent Green:	6.66%	3.33%
Ryan Miller:	6.66%	3.33%

28 ¹ The SPA contains a confidentiality provision and therefore Bardav is not attaching a copy to this public document.

1 42. Under the SPA, the shares were sold to, and held by, the above-identified persons in
2 their individual capacity. The SPA makes no mention of any of these parties holding their shares
3 for the “benefit” of Proper Media.

4 43. Likewise, the SPA does not provide that any of these acquiring individuals,
5 including Schoentrup, would obtain a position on Snopes Media Group’s board of directors. The
6 SPA was not accompanied by any corporate resolution appointing Schoentrup or any of the other
7 purchasers to Snopes Media Group’s board of directors.

8 44. Importantly, the SPA contains an express integration provision, confirming that it
9 represents the entirety of the agreement reached with respect to the acquisition and ownership of
10 these shares.

11 45. As a result of Snopes Media Group’s S-Corp status, its shares cannot be held by
12 companies but must instead be held by individuals. Consistent therewith, the Snopes Media Group
13 ownership interest sold by Ms. Mikkelson was purchased by, and continues to be held by, Messrs.
14 Schoentrup, Richmond, Dunn, Green, and Miller in their individual capacity, and not for the
15 benefit of Proper Media.

16 **Cross-Defendants Embezzled Snopes Media Group’s own Revenues to Pay for**
17 **Barbara Mikkelson’s Ownership Interest in Snopes Media Group**

18 46. In April 2016, David Mikkelson instructed Proper Media to temporarily hold off on
19 disbursing funds into Snopes Media Group’s bank account due to a concern regarding unauthorized
20 withdrawals from that account by its bookkeeper, Barbara Mikkelson.

21 47. On June 2, 2016, Barbara Mikkelson informed Schoentrup that Snopes Media
22 Group needed a new bookkeeper to replace her after her ownership interest was sold. Schoentrup
23 touted his experience with handling all of Proper Media’s books and stated he “would love to take
24 over” as Snopes Media Group’s bookkeeper. On June 8, 2016, Schoentrup informed Barbara
25 Mikkelson that he “received the go ahead” from David Mikkelson and asked for Snopes Media
26 Group’s journals.

27 48. However, after Schoentrup took over as Snopes Media Group’s bookkeeper, Proper
28 Media failed to return the advertising revenues temporarily withheld from Snopes Media Group

1 since April 2016. On information and belief, Schoentrup and Richmond were unable to obtain
2 financing to pay the \$1,850,000 due at closing to purchase Barbara Mikkelson’s ownership interest
3 in Snopes Media Group. The SPA was amended to allow for delivery of the down payment within
4 60 days after closing and, on information and belief, Cross-Defendants used Snopes Media
5 Group’s revenues to pay thousands of dollars in interest to Barbara Mikkelson while they
6 scrambled to secure a loan.

7 49. On July 20, 2016, weeks after Barbara Mikkelson tendered her resignation, Proper
8 Media returned Snopes Media Group’s advertising revenues for the months of February and March
9 2016 *only*. However, the GSA required Proper Media to pay Snopes Media Group its share of
10 advertising revenues within 45 days of months end, and thus payments for April and May 2016
11 were overdue. Yet, Proper Media did not pay Snopes Media Group its advertising revenues for
12 April and May 2016 until 129 and 128 days after months’ end, respectively.

13 50. On information and belief, the reason Proper Media did not timely pay Snopes
14 Media Group its April and May 2016 advertising revenue is because the hundreds of thousands of
15 dollars were already diverted from Proper Media’s bank account and used in connection with the
16 purchase of Snopes Media Group’s shares, and to further benefit Cross-Defendants and their
17 businesses at the expense of Snopes Media Group.

18 51. When Barbara Mikkelson learned that the purchase of her ownership interest would
19 be financed through a lender, Barbara Mikkelson reminded Schoentrup that Snopes Media Group’s
20 revenue share must not be used to secure the loan. However, on information and belief, Cross-
21 Defendants went a step further and actually used that very advertising revenue to purchase Barbara
22 Mikkelson’s ownership interest—revenue that already belonged to Snopes Media Group.

23 52. Under the SPA, the second half of the purchase price was due in monthly
24 installments pursuant to a promissory note attached as an exhibit to the SPA (the “Promissory
25 Note”). On information and belief, Cross-Defendants continued to withhold and embezzle Snopes
26 Media Group’s advertising revenue in order to make these payments under the Promissory Note—a
27 scheme that continued through 2017.

28

1 53. In fact, after Schoentrup took over as Snopes Media Group’s bookkeeper, Proper
2 Media *never once* paid Snopes Media Group its monthly share of advertising revenues within 45
3 days as required under the GSA. Rather, Proper Media withheld Snopes Media Group’s revenue
4 share for *months* at a time, returning the funds *hundreds* of days later, as follows:

5	April 2016:	129 days after months’ end
6	May 2016:	128 days after months’ end
7	June 2016:	127 days after months’ end
8	July 2016:	151 days after months’ end
9	August 2016:	120 days after months’ end
10	September 2016:	147 days after months’ end
11	October 2016:	126 days after months’ end
12	November 2016:	103 days after months’ end
13	December 2016:	72 days after months’ end ²
14	January 2017:	72 days after months’ end
15	February 2017:	51 days after months’ end
16	March 2017:	108 days after months’ end
17	April 2017:	138 days after months’ end
18	May 2017:	107 days after months’ end

19 54. Cross-Defendants actively concealed their use of Snopes Media Group’s advertising
20 revenue from Snopes Media Group.

21 55. As early as January 2016, and long before Schoentrup assumed the role of Snopes
22 Media Group’s bookkeeper, Schoentrup agreed to send an accounting breakdown to David
23 Mikkelson whenever Proper Media deposited advertising revenue in Snopes Media Group’s bank
24 account.

25 _____
26 ² On or about March 9, 2017, Snopes Media Group gave notice to Proper Media that the GSA was being terminated
27 under the terms of the agreement. Shortly thereafter, Proper Media paid Snopes Media Group its overdue revenue
28 share for November and December 2016 in an effort to salvage the relationship and continue Cross-Defendants
fraudulent scheme, hence the slight decline in payment delay from December through February (which were still
significantly late). However, when Snopes Media Group refused to enter into a new agreement, Proper Media withheld
all advertising revenues for all months until the Court intervened.

1 56. Moreover, while Barbara Mikkelson was still bookkeeper, she informed Schoentrup
2 that a three-week delay in providing the accounting breakdowns was not acceptable, and that
3 monthly invoices should be sent “as soon as they are prepared.” Schoentrup responded that he
4 would “do [his] best to have invoices ready within two weeks after the end of a calendar month.”

5 57. However, once Schoentrup assumed the role of bookkeeper for Snopes Media
6 Group and Barbara Mikkelson resigned, Schoentrup stopped providing invoices altogether, which
7 further concealed Cross-Defendants’ deleterious conduct.

8 **Proper Media Fails to Perform under the GSA, is Terminated, and Then Holds the**
9 **Snopes.com Website and Other Assets Hostage**

10 58. During the one-year term of the GSA, Proper Media repeatedly failed to remit
11 timely payments that were owed to Snopes Media Group. Further, over time, Proper Media
12 stopped performing certain functions under the GSA and generally failed to perform at a
13 sufficiently high level. Snopes Media Group concluded that it no longer made sense to allow
14 Proper Media to siphon off large sums of advertising revenue from Snopes.com when Proper
15 Media was not providing value commensurate with its compensation, and when Snopes Media
16 Group could obtain the services it needed from other vendors at significantly lower cost. Further,
17 Proper Media began to withhold advertising revenue from Snopes Media Group not permitted
18 under the GSA.

19 59. As noted above, the GSA’s express language granted Snopes Media Group the right
20 to terminate the GSA at any time, with or without cause, on sixty (60) days’ notice. On or about
21 March 9, 2017, Snopes Media Group gave Proper Media written notification that it was terminating
22 the GSA pursuant to the Term & Renewal Section of the GSA, such that the GSA would terminate
23 in sixty (60) days (i.e., on May 7, 2017), unless otherwise terminated earlier for cause. The notice
24 was sent by Snopes Media Group’s director and President, Mr. Mikkelson.

25 60. Despite holding no ownership interest in Snopes Media Group, Proper Media held
26 itself out as “the beneficial owner of 50% of the shares in [Snopes Media Group].” Presumably
27 based on this false assertion, Proper Media improperly attempted to exercise rights of a Snopes
28

1 Media Group shareholder, including attempting to call a special meeting, attempting to appoint
2 directors, and attempting to inspect corporate records.

3 61. Despite no corporate resolution appointing him to Snopes Media Group's board of
4 directors, Schoentrup held himself out as a Snopes Media Group board member. Presumably based
5 on this false assertion, Schoentrup improperly attempted to exercise rights of a Snopes Media
6 Group director, including attempting to call a special meeting, attempting to appoint directors,
7 attempting to manage business decisions, and attempting to inspect corporate records.

8 62. On or about May 19, 2017, Snopes Media Group made a written demand upon
9 Proper Media for certain information and data relating to Snopes Media Group and the Snopes.com
10 website, of which Snopes Media Group is the legal owner, but was in Proper Media's possession,
11 custody, or control. Snopes Media Group emphasized the time-sensitive nature of this demand and
12 requested compliance by the close of business on May 22, 2017.

13 63. Cross-Defendants failed and refused to comply with Snopes Media Group's written
14 demand, and instead held hostage the requested information and data belonging to Snopes Media
15 Group.

16 64. Cross-Defendants also continued to withhold advertising revenue procured from the
17 Snopes.com website and belonging to Snopes Media Group, and used that revenue for their own
18 purposes, including to make payments to Schoentrup, Richmond, Barbara Mikkelson, and/or
19 Publife.

20 65. On information and belief, on or around August 2017, Schoentrup approached
21 Barbara Mikkelson to consider an early settlement of the Promissory Note so he could refinance
22 debt, and proposed an arrangement with Barbara Mikkelson to lower payment for the next 12
23 months. Barbara Mikkelson rejected the proposal and insisted that the entirety of the debt owed to
24 her be retired or that the Promissory Note be left unchanged.

25 66. On information and belief, in or around October 2017, Cross-Defendants entered
26 into an agreement to settle the entirety of the debt owed to Barbara Mikkelson—including the
27 purchase of the Promissory Note from Barbara Mikkelson—using advertising revenue unlawfully
28 withheld from Snopes Media Group.

1 **SECOND CAUSE OF ACTION**

2 **(Breach of the Implied Covenant of Good Faith and Fair Dealing**
3 **against Proper Media and Roes 1 through 50)**

4 73. Cross-Complainant incorporates by reference each and every allegation contained in
5 each paragraph above and below as though the same were set forth in full herein.

6 74. On or about August 11, 2015, Snopes Media Group, Proper Media, and Roes 1
7 through 50 entered into a written General Service Agreement (the GSA), under which Proper
8 Media and Roes 1 through 50 agreed to provide certain content and website development and
9 maintenance services to Snopes Media Group for the Snopes.com website, during the term of the
10 agreement. (*See Exhibit A.*)

11 75. Snopes Media Group has fully performed all conditions, covenants, and promises
12 required on its part to be performed in accordance with the GSA, except as prevented and/or
13 excused by Cross-Defendants.

14 76. During the course of the term of the GSA, Proper Media with the assistance of other
15 Cross-Defendants unfairly interfered with Snopes Media Group's right to receive the benefits of
16 the GSA by, among other things:

17 a. failing and refusing to provide Snopes Media Group with information
18 concerning the Snopes.com website and infrastructure, of which Snopes Media Group is the legal
19 owner as recognized under the GSA;

20 b. failing and refusing to provide Snopes Media Group with a copy of the
21 codebase for the Snopes.com website, of which Snopes Media Group is the legal owner as
22 recognized under the GSA;

23 c. failing and refusing to provide Snopes Media Group with access to the
24 repositories for the Snopes.com website, of which Snopes Media Group is the legal owner as
25 recognized under the GSA;

26 d. failing and refusing to provide Snopes Media Group with access to all
27 Snopes Media Group's electronic communications as well as data for the Snopes.com website, of
28 which Snopes Media Group is the legal owner as recognized under the GSA;

1 e. failing and refusing to cooperate with the transition of the Snopes.com
2 website and other backend functions to another service provider;

3 f. failing and refusing to provide Snopes Media Group with data and property
4 developed by outside developers for Snopes Media Group and/or the Snopes.com website;

5 g. failing and refusing to provide a timely and accurate accounting of Snopes
6 Media Group's revenue share for advertising procured from the snopes.com website;

7 h. diverting and using Snopes Media Group's share of advertising revenue
8 without Snopes Media Group's knowledge or permission; and

9 i. concealing the withholding, diversion, and use of Snopes Media Group's
10 share of advertising revenue.

11 77. The acts alleged herein constitute a breach of the GSA's implied covenant of good
12 faith and fair dealing in that they interfered with Snopes Media Group's right to receive the
13 benefits of the GSA.

14 78. As a direct and proximate result of Proper Media's and Roes 1 through 50's
15 breaches of the implied covenant of good faith and fair dealing in the GSA, Snopes Media Group
16 has suffered damage, plus interest thereon, according to proof at trial.

17 **THIRD CAUSE OF ACTION**

18 **(Accounting against Proper Media and Roes 1 through 50)**

19 79. Cross-Complainant incorporates by reference each and every allegation contained in
20 each paragraph above and below as though the same were set forth in full herein.

21 80. On or about August 11, 2015, Snopes Media Group, Proper Media, and Roes 1
22 through 50 entered into a written General Service Agreement (the GSA), under which Proper
23 Media and Roes 1 through 50 agreed to provide certain content and website development and
24 maintenance services to Snopes Media Group for the Snopes.com website, during the term of the
25 agreement. (*See Exhibit A.*)

26 81. Proper Media's and Roes 1 through 50's obligations under the GSA include paying
27 Net Revenues to Snopes Media Group generated by advertisement revenue invoiced, or to be
28

1 invoiced, by Proper Media and Roes 1 through 50 for the Snopes.com website during the term of
2 the GSA.

3 82. Under the GSA, Proper Media and Roes 1 through 50 are obligated to provide
4 trafficking and reporting to Snopes Media Group regarding all advertising placed on the
5 Snopes.com website.

6 83. Under the GSA, Proper Media and Roes 1 through 50 are obligated to invoice and
7 collect all advertising revenue from advertisers for content sold by Proper Media for placement on
8 the Snopes.com website.

9 84. Proper Media and Roes 1 through 50 have failed to pay Snopes Media Group net
10 revenues owed to it for advertisements invoiced, or to be invoiced, for placement on the
11 Snopes.com website.

12 85. The amount of money due from Proper Media and Roes 1 through 50 to Snopes
13 Media Group for net revenues is unknown to Snopes Media Group and cannot be ascertained
14 without an accounting of Proper Media's and Roes 1 through 50's books, records, contracts, and
15 financials.

16 86. Proper Media and Roes 1 through 50 have failed to tender an appropriate accounting
17 of the aforementioned monies invoiced or to be invoiced, thereby entitling Snopes Media Group to
18 equitable relief in the form of an accounting of all amounts owing under the GSA.

19 **FOURTH CAUSE OF ACTION**

20 **(Violation of Comprehensive Computer Data Access and Fraud Act**

21 **against Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through 50)**

22 87. Cross-Complainant incorporates by reference each and every allegation contained in
23 each paragraph above and below as though the same were set forth in full herein.

24 88. The California Comprehensive Computer Data Access and Fraud Act
25 ("CCDAFA"), California Penal Code sections 502 *et seq.*, regulates "tampering, interference,
26 damage, and unauthorized access to lawfully created computer data and computer systems" and
27 Penal Code section 502(e) provides a civil cause of action for compensatory damages, injunctive
28 relief, or other equitable relief, to "the owner or lessee of the computer, computer system, computer

1 network, computer program, or data who suffers damage or loss by reason of a violation” of the
2 CCDAFA.

3 89. Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through 50 violated the
4 CCDAFA by knowingly accessing, using, and/or interfering with data belonging to Snopes Media
5 Group: (1) in and from the State of California; (2) in the state and/or territory of the principal place
6 of business of Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through 50; (3) upon
7 information and belief, in the state in which servers that hosted and/or provided other services to
8 the Snopes.com website are located; and (4) in a state in which some of Snopes Media Group’s
9 employees are located.

10 90. Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through 50 intentionally
11 and without permission accessed, used, and/or interfered with Snopes Media Group’s property and
12 computer data in order to wrongfully control or obtain money in violation of California Penal Code
13 sections 502(c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (c)(7).

14 91. In each of the above-mentioned violations, Schoentrup, Richmond, Proper Media,
15 and Roes 1 through 50 held hostage the Snopes.com website owned by Snopes Media Group,
16 including without limitation, the source code and databases needed to control and operate the
17 website.

18 92. Snopes Media Group is the sole owner of the Snopes.com website, and the
19 underlying source code and databases are unique for Snopes Media Group’s business. Schoentrup,
20 Richmond, Proper Media, Publife, and Roes 1 through 50 blocked access to and use of the
21 underlying source code and databases necessary to control and operate the Snopes.com website, as
22 well as other property belonging to Snopes Media Group. Snopes Media Group needed access to
23 the website’s source code and databases in order to operate and maintain the website following the
24 termination of the GSA.

25 93. Without authorization, Schoentrup, Richmond, Proper Media, Publife, and Roes 1
26 through 50 maintained control and refused to turn over Snopes Media Group’s email accounts
27 which Snopes Media Group uses to operate the Snopes business. As a result, Snopes Media Group
28 was unable to control access to and security of Snopes.com email accounts.

1 94. In each of the violations mentioned above, Schoentrup, Richmond, Proper Media,
2 Publife, and Roes 1 through 50 accessed, used, and/or interfered with the Snopes.com website, the
3 website's source code, databases, and email accounts and other property without authorization and
4 under false pretenses and deception. Snopes Media Group owns the above-mentioned data and is
5 entitled to control and oversight of the data, including access to the data. Schoentrup, Richmond,
6 Proper Media, Publife, and Roes 1 through 50 actively locked out Snopes Media Group from
7 Snopes Media Group's data, against the will of Snopes Media Group, and despite its demands for
8 access and return of the property.

9 95. The actions of Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through
10 50 prevented Snopes Media Group from protecting its information.

11 96. Schoentrup, Richmond, Proper Media, Publife, and Roes 1 through 50 used their
12 unlawful control over the source code, databases, email accounts and other property to continue
13 receiving and withholding Snopes Media Group's advertising revenue and as leverage over Snopes
14 Media Group.

15 97. By refusing to return Snopes Media Group's data and other property, Schoentrup,
16 Richmond, Proper Media, Publife, and Roes 1 through 50 improperly prevented Snopes Media
17 Group from operating its own website and otherwise conducting its business.

18 98. As a direct and proximate result of the violations by Schoentrup, Richmond, Proper
19 Media, Publife, and Roes 1 through 50, Snopes Media Group suffered lost revenue, lost goodwill
20 with members of the public, lost business opportunities, and consequential damages, in an amount
21 to be proved at trial. Costs include the time and expense of recovering the property and other data,
22 and determining the damage caused by Schoentrup, Richmond, Proper Media, Publife, and Roes 1
23 through 50.

24 99. In engaging in the acts and conduct alleged above and below, Schoentrup,
25 Richmond, Proper Media, Publife, and Roes 1 through 50 willfully violated the CCDFA in
26 disregard and derogation of Snopes Media Group's rights, and the actions of Schoentrup,
27 Richmond, Proper Media, Publife, and Roes 1 through 50 as alleged above and below were carried
28 out with oppression, fraud, and malice.

1 100. Snopes Media Group is entitled to injunctive relief, compensatory damages,
2 punitive or exemplary damages, attorney fees, costs, and other equitable relief pursuant to
3 California Penal Code Section 502(e).

4 **FIFTH CAUSE OF ACTION**

5 **(Intentional Interference with Prospective Economic Advantage**
6 **against all Cross-Defendants)**

7 101. Cross-Complainant incorporates by reference each and every allegation contained in
8 each paragraph above and below as though the same were set forth in full herein.

9 102. Snopes Media Group entered into and maintained a lawful economic relationship
10 with advertisers and other businesses providing services to Snopes Media Group, including without
11 limitation, the Snopes.com website. The economic relationship contained the probability of future
12 economic benefit to Snopes Media Group in the form of commerce with advertisers, vendors, and
13 businesses providing services to the Snopes.com website and Snopes Media Group, including
14 without limitation, web hosting service providers, advertising vendors, developers, and other
15 service providers.

16 103. Cross-Defendants were aware of the benefits of Snopes Media Group’s relationship
17 with advertisers, the businesses providing services to the Snopes.com website and Snopes Media
18 Group, and the future business relationship between Snopes Media Group and advertisers, vendors,
19 and businesses providing services to the Snopes.com website and Snopes Media Group, including
20 without limitation, web hosting service providers, advertising vendors, developers, and other
21 service providers.

22 104. Proper Media and Snopes Media Group also entered into and maintained a lawful
23 economic relationship that contained benefits for both Proper Media and Snopes Media Group.
24 The economic relationship contained the probability of future economic benefit to Snopes Media
25 Group in the form of commerce with advertisers, vendors, and businesses providing services to the
26 Snopes.com website and Snopes Media Group, including without limitation, web hosting service
27 providers, advertising vendors, developers, and other service providers.

28 105. Cross-Defendants were aware of the benefits of Proper Media’s relationship with

1 Snopes Media Group and the continuing and future business relationship between Snopes Media
2 Group and advertisers, vendors, and businesses providing services to the Snopes.com website and
3 Snopes Media Group, including without limitation, web hosting service providers, advertising
4 vendors, developers, and other service providers.

5 106. Cross-Defendants were aware that Snopes Media Group relied significantly on its
6 relationship with advertisers, vendors, and businesses providing services to the Snopes.com
7 website and Snopes Media Group to conduct its commerce.

8 107. Cross-Defendants actually, willfully, and unlawfully disrupted Snopes Media
9 Group's business relationship with advertisers, advertising vendors, developers, and businesses
10 providing services to the Snopes.com website and Snopes Media Group, among others, by
11 unlawfully holding hostage Snopes Media Group's property, including without limitation, the
12 source code, databases, and email accounts.

13 108. Cross-Defendants' disrupting conduct was otherwise unlawful as described in this
14 Cross-Complaint.

15 109. In engaging in the acts and conduct alleged above and below, Cross-Defendants
16 acted willfully to injure Snopes Media Group and its property.

17 110. Cross-Defendants' acts and conduct as alleged above and below was
18 unconscionable and violated public policy.

19 111. As a direct and proximate result of Cross-Defendants' acts and conduct as alleged
20 above and below, Snopes Media Group has suffered and will continue to suffer damages, plus
21 interest thereon, according to proof at trial. Because Cross-Defendants' acts and conduct as alleged
22 above and below was malicious, Snopes Media Group should be awarded punitive damages in a
23 sum according to proof.

24 **SIXTH CAUSE OF ACTION**

25 **(Conversion against all Cross-Defendants)**

26 112. Cross-Complainant incorporates by reference each and every allegation contained in
27 each paragraph above and below as though the same were set forth in full herein.

28 113. Snopes Media Group owns and had the right to possess its property, including

1 without limitation, the Snopes.com website's source code, databases, and email accounts. This
2 property is the sole and exclusive property of Snopes Media Group, which is valuable to Snopes
3 Media Group and vital to its continued business operations. Cross-Defendants wrongfully
4 exercised control over Snopes Media Group's property.

5 114. Cross-Defendants intentionally and substantially interfered with Snopes Media
6 Group's property by preventing Snopes Media Group from having access to its property, including
7 without limitation, the Snopes.com website's source code and databases, without Snopes Media
8 Group's consent.

9 115. Further, Cross-Defendants intentionally and substantially interfered with Snopes
10 Media Group's property by refusing to return its property, including without limitation, the
11 Snopes.com website's source code, databases, and email accounts, without Snopes Media Group's
12 consent.

13 116. As a direct and proximate result of Cross-Defendants' acts and conduct as alleged
14 above and below, Snopes Media Group has suffered and will continue to suffer damages, in an
15 amount to be proved at trial.

16 117. Cross-Defendants' acts and conduct as alleged above and below was done with the
17 intention of depriving Snopes Media Group of its property, including without limitation, the
18 Snopes.com website's source code, databases, and email accounts, and was despicable conduct that
19 subjected Snopes Media Group to cruel and unjust hardship in conscious disregard of Snopes
20 Media Group's rights, so as to justify an award of exemplary and punitive damages.

21 **SEVENTH CAUSE OF ACTION**

22 **(Violation of Penal Code § 496 against all Cross-Defendants)**

23 118. Cross-Complainant incorporates by reference each and every allegation contained in
24 each paragraph above and below as though the same were set forth in full herein.

25 119. Cross-Defendants misappropriated, embezzled, and stole money from Snopes Media
26 Group, including without limitation, advertising revenues associated with the Snopes.com website,
27 and transferred the money to Cross-Defendants. The money was stolen or obtained in a manner
28 constituting theft or extortion.

1 120. Cross-Defendants knew the money was misappropriated, embezzled, stolen, or
2 otherwise obtained in a manner constituting theft or extortion, but nonetheless received, concealed,
3 and withheld the money from Snopes Media Group, and aided in obtaining, concealing, and
4 withholding the money in violation of California Penal Code Section 496.

5 121. Further, Snopes Media Group’s property, including without limitation, the source
6 code, databases, and email accounts, was stolen or obtained in a manner constituting theft or
7 extortion.

8 122. Cross-Defendants knew Snopes Media Group’s property was stolen or obtained in a
9 manner constituting theft or extortion, but nonetheless received, concealed, withheld, and blocked
10 Cross-Defendants from the property, and aided in obtaining, concealing, and withholding the
11 property in violation of California Penal Code Section 496.

12 123. As a result of Cross-Defendants’ acts and conduct as alleged above and below,
13 Snopes Media Group suffered and will continue to suffer damages, in an amount to be proved at
14 trial.

15 124. Pursuant to California Penal Code section 496(c), which provides that any person
16 who has been injured by a violation of Penal Code section 496(a) “may bring an action for three
17 times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable
18 attorney’s fees”, Snopes Media Group is entitled to three times the amount of its actual damages,
19 costs of suit, and attorneys’ fees, in an amount to be proved at trial.

20 **EIGHTH CAUSE OF ACTION**

21 **(Breach of Fiduciary Duty against Proper Media and Roes 1 through 50)**

22 125. Cross-Complainant incorporates by reference each and every allegation contained in
23 each paragraph above and below as though the same were set forth in full herein.

24 126. At all relevant times, an agency relationship existed between Snopes Media Group
25 on the one hand, and Proper Media and Roes 1 through 50 on the other hand. The GSA further
26 discloses an agency relationship between Snopes Media Group and Proper Media, where Proper
27 Media is the agent.

1 127. At all relevant times, Proper Media and Roes 1 through 50 owed fiduciary duties to
2 Snopes Media Group both by virtue of the agency relationship and as a result of the statements and
3 actions of Proper Media, Roes 1 through 50, and their agents which resulted in the formation of a
4 relationship of trust and confidence and imposed fiduciary duties, including without limitation, a
5 duty to act in good faith and in Snopes Media Group's best interests, to exercise independent
6 professional judgment and undivided loyalty, to refrain from pursuing interests adverse to Snopes
7 Media Group, and to make full disclosure of all known information that was important and material
8 to Snopes Media Group's interests and generally.

9 128. As a result of those fiduciary duties, Proper Media and Roes 1 through 50 were
10 obligated to use reasonable care, diligence and skill in its work on behalf of Snopes Media Group
11 including, without limitation, handling of revenues received from advertisements procured through
12 the Snopes.com website.

13 129. Proper Media and Roes 1 through 50 also had a duty not to withhold and secretly
14 divert Snopes Media Group's share of advertising revenue procured from the Snopes.com website,
15 and a duty not to conceal the receipt and movement of this revenue.

16 130. Proper Media and Roes 1 through 50 breached their duties of care, loyalty, and
17 disclosure to Snopes Media Group by engaging in, participating in, aiding and abetting, and
18 facilitating unlawful actions, or omissions, including the specific acts/omissions alleged in above.

19 131. At times relevant herein prior to termination of the GSA, Snopes Media Group
20 relied upon and trusted Proper Media and Roes 1 through 50 to provide the services it agreed to
21 perform under the established agency relationship.

22 132. At times relevant herein prior to termination of the GSA, Proper Media and Roes 1
23 through 50 failed to act in good faith, in the best interests of Snopes Media Group, and with such
24 care as an ordinarily prudent person in a like position would use under similar circumstances.

25 133. On information and belief, Proper Media and Roes 1 through 50 breached their
26 fiduciary obligations to Snopes Media Group by, among other things:
27
28

- 1 a. Ignoring the various provisions of the GSA regarding payment to Snopes
2 Media Group, including the requirement that Snopes Media Group receive payment of its
3 share of advertising revenue from Proper Media in a timely manner;
- 4 b. Providing inaccurate and noncompliant “invoices” to Snopes Media Group
5 regarding the advertising revenues procured on the Snopes.com website;
- 6 c. Withholding advertising revenue owed and belonging to Snopes Media
7 Group;
- 8 d. Double-booking improper expenses and withholding advertising revenue
9 owed to Snopes Media Group under the GSA for the double-booked expenses;
- 10 e. Wrongfully diverting funds owed and belonging to Snopes Media Group for
11 personal use or self-serving purposes, or for the benefit of other Cross-Defendants;
- 12 f. Making payments under and in connection with the SPA and the Promissory
13 Note using monies owed and belonging to Snopes Media Group;
- 14 g. Making payments to other clients of Proper Media using monies owed and
15 belonging to Snopes Media Group;
- 16 h. Unilaterally attempting to change payment terms without Snopes Media
17 Group’s knowledge and consent;
- 18 i. Embezzling and converting advertising revenue owed to Snopes Media
19 Group;
- 20 j. Refusing to release control of the Snopes.com website;
- 21 k. Withholding advertising revenue owed to Snopes.com in order to coerce
22 favorable modifications, agreements, and/or continued business for Cross-Defendants;
- 23 l. Disclosing Snopes Media Group’s confidential and proprietary information
24 to other parties;
- 25 m. Failing to disclose and suppressing material information regarding the use of
26 Snopes Media Group’s share of advertising revenue;
- 27 n. Conspiring with other Cross-Defendants and third parties to harm the
28 interests of Snopes Media Group;

- o. Conversion of Snopes Media Group's property; and
- p. Failing to exercise the duties of care and loyalty required of agents.

134. As a direct and proximate cause of Proper Media and Roes 1 through 50's breach of their fiduciary duties, Snopes Media Group suffered and will continue to suffer damages, including lost profits and other consequential damages in an amount to be proved at trial.

135. By virtue of the breach of fiduciary duty, Snopes Media Group has been deprived of the use of its money and property and the inclusion of interest in any award arising from the breach of fiduciary duty is necessary to make Snopes Media Group whole.

136. Snopes Media Group is informed and believes and thereon alleges that in committing the aforesaid breaches of fiduciary duty, Proper Media and Roes 1-50 acted fraudulently, maliciously and oppressively and that their conduct was despicable by community standards in that Proper Media and Roes 1-50 put their interests ahead of Snopes Media Groups' interests, used and/or misappropriated Snopes Media Group's monies and concealed their wrongful conduct from Snopes Media Group, justifying an award of punitive and exemplary damages pursuant to California Civil Code section 3294 in an amount necessary to punish Proper Media and Roes 1-50.

137. Snopes Media Group is entitled to disgorgement of all gains, profits, advantages, and unjust enrichment derived by Proper Media and Roes 1 through 50 for their breach of fiduciary duties.

NINTH CAUSE OF ACTION

(Aiding and Abetting in the Breach of a Fiduciary Duty against all Cross-Defendants)

138. Cross-Complainant incorporates by reference each and every allegation contained in each paragraph above and below as though the same were set forth in full herein.

139. On information and belief, Cross-Defendants each aided and abetted, encouraged, and rendered substantial assistance to one another in order to accomplish the wrongful acts complained of herein, including Proper Media's breach of its fiduciary duties to Snopes Media Group. On information and belief, in aiding and abetting and substantially assisting the commission of the acts complained of, Cross-Defendants acted with an awareness of their

1 wrongdoing and realized that their conduct would substantially assist the accomplishment of the
2 wrongful conduct and scheme alleged herein. In performing these acts, Cross-Defendants either
3 acted as agents of the other Cross-Defendants, or the other Cross-Defendants ratified such acts, or
4 both, and benefited financially from their scheme.

5 140. As a direct and proximate cause of conduct alleged herein including Cross-
6 Defendants' aiding and abetting, encouraging, and rendering substantial assistance to the receipt of
7 funds belonging to Snopes Media Group, Snopes Media Group suffered and will continue to suffer
8 damages, including lost profits and other consequential damages in an amount to be proved at trial.

9 141. In addition, the wrongful acts of Cross-Defendants were done maliciously,
10 oppressively, and with the intent to mislead and defraud, and Snopes Media Group is entitled to
11 punitive and exemplary damages to be ascertained according to proof, which is appropriate to
12 punish and set an example of Cross-Defendants.

13 142. Snopes Media Group is entitled to disgorgement of all gains, profits, advantages,
14 and unjust enrichment derived by Cross-Defendants for aiding and abetting the breach of fiduciary
15 duty.

16 **TENTH CAUSE OF ACTION**

17 **(Fraudulent Conveyances against all Cross-Defendants)**

18 143. Cross-Complainant incorporates by reference each and every allegation contained in
19 each paragraph above and below as though the same were set forth in full herein.

20 144. Snopes Media Group is a creditor of Cross-Defendants, and each of them, and
21 Cross-Defendants, and each of them, is a debtor of Snopes Media Group within the meaning of
22 Civil Code section 3439.01, et seq.

23 145. Snopes Media Group is informed and believes, and on that basis alleges, that Cross-
24 Defendants transfers of funds, and each of them, as alleged hereinabove, constitute transfers of
25 property within the meaning of Civil Code sections 3439.01, et seq.; that reasonably equivalent
26 value was not received for those transfers, or any of them—including transfers of funds to Barbara
27 Mikkelson—or that other relevant circumstances as set forth in Civil Code section 3439.04, apply;
28 that the transfers, and each of them, were made with the intent to hinder, delay, or defraud Cross-

1 Complainant within the meaning of Civil Code section 3439.04; and that the transfers were made at
2 a time when Cross-Defendants, and each of them, were insolvent, or that Cross-Defendants, and
3 each of them, became insolvent as a result of the transfers within the meaning of Civil Code section
4 3439.05.

5 146. Snopes Media Group seeks to set aside and cancel Cross-Defendants referenced
6 fraudulent transfers of funds, and each of them.

7 147. As a proximate result of the wrongful acts of Cross-Defendants, and each of them,
8 Snopes Media Group has suffered damages in amounts according to proof at trial.

9 148. Snopes Media Group is informed and believes, and on that basis alleges, that Cross-
10 Defendants, and each of them, made the referenced transfers maliciously and in an effort to defraud
11 and oppress Snopes Media Group, as creditor. Snopes Media Group is therefore entitled to the
12 recovery of punitive damages in an amount subject to proof at time of trial.

13 **ELEVENTH CAUSE OF ACTION**

14 **(Violation of California Business & Professions Code § 17200 *et seq.***

15 **against all Cross-Defendants)**

16 149. Cross-Complainant incorporates by reference each and every allegation contained in
17 each paragraph above and below as though the same were set forth in full herein.

18 150. Cross-Defendants' conduct was and is unlawful, unfair, and fraudulent, constituting
19 unfair competition and unfair business practices under California Business and Professions Code
20 sections 17200 *et seq.* Cross-Defendants' acts include, without limitation, refusing to remit
21 revenues intended for Snopes Media Group in their possession; refusing to use commercially
22 reasonable efforts to obtain payments from advertisers that are owed to Snopes Media Group;
23 holding hostage the Snopes.com website, infrastructure information and files for which Snopes
24 Media Group is the legal owner; falsely publicizing that Snopes Media Group was a client of
25 Proper Media after termination of the GSA to sell advertising; falsely publicizing that Proper
26 Media was an owner of Snopes Media Group; and other acts and omissions as set forth herein.
27 This unlawful, unfair, and fraudulent conduct constitutes unfair competition and unlawful business
28 practices relative to Snopes Media Group as well as others in the industry. Among other things,

1 the acts alleged herein have effectively prevented Snopes Media Group from doing business with
2 competitors of Proper Media, and the efforts of Mr. Schoentrup to try to paralyze Snopes Media
3 Group appear designed to prevent Snopes Media Group from doing business with Proper Media's
4 competitors and to discourage those competitors from doing business with Snopes Media Group.

5 151. As a result of their conduct, Cross-Defendants have been unjustly enriched in an
6 amount subject to proof at trial, and Snopes Media Group is entitled to restitution and
7 disgorgement remedies.

8 152. Snopes Media Group is entitled to injunctive relief and other equitable remedies.
9 Snopes Media Group has suffered irreparable harm as a result of Cross-Defendants' activities and
10 will continue to suffer irreparable injury that cannot be adequately remedied at law unless and until
11 enjoined and restrained by this Court.

12 **TWELFTH CAUSE OF ACTION**

13 **(Declaratory Relief against all Cross-Defendants)**

14 153. Cross-Complainant incorporates by reference each and every allegation contained in
15 each paragraph above and below as though the same were set forth in full herein.

16 154. A dispute has arisen between the parties with respect to Cross-Defendants' alleged
17 ownership interests in Snopes Media Group and the Snopes.com website, and rights attendant
18 thereto.

19 155. Snopes Media Group desires a judicial determination of the parties' rights and
20 duties concerning Snopes Media Group and the Snopes.com website, including a declaration that:

21 a. Proper Media is not entitled to withhold infrastructure information regarding
22 the Snopes.com website from Snopes Media Group;

23 b. Proper Media is not entitled to withhold the codebase for the Snopes.com
24 website from Snopes Media Group;

25 c. Proper Media is not entitled to withhold access to the Snopes.com website
26 domain and repositories from Snopes Media Group;

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1 d. Proper Media is not entitled to withhold access to Snopes Media Group's
2 email, Slack communications, and Asana project management data messages from Snopes Media
3 Group;

4 e. The GSA was terminated effective of May 7, 2017;

5 f. Proper Media does not possess an ownership interest in Snopes Media
6 Group;

7 g. Schoentrup obtained a twenty percent (20%) interest in Snopes Media Group
8 from Barbara Mikkelson in his individual capacity, and not for the benefit of Proper Media;

9 h. Richmond obtained a twenty percent (20%) interest in Snopes Media Group
10 from Barbara Mikkelson in his individual capacity, and not for the benefit of Proper Media;

11 i. Schoentrup does not hold a position on Snopes Media Group's board of
12 directors; and

13 j. The decision of how and where to host the Snopes.com website is within
14 Snopes Media Group's sole discretion.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Cross-Complainant prays for judgment as follows:

- 17 1. For actual damages according to proof;
- 18 2. For special damages according to proof;
- 19 3. For consequential damages according to proof;
- 20 4. For treble damages according to proof;
- 21 5. For an accounting to determine, *inter alia*, advertising revenues invoiced or to be
22 invoiced to advertisers during the term of the GSA and revenues owed to Snopes Media Group
23 under the GSA;
- 24 6. For restitution and/or disgorgement of ill-gotten gains;
- 25 7. For injunctive relief enjoining Cross-Defendants from engaging in acts of unfair
26 competition and unlawful business practices;
- 27 8. Imposition of a constructive trust on Cross-Defendants, as constructive trustees, for
28 the benefit of Snopes Media Group, with respect to any assets or property acquired with funds

1 withheld, owed, and/or belonging to Snopes Media Group, including, without limitation, the shares
2 purchased from Barbara Mikkelson by Schoentrup, Richmond, and Dunn, and the Promissory
3 Note;

4 9. That the Court impose an equitable lien on Cross-Defendants, and each of them, to
5 prevent Cross-Defendants from retaining and enjoying the benefits of any assets or property
6 acquired with funds withheld, owed, and/or belonging to Snopes Media Group, including, without
7 limitation, the shares purchased from Barbara Mikkelson by Schoentrup, Richmond, and Dunn, and
8 the Promissory Note;

9 10. For a judicial declaration that:

- 10 a. Proper Media is not entitled to withhold infrastructure information regarding
11 the Snopes.com website from Snopes Media Group;
- 12 b. Proper Media is not entitled to withhold the codebase for the Snopes.com
13 website from Snopes Media Group;
- 14 c. Proper Media is not entitled to withhold access to the Snopes.com website
15 domain and repositories from Snopes Media Group;
- 16 d. Proper Media is not entitled to withhold access to Snopes Media Group's
17 email, Slack communications, and Asana project management data messages
18 from Snopes Media Group;
- 19 e. Proper Media is not entitled to withhold access to property owned by Snopes
20 Media Group;
- 21 f. The GSA was terminated effective of May 7, 2017;
- 22 g. Proper Media does not possess an ownership interest in Snopes Media
23 Group;
- 24 h. Schoentrup obtained a twenty percent (20%) interest in Snopes Media Group
25 from Barbara Mikkelson in his individual capacity, and not for the benefit of
26 Proper Media;
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- i. Richmond obtained a twenty percent (20%) interest in Snopes Media Group from Barbara Mikkelson in his individual capacity, and not for the benefit of Proper Media;
- j. Schoentrup does not hold a position on Snopes Media Group’s board of directors; and
- k.
- l. The decision of how and where to host the Snopes.com website is within Snopes Media Group’s sole discretion.

- 11. For interest at the maximum legally permissible rate from the date of the initial breach(es);
- 12. For punitive and exemplary damages in an amount sufficient to punish Cross-Defendants for their wrongful conduct;
- 13. For attorney fees;
- 14. For costs of suit incurred herein; and
- 15. For such other and further relief as the Court deems just and proper.

DATED: April 10, 2019

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: 
Paul A. Tyrell
Ryan C. Caplan
P. Jacob Kozaczuk
Attorneys for Defendant/Cross-Complainant,
SNOPE MEDIA GROUP, INC., formerly
known as and having appeared as Bardav Inc