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## Shenanigans (Internet Takedown Edition)

Eugene Volokh

*UCLA School of Law*, [volokh@law.ucla.edu](mailto:volokh@law.ucla.edu)

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Eugene Volokh\*

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\* © 2021 Eugene Volokh. Gary T. Schwartz Professor of Law, UCLA School of Law (volokh@law.ucla.edu). Many thanks to Giles Miller of Lynx Investigations for his pro bono detective work on the orders discussed in Part III; Adam Holland and Wendy Seltzer of the Lumen Database, my source for many of the unpublished and unappealed injunctions that I cite in this Article; Paul Alan Levy (Public Citizen); Kristen Eichensehr, Daphne Keller, David Marcus, Richard Re, and Joanna Schwartz; Matthew Chan; and Kyle Kaufman.

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## I. INTRODUCTION

*“A good name is more desirable than great riches; to be esteemed is better than silver or gold.”*

—Proverbs 22:1 (New International Version)

\* \* \*

In 2016, Google received a copy of a Miami-Dade County default judgment in *MergeworthRX, Inc. v. Ampel*, No. 13-13548 CA.<sup>1</sup> A certain web page, the judgment said, was libelous:

2. The reports posted on or about December 30, 2014 by Defendant, CELIA AMPEL on [www.bizjournals.com](http://www.bizjournals.com) regarding Plaintiffs, MERGEWORTHRX, INC. and STEPHEN CICHY (the “Report”), which is available at <http://www.bizjournals.com/southflorida/news/2014/12/30/miami-acquisition-cpmpany-mergeworthrx-to-dissolve.html> contains defamatory statements regarding Plaintiffs.<sup>2</sup>

The submitter, therefore, asked Google to “deindex” that page—remove it from Google’s indexes, so that people searching for “mergeworthrx” or “stephen cichy” or “anthony minnuto” (another name mentioned on the page) wouldn’t see it.<sup>3</sup>

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<sup>1</sup> See *infra* note 5.

<sup>2</sup> *Id.*

<sup>3</sup> See *id.* People searching on Google would not see the Daily Business Review article mentioned in the default judgment even if they searched for other terms—the deindexing was of a page, not by search term—but those are the terms that would have most likely led to that page.

Google often acts on such requests, as it did on this one, effectively vanishing the material from the Internet.<sup>4</sup> And why not? It's a service to Google's users, who presumably want to see true information, not information that's been found libelous. It's good for the people who were libeled. It can let people at Google feel that they are doing good. And it's respectful of the court judgment, even though it's not strictly required by the judgment. Win-win-win-win.

Except there was no court order. Case No. 13-13548 CA was a completely different case. Celia Ampel, a reporter for the South Florida Daily Business Review, was never sued by MergeworthRX. The supposed judgment submitted to Google was a forgery.<sup>5</sup>

It was one of over 90 documents submitted to Google (and to other hosting platforms) that I believe to be forgeries.<sup>6</sup> Google's well-meaning deindexing policy has prompted a rash of such apparent forgeries, some seemingly home brewed and some done for money as part of a "reputation management company" business model. Such reputation management, whether fraudulent or legitimate, is big business.<sup>7</sup>

And those over 90 items are just the apparent forgeries, which are possible for Google to spot. Google seems to check most of the submissions it gets against court records, many of which are available online (as the Miami-Dade County records

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<sup>4</sup> See *How Can I Remove a URL on My Website from the Google Index?*, SISTRIX, <https://www.sistrix.com/ask-sistrix/google-index-google-bot-crawler/how-can-i-remove-a-url-on-my-website-from-the-google-index/> [<https://perma.cc/74VK-QPZ8>] (last visited Jan. 28, 2020).

<sup>5</sup> See Apparently Forged "Final Judgement [sic]," Mergeworthrx, Inc. v. Ampel, <http://www.lumendatabase.org/notices/13179239#> [<https://perma.cc/TKS9-WT6Z>] (changing case number and party names, but using much of the same text as Final Judgment, Allied Medical Supply, Inc. v. Bryson, Case No. 13-11166 CA 15 (Fla. Cir. Ct., 11th Cir., Miami-Dade Cty. Dec. 17, 2013)). See Apparently Forged "Final Judgement [sic]," Mergeworthrx, Inc. v. Ampel, *supra* note 1. Unsurprisingly, there's no Bluebook rule for governing the citation of forgeries, so I cite apparently forged orders throughout as "Apparently Forged [purported order title], [purported case name], [URL where the apparently forged order can be found on the Lumen Database]." The case number and jurisdiction aren't included in the citation because most forged orders don't refer to real cases and the case number is generally fictional. That orders were apparent forgeries has been verified by checking the online court dockets and calling the corresponding clerk of court's office.

<sup>6</sup> See *infra* Appendix A.

<sup>7</sup> See, e.g., Steven W. Giovinco, *The Definitive Guide to Online Reputation Management Pricing and How They (Should) Be Calculated*, RECOVERREPUTATION (Sept. 30, 2016), <https://www.recoverreputation.com/the-definitive-guide-to-online-reputation-management-pricing-and-how-they-should-be-calculated/> [<https://perma.cc/4B3R-CGNW>] ("[M]ost solutions range from taking about 50 to 200 hours to successfully complete over several months, or about \$5,000 to \$20,000.").

are). Most such apparent forgeries, I think, are identified as suspect and thus ignored by Google—though, a few, such as the *MergeworthRX* forgery, do get acted on.<sup>8</sup>

But what if a reputation management company engineers a real lawsuit involving a fake defendant? It sends the court a complaint, purportedly from the plaintiff, and an answer admitting liability and stipulating to a judgment, purportedly from the defendant. The court is generally happy to accept the apparent stipulation, enter the injunction, and get the case off its docket—having no idea, of course, that the defendant doesn't really exist. And Google can't easily recognize that the defendant doesn't really exist, either. I have found about 30 cases that seem to fit this pattern.<sup>9</sup>

Or what if such a company engineers a real libel lawsuit involving a real defendant—but one who has nothing to do with the allegedly libelous post? The company again sends the court a complaint and an answer with a stipulation, and the answer and stipulation are signed by the real defendant; indeed, the defendant's signature is even notarized.

It's just that the stipulation that the defendant authored the post and admitted that the post is false is itself false. But again, the court doesn't know, so it issues the injunction, and Google doesn't know the injunction is based on a false stipulation, either. I have found what appear to be over 30 of those, though here the evidence is less open and shut.<sup>10</sup>

Or what if the plaintiff doesn't try hard to find the defendant, but instead gets authorization to serve the defendant by publication (which the defendant is nearly certain never to learn about), and then gets a default judgment when the defendant doesn't show up? In normal lawsuits, where the point of the judgment is to get damages or force the defendant to do something, defendants could successfully move to set aside such defaults on the grounds that the defendants hadn't been properly served with the lawsuits. But the point of these particular lawsuits is not to get the defendants to do something: It's to persuade Google to do something, and Google has no idea whether the plaintiffs had done a good enough job of finding the defendants. I have found over 60 cases like this, though here, too, the evidence is less clear.<sup>11</sup>

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<sup>8</sup> See *infra* Part II. Throughout this Article, I focus just on American court orders (or documents that purport to be American court orders). I don't know enough about foreign legal systems, including foreign judicial record systems, to efficiently determine which orders are legitimate. I also sometimes mention that Google did deindex a page; that's based on my own records, since once Google is alerted that a court order was improper, it will generally reindex the page, not leaving any publicly accessible history of the deindexing and reindexing.

<sup>9</sup> See *infra* Part III; see also *infra* Appendix B.

<sup>10</sup> See *infra* Part IV, including the cases mentioned in note 83; see also *infra* Appendix B.

<sup>11</sup> See *infra* Part V; see also *infra* Appendix D. Some people who are upset by online criticism (libelous or otherwise)—or some reputation management companies—might take other illegal steps as well. Some, for instance, may threaten denial-of-service attacks, or even

And there's more: some orders, for instance, were obtained against people who wrote comments attached to mainstream media articles but were then submitted to Google in an attempt to deindex the whole article, though there is no evidence that the underlying article is libelous. Indeed, some of the comments might have actually been planted by a reputation management company precisely as an excuse to justify the lawsuit.<sup>12</sup>

Some other orders include the URLs of government documents or of newspaper articles buried in a long list of pages that were supposedly authored by the defendant, even though there's no reason to think the defendant actually posted those pages.<sup>13</sup> Still others use alleged recantations by defendants who had been quoted in newspaper articles as a tool for trying to vanish the article as a whole.<sup>14</sup>

In all, I found about 700 seemingly legitimate U.S. libel case orders submitted to Google for takedown and then forwarded to the Lumen Database from 2012 up to mid-October 2016.<sup>15</sup> I also found, from the same date range:

- Over 90 apparently forged orders (my total forgery count includes some post-October 2016 submissions),<sup>16</sup>
- over 30 possible fake-defendant cases,<sup>17</sup>

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physical violence, unless some material is taken down. *See generally* United States v. Jahanrakhshan, No. 3:17-CR-0414-N, 2018 WL 3455509 (N.D. Tex. July 18, 2018) (discussing prosecution of a man who had made both denial-of-service attack threats and bomb threats, aimed at removing an online copy of a court opinion in an earlier case in which he was involved); Press Release, U.S. Dep't of Justice, U.S. Attorney's Off., N.D. Tex., Seattle Man Arrested for the Attempted Extortion of Leagle.com and Several Other Media Companies (July 28, 2017), <https://www.justice.gov/usao-ndtx/pr/seattle-man-arrested-attempted-extortion-leaglecom-and-several-other-media-companies> [<https://perma.cc/GL86-MYRY>] (noting that Jahanrakhshan was also accused of using bomb threats as part of his extortion); Indictment, United States v. Pistotnik, No. 6:18-cr-10099-EFM-01-02 (D. Kan. July 17, 2018) (discussing a similar scheme aimed at forcing an online caselaw repository to remove a copy of a court opinion in an earlier bar discipline case involving the defendant, as well as postings on the complaint site RipoffReport.com). Others may hack into a site's computers. *See* Plea Agreement, United States v. Zarokian, No. 2:18-cr-01626-JJT (D. Ariz. Dec. 12, 2018), ECF No. 12. And others may use fraudulent DMCA copyright takedown notices. *See infra* Section X.E. This article, though, focuses specifically on civil litigation (or purported civil litigation).

<sup>12</sup> *See infra* Part VII.

<sup>13</sup> *See infra* Part VIII.

<sup>14</sup> *See infra* Part IX.

<sup>15</sup> My most comprehensive dataset of deindexing requests stored in the Lumen Database comes from this date range. My sense is that the rate of misconduct seems to have declined since October 2016, perhaps in part because some of the scams have been exposed; but it's also possible that the scams have simply become harder to detect. *See, e.g.*, discussion of Dior v. Xyz, *infra* Part II, at notes 41–42.

<sup>16</sup> *See infra* Appendix A.

<sup>17</sup> *See infra* Appendix B (citing 26 cases that fit one such pattern); text accompanying *infra* notes 83–86 (discussing several more).

- likely over 30 apparent fake-claim-of-authorship cases,<sup>18</sup>
- about 10 cases aimed at deindexing government documents or newspaper articles, which were undoubtedly not written by the defendant,<sup>19</sup> and
- about 60 cases in which there seemed to be no real attempt to track down and serve the defendant.<sup>20</sup>

That's a total of over 200 either obviously forged or fraudulent or at least highly suspicious cases.<sup>21</sup> And it's hard to tell how many of the 700 seemingly legitimate orders might also have involved various kinds of frauds that were just too subtle to catch. I'm sure there are many perfectly proper libel judgments that lead to deindexing requests. But many deindexing orders are suspect in various ways. I go through the details of these shenanigans—and others—in the pages below, and then turn to a few implications.<sup>22</sup>

1. Most obviously, this is a reminder not to trust apparent court orders until you check them against court records. Say, for instance, you run a website, and someone sends you an order declaring certain material on the site to be libelous—an order addressed not to you, but to one of your users—and asks you to take down the alleged libel. Don't assume the order is legitimate: Verify whether it actually appears in the court docket, and, if possible, check with the author of the material (if you can identify and reach the author) to see if the order may have been fraudulently obtained.

2. Likewise, if you are a lawyer and a prospective client asks you to file prepared documents—such as stipulations or affidavits—you should be careful. If the documents are fraudulent, you might end up tainted by the fraud, even if you hadn't known about it.<sup>23</sup>

3. This is also a reminder of the value of American courts' policy of keeping records presumptively open, even when the records involve relatively small-time low-profile litigation. If such records were presumptively sealed, fraud would be even easier to hide.

4. Sometimes some orders are sealed—very rarely in libel cases, but often in criminal expungement cases. People whose records have been expunged sometimes send those expungement orders to Google and to others to try to get mugshots, news-

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<sup>18</sup> See *infra* Appendix C.

<sup>19</sup> See *infra* Part VIII.

<sup>20</sup> See *infra* Appendix D.

<sup>21</sup> Not all 200-plus cases led to Google deindexing requests. Some didn't lead to a judgment; some were submitted to web site hosts with requests to remove the allegedly libelous material; and some might have stalled for other reasons.

<sup>22</sup> See *infra* Part X.

<sup>23</sup> For instance, the Arizona Bar disciplined two lawyers for negligently failing to verify materials they had received from clients or from third parties—materials that proved to be forged or fraudulent. *In re Warner*, No. PDJ 2018-9012, at 2–3 (Ariz. Presiding Disciplinary J. July 30, 2018); *In re Kelly*, No. PDJ 2018-9012 at 1–3 (Ariz. Presiding Disciplinary J. July 30, 2018).

paper police blotter entries, and even normal newspaper articles deindexed or edited.<sup>24</sup> To my knowledge, Google doesn't act on such expungement orders, but some newspapers and other sites might be willing to.

Yet, if the order is sealed—or if the file is entirely destroyed, which is what happens in some jurisdictions—the recipient can't readily confirm that the order is authentic. The most it can get from the court system is “that file is sealed.” If courts do want to operate using sealed expungement orders, then they need to create a verification system where someone who has a copy of what purports to be such an order can confirm whether that order is identical to the one in the court file.

5. Some anti-libel injunctions aim to bind search engines, hosting companies (such as WordPress or Yelp), domain name registrars, and the like—even when those entities were not parties to the case. In its fractured 3–1–3 decision in *Hassell v. Bird*, the California Supreme Court recently held that such injunctions are impermissible.<sup>25</sup>

The magnitude of possible frauds in such cases helps show that the *Hassell* plurality and the concurrence were correct: Online service providers, such as Yelp and Google, that get these orders are the first line of defense against fraudulent behavior, so long as they have no legal obligation to comply with such orders issued against third parties. The service providers can exercise their discretion to conclude that some orders appear untrustworthy. They can demand more documentation from people who submit the orders. And if their concerns about the orders are not adequately resolved, they can decline to act on the orders.

6. Congress is considering whether to strip Internet platforms of libel immunity if they fail to take down material after being sent

[a] copy of the order of a Federal or State court under which the content or activity was determined to violate Federal law or State defamation law, and to the extent available, any references substantiating the validity of the order, such as the web addresses of public court docket information.<sup>26</sup>

But the cases I discuss below show that such orders are not trustworthy: Even if they aren't forged, there is no way of figuring out if they are the result of some other fraud—or are otherwise unreliable, for instance because they have been obtained as a result of a default judgment, with no real attempt to locate and serve the defendant. The orders may purport to “determine[]” that certain “content” “violate[s] . . . defamation law,” but that determination, even if fair as between the parties, ought not be

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<sup>24</sup> See, e.g., Eugene Volokh, Opinion, *Mum's the Word: Secret Proceeding About Secret Order to Keep Secret a Police Abuse Guilty Plea*, WASH. POST (Sept. 25, 2017, 7:14 AM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/09/25/mums-the-word-secret-proceeding-about-secret-order-to-keep-secret-a-police-brutality-guilty-plea/> [https://perma.cc/XB55-33YG].

<sup>25</sup> *Hassell v. Bird*, 420 P.3d 776, 779 (Cal. 2018).

<sup>26</sup> Platform Accountability and Consumer Transparency Act (PACT Act), S. 4066, 116th Cong., 2d Sess., sec. 6(a) (2020).



used to determine the rights and responsibilities of third parties who were not involved in the litigation.

## II. FORGERIES

Michael Arnstein ran the Natural Sapphire Company. Upset at some allegedly libelous criticisms of his company, he sued and got a court order requiring a defendant to take down those criticisms. He then had the order sent to Google, asking Google to deindex those URLs.<sup>27</sup> So far, so good.

But Arnstein was, unsurprisingly, not thrilled with the cost and delay involved in litigation. So when he found other URLs that he thought were defamatory, he didn't pay his lawyer to go back to court to get new orders. Instead, he created 11 new orders himself—he took the original order, edited out the old URLs, added the new URLs, and changed the order date.<sup>28</sup> Google did apparently deindex some material, relying on some of these forgeries. And Arnstein made his rationale clear, in an e-mail that eventually surfaced:

[N]o bullshit: if I could do it all over again I would have found another court order injunction for removal of links (probably something that can be found online pretty easily) made changes in photoshop to show the links that I wanted removed and then sent to 'removals@google.com' as a pdf—showing the court order docket number, the judges [sic] signature—but with the new links put in. google isn't checking this stuff; that's the bottom line b/c I spent \$30,000 fuckin thousand dollars and nearly 2 fuckin years to do what legit could have been done for about 6 hours of searching and photoshop by a guy for \$200., all in ONE DAY . . .<sup>29</sup>

Of course, the downside to doing it Arnstein's way is that it's a federal felony. Arnstein was discovered, prosecuted, and sentenced to nine months in prison.<sup>30</sup>

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<sup>27</sup> See Order for Default Judgment, *Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd.*, No. 11-CV-5079 (S.D.N.Y. Oct. 26, 2012) (a real court order); <https://www.lumendatabase.org/notices/12549270> [<https://perma.cc/VL4M-WCJ2>] (reporting that this order was submitted to Google).

<sup>28</sup> Eugene Volokh, Opinion, *Guilty Plea for 'Brazen Scheme to Submit Counterfeit Federal Court Orders to Google'*, WASH. POST (Sept. 19, 2017, 6:53 AM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/09/19/guilty-plea-for-brazen-scheme-to-submit-counterfeit-federal-court-orders-to-google/> [<https://perma.cc/Q4ME-KFKS>]; see also *infra* Appendix A, No. 38–48.

<sup>29</sup> Complaint at 5–6, *United States v. Arnstein*, No. 1:17-mj-01870-UA (S.D.N.Y. filed Mar. 15, 2017).

<sup>30</sup> Judgment in a Criminal Case at 1–2, *United States v. Arnstein*, No. 1:17-cr-00570 (S.D.N.Y. Oct. 31, 2018); Press Release, U.S. Dep't of Justice, U.S. Attorney's Off., S.D.N.Y., *Manhattan Businessman Sentenced to Nine Months in Prison for Forging Federal Court Orders to Remove Negative Reviews from Internet Search Results* (Oct. 19, 2018), <http://www.justice.gov/usao-sdny/pr/manhattan-businessman-sentenced-nine-months-prison-forging-federal-court-orders-remove> [<https://perma.cc/97AH-XNX3>].

These 11 orders were among over 90 apparent forgeries (listed in Appendix A) submitted by various people that were aimed at this sort of deindexing (or, in a few cases, outright removal). The broader range of forgeries was aimed at hiding a wide range of materials. Some of the most interesting ones included attempts to deindex:

- criticisms of an Indonesian billionaire, posted by his niece who was accusing him of (among other things) cheating her side of the family out of the family fortune;<sup>31</sup>
- newspaper articles about a sports agent who had represented prominent Olympians, such as gymnasts Gabby Douglas and Laurie Hernandez, but who had gotten bad publicity when her nanny sued her and her husband for alleged assault and racist insults;<sup>32</sup>
- copies of court decisions in a case a man had brought against his ex-employer;<sup>33</sup>
- newspaper articles about the prosecution of a cyberstalker;<sup>34</sup>
- online posts critical of several Scientology-linked drug and alcohol rehab centers;<sup>35</sup>

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<sup>31</sup> Apparently Forged “Orders Granting Judgement [sic] and Entry of Permanent Injunction,” *Asia Pacific Resources Int’l Holdings v. “Neomi Wendy Chen”* (on file with author) (using the same docket number as the real case of *Wild Strawberry Entertainment Co. v. John Doe*, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment and injunction granted Mar. 30, 2015), and the same docket number as the apparently forged order in *Tranquil Rehab Swiss SA v. Deathhamster*, *infra* note 35); *see also infra* Appendix A, No. 78.

<sup>32</sup> Apparently Forged “Judgement [sic] Entry,” *State v. Mazer*, <http://www.lumendatabase.org/notices/17665123> [<https://perma.cc/DU4F-D2TL>] (purporting to be an order in the U.S. District Court for the Northern District of California, but using the name of the Ohio state judge, Hon. Donald Oda, and docket number in *State of Ohio v. Aukerman*, No. 14CR29792 (Ohio Ct. Com. Pl. Warren Cty. filed Jan. 21, 2014), discussed *infra* at note 39); *see also infra* Appendix A, No. 35.

<sup>33</sup> Apparently Forged “Order Granting Plaintiff’s Motion for Injunctive Relief,” *Manley v. NAVMAR*, <http://www.lumendatabase.org/notices/17164539> [<https://perma.cc/6G5B-E88U>] (copying the caption, case number, and Judge’s signature from Order Denying Plaintiff’s Motion and Granting Defendant’s Motion to Dismiss, *Manley v. Navmar Applied Sciences Corp.*, No. 2:12-cv-05493 (E.D. Pa. Jan. 24, 2013)); *see also* Apparently Forged “Order Removal of Defamatory Contents on Internet,” *Manley v. Ellarbee and Thompson*, <http://www.lumendatabase.org/notices/17164539> [<https://perma.cc/6G5B-E88U>] (copying the stamp and case number of Complaint at 1, *Manley v. Lockheed Martin*, No. 1-17-cv-1320 (N.D. Ga. filed Apr. 13, 2017)); *see also infra* Appendix A, No. 32.

<sup>34</sup> Apparently Forged “Agreed Order of Acknowledgement [sic],” *People of Illinois v. Cordogan*, <http://lumendatabase.org/notices/13555164> [<https://perma.cc/3AQQ-TU9T>] (using a date stamp with apparent alterations, and using purported docket numbers 12-CR-7171-7183, 12-CR-9649-9660, and 12-CR-6978 for the Illinois Circuit Court of Cook County, Criminal Division, which court staff confirmed via phone do not match any of their dockets); *see also infra* Appendix A, no. 63.

<sup>35</sup> *See* Apparently Forged “Amended Final Default Judgment,” *Narconon Rehab Servs. LLC v. Doe*, <http://lumendatabase.org/?sid=12960667> [<https://perma.cc/HC93-PCF5>]

- a real estate transaction listing on the blockshopper.com site, mentioning a particular person's home;<sup>36</sup>
- an online newspaper article critical of a volunteer New Britain (Conn.) city commissioner;<sup>37</sup>

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(showing a purported case number, 2016CV258140, that does not match any court documents as confirmed via phone by the court in Fulton County, Georgia); Apparently Forged "Orders Granting Judgement [sic] and Entry of Permanent Injunction," *Tranquil Rehab Swiss SA v. Deathhamster*, <http://lumendatabase.org/?sid=12987034> [<https://perma.cc/NY5C-NQFX>] (using the same docket number and jurisdiction as *Wild Strawberry Entertainment Co. v. John Doe*, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment & injunction granted Mar. 30, 2015) and same docket number as the apparently forged *Asia Pacific Resources Int'l Holdings v. "Neomi Wendy Chen,"* see *supra* note 31); Apparently Forged "Order Granting Consent Motion for Injunction and Final Judgment," *SPR, Inc. v. Doe*, <http://lumendatabase.org/?sid=12928496> [<https://perma.cc/7QNL-H84M>] (copying the case number and caption of *Order Granting Consent Motion for Injunction and Final Judgment at 1, Callagy v. Roffman*, No. 160603108 (Pa. Ct. Com. Pl. Phila. Cty., July 7, 2016), *vacated* Oct. 20, 2016); Apparently Forged "Orders Granting Judgement [sic] and Entry of Permanent Injunction," *Tranquility Rehab Swiss SA v. Billibob*, <https://www.lumendatabase.org/notices/13038356> [<https://perma.cc/56Y4-FVA7>] (using the same docket number and jurisdiction as *Wild Strawberry Entertainment Co. v. John Doe*, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment and injunction granted Mar. 30, 2015), and using the same docket number and spelling errors as in *Asia Pacific Resources Int'l Holdings v. "Neomi Wendy Chen,"* *supra*, note 31 and *Tranquil Rehab v. Deathhamster*, *supra* note 35); see also Gary Baum, *Scientology Anti-Drug Program: Fabricated Court Orders Suggest Attempt to Silence Critics*, *HOLLYWOOD REP.* (Aug. 9, 2017, 6:30 AM), <http://www.hollywoodreporter.com/news/scientology-anti-drug-program-fabricated-court-orders-suggest-attempt-silence-critics-1027738> [<https://perma.cc/CRA3-TUUB>].

<sup>36</sup> Apparently Forged "Memorandum Opinion and [Order]," *Katelanis v. Blockshopper LLC*, <http://www.lumendatabase.org/notices/16161042> [<https://perma.cc/AG3G-8H6P>] (taking the docket number and court jurisdiction from *Essex Ins. Co. v. Vill. of Oak Lawn*, No. 1:14-cv-04572 (N.D. Ill. filed June 17, 2014), using the name of a real judge, John W. Darrah, from N.D. Ill. but who was not assigned to docket No. 1:14-cv-04572, and also including many typographical errors). This document lists the same purported judge as in *Haas v. Berriault*, *infra* Appendix A, No. 22 and note 37, and in *State v. Pennant*, *infra* note 47, Appendix A No. 23).

<sup>37</sup> Apparently Forged "Memorandum Opinion and Order," *Haas v. Berriault*, <http://www.lumendatabase.org/notices/14045627> [<https://perma.cc/5HYJ-S9ND>] (purporting to be issued by the Conn. Super. Ct., using the name of a real federal judge from the U.S. Dist. Ct. for the N.D. Ill., John W. Darrah; this is the same judge's name used in the apparently forged documents in *Katelanis v. Blockshopper LLC*, *supra* note 36 and *infra* Appendix A, No. 36, and in *State v. Pennant*, *infra* note 47 and Appendix A No. 23); see also Eugene Volokh, *Apparent Forged Court Order for the Benefit of a New Britain (Conn.) Volunteer City Commissioner*, *WASH. POST* (Mar. 30, 2017), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/30/apparent-forged-takedown-order-for-the-benefit-of-a-new-britain-conn-volunteer-city-commissioner/> [<https://perma.cc/L852-7CWQ>].

- an online magazine article discussing the past criminal convictions of a Los Angeles hotel executive;<sup>38</sup>
- one of my own posts about an earlier prosecution for one such forgery.<sup>39</sup>

Some of the forgeries are obvious on their face, at least to those who know what to look for; here is the purported signature from a purported Los Angeles Superior Court order:<sup>40</sup>



Pamela J. L. Brown  
Circuit Court Judge

The forger apparently didn't know that there are no Circuit Court Judges in Los Angeles Superior Court (though the title is common in other state trial court systems). But other forgeries are much more realistic, for instance:<sup>41</sup>

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<sup>38</sup> Apparently Forged "Minute Order," California v. Farzam, <http://www.lumendatabase.org/notices/15936937> [<https://perma.cc/VK6H-DLBX>] (apparently forging order to seal the entire record on defendant's ex parte application).

<sup>39</sup> See Apparently Forged "Judgement [sic] and Entry and Order Granting Motion to Seal Record," Ohio v. Aukerman, <http://www.lumendatabase.org/notices/14849831> [<https://perma.cc/PM9R-9TZM>] (purporting to issue an order in July 2017 to seal the record of the real case of State v. Aukerman, No. 14CR2972 (Ohio Ct. Com. Pl. Warren Cty. filed Jan. 21, 2014), and purporting to find defamatory several URLs, including a Volokh Conspiracy post from Apr. 1, 2017). Lumen notes on these documents: "Judge Oda has informed Lumen that this order is not authentic; he did not make any findings regarding any URL webpages that were alleged to be defamatory, nor did he order anything be removed from the Internet." *Id.* For a discussion of the preceding and related 2013 forgery and 2014 prosecution of Mr. Aukerman in Volusia County, Florida, see *infra* notes 46 and 213.

<sup>40</sup> Apparently Forged "Order Granting Motion for Injunction," Morris v. Bail Bond City, LLC, <http://www.lumendatabase.org/notices/12886152> [<https://perma.cc/KHX6-V3WP>] (using improper case number and listing purported judge as "Pamela J.L. Brown, Circuit Court Judge," which is a title that does not exist in this court).

<sup>41</sup> Apparently Forged "Judgment," Dior v. XYZ, <http://www.lumendatabase.org/notices/13179169> [<https://perma.cc/RQW5-Q4FE>] (using the case number from the real case of Argyropoulos v. Doe, No. BC 558812 (Cal. Super. Ct. L.A. Cty. Oct. 27, 2015)); see also *infra* Appendix A, No. 6.

<p>1 ALAN D.LIKER, State bar#41453          2 LAW OFFICES OF ALAN D. LIKER          3 A PROFESSIONAL CORPORATION          300 North Swall Drive          Suite 454          Beverly Hills, CA, 90211          Telephone: (310) 913 2570          Facsimile: (310) 273 4734</p>	<p><b>FILED</b>          Superior Court of California          County of Los Angeles</p> <p style="font-size: small;">[Redacted]</p> <p>04-25-16          Sherri R. Carter, Executive Officer/Clerk          By <u>Geoffrey Charlas</u> Deputy          Geoffrey Charlas</p>
<p>6 Attorney for Plaintiff, JAG SITRA DIOR</p>	
<p>8 SUPERIOR COURT OF THE STATE OF CALIFORNIA          9 FOR THE COUNTY OF LOS ANGELES</p>	
<p>11 JAG SITRA DIOR,          12 Plaintiff,          13 vs.          14 Defendant name(s), XYZ, GCO, REITDD,          15 JOHN DOE 1          16 And ROES 1 through 24, inclusive,          17 Defendants,</p>	<p>Case No. BC 558812          [Assigned for All Purpose to Hon. Robert          L. Hess, Dept. 24]  <del>PROPOSED</del> [JUDGEMENT]</p>
<p>19 This matter came on for Default Prove-up in Department 24 of the above-          20 entitled court, Judge Robert L. Hess, presiding, on <u>04/25</u></p>	

(Note that there is no reason to think that this forgery was the work of the lawyer cited in the caption—once someone has decided to forge everything else, why not fake the lawyer’s name as well?)

Only examining the real court records can confirm whether the document is authentic. Fortunately, the Los Angeles Superior Court has many of its records online, and they show that this case number corresponds to a completely different case, and there is no case involving a Jag Sitra Dior.<sup>42</sup> Unfortunately, other courts (such as those in Plumas County and Mono County, where five of the apparently

<sup>42</sup> Judgment, *Argyropolous v. Doe*, No. 558812 (Cal. Super. Ct. L.A. Cty. Oct. 27, 2015). Many parts of the *Dior* forgery appear to have been copied from the *Argyropolous* judgment.

forged orders are purportedly from<sup>43</sup>) don't have online records systems.<sup>44</sup> Checking on cases from such courts can require ordering documents by mail, or, in some courts, even sending a courier service.

Two federal cases involving such forgeries have led to prosecutions and convictions,<sup>45</sup> though the first wasn't accompanied with any publicity that might have deterred other forgers. Five other state cases led to a conviction for contempt of court,<sup>46</sup> a forgery conviction,<sup>47</sup> a forgery prosecution that led to diversion for mental

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<sup>43</sup> See Apparently Forged “Default Judgment,” *Khorasani v. Sampson*, <http://lumendatabase.org/?sid=1037493> [<https://perma.cc/BJS8-8WP8>] (using improper case number; no clerk by the name of Hector Gonzalez, Jr. has worked at Calif. Super. Ct., Mono Cty. Emails from Lester Perpall, CEO and Kay Richmond, Deputy Clerk, Mono Cty. Super. Ct., respectively, to Utah Law Review staff, Apr. 8, 2020 (on file with Utah Law Review)); Apparently Forged “Final Judgment and Permanent Injunction,” *Giunta v. Bosley*, <http://lumendatabase.org/?sid=1896816> [<https://perma.cc/U4YU-6ZTV>] (same); Apparently Forged “Final Judgment and Permanent Injunction, Increase Visibility Inc., v. Ruiz,” <http://lumendatabase.org/?sid=2164422> [<https://perma.cc/JU7G-C7PX>]; *Increase Visibility v. Thomas*, <http://lumendatabase.org/?sid=2174997> [<https://perma.cc/XM9K-DPP8>]; Apparently Forged “Final Judgment and Permanent Injunction,” *Schwartzapfel v. Goldstein et al.*, <http://lumendatabase.org/?sid=1657779> [<https://perma.cc/A7UZ-BUET>].

<sup>44</sup> See, e.g., Superior Court, County of Plumas, <http://www.plumascourt.ca.gov/index.htm> [<https://perma.cc/4YKK-ZP2Z>] (“Record Searches” button leads to a “Record Search Request Information Sheet,” <http://www.plumascourt.ca.gov/Record%20Search%20Request.pdf>, which requires a mailed request—not by fax or phone—and says that “[t]ypically, a search request is completed in 5 to 7 business days . . . from the date the court receives the request”).

<sup>45</sup> One is *United States v. Arnstein*, No. 1:17-mj-01870-UA (S.D.N.Y. Apr. 17, 2017), Judgment in a Criminal Case, *United States v. Arnstein*, No. 1:17-cr-00570 (S.D.N.Y. Oct. 31, 2018), discussed at notes 27–30. For the other one, see Sealed Complaint, *United States v. Lichterman*, No. 1:14-mj-02735-UA (S.D.N.Y. filed Dec. 5, 2014) and Judgment in a Criminal Case, *United States v. Lichterman*, No. 1:15-cr-00302-JGK (S.D.N.Y. Feb. 22, 2016) (defendant pleaded guilty to “Forging A Court Seal”).

<sup>46</sup> Judgment and Sentence for Indirect Criminal Contempt, *Aukerman v. Adams*, No. 2013-33765-FMCI (Fla. Cir. Ct. Volusia Cty. Feb. 5, 2014) (sentencing defendant to thirty days in jail). This judgment appears to stem from the Apparently Forged “Entry and Order Granting Motion to Seal Record,” *Aukerman v. Adams*, <https://www.lumendatabase.org/notices/13178241> [[per-ma.cc/4XNY-T2C2](https://perma.cc/4XNY-T2C2)] (purporting to seal record in the same Volusia County *Aukerman* case); see also *infra* Appendix A, No. 60. For a discussion of a related apparent forgery involving *Aukerman* in 2017 in Ohio, see *supra* note 39 and accompanying text.

<sup>47</sup> *State v. Pennant*, No. T19R-CR18-0111799-S (Conn. Super. Ct. Aug. 22, 2019) (sentencing defendant to one year in jail—though the length of the sentence might have stemmed from defendant’s having a longer criminal history—for forging Conn. Super. Ct. order, see *infra* Appendix A, No. 23, which named the purported judge as “John W. Darrah,” who is not a Connecticut state judge, but was a federal judge in Illinois who died in 2017). The same judge’s name was used in the apparently forged documents in *Katelanis v. Blockshopper LLC*, *supra* note 36 and *infra* Appendix A, No. 36, and *Haas v. Berriault*, *infra* Appendix A, No. 22 and *supra* note 37.

health treatment,<sup>48</sup> a recently filed forgery prosecution,<sup>49</sup> and a recently filed bar investigation and complaint.<sup>50</sup> Though prosecutors or judges were eventually alerted to the remaining forgeries, those forgeries didn't lead to prosecutions.

Many of these forgeries, especially the most amateurish-looking ones, were likely done by the beneficiaries themselves. But the connections among some of the fake orders suggest that there are forgery businesses who do this for clients.<sup>51</sup> Several apparent forgeries that purport to be from Hamilton County, Ohio, for instance,

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<sup>48</sup> *People v. Farzam*, No. LACBA476050-01 (Cal. Super. Ct. L.A. Cty. filed Nov. 15, 2019); Minute Order, *id.* (Mar. 4, 2021) (ordering mental health diversion, and ordering defendant “not to forge any court documents”).

<sup>49</sup> *State v. Holt* (N.H. Dist. Ct. filed Jan. 25, 2021), <https://reason.com/wp-content/uploads/2021/02/HoltCriminalComplaint.pdf> [<https://perma.cc/CJ9K-62C9>]; N.H. Dep't of Justice, *Arrest of Heidi L. Holt for Tampering with Public Records or Information and Forgery*, Jan. 28, 2021, <https://www.doj.nh.gov/news/2021/20210128-holt-arrest.htm> [<https://perma.cc/8LRE-CVFL>].

<sup>50</sup> Complaint, *State Bar v. Michaelides*, no. OBC20-0444 (Nev. State Bar S. Nev. Discip. Bd. Oct. 13, 2020).

<sup>51</sup> Compare Apparently Forged “Amended Final Default Judgment,” *Narconon Rehab Servs. LLC v. Doe*, *supra* note 35, with Apparently Forged “Orders Granting Judgement [sic] and Entry of Permanent Injunction,” *Tranquil Rehab Swiss SA v. Deathhamster*, *supra* note 35 (both aimed at deindexing criticisms of Narconon International). Compare Apparently Forged “Agreed Final Judgment and Permanent Injunction,” *Am. Truck Group, LLC v. Rodriguez*, <http://lumendatabase.org/?sid=2362326> [<https://perma.cc/7PAH-BW2Y>] (purported case number, L-8463014, and case name appear not to exist in court records; document purports to be from Chancery Division, but “L” in case number corresponds to Civil Part), with Apparently Forged “Order Granting Judgment and Entry of Permanent Injunction,” *Am. Truck Group, LLC v. “Your Savior,”* <http://lumendatabase.org/?sid=2350253> [<https://perma.cc/8VXM-ZSPY>] (using same docket number as *Adam Meer v. Procter & Gamble Co DBA Old Spice*, No. A-1804003 (Ohio Ct. Com. Pl. Hamilton Cty. filed July 26, 2018)) (both aimed at deindexing criticisms of American Truck Group). Compare Apparently Forged “Order Granting Consent Motion for Injunction and Final Judgment,” *SPR, Inc., v. Doe*, *supra* note 35, with Apparently Forged “Orders Granting Judgement [sic] and Entry of Permanent Injunction,” *Tranquility Rehab Swiss SA v. Billibob*, *supra* note 35 (both listing RipoffReport.com URL). Compare Apparently Forged “Ex Parte Temporary Injunction” at 11–12, *Moore & Efloortrade, LLC v. Steinberg & Rothman*, <http://lumendatabase.org/?sid=2140733> [<https://perma.cc/N4K3-S9DB>] (specifically the URL mentioning “Intacapital”), with Apparently Forged “Order Granting Judgement [sic] and Entry of Permanent Injunction,” *Intacapital Swiss SA v. “IRLGlegal”* (on file with author) (apparently based on *Intacapital Swiss SA v. IRGLegal*, No. A-1407254 (Ohio Ct. Com. Pl. Hamilton Cty. Apr. 17, 2015), but using a later judgment date than last item in docket, and including URLs that do not appear in the actual court-entered judgment). Some of the forgeries are also based on the possible fake-defendant orders discussed in Part III. Apparently Forged “Order Granting Consent Motion for Injunction and Final Judgment,” *SPR, Inc. v. Doe*, *supra* note 35; Apparently Forged “Order Granting Consent Motion for Injunction and Final Judgment,” *Maziar v. Garcia*, <http://lumendatabase.org/?sid=13449795> [<https://perma.cc/6V3K-TNTR>] (using much of the same text as *Order Granting Consent Motion for Injunction and Final Judgment*, *Smith v. Garcia*, No. 16-144 S, 2017 WL 412722 (D.R.I. Apr. 22,

look very similar,<sup>52</sup> and a contract signed by one of the ostensible plaintiffs shows that the ostensible plaintiff had hired a company called Web Savvy to do something about critical posts, for a fee of \$3,750 per post.<sup>53</sup> (The ostensible plaintiff reported that she had no idea that Web Savvy would do this through forgery, but instead thought it was a reputable company that had some legitimate way of doing what it promised.<sup>54</sup>) A CBS News investigation that was based largely on the research in

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2016)). And one of the apparent forgeries seemed to be for the benefit of the same person who was the plaintiff in one of the California-notarization orders discussed in Part V. *See infra* Part V; Apparently Forged “Final Judgment and Permanent Injunction,” Schwartzapfel v. Goldstein, <http://lumendatabase.org/?sid=1657779> [<https://perma.cc/7FYJ-DT66>]; Final Judgment and Permanent Injunction, Schwartzapfel v. Guidry, No. 2014-42698 (Tex. Harris Cty. Dist. Ct. July 25, 2014).

<sup>52</sup> *See, e.g.*, Apparently Forged “Order Granting Judgment and Entry of Permanent Injunction,” Am. Truck Group, LLC v. “Your Savior,” *supra* note 51; Apparently Forged “Order Granting Judgment and Entry of Permanent Injunction,” Clarkson v. “ALI191,” <http://lumendatabase.org/notices/14041069> [<https://perma.cc/JUD8-T9FA>] (using the docket number from City of Cincinnati v. Tucker, No. A0903003 (Ohio Ct. Com. Pl. Hamilton Cty. judgment filed May 1, 2015)); Apparently Forged “Agreed Judgment and Permanent Injunction [sic],” Friedman v. Wright, <http://lumendatabase.org/?sid=2368931> [<https://perma.cc/B8BF-TRQ9>] (using the docket number from Hoskins v. Admin. Bureau of Workers Comp., No. A1605371 (Ohio Ct. Com. Pl. Hamilton Cty. dismissed Nov. 30, 2017)); Apparently Forged “Order Granting Judgment [sic] and Entry of Permanent Injunction,” IntaCapital Swiss SA v. “IRLGLegal” (on file with author) (apparently based on Intacapital Swiss SA v. IRLLegal, No. A-1407254 (Ohio Ct. Com. Pl. Hamilton Cty. Apr. 17, 2015), but using a later judgment date than last item in docket, and including URLs that do not appear in the actual court-entered judgment); Apparently Forged “Order Granting Judgment and Entry of Permanent Injunction,” Noie v. Seabrook, <http://lumendatabase.org/?sid=2348633> [<https://perma.cc/NQ2Q-BR7R>] (using the case number and jurisdiction from McFarland v. Proctor & Gamble Co., A1804009 (Ohio Ct. Com. Pl. Hamilton Cty. filed July 26, 2018)); Apparently Forged “Order Granting Judgment and Entry of Permanent Injunction,” Soba Living, LLC v. Will, <http://lumendatabase.org/?sid=2352943> [<https://perma.cc/YP39-ZZ8L>] (using the case number and jurisdiction from Deutsche Bank Nat’l Trust Co. v Bertram, No. A1304018 (Ohio Ct. Com. Pl. Hamilton Cty. amended judgment Aug. 10, 2016)); Apparently Forged “Orders Granting Judgment [sic] and Permanent Injunction,” Tranquil Rehab Swiss SA v. Deathhamster, *supra* note 35; Apparently Forged “Orders Granting Judgment [sic] and Entry of Permanent Injunction,” Tranquility Rehab Swiss SA v. Billibob, *supra* note 35; Apparently Forged “Order Granting Judgment and Permanent Injunction,” Vehicle-history, LLC v. Edingeargia, <http://lumendatabase.org/?sid=2359742> [<https://perma.cc/N94T-PQ5F>] (purported case number A2104005 does not appear in docket searches in Ohio Ct. Com. Pl. Hamilton Cty.).

<sup>53</sup> *See* Gary Baum, *Scientology Anti-Drug Program: Fabricated Court Orders Suggest Attempt to Silence Critics*, HOLLYWOOD REP. (Aug. 9, 2017, 6:30 AM), <https://www.hollywoodreporter.com/news/scientology-anti-drug-program-fabricated-court-orders-suggest-attempt-silence-critics-1027738> [<https://perma.cc/56TF-AEBU>]; Reputation Management Agreement Between Web Savvy LLC and Client (available from author) (showing that Web Savvy LLC had promised to “work to de-index” the links that ended up in one of the forged Hamilton County orders).

<sup>54</sup> Baum, *supra* note 53.



this Part likewise appears to have identified John Rooney of Web Savvy as the person behind that order.<sup>55</sup>

### III. STIPULATED INJUNCTIONS INVOLVING APPARENTLY FAKE DEFENDANTS

In August 2016, I got an e-mail from an acquaintance of mine, Matthew Chan. An odd thing had happened, he wrote: Yelp had informed him that it was considering deleting a customer review of his because of a court judgment that the review was libelous.<sup>56</sup> Indeed, this judgment was based on a stipulation, in which he had supposedly admitted the libel:<sup>57</sup>

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<sup>55</sup> See Jim Axelrod & Andy Bast, *CBS News Investigation Finds Fraudulent Court Orders Used to Change Google Search Results*, CBS NEWS (July 25, 2019, 6:40 PM), <http://www.cbsnews.com/news/online-reputation-management-cbs-news-investigation-finds-fraudulent-court-orders-used-to-change-google-search/> [https://perma.cc/W5SK-TLKK].

<sup>56</sup> E-mail from Matthew Chan, to Eugene Volokh (Aug. 11, 2016) (on file with the author).

<sup>57</sup> Order Granting Consent Motion for Injunction and Final Judgment, *Patel v. Chan*, No. 24-C-16-003573 (Md. Cir. Ct. Balt. Cty. July 26, 2016), *vacated* (July 7, 2017).

**ORDER GRANTING CONSENT MOTION  
FOR INJUNCTION AND FINAL JUDGMENT**

The parties having filed a Consent Motion for Injunction and Final Judgment, and therefore, good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Court finds that Defendant Mathew Chan (“Defendant”) posted false and defamatory statements about Plaintiff Mitul R. Patel (“Plaintiff”) on the following webpage(s): <http://www.healthgrades.com/dentist/dr-mitul-patel-3kvwh> , <https://www.ratemds.com/doctor-ratings/2637312/Dr-MITUL-%2BR.-PATEL-SUWANEE-GA.html> , <http://www.kudzu.com/m/DrMitul-PatelDDS-30366893> , <http://www.yelp.com/biz/family-and-cosmetic-dental-care-suwanee-2> , <https://www.doctor-oogle.com/584293-suwanee-dentist-dr-mitul-patel> , <https://www.doctor-oogle.com/584293-suwanee-dentist-dr-mitul-patel> (the “Defamation”).
2. The Defamation is not otherwise protected by the First Amendment.
3. Defendant shall remove the Defamation.
4. If the Defendant cannot remove the Defamation from the Internet, the Plaintiff shall submit this Order to Healthgrades.com, Ratemds.com, kudzu.com, Yelp.com, doctor-oogle.com, or any other Internet search engine so that the comment can be removed from their web page pursuant to their existing policies concerning de-indexing of defamatory material.

But, Chan told me, the lawsuit had been filed in Baltimore against a “Mathew Chan” who was supposedly in Maryland. Both the Chan I was talking to (who wrote the Yelp review) and the plaintiff—Mitul Patel, a dentist whom Chan had criticized

in his Yelp review—lived in Georgia. Indeed, because Chan had been a patient of Patel’s,<sup>58</sup> Patel surely knew that Chan was in Georgia.

Now the court order, it turns out, was real: If Yelp had sent a document retrieval service to get the Baltimore court records,<sup>59</sup> it would have found the original of the order. But the Baltimore Mathew Chan appears to have been fake. There was no Mathew Chan connected to the address listed in the court docket, and there is no evidence that any such person ever signed any documents in the case. Indeed, when the apparent fraud was uncovered, the plaintiff himself denied that he had ever authorized the lawsuit.<sup>60</sup>

Searching through Bloomberg Law dockets for some of the boilerplate from the Baltimore order eventually uncovered 26 cases that all fit this profile.<sup>61</sup> Of those, 23 (including *Patel v. Chan*) listed the defendant’s address. A friend of mine referred me to Giles Miller of Lynx Investigations, an experienced private investigator, who agreed to research those defendants *pro bono*—and none of those 23 ostensible defendants had any visible connection to the addresses listed for them.<sup>62</sup>

Paul Alan Levy of Public Citizen moved to intervene in one of those 23 cases, *Smith v. Garcia*, filed in Rhode Island federal court.<sup>63</sup> (That case was aimed at deindexing consumer finance advice posts at GetOutOfDebt.org, a serious financial advice site run by an organization that Levy had represented before and that he represented in his motion to intervene.<sup>64</sup>) The District Court eventually vacated the earlier order “[i]n light of the evidence that the Consent Judgment was procured through fraud on the Court.”<sup>65</sup>

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<sup>58</sup> E-mail from Matthew Chan, *supra* note 56.

<sup>59</sup> When I tried to get court records from the Baltimore Circuit Court, I found that the court wouldn’t send them by mail or e-mail, even for a payment. The docket sheets are available online, but not the documents. Other Maryland courts are more accommodating: They charge a modest fee, but they take credit card payments by phone and then send the material by mail.

<sup>60</sup> Motion to Intervene, Motion to Strike Judgment, and Answer to Defendant Mathew Chan’s Motion to Vacate Consent Judgment/Order, *Patel v. Chan*, No. 24-C-16-003573 (Md. Cir. Ct. Balt. Cty. Sept. 21, 2016).

<sup>61</sup> This was done using Bloomberg Law searches for phrases that appeared in the *Patel* papers, such as “Consent Motion for Injunction and Final Judgment” and “Dated, so respectfully.” Though such phrases could of course appear in unrelated cases, looking through results revealed that many of the orders that use one of the phrases also use several others, and thus appear to come from the same source (even though all are ostensibly *pro se* lawsuits). For a listing of these cases, see *infra* Appendix B.

<sup>62</sup> Eugene Volokh & Paul Alan Levy, Opinion, *Dozens of Suspicious Court Cases, with Missing Defendants, Aim at Getting Web Pages Taken Down or Deindexed*, WASH. POST (Oct. 10, 2016, 6:01 AM), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/10/10/dozens-of-suspicious-court-cases-with-missing-defendants-aim-at-getting-web-pages-taken-down-or-deindexed/> [<https://perma.cc/P24R-GV65>].

<sup>63</sup> *Smith v. Garcia*, No. 1:16-cv-00-144-S, 2017 WL 412722, at \*1 (D.R.I. Jan. 31, 2017).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

Chan eventually got the *Patel v. Chan* judgment vacated, too, litigating the matter *pro se*.<sup>66</sup> Following the press coverage of these orders,<sup>67</sup> a court in a Philadelphia case *sua sponte* vacated an injunction that fit a similar pattern.<sup>68</sup> In another similar Philadelphia case, the supposedly stipulated motion for an injunction was denied.<sup>69</sup> A Florida case with similar boilerplate to *Patel v. Chan*, which was pending at the time, was voluntarily dropped the day that Levy's and my Washington Post blog post about the cases went up.<sup>70</sup>

The Rhode Island litigation also uncovered who was responsible for *Smith v. Garcia*: Richart Ruddle, owner of the reputation management companies SEO Profile Defender Network LLC (often just called Profile Defenders) and RIR1984 LLC.<sup>71</sup> Profile Defenders had promised “guarantee[d] removal”<sup>72</sup> (no payment if the removal does not happen) to its customers—a risky guarantee for potentially lengthy and expensive court processes.

Ruddle was ultimately sanctioned \$71,000, chiefly consisting of Myvesta's legal fees.<sup>73</sup> As part of a settlement agreement, Ruddle also agreed to ask Florida and Maryland courts to vacate three other court orders that called for the deindexing of Myvesta posts related to Smith's companies, *Smith v. Levin*, *Financial Rescue LLC*

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<sup>66</sup> Order Granting Defendant's Motion to Vacate Consent Judgment, *Patel v. Chan*, No. 24-C-16-003573 (Md. Cir. Ct. Balt. Cty. July 7, 2017).

<sup>67</sup> See Volokh & Levy, *supra* note 62.

<sup>68</sup> See Order Granting Consent Motion for Injunction and Final Judgment, Callagy v. Roffman, No. 160603108 (Pa. Ct. Com. Pl. Phila. Cty. July 7, 2016), *vacated* Oct. 20, 2016. The proceedings to vacate the order began a month before the press coverage, possibly because I had informed the Philadelphia Court of Common Pleas of the possible problem.

<sup>69</sup> *Murtagh v. Reynolds*, No. 160901262 (Pa. Ct. Com. Pl. Phila. Cty. Oct. 26, 2016) (injunction denied).

<sup>70</sup> Complaint and Application for Injunctive Relief, *Carter v. Quinn*, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. filed Aug. 17, 2016); Plaintiff's Notice of Voluntary Dismissal Without Prejudice, *Carter v. Quinn*, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. Oct. 10, 2016).

<sup>71</sup> Eugene Volokh, *Apparently-Fake-Defendant Libel Lawsuit Watch: Richart Ruddle & SEO Profile Defender Network LLC Paying \$71,000 to Settle Claim*, WASH. POST (Mar. 14, 2017, 2:42 PM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/14/apparently-fake-defendant-libel-lawsuit-watch-richart-ruddle-seo-profile-defender-network-llc-paying-71000-to-settle-claim/> [<https://perma.cc/233N-W36P>] [hereinafter Volokh, *Apparently-Fake-Defendant*]; Sanctions Order, *Smith v. Garcia*, No. 1:16-cv-00144-S-LDA (D.R.I. Apr. 13, 2017), ECF No. 16.

<sup>72</sup> See, e.g., Press Release from Profile Defenders, *Profile Defenders Lawsuit Removal Service Takes Down Defamatory Webpages*, PRESS RELEASE JET (Nov. 14, 2015), <http://pressreleasejet.com/newsreleases/2015/profile-defenders-lawsuit-removal-service-takes-down-defamatory-webpages> [<https://perma.cc/K46J-6PTK>] (“A defamation removal law firm and online reputation management company combine. Profile Defenders Lawsuit Removal service honors a guarantee to take down and defamatory or unwanted webpages from search results as long as they meet specific criteria. A guarantee is priced in and year to date out of 375 cases only 1 has not been successful.”).

<sup>73</sup> Volokh, *Apparently-Fake-Defendant*, *supra* note 71; Sanctions Order, *Smith v. Garcia*, No. 1:16-cv-00144-S-LDA (D.R.I. Apr. 13, 2017), ECF No. 16.

*v. Smith*, and *Rescue One Financial LLC v. Doe*.<sup>74</sup> In *Smith v. Levin*, court records included the ostensible address of purported defendant in each case, Levin, but no one with that name could be found at that address.<sup>75</sup> I confirmed through independent sources that some of the other cases that fit the same modus operandi as *Smith v. Garcia* were likewise filed through Ruddle.

*Smith v. Garcia* is the only case in which there was an express judicial finding of shenanigans. Nonetheless, there was a total of 26 cases (including *Smith v. Garcia* and *Patel v. Chan*) that shared the same boilerplate; in several of those, I got confirmation from sources that Richart Ruddle or his companies were involved. In 23 of 26, defendants' addresses were included,<sup>76</sup> and all 23 of those addresses could not be linked to the defendants' names by the private investigator I mentioned above. It thus appears that at least a considerable number of the 26 cases likely involved the same kind of trickery. The pattern in *Smith v. Garcia* and *Patel v. Chan* thus appears to have been:

1. The plaintiff hired a reputation management company to get online criticism of plaintiff removed.
2. The reputation management company filed a libel lawsuit in the plaintiff's name against a fake defendant, seeking an injunction.
3. The complaint was accompanied with a stipulation supposedly signed by the defendant (but in reality, produced by the company itself).
4. The hope—often realized—was that the trial judge would see that the parties agree on the injunction, and therefore would sign the injunction without much further scrutiny. Indeed, in two cases, judges entered permanent

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<sup>74</sup> Settlement Agreement, *Smith v. Garcia*, No. 1:16-cv-00144-S-LDA, at 1 (D.R.I. Feb. 28, 2017), ECF No. 15-2; see also Paul Alan Levy, *Richart Ruddle Settles Anti-SLAPP Claims, Makes Restitution; but the Guilty Companies Remain Unpunished*, CONSUMER L. & POL'Y BLOG (Mar. 14, 2017), <http://pubcit.typepad.com/clpblog/2017/03/richart-ruddle-settles-anti-slapp-claims-makes-restitution-but-the-guilty-companies-remain-unpunished.html> [<https://perma.cc/LS85-Z5TY>]; Plaintiff's Motion to Vacate Consent Judgment Pursuant to Maryland Rule 2-535(b) and to Dismiss Plaintiffs' Complaint with Prejudice, *Smith & Rescue One Financial, LLC v. Levin*, 24-C-15-004789 (Md. Cir. Ct. Balt. City Oct. 16, 2015); Order Granting Plaintiff's Motion to Vacate Final Default Judgment, Pursuant to Fla. R. Civ. P. 1.540, and to Dismiss this Case with Prejudice, *Financial Rescue, LLC v. Smith*, No. 15-006119-CI (Fla. Cir. Ct. Pinellas Cty. May 19, 2017); Plaintiff's Motion to Vacate Final Default Judgment, Sanctions Order, *Rescue 1 Financial, LLC v. Doe*, No. CACE-14-024286 (Fla. Cir. Ct. Broward Cty. Apr., 14, 2017), *motion to vacate granted* (Fla. Cir. Ct. Broward Cty. June 14, 2017).

<sup>75</sup> Volokh, *Apparently-Fake-Defendant*, *supra* note 71.

<sup>76</sup> This was so for all the cases in Appendix B except #3 (*Lyman v. Bernard*), #4 (*Serenbetz v. McDonald*), and #19 (*Horner v. Davis*). Those three cases share boilerplate with the other cases, but don't include the defendant's address.

injunctions a mere four days after a complaint was filed together with a stipulation.<sup>77</sup>

5. The plaintiffs, though they knew that something was being done by a reputation management company on their behalf, may well have been unaware that a lawsuit was being filed in their names, much less that the lawsuit was against a fake defendant.<sup>78</sup>

And the similar boilerplate and procedural history of the remaining 24 of the 26 lawsuits—coupled with the lack of any record of the ostensible defendants at the ostensible defendants’ addresses, for the 23 cases where addresses were included—suggests that something similar may have been going on in those cases as well. As with the forgeries, the 26 lawsuits sharing the boilerplate I describe here were aimed at vanishing a wide range of web pages, including:

- Newspaper or magazine articles in the *Charleston Post & Courier*, the *Davis Enterprise*, *Investment News*, the *Sarasota Herald-Tribune*, and the *Penn State Collegian*.<sup>79</sup>
- A court opinion in a child pornography case stored on a case law repository site.<sup>80</sup>
- Criticism of a Buddhist spiritual leader on a Buddhist discussion site (DharmaWheel.net).<sup>81</sup>

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<sup>77</sup> See Order Granting Consent Motion for Injunction and Final Judgment, Talson v. Martinez, No. 160603109 (Pa. Ct. Com. Pl. Phila. Cty. July 1, 2016); Order Granting Consent Motion for Injunction and Final Judgment, Callagy v. Roffman, No. 160603108 (Pa. Ct. Com. Pl. Phila. Cty. July 1, 2016) (complaint filed June 27, 2016), *vacated* Oct. 20, 2016.

<sup>78</sup> See *supra* note 60 and accompanying text.

<sup>79</sup> See Consent Motion for Injunction and Final Judgment, Carter v. Quinn, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. Aug. 23, 2016) (*Charleston Post & Courier*); Plaintiff’s Notice of Voluntary Dismissal Without Prejudice, Carter v. Quinn, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. Oct. 10, 2016); Complaint, Lyman v. Bernard, No. LC104275 (Cal. Super. Ct. L.A. Cty. filed June 6, 2016) (*Investment News*); Complaint, Glatter v. Castle, No. 184324 (Cal. Super. Ct. Shasta Cty. filed Mar. 3, 2016) (*Davis Enterprise*); Order, Nelson v. Spear, No. 160600824 (Pa. Ct. Com. Pl. Phila. Cty. June 14, 2016) (*Penn State Collegian*); Complaint and Application for Injunctive Relief, Wasserman v. Mack, No. 2016CA-002402-0000-00 (Fla. Cir. Ct. Polk Cty. filed July 15, 2016) (*Sarasota Herald-Tribune*).

<sup>80</sup> Complaint and Stipulated Consent Motion for Injunction and Final Judgment, Serenbetz v. McDonald, No. BC621992 (Cal. Super. Ct. L.A. Cty. June 9, 2016), *motion denied* (June 27, 2016), *dismissed without prejudice* (Oct. 11, 2016).

<sup>81</sup> Complaint and [Proposed] Order Granting Consent Motion for Injunction and Final Judgment, Norbu v. Campbell, No. 24-C-16-00250 (Md. Cir. Ct. Balt. City filed Jan. 19, 2016), *dismissed* (July 18, 2016); Order Granting Consent Motion for Injunction and Final Judgment, Norbu v. Campbell, No. 12-C-16-001959 (Md. Cir. Ct. Harford Cty. injunction issued July 18, 2016).

- Criticism of the Indonesian billionaire who appeared to be the intended beneficiary of one of the forged court orders discussed in Part I.<sup>82</sup>

Many others were posts on complaint sites such as Ripoff Report. Most of the cases were filed pro se, likely because a lawyer would have a lot to lose from filing such a case.

But seven other cases did involve lawsuits filed by lawyers<sup>83</sup> (though perhaps lawyers who were just handed the documents and did not know the defendant was fake).<sup>84</sup> These cases include the three Florida and Maryland ones that Ruddle had agreed to have vacated in *Smith v. Garcia*,<sup>85</sup> and four others that share lawyers and legal boilerplate with those cases (or at least also involved Ruddle), and were also filed against purported defendants who don't seem to have any connection to the listed address.<sup>86</sup>

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<sup>82</sup> Order Granting Consent Motion and Final Judgment, *Talson v. Martinez*, No. 160603109 (Pa. Ct. Com. Pl. Phila. Cty. injunction granted July 1, 2016); Notification to Parties of Contemplated Dismissal, *Tanoto v. Brown*, No. 24-C-16-000901 (Md. Cir. Ct. Balt. City July 8, 2016), *dismissed* (Sept. 21, 2016); “Order Granting Consent Motion for Injunction and Final Judgment [sic],” *Tanoto v. Brown*, No. 12-C-16001958 (Md. Harford Cty. Cir. Ct. July 20, 2016).

<sup>83</sup> See Motion to Vacate Consent Judgment Pursuant to Maryland Rule 2-535(b) and to Dismiss Plaintiffs’ Complaint with Prejudice, *Smith & Rescue One Financial, LLC v. Levin*, No. 24-C-15-004789 (Md. Cir. Ct. Balt. City Apr. 25, 2017); Consent Judgment, *Cohen v. Wilkerson*, No. 06-C-15-070022 (Md. Cir. Ct. Carroll Cty. Nov. 3, 2015); Complaint, *Visionstar, Inc. v. Perez*, No. 24-C-15-005743 (Md. Cir. Ct. Balt. City filed Nov. 18, 2015), *consent judgment ordered* (Dec. 10, 2015); Order Granting Plaintiff’s Motion to Vacate Final Default Judgment, Pursuant to Fla. R. Civ. P. 1.540, and to Dismiss this Case with Prejudice, *Financial Rescue, LLC v. Smith*, No. 15-006119-CI (Fla. Cir. Ct. Pinellas Cty. May 19, 2017); Order Granting Plaintiff’s Motion to Vacate Final Default Judgment, Pursuant to Fla. R. Civ. P. 1.540, and to Dismiss this Case with Prejudice, *Rescue 1 Financial LLC v. Doe*, No. CACE-14-024286 (Fla. Cir. Ct. Broward Cty. June 14, 2017); Complaint and Application for Injunctive Relief, *Gottuso v. Marks*, No. CV2015-009393 (Ariz. Super. Ct. Maricopa Cty. filed Sept 25, 2015); Complaint, *Varden & Seasons Recovery Ctr. v. Lentz*, No. CV2015-002098 (Ariz. Super. Ct. Maricopa Cty. filed Aug 11, 2015).

<sup>84</sup> See *infra* Section X.A.3 for more on the perils to lawyers of getting involved in such schemes, even unwittingly.

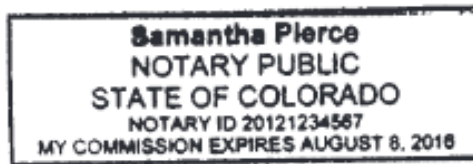
<sup>85</sup> See *supra* note 74 and accompanying text.

<sup>86</sup> Consent Judgment, *Cohen v. Wilkerson*, No. 06-C-15-070022 (Md. Cir. Ct. Carroll Cty. Nov. 3, 2015); *Visionstar, Inc. v. Perez*, No. 24C15005743 (Md. Cir. Ct. Baltimore City 2015). *Cohen* and *Visionstar* were filed by the same lawyer that filed *Smith v. Levin*, one of the cases that Ruddle agreed to have vacated. Three other cases with similar language were filed by a different lawyer who had represented Profile Defenders: Stipulated Final Judgment, *SEO Profile Defender Network, LLC v. Koshik*, No. 2015-CA-004544 (Fla. Cir. Ct. Palm Beach Cty. July 15, 2015); Stipulated Final Judgment, *Technosystems Serv. Corp. v. Hess*, No. 2015-CA-012599 (Fla. Cir. Ct. Palm Beach Cty. Jan 19, 2016); Stipulated Final Judgment, *World Patent Marketing Inc. v. Harris*, No. 2016-CA-001846 (Fla. Cir. Ct. Palm Beach Cty. Mar. 24, 2016) (providing that plaintiffs may submit the court order to search engines, similar to language quoted *infra* note 153).

It's a truism that lack of opportunity for an adversary presentation makes fact-finding unreliable. These cases, and those below, show the truth of that truism. If Yelp or Google had been a party to the proceedings, it might well have noticed that the ostensible defendants were possibly fake. But in the cases described above, there was apparently no real adversary party that could notice this.

#### IV. STIPULATED INJUNCTIONS INVOLVING FAKE NOTARIZATIONS

One means of verifying that a defendant actually exists is to get the defendant's signature notarized. Consider *Chinnock v. Ivanski*, a case in which the plaintiff's proposed Amended Order for Permanent Injunction contained the defendant's signature, notarized thus:<sup>87</sup>



Looks good at first—until one notices that the notary ID is 20121234567. That might appear suspicious, and in this instance, appearances do not deceive; there is no Samantha Pierce listed on the Colorado notary site, with that notary ID or any other.<sup>88</sup> Indeed, the notary ID 20121234567 and the expiration date August 8, 2016, are the samples given on the Colorado Secretary of State *Notarization Format Examples* page.<sup>89</sup> Likewise, on the earlier, pre-amendment Stipulated Order for Permanent Injunction, the notary for Ivanski's signature is said to be Amanda Sparks of Fulton County, Georgia.<sup>90</sup> Again, there is no Amanda Sparks of Fulton County on the Georgia notary website.<sup>91</sup>

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<sup>87</sup> Amended Order for Permanent Injunction, *Chinnock v. Ivanski*, No. CV2016-094256 (Ariz. Super. Ct. Maricopa Cty. Aug. 23, 2016).

<sup>88</sup> *Verify a Notary*, COLO. SEC'Y OF STATE, <http://www.sos.state.co.us/notary/pages/public/verifyNotary.xhtml> [<https://perma.cc/HP5U-5KDH>] (enter Pierce as last name and Samantha as first name) (last visited Jan. 14, 2020).

<sup>89</sup> *Notarization Format Examples*, COLO. SEC'Y OF STATE, <http://www.sos.state.co.us/pubs/notary/formatExamples.html> [<https://perma.cc/VY6S-DXKG>] (last visited Jan. 14, 2020). To their credit, whoever copied the notary ID and expiration date when forging the Amanda Sparks stamp at least didn't copy the sample notary's name, which was John Q. Sample.

<sup>90</sup> Stipulation for Amended Order for Permanent Injunction, *Chinnock v. Ivanski*, No. CV2016-094256 (Ariz. Super. Ct. Maricopa Cty. 2016).

<sup>91</sup> *Notary Index Search*, GA. SUPER. CT. CLERKS' COOP. AUTHORITY, <https://search.gscca.org/notary/search.asp> [<https://perma.cc/6WQW-Q77L>] (enter Sparks, Amanda as name and select Fulton as county) (last visited Jan. 21, 2020).



Similarly, in *Lynd v. Hood*,<sup>92</sup> the notary listed for the defendant's signature is Jose Garcia from Harris County, Texas, and his license is said to expire on March 2, 2016. But there is no Jose Garcia listed on the Texas notary website with the same license expiration date.<sup>93</sup> (The injunction in *Lynd* also called for the deindexing of a professional media item, a *San Antonio Express-News* article describing the plaintiff's split from his family business.<sup>94</sup>) *Chinnock v. Ivanski* and *Lynd v. Hood* were both filed by lawyers from one small Phoenix firm. That firm also litigated *Welter v. Does*, discussed in Section VI.B below; one of the lawyers in that firm was also the beneficiary of one of the Richart-Ruddie-linked orders discussed in Part III,<sup>95</sup> and some of the firm's cases had been brought to it by Ruddie,<sup>96</sup> though *Chinnock* apparently was not.<sup>97</sup>

The Arizona State Bar investigated the lawyers involved in *Chinnock*, *Lynd*, and several other suspicious cases. Ultimately, the Bar and two of the lawyers stipulated to a public admonition and two years' probation.<sup>98</sup> The judgment found that they were negligent in failing to properly investigate the facts in *Chinnock* (one lawyer) and two other cases (the other lawyer), and failing to recognize that their client was trying to defraud the court. The judgment also suggests that the lawyers should have done more "to mitigate the client's fraud to the extent possible" once they uncovered it.<sup>99</sup>

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<sup>92</sup> No. CV2015-009398 (Ariz. Super. Ct. Maricopa Cty. Feb. 2, 2016).

<sup>93</sup> *Notary Search*, TEX. SEC'Y OF STATE, <http://direct.sos.state.tx.us/notaries/NotarySearch.asp> [<https://perma.cc/9MEL-MWNU>] (enter Jose for first name, Garcia for last name, and Harris for County) (last visited Jan. 14, 2020); see Complaint, In the Matter of Warner, Kelly & Raeesabbas, at 18 (Ariz. Pres. Discip. J. 2018).

<sup>94</sup> Stipulated Order for Permanent Injunction, *Lynd v. Hood*, No. CV2015-009398, at 2 (Ariz. Super. Ct. Maricopa Cty. Jan. 27, 2016); see also Eugene Volokh, Opinion, *Libel Takedown Injunctions and Fake Notarizations*, WASH. POST (Mar. 30, 2017, 6:03 AM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/30/libel-takedown-injunctions-and-fake-notarizations/> [<https://perma.cc/RD8P-U3LW>].

<sup>95</sup> See *Ruddie v. Kirschner*, No. 24C15005620 (Md. Cir. Ct. Balt. City Dec. 14, 2015); Stipulated Order for Permanent Injunction, *Welter v. Does*, No. CV2016-004734 (Ariz. Super. Ct. Maricopa Cty. June 29, 2016); see also Amended Order for Permanent Injunction, *Chinnock v. Ivanski*, No. CV2016-094256 (Ariz. Super. Ct. Maricopa Cty. Aug. 23, 2016); Stipulated Order for Permanent Injunction, *Lynd v. Hood*, No. CV2015-009398 (Ariz. Super. Ct. Maricopa Cty. Feb. 2, 2016).

<sup>96</sup> See *In re Kelly*, No. PDJ 2018-9012, at 2–3 (Ariz. Presiding Discip. J. July 30, 2018) (describing the multiple client referrals that Ruddie made to Kelly).

<sup>97</sup> See *In re Warner*, No. PDJ 2018-9012 (Ariz. Pres. Discip. J. July 30, 2018) (discussing *Chinnock* but not mentioning referrals or Ruddie).

<sup>98</sup> See *id.* at 8.

<sup>99</sup> *Id.*

## V. INJUNCTIONS AGAINST A REAL DEFENDANT WHO IS NOT THE REAL AUTHOR

*Grisak Properties v. Baroro*, a real case from Harris County (Houston, Texas), contains a real libel judgment and takedown injunction.<sup>100</sup> The defendant stipulated to the judgment, and a real notary notarized the defendant's signature on the waiver of service. There's no reason to doubt that the notary did indeed notarize the signature; in a couple of related cases, I tracked down the notaries and got copies of their log book entries—which, under California law, they have to provide if given a written request and (seriously) 30 cents.<sup>101</sup> Here's one such notary stamp:



To be sure, the petition says the defendant lives in Harris County, Texas, and the notarization is from Northern California. But people sometimes get documents notarized while traveling; I've done that a couple of times.

But what are the odds that, in each of the seven defamation cases filed in 2016 by one lawyer in Harris County, Texas, every defendant would be supposedly from Harris County—yet every signature would have been notarized in Northern California? And what are the odds that the same pattern would be visible in seven cases filed by other Texas lawyers, and in seven cases filed in Florida, Maryland, and Ohio, all of which share some similar boilerplate?<sup>102</sup> We hear about eco-tourism, medical tourism, even sex tourism. But we never hear about notarization tourism.

The Texas Attorney General's office took an interest in the Texas cases, and ultimately got a \$300,000 default judgment against Solvera Group (also known as InstantComplaintRemovers.com and DefamationRemoval.com), a reputation management company that had promised "guaranteed removals."<sup>103</sup> According to the AG's office, Solvera duped the clients, who were often unaware that a lawsuit was even being filed in their names, or perhaps using similar-looking names. It duped the lawyers, who thought Solvera was sending them legitimately obtained and approved documents. It duped the courts, who thought they were being given legitimate stipulations for a judgment. And they did that by getting the ostensible defendants to lie about being responsible for the posts:

<sup>100</sup> *Grisak v. Baroro*, No. 2016-46539 (Tex. Dist. Ct. Harris Cty. July 27, 2016).

<sup>101</sup> CAL. GOV. CODE § 8206(c) (2017).

<sup>102</sup> See *infra* Appendix C for citations to all these orders. The one exception to the pattern in the orders is that one of the defendants' signatures was notarized in Southern California.

<sup>103</sup> Final Default Judgment and Permanent Injunction, *State v. Solvera Group, Inc.*, No. 201756634 (Tex. Dist. Ct. Harris Cty. Oct. 11, 2018).

Solvera Defendants have a local California associate sign an affidavit, in which he/she falsely states that he/she is a resident of the Court's jurisdiction, including Harris County, and further falsely states that he/she engaged in all of the conduct alleged in the lawsuit . . . .<sup>104</sup>

Of course, if Solvera had the papers notarized in-state, or filed the lawsuits in a state that does not require such notarization, the scam would have been much harder to spot. I don't know why they chose to file in Texas, rather than in California. Perhaps they just got overconfident, thinking that nobody would be watching. Consumer Opinion, which runs the PissedConsumer complaint site, sued Solvera Group and two California lawyers, claiming that 12 California cases likewise involved straw defendants who falsely admitted to writing posts that they had not actually written.<sup>105</sup> But the proof in that case, which Consumer Opinion ultimately concluded it lacked the time and money to pursue, would have necessarily been more complicated.

In another case, one Cary Quattrocchi sued the consumer complaint site ComplaintsBoard.com over a user-posted page that criticized 1-800-Sky-Ride, Quattrocchi's hot air balloon business; he got a default judgment, which he then sent to Google, asking that the page be deindexed.<sup>106</sup> But the address given in the lawsuit for ComplaintsBoard.com seemed to have nothing to do with that company, and instead matched the address of Erran Yearty, a business associate of Quattrocchi's; and the court docket showed that "Service was delivered into the hands of Aaron Yearty (President/Owner) for Complaintsboard.com," though Yearty appears not to be connected to ComplaintsBoard.<sup>107</sup> (At the time, the Georgia Attorney General had sued Quattrocchi and Yearty for unfair and deceptive business practices related to

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<sup>104</sup> Plaintiff's Original Petition at 7, *Texas v. Solvera Group, Inc.*, No. 201756634 (Tex. Dist. Ct. Harris Cty. Aug. 24, 2017).

<sup>105</sup> See Complaint, *Consumer Opinion LLC v. ZCS et al.*, No. CIVMSC17-01766 (Cal. Super. Ct. Contra Costa Cty. Sept. 8, 2017); Tim Cushing, *Bogus Lawsuit-Slinging Rep Management Firm Sued by Pissed Consumer*, TECHDIRT (Sept. 20, 2017, 3:46 PM), <http://www.techdirt.com/articles/20170917/12432838226/bogus-lawsuit-slinging-rep-management-firm-sued-pissed-consumer.shtml> [<https://perma.cc/46G7-W324>]; Tim Cushing, *The Latest in Reputation Management: Bogus Defamation Suits from Bogus Companies Against Bogus Defendants*, TECHDIRT (Mar. 31, 2016, 8:31 AM), <http://www.techdirt.com/articles/20160322/10260033981/latest-reputation-management-bogus-defamation-suits-bogus-companies-against-bogus-defendants.shtml> [<https://perma.cc/ZBC3-Z6MA>].

<sup>106</sup> See *Quattrocchi v. ComplaintsBoard.com*, No. 17-J-01577 (Ga. Cobb Cty. Mag. Ct. Aug. 3, 2017).

<sup>107</sup> See Complaint, *Quattrocchi v. ComplaintsBoard.com*, No. 17-J-01577 (Ga. Cobb Cty. Mag. Ct. filed Mar. 6, 2017), <http://www.lumendatabase.org/notices/14803193> [<https://perma.cc/6878-ULPP>] (listing a home in Acworth, Georgia as the address for ComplaintsBoard.com; no address in Georgia is listed on the ComplaintsBoard.com website, and Google searches for Erran Yearty come up with that address).

how they promoted their business, Marvelay, LLC, and ultimately got a judgment against them.<sup>108</sup>)

More broadly, cases such as this make me think we are seeing only the tip of the iceberg. Solvera got sloppy; Quattrochi was amateurish; but what about people who are more careful?

For example, say that Paul Plaintiff arranges for a stipulated judgment in which Donna Defendant admits to supposedly libeling the plaintiff, at <http://ripoffreport.com/Paul-Plaintiff-Is-A-Cheater>, but Donna actually has nothing to do with that post. If this is a one-off, without any telltale pattern of odd notarizations or similarly suspicious material, nothing in the file will offer a clue that the case is really a fraud; likewise, if this is part of a broader scam, but one in which the scammer uses different boilerplate in different cases. Perhaps corresponding with Ripoff Report and asking them where the page came from geographically might be suggestive, but even that would hardly be definitive.

The cases I discuss in this Article thus form a lower bound for the amount of fraud that's present in the libel deindexing system. But the actual amount is impossible to know, and may well be a good deal higher.

#### VI. DEFAULT JUDGMENTS OBTAINED WITHOUT GENUINE ATTEMPTS AT LOCATING DEFENDANTS

Default judgments in libel cases—whether against identified defendants or pseudonymous ones—can often be legitimate. Indeed, they can often be the best that an honest plaintiff can get. But they can also be obtained without any real attempt to serve or even identify the true defendant. In a traditional libel case, the plaintiff wants to find the defendant so that the defendant can be forced to pay damages. In a takedown or deindexing case, though, the plaintiff is seeking an order to send to a third party, and thus would rather that the real author stay far away and never have an opportunity to contest the case.

It is impossible to tell just how often plaintiffs fail to take easy steps to find the alleged defamer. But one case well illustrates the peril. In 1999, Laurence Sharos pleaded guilty to “criminal sexual abuse” in Illinois.<sup>109</sup> Based on court records, his crime was likely unwanted sexually motivated fondling.<sup>110</sup> The website SexOffenderRecord.com gathered this information from public records and published it.<sup>111</sup>

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<sup>108</sup> Complaint for Injunctive Relief, Civil Penalties, Restitution and Other Relief, Georgia v. Marvelay, LLC, No. 17-1-5434-58 (Ga. Super. Ct. Cobb Cty. July 18, 2017); Consent Judgment and Permanent Injunction, Georgia v. Marvelay, LLC, No. 17-1-5434-58 (Ga. Super. Ct. Cobb Cy. June 17, 2019).

<sup>109</sup> Eugene Volokh, Opinion, *Default Judgment Aimed at Deindexing Apparently Accurate Information About Person Convicted of Sex Offense*, WASH. POST (Feb. 9, 2017, 12:06 PM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/02/09/default-judgment-aimed-at-deindexing-apparently-accurate-information-about-person-convicted-of-sex-offense/> [<https://perma.cc/R5QJ-FC6R>].

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

Years later, Sharos sued and got a default judgment concluding that the website's pages were "false and defamatory" because they labeled him a "sex offender."<sup>112</sup> Sharos was indeed a sex offender, but Sharos argued that the "sex offender" label—coupled with a reference on SexOffenderRecord.com pages to each listed person's "registration status"—falsely conveyed that he is a *registered* sex offender, when in fact he had only been convicted of a sex offense and was not a registered sex offender.<sup>113</sup> And the court agreed.<sup>114</sup>

This conclusion might well have been wrong as a matter of law, and perhaps an adversary presentation (followed, if necessary, by an appeal) would have shown it to be wrong. But there was no adversarial proceeding, only a default judgment. Sharos' lawyers claimed that SexOffenderRecord.com "provide[d] no means to contact it,"<sup>115</sup> and that they couldn't find the site's owners. According to one of Sharos' lawyers (who as it happens had been co-counsel with the Ohio lawyer described in Part V, who filed several Ohio lawsuits with Northern California notarizations<sup>116</sup>),

2. Prior to filing the Complaint in this matter, I conducted a search to determine the address for Defendant [www.sexoffenderrecord.com](http://www.sexoffenderrecord.com), also known as [www.sorarchive.com](http://www.sorarchive.com). I reviewed Defendant's website but it does not contain any address or other identifying information such as a telephone number or contact information. Additionally, the "contact" page on the website is blank, has no form or any information to send any communication to the site. Therefore, the website provides no means to contact it.

3. I also conducted multiple searches on the Internet to try and determine the owner of the website and/or its location and also looked at various secretary of state websites. Through these efforts, I was unable to identify the address of Defendant or to locate any other identifying information about the Defendant.<sup>117</sup>

Yet at SexOffenderRecord.com, the very top line of the site under the banner has a tag saying "Record Removal Inquiries." That page has a form through which lawyers can submit record removal requests to the site.<sup>118</sup>

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<sup>112</sup> Order for Default Judgment, *Sharos v. www.sexoffenderrecord.com*, No. CV-16-870167 (Ohio Ct. Com. Pl. Cuyahoga Cty. Jan. 5, 2017).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Memorandum in Support of Plaintiff's Motion for Default Judgment, Ex. 2, Aff. of Debrah J. Horn, *Sharos v. www.sexoffenderrecord.com*, No. CV-16-870167, at 1 (Ohio Ct. Com. Pl. Cuyahoga Cty. Jan. 5, 2017).

<sup>116</sup> Complaint, *id.*, at 5.

<sup>117</sup> Horn Affidavit, *supra* note 115.

<sup>118</sup> SEX OFFENDER ARCHIVES, SexOffenderArchive.com [<https://perma.cc/ZA4Y-YZ3X>] (last visited Jan. 21, 2020) (SexOffenderRecord.com reroutes to SexOffenderArchive.com).

And “searches on the Internet” can actually easily identify the SexOffenderRecord.com operators within minutes. A Google Scholar search for “sexoffenderrecord” finds *Wilson v. Web.com Group, Inc.*,<sup>119</sup> which also involves SexOffenderRecord.com and Web Express and mentions Charles Rodrick, who appears to be one of the operators of the site. That search also finds *Stewart v. Oesterblad*,<sup>120</sup> which involves the same site and mentions Charles Roderick (with a slightly different spelling than in *Wilson*) and Brent Oesterblad, who appears to be another of the operators. The information in the records of those cases could likely be used to track down the site operators further.

A Google search for “sexoffenderrecord” also finds a *USA Today* article about a 2014 verdict against the operators of SexOffenderRecord.com and SORArchives.com, which mentions Charles Rodrick.<sup>121</sup> A Google News search finds the same site. And these are just free searches—Westlaw, Lexis, and Bloomberg Law searches may find still more cases.

Thus, there was no real justification in this case for proceeding via service by publication and a default judgment, and the same may well be true of many other default judgments used to get takedown orders. We can’t know for sure, in most cases, precisely because there was no adversarial inquiry into the question. But we do know that the incentives (for the unscrupulous) point towards avoiding finding the correct defendant.<sup>122</sup>

*Sharos* is the clearest example of what seems like an inadequate attempt to find a defendant; but more than 60 cases filed by one lawyer in Leon County, Florida (Tallahassee) likewise seem to involve attempts to find and serve the defendant that were doomed to failure.<sup>123</sup> In the boilerplate “Affidavit[s] of Diligent Service” in all the cases, the lawyer asserts that he had tried various ways of identifying pseudonymous commenters:

1. I have made diligent search and inquiry to discover the name, age and the current residence of Anonymous John Doe 1. Because this defamation is published on the World Wide Web through various live URL links, a diligent search has been conducted by Brand.com on behalf of Brand.com, Inc., at my direction, and no live URL links were discovered which would identify the name, age and residence of Anonymous John Doe 1.

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<sup>119</sup> No. 2:15-cv-02198-GMN-CWH, 2016 WL 1600830 (D. Nev. Apr. 20, 2016).

<sup>120</sup> No. 4:13-cv-14841 (E.D. Mich. Aug. 5, 2014).

<sup>121</sup> Robert Anglen, *Sex Offender Websites’ Victims Awarded \$3.4M*, USA TODAY (May 16, 2014, 7:56 PM), <http://www.usatoday.com/story/news/nation/2014/05/16/sex-offender-websites-victims-awarded-34m-9195315> [<https://perma.cc/3A9B-SYSK>].

<sup>122</sup> Some such sites have been accused of engaging in blackmail, by posting sex offender records or ordinary criminal mugshots and then charging money to remove those records; but no such accusation was made in this case. In any event, such an accusation would not justify a failure to serve SexOffenderRecord.com when its contact information was so easily available.

<sup>123</sup> See *infra* Appendix D for a list.

2. Brand.com is an on line brand management company (OBM) with over one hundred (100) employees who are skilled in researching the Internet for live URL links which may provide information concerning Anonymous John Doe 1. After a diligent search by Brand.com, supervised by their Chief Legal Officer, no results were obtained which would identify the name, age and current address of Anonymous John Doe 1. The Brand.com search occurred prior to the execution of this Affidavit of the undersigned.

3. The undersigned counsel has instructed staff in his office to search various social media sites including Facebook, Twitter, MySpace, LinkedIn and Google Plus to attempt to determine if any live URL links linked to such defamation would establish the name, age and current address of Anonymous John Doe 1. No information was obtained by the search from the undersigned's office. After such search, no information was derived which would establish the name, age and current address of Anonymous John Doe 1.

4. Undersigned counsel has conferred with the Plaintiff who has advised the undersigned counsel that he is not aware of the name, age, or current address of Anonymous John Doe 1.

5. The name, age and current address of Anonymous John Doe 1 is unknown to the undersigned counsel based upon the diligent inquiries set forth in Paragraphs 1, 2 and 3 above.

6. Because of the anonymous authorship of the defamation, the only efforts which could have reasonably been made to determine the name, age and current address of Anonymous John Doe had been made by or on behalf of the Plaintiff.

7. Based upon the statements in paragraphs set forth above, there could have been no legitimate attempt to serve process and the attempt to serve process would have been a waste of counsel's time and the Plaintiffs money as any investigation would not have uncovered the identity of the Defendant Anonymous John Doe 1.

8. The Defendant, through his, hers or its anonymous authorship of such defamation has intentionally concealed his, hers or its identity and address or principal place of business so that process cannot be served.<sup>124</sup>

But nothing in the files indicates any attempt to do what plaintiffs in Internet libel cases routinely do in trying to identify defendants—subpoenaing the records of the website where the alleged defamation was posted, to try to get the poster's IP address and then track that address down to the poster's Internet provider.<sup>125</sup> To be sure, such attempts would be expensive, but at least they would be calculated to give

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<sup>124</sup> See, e.g., Affidavit of Diligent Search & Inquiry, *Shavolian v. Doe*, No. 2014-CA-000845 (Fla. Cir. Ct. Leon Cty. Apr. 1, 2014).

<sup>125</sup> See, e.g., *Mobilisa, Inc. v. Doe*, 170 P.3d 712, 717 (Ariz. Ct. App. 2007).

the defendant notice of the lawsuit. The techniques set forth in the Affidavits seem nearly guaranteed to be inadequate.

Brand.com, the “online brand management company” mentioned in the Affidavits of Diligent Search, was a prominent reputation management company at the time the cases were filed,<sup>126</sup> though it went bankrupt shortly after.<sup>127</sup> The owner of Brand.com was also the apparent beneficiary of one of the forged court orders described in Part II.<sup>128</sup>

## VII. WAG THE DOG INJUNCTIONS: SUING THE COMMENTER, NOT THE AUTHOR

Say that people are trying to deindex not just a complaint site post, but a mainstream media article. They might try forgery, as in the South Florida Business Journal incident described in the Introduction, but say they want a real court judgment that will show up if Google decides to check court records.

They might try a stipulated judgment (as in Parts III through V) in which the media organization supposedly confesses that its post was libelous. A judge, though, would likely be suspicious about this. Mainstream media organizations rarely stipulate to such things, and if they do, they would probably have a fairly prominent law firm file something on their behalf.

But say plaintiffs find a critical comment that has been posted under the article by an anonymous user. They then sue the commenter for libel and get a default or stipulated judgment that finds that *the comment* is defamatory (not that the article is defamatory).

And then they submit the order directly to Google, asking Google to deindex the entire page at which the comment is posted. And that page includes the article itself: Because Google can only deindex entire pages, and can’t remove comments, the only way it can deindex the comment is by also deindexing the article to which it is attached.

Consider, for instance, *Young v. Anonymous John Doe*. WFAA, a Dallas news station, wrote an article about Edwin Young, a fifty-five-year-old Texas minister, author, and founder of the Fellowship Church.<sup>129</sup> The article alleged that Young was

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<sup>126</sup> See John Koetsier, *Brand.com Launches ‘First Systematic Program’ to Remove Lies and Libel from Google*, VENTURE BEAT (Nov. 13, 2013, 1:43 PM), <http://venturebeat.com/2013/11/13/brand-com-launches-first-systematic-program-to-remove-lies-and-libel-from-google/> [<https://perma.cc/HE8B-QYT2>].

<sup>127</sup> See Juliana Reyes, *Brand.com Files for Bankruptcy*, TECHNICAL.LY PHILLY (May 4, 2015, 12:31 PM), <http://technical.ly/philly/2015/05/04/brand-com-bankruptcy/> [<https://perma.cc/XPP6-PHT5>].

<sup>128</sup> See *infra* note 196 and accompanying text (discussing Apparently Forged Permanent Injunction, *Gorman v. Steinborn et al.*, <http://lumendatabase.org/?sid=2338651> [<https://perma.cc/JA57-3HP5>]).

<sup>129</sup> *Prominent Grapevine Pastor Linked to Luxury*, WFAA (Feb. 5, 2010, 11:45 AM), <http://www.wfaa.com/news/local/investigates/prominent-grapevine-pastor-linked-to-luxury/338287756> [<https://perma.cc/5EL4-Y39B>].



living a life of luxury and that attendance at church was declining.<sup>130</sup> Four years later, “Noemi Perez Hernandez” posted an absurdly false comment on the page, claiming Young was homeless and abandoned his biological son sixty-five years ago.<sup>131</sup>

Just three weeks after the comment was posted, Young’s lawyer filed a lawsuit in Florida state court against “Anonymous John Doe 1.”<sup>132</sup> (This lawyer was also a lawyer in a case brought by Profile Defenders to deindex posts critical of their business,<sup>133</sup> though this was not one of the cases discussed in Part III.) The Affidavit of Diligent Search filed in *Young* didn’t state that the lawyer had tried to subpoena the commenter’s Internet Protocol address to track the commenter down,<sup>134</sup> and WFAA told me that it hadn’t received any such subpoena.<sup>135</sup> Instead, the lawyer used service by publication, publishing a notice in a local Florida newspaper announcing the suit—a practically ineffective form of notice, even if it is sometimes legally available.<sup>136</sup> Young received a default judgment, authorizing him to submit the order to search engines:<sup>137</sup>

16. The Court orders that the Defendant shall remove the Digital Defamations (**Exhibit A**) contained at:

- a. <http://www.wfaa.com/story/news/local/investigates/2014/08/06/13492060>

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<sup>130</sup> *Id.*

<sup>131</sup> See Complaint for Declaratory Judgment at 8 and Exhibit A, *Young v. Doe*, No. 2014-CA-013423 (Fla. Cir. Ct. Palm Beach Cty. filed Nov. 5, 2014).

<sup>132</sup> *Id.*

<sup>133</sup> See generally *SEO Profile Defender Network v. Koshik*, No. 2015-CA-004544 (Fla. Cir. Ct. Palm Beach Cty. 2015).

<sup>134</sup> Affidavit of Diligent Search at 2, *Young v. Doe*, No. 2014-CA-013423 (Fla. Cir. Ct. Palm Beach Cty. Nov. 12, 2015) (stating that “No attempts at service have been made because Defendant has concealed their Online identify or possibly used a false name. As explained in the complaint, wfaa.com allows Defendant to post but does not verify their legal identity. Further, per the online posting, Defendant took steps to conceal their identity online by possibly using a false name and location. Thus, there is no foreseeable way to verify the legal identity of the author.”).

<sup>135</sup> Eugene Volokh, *People Trying to Get Google to Deindex Professional News Site Articles*, WASH. POST (Dec. 14, 2016, 7:27 PM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/12/14/people-trying-to-get-google-to-deindex-professional-news-site-articles/> [https://perma.cc/9D4Y-TNN3] [hereinafter Volokh, *People Trying to Get Google to Deindex*].

<sup>136</sup> Order Granting Final Default Judgment, *Young v. Doe*, No. 2014-CA-013423, at 2, 4, ¶¶ 3–4, 10 (Fla. Cir. Ct. Palm Beach Cty. June 17, 2015).

<sup>137</sup> *Id.* at 6–7.

A takedown request was sent to Google asking that this wfaa.com post be deindexed.<sup>138</sup>

It thus seems likely that this default judgment against a commenter was used to try to hide a possibly quite accurate article about Young, published by a Texas TV station. But the timing and the absurdly false nature of the comment also raises the possibility that someone on the plaintiff's side—perhaps a reputation management company hired by Young—posted the comment precisely as an excuse to deindex the whole article. It is impossible to tell from these facts whether this actually happened in this case. It seems likely, however, and if this strategy wasn't used in this case, it might have been used in others.

*Young* is just one example. We see the same pattern in:

- *Shavolian v. Doe*,<sup>139</sup> aimed at deindexing a *New York Daily News* article about David Shavolian, a New York real estate businessman who was sued for workplace harassment.<sup>140</sup>
- *M & M Inc. v. Brooks*,<sup>141</sup> filed by the same lawyer as *Young v. Doe* and aimed partly at deindexing articles in the online technology publications *Gizmodo*, *TechDissected*, and *DigitalTrends*, criticizing an allegedly junk-science laundry technology sold by M & M Inc.
- *Bansal v. Kumar*,<sup>142</sup> aimed at deindexing a *Phoenix New Times* article that described the disbarment of a successful Arizona lawyer.
- *Shah v. Patel*,<sup>143</sup> aimed at deindexing a *Columbus Dispatch* article critical of a local doctor.

A similar strategy seems to have been used in some of the fake-defendant cases discussed in Part III. Thus, for instance, in 2013, a *Davis Enterprise* newspaper article reported that a Shasta County parent placed false signatures on a petition asking a school not to change its gifted education program.<sup>144</sup> Two and a half years later, a “Robert Castle” posted a comment underneath the article, accusing the parent of taking bribes.<sup>145</sup>

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<sup>138</sup> Court Order Complaint to Google, LUMEN, <http://www.lumendatabase.org/notices/13178808> [<https://perma.cc/LDA4-EFBN>] (last visited Jan. 14, 2020) (providing final judgment in *Young v. Doe* and explaining that document was sent to Google).

<sup>139</sup> No. 2014-CA-000845 (Fla. Cir. Ct. Leon Cty. July 8, 2014).

<sup>140</sup> See Volokh, *People Trying to Get Google to Deindex*, *supra* note 135.

<sup>141</sup> Stipulated Final Judgement Including Attorneys' Fees and Costs, *M & M Inc. v. Brooks*, No. 2016-CA-001330 (Fla. Cir. Ct. Palm Beach Cty. Apr. 4, 2016).

<sup>142</sup> Judgment, *Bansal v. Kumar*, No. V425852, 2016 WL 11299722 (Md. Cir. Ct. Montgomery Cty., Dec. 13, 2016).

<sup>143</sup> Judgment Entry, *Shah v. Patel*, No. 16CV10978 (Ohio Ct. Com. Pl. Franklin Cty. Feb. 1, 2017).

<sup>144</sup> Volokh & Levy, *supra* note 62.

<sup>145</sup> *Id.*

Within a few months, a person apparently bearing the parent's name purportedly sued "Robert Castle" in Shasta County and sought an injunction to compel Castle to remove the review.<sup>146</sup> The plaintiff also supposedly filed a consent motion, with a signature purportedly from Castle.<sup>147</sup>

Instead of simply granting the injunction, the court set a hearing on its own motion, noting that there was no proof of service of the complaint, consent motion, or proposed order.<sup>148</sup> The docket doesn't indicate that a hearing was ever held, which is consistent with the suspicion that "Castle" does not exist.<sup>149</sup> A public records search revealed no "Robert Castle" in Shasta County, even though court filings included a Shasta County address.<sup>150</sup>

Yet about two months later, a similar complaint with the same supposed plaintiff and defendant was filed in Los Angeles County.<sup>151</sup> This time, the stipulated injunction was granted without a hearing.<sup>152</sup> Similar comment-based lawsuits were brought in attempts to deindex articles in the *Charleston Post & Courier* and the *Penn State Daily Collegian*.<sup>153</sup>

Note that, for some reason, it appears that the Los Angeles County injunction was never actually submitted to Google with a request to deindex the *Davis Enter-*

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<sup>146</sup> Order Setting Hearing Date on Consent Motion, *Glatter v. Castle*, No. 184324 (Cal. Super. Ct. Shasta Cty. Mar. 8, 2016).

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> See *Volokh & Levy*, *supra* note 62; see also *Glatter v. Castle*, No. 184324 (Cal. Super. Ct. Shasta Cty. filed Mar. 3, 2016).

<sup>150</sup> See *Volokh & Levy*, *supra* note 62.

<sup>151</sup> Complaint and Application for Injunctive Relief, *Glatter v. Castle*, No. SC125890 (Cal. Super. Ct. L.A. Cty. filed May 23, 2016).

<sup>152</sup> Order Granting Consent Motion for Injunction and Final Judgment, *Glatter v. Castle*, No. SC125890 (Cal. Super. Ct. L.A. Cty. June 24, 2016).

<sup>153</sup> See Complaint and Application for Injunctive Relief, *Carter v. Quinn*, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. filed Aug. 17, 2016); Complaint and Application for Injunctive Relief, *Nelson v. Spear*, No. 160600824 (Pa. Ct. Com. Pl. Phila. Cty. June 10, 2016). Note that the ostensible plaintiff might not have authorized or expected anything untoward. See *Volokh & Levy*, *supra* note 62. A person who hires a seemingly trustworthy "reputation management company" might assume that its work won't involve fraudulent court filings; and Profile Defenders had been mentioned by reputable publications. See, e.g., Johnny Diaz, *Refreshing Your Digital Identity/Reputation Managers Scrub Dirt From Companies' Online Profiles*, CHI. TRIB., Aug. 22, 2012, at C4; Angus Loten, *Hoping to Fix Bad Reviews? Not So Fast—Services Promise to Erase a Business's Negative Feedback on Sites Like Yelp and Angie's List, but Tactics Are Questioned*, WALL ST. J., July 26, 2012, at B5. Indeed, some purported plaintiffs in such cases have said that they did not authorize the filing of the lawsuits.

*prise* article, even though the injunction specifically contemplated such a submission.<sup>154</sup> And even if it had been submitted, Google may well have noticed that there was something fishy about an attempt to deindex an article in a credible news source.

### VIII. BURIED-URL INJUNCTIONS

When there is a default or stipulated judgment, many judges often ask the lawyers to submit a suitable order,<sup>155</sup> and essentially trust the lawyers to do so properly. Sometimes, the judge might review the proposed order with some skepticism; and indeed, the ostensible rule in default judgment cases is that the judge should make sure that the facts alleged by the plaintiff actually warrant liability and the requested remedy.<sup>156</sup> But in practice, most judges apparently don't deeply delve into what the lawyers submit.

In particular, it's pretty unlikely that a judge would look closely at all the URLs in a long list of URLs that are to be deindexed. A lawyer could thus bury a URL there, even though it's clear that the URL does not come from the ostensible defendant—for instance, the URL is of a government document or an article published by a media outlet.

#### A. Government Documents

Consider, for instance, *Fertel v. Saul*. A Maryland lawyer represented Maryland author Morton Fertel, the author of DVDs that offered marriage counseling. Jan Davidson, apparently a disappointed customer who lived in California, had posted criticisms of Fertel's company, accusing Fertel of refusing to honor money-back guarantees and the like.<sup>157</sup> The lawyer sued Davidson in Maryland federal district

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<sup>154</sup> “If the Defendant cannot remove the Defamation from the Internet, the Plaintiff shall submit this Order to Google, Yahoo, Bing, or any other Internet search engine so that the link can be removed from their search results pursuant to their existing policies concerning de-indexing of defamatory material.” Order Granting Consent Motion for Injunction & Final Judgment at 2, *Glatter v. Castle*, No. SC125890 (Cal. Super. Ct. L.A. Cty. June 24, 2016).

<sup>155</sup> See, e.g., CHAMBERS PRACTICES OF THE HON. RICHARD F. BOULWARE, II, UNITED STATES DISTRICT JUDGE 1, <https://www.nvd.uscourts.gov/wp-content/uploads/2019/12/Chambers-Practices-of-RFB.pdf> [<https://perma.cc/53KU-EC72>] (last visited Jan. 21, 2020) (“Parties are requested to submit a Proposed Order for all stipulations and unopposed motions including a Motion for Default Judgment.”).

<sup>156</sup> See, e.g., *Kim v. Westmoore Partners, Inc.*, 201 Cal. App. 4th 267, 271–73 (Cal. Ct. App. 2011); *Los Defensores, Inc. v. Gomez*, 223 Cal. App. 4th 377, 392–93 (Cal. Ct. App. 2014); *SEC v. Mgmt. Dynamics, Inc.*, 515 F.2d 801, 814 (2d Cir. 1975).

<sup>157</sup> Daryl of Granbury, TX, *Ripoff Report #769548, Complaint Review: Mort Fertel—Baltimore Maryland*, RIPOFF REPORT (Aug. 26, 2011), <http://www.ripoffreport.com/reports/software-mort-fertel-mort-fertel-marriage-max-marr-769548> [<https://perma.cc/E7Z7-F7XE>] (last visited Feb. 28, 2020) [hereinafter *Ripoff Report #769548*].

court, seeking to get an order that could be used to deindex three posts, but the court dismissed the claim because it lacked personal jurisdiction over Davidson.<sup>158</sup>

The lawyer then sued one Seemah Saul in Maryland state court, for allegedly posting comments that defamed Fertel.<sup>159</sup> The lawsuit sought to use the comments as a basis for deindexing over twenty posts to which the comments were attached, including all three that were the targets of the unsuccessful *Fertel v. Davidson* case.<sup>160</sup> Saul's comments, though, were much less negative than the posts. The comments generally said things such as, "Mort Fertel plagiarized Dr. Harley's book. Mort has the best program out there . . . it works, but it's plagiarized."<sup>161</sup> Consumers of marriage counseling advice would likely be much more put off by claims that a product doesn't work, or can't be returned if it doesn't work, than by claims about plagiarism mixed with substantive praise.

Saul didn't actively contest the case, but the lawyer's memorandum in support of the judgment stated that the lawyer had "determined" that defendant Saul was, in fact, the person responsible for various defamatory statements.<sup>162</sup> On the strength of these allegations, the court issued a default judgment against the defendant, which necessarily assumes that the defendant is actually responsible for the statements in question and that the statements in question are, in fact, defamatory.<sup>163</sup>

Yet here are some of the sites that the injunction included, as supposedly being defamatory and having been written by Saul:<sup>164</sup>

18) <http://www.survivinginfidelity.com/forums.asp?tid=486004>

19) <http://www.mdd.uscourts.gov/Opinions/Opinions/Mort%20Fertel%20v.%20Jan%20Davidson%2018%20Dec%2013.pdf>

20) <http://www.ripoffreport.com/tr/Marriage-Fitness-With-Mort-Fertel/Baltimore-Maryland-21215/Marriage-Fitness-Mort-Fertel-Marriage-Fitness-DO-NOT-ORDER-THIS-IF-YOU-MAY-WANT-TO-RETUR-546374>

21) <http://www.ripoffreport.com/tr/Marriage-Fitness-with-Mort-Fertel/Baltimore-Maryland-21215/Marriage-Fitness-with-Mort-Fertel-Marriage-Max-Cancellation-ripoff-one-SOLUTION-to-gett-765645>

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<sup>158</sup> *Fertel v. Davidson*, Civ. No. CCB-13-2922, 2013 WL 6842890, at \*2, \*6 (D. Md. Dec. 18, 2013).

<sup>159</sup> Complaint, *Fertel v. Saul*, No. 24C14003049 (Md. Cir. Ct. May 21, 2014).

<sup>160</sup> *Id.*

<sup>161</sup> *Ripoff Report #769548*, *supra* note 157, cmt. (by Seemah S. on July 25, 2013) (capitalization added for clarity).

<sup>162</sup> Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment at 1, *Fertel v. Saul*, No. 24C14003049 (Md. Cir. Ct. Balt. City Apr. 15, 2015).

<sup>163</sup> Order of Final Judgment, *Fertel v. Saul*, No. 24C14003049, at 2 (Md. Cir. Ct. Balt. City April 16, 2015).

<sup>164</sup> *Id.* at 1, 3.

Item 19 on the list of 29 supposedly defamatory web pages was the district court order in *Fertel v. Davidson*, the earlier case that the plaintiff and plaintiff’s lawyer had lost. The plaintiff’s lawyer then sent an order to Google requesting that it deindex the URLs listed in the order.<sup>165</sup>

The earlier court order, of course, wasn’t written by defendant Saul. Even if it contained factual errors, it couldn’t have been libelous—as a court opinion, it’s privileged. Yet the plaintiff’s lawyer was trying to get this official government document hidden from the public on the strength of a default judgment against Saul.

Likewise, in *Taplin v. Williams*, a default judgment called for deindexing a California Department of Real Estate page imposing discipline on plaintiff Steve Taplin (a real estate agent), as well as deindexing a judicial opinion from the Georgia Court of Appeals.<sup>166</sup> The two were buried in a list of 14 URLs, as items 12 and 13; here is the tail end of that list:<sup>167</sup>

- <http://www.ripoffreport.com/r/TapRealtyAzcom/Scottsdale-Arizona-85260/TapRealtyAzcom-Steve-Taplin-SteveTaplincom-TapRealtyAzcom-NationalSEOexpertsc-1265072>
- <http://www.ripoffreport.com/r/american-loan-restructuring-llc/scottsdale-arizona-american-loan-restructuring-llc-alr-flr-or-fhn-or-steve-taplin-stole-3000-dollars-and-r-482251>
- <http://www.dre.ca.gov/files/pdf/loanmods/H5500SAC.pdf>
- <http://caselaw.findlaw.com/ga-court-of-appeals/1598650.html>
- <http://www.outscam.com/tap-realty-54>

Similarly, in *Karosa v. Killian*, the default judgment calls for deindexing an administrative order that mentioned a case brought against plaintiff; a judicial opinion in a case brought by plaintiff; and an order imposing a fine on plaintiff in a disciplinary proceeding—all buried in a long list of URLs, as items 117, 121, and 123:<sup>168</sup>

- |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 | 116) <a href="http://www.judysbook.com/reportabuse/25797166">http://www.judysbook.com/reportabuse/25797166</a>                                                                                                                                                                                                                                                                                                                                                                         |
| 24 | 117) <a href="http://www.clarkcountycourts.us/media/releases/ao15-1.pdf">http://www.clarkcountycourts.us/media/releases/ao15-1.pdf</a>                                                                                                                                                                                                                                                                                                                                                 |
| 25 | 118) <a href="http://www.ripoffreport.com/r/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-post/redacted-nevada-redacted/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-1055412">http://www.ripoffreport.com/r/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-post/redacted-nevada-redacted/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-1055412</a> |
| 26 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

...

<sup>165</sup> Letter from David E. Fink, P.A., to Google Inc. (Apr. 28, 2015) (on file with author).

<sup>166</sup> Order Granting Default Judgment at 2, *Taplin v. Williams*, No. CV2015-053547 (Ariz. Super. Ct. Aug. 30, 2016) (“Plaintiff may request removal or deindexing of all content from Google and other search engines.”).

<sup>167</sup> *Id.* at 3.

<sup>168</sup> Order Granting Default Judgment in Favor of Plaintiff, *Karosa v. Killian*, No. A-12-670259-C at 9–10 (Nev. Dist. Ct. Nov. 1, 2016).

4	121) <a href="http://nv.findacase.com/research/wfrmdocviewer.aspx/xq/fac.20110909_0004484.dnv.htm/qx">http://nv.findacase.com/research/wfrmdocviewer.aspx/xq/fac.20110909_0004484.dnv.htm/qx</a>
5	122) <a href="http://www.ripoffreport.com/r/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-post-put-redacted/redacted-select-stateprovince-redacted/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-1073550">http://www.ripoffreport.com/r/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-post-put-redacted/redacted-select-stateprovince-redacted/names-redacted-due-to-perceived-harassment-cyberstalking-cyberbullying-revenge-1073550</a>
6	
7	
8	123) <a href="http://mld.nv.gov/uploadedfiles/mldnvgov/content/enforcement/2014/2014-07-29scottallan-consentorder.pdf">http://mld.nv.gov/uploadedfiles/mldnvgov/content/enforcement/2014/2014-07-29scottallan-consentorder.pdf</a>
-	

And there are other such cases: *Ramsthel v. Penny* sought to deindex, among other things, a public notice published in a local legal newspaper announcing the lawsuit itself.<sup>169</sup> Likewise, in *Intravas, Inc. v. Metcalf*, the same law firm as in *Ramsthel* sought to deindex—on the grounds that they were supposedly defamatory—posted copies of documents in the same case, including a subpoena that it had itself submitted.<sup>170</sup>

Google generally appears reluctant to deindex government documents and professional media articles, which can frustrate such a plaintiff stratagem. But the tactic has sometimes worked, for instance, in the *Taplin* case, until Google was alerted to it.

#### *B. Media Articles*

Likewise, consider *Flynn v. Garcia*, where a stipulated judgment contains hundreds of URLs from complaint sites that let anonymous users post criticism about others.<sup>171</sup> Among those sites (in the middle of the third page of URLs) is a single URL from Nevada's largest circulating newspaper—*Las Vegas Review-Journal*.<sup>172</sup>

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<sup>169</sup> Default Judgment, *Ramsthel v. Penny*, No. CV2014-093104 (Ariz. Super. Ct. Maricopa Cty. Sept. 24, 2014).

<sup>170</sup> Stipulated Order for Permanent Injunction, *Intravas, Inc. v. Metcalf*, No. CV2012-013872 (Ariz. Super. Ct. Maricopa Cty. Oct. 9, 2013).

<sup>171</sup> Stipulation and Order, *Flynn v. Garcia*, No. A-13-676559-C (Nev. Dist. Ct. Clark Cty. Feb. 21, 2013).

<sup>172</sup> The underlining is in the original court document, presumably because the court copied some of the links as HTML links, which many word processors underline.

c&vpx=1183&vpy=106&dur=366&hovh=155&hovw=119&tx=160&ty=108&sig=101059169315843839  
 ntp://www.google.com/imgres?q=Lindsey+Pinapfel&ni=en&sa=x&tpo=d&biw=1396&bih=772&tbnid=isch&tbnid=Y1sLrIAxjfl8M:&imgrefurl=http://www.ripoffreport.com/internet-services/lindsey-pinapfel-who/lindsey-pinapfel-whore-lindsey-21d7a.htm&docid=GdM2dfzl62hQM&imgurl=http://www.ripoffreport.com/Owner\_28fbc2ce-74b0-4281-9185-a5aecb32ecc7/Item\_13f86f30-7200-47d0-a35b-f7a5a046dd7c/Attachment.ashx&w=600&h=399&ei=mLD0UNudGNCoqQHShYHoCg&zoom=1&iact=h=722&tbnid=isch&tbnid=3Sk5r1V4W\_HrDM:&imgrefurl=http://www.ripoffreport.com/directory/internet-business-group.aspx&docid=BZ\_OM21q6w5MyM&imgurl=http://www.ripoffreport.com/Owner\_aa99cb1e-0f3e-4d5a-a531-35768c2db992/Item\_339a2b40-e326-4951-bd6c-20c66f384fa3/Attachment.ashx&w=400&h=400&ei=YrH0UKBvIM-pAfHggJAK&zoom=1&iact=hc&vpx=859&vpy=44&dur=80&hovh=225&hovw=225&tx=116&ty=165&si  
<http://www.htmlcorner.com/ibgsearch.com>  
<http://www.htmlcorner.com/ibgsearch.com>  
<http://www.lvrj.com/news/former-sports-drink-ceo-convicted-of-tax-evasion-145840565.html>  
<http://www.pageglance.com/ibg-david-flynn.com>  
<http://www.pageglimpse.com/ibg-david-flynn.com>  
<http://www.pageinsider.com/globalbusinessmarketing.co.uk>

It is impossible, of course, to tell whether the *Las Vegas Review-Journal* URL was deliberately buried in the proposed order, so that the judge would not notice it, or whether it was just included alongside all the other URLs because someone came up with it in a search, and the lawyer never investigated each URL to make sure the defendant posted it. Nevertheless, it seems likely that a busy judge, faced with a list of over a hundred URLs in a proposed default judgment, didn't examine the list closely—and didn't seriously consider whether the evidence presented showed that all the URLs contained defamatory material.<sup>173</sup>

Again, these two items were just a sample; we see the same pattern in:

- *Ramsthal v. Penny*,<sup>174</sup> another case from the firm connected to the forged notarization cases (Part IV) and in *Welter v. Does* (Section VI.B), in which the final order lists 228 URLs, including items on *The Atlantic's* site *The Wire* (item 25) and on Yahoo News (item 38).

<sup>173</sup> Cf. *Kim v. Westmoore Partners*, 201 Cal. App. 4th 267, 272 (Cal. Ct. App. 2001) (noting, “not [for] the first time,” that trial courts not infrequently rubber-stamp proposed remedies in motions for default judgment).

<sup>174</sup> No. CV2014-093104 (Ariz. Super. Ct. Maricopa Cty. default judgment Sept. 24, 2014).



- *Generational Equity, LLC v. Does*,<sup>175</sup> where the plaintiff's complaint and the eventual injunction include—buried deep within hundreds of other URLs—three articles in *Inc.*, a prominent business magazine.<sup>176</sup>
- *Salle v. Marine Logistics*, which contains 35 URLs including (as #26) one for a 1997 *Orlando Sentinel* article.<sup>177</sup>
- *Kriss v. Reviewer*, which includes the URL of a *Miami Daily Business Review* article (as #31 out of 43 URLs).<sup>178</sup>
- *United Realty Advisors v. Verschleiser*, which includes the URL of *New York Post*, *Law360*, and *The Real Deal* articles critical of a prominent real estate investor (as #66, #72–73, and #77–78 out of 191 URLs).<sup>179</sup>

### IX. LYING THEN OR LYING NOW?

In several cases, plaintiffs who dislike professional media articles that criticize them have:

- a. apparently obtained stipulations from sources quoted in the stories, recanting their allegations,
- b. obtained court orders against the sources based on those stipulations, and then
- c. submitted the orders to Google, asking Google to deindex the critical article.

Now, if these sources were to recant directly to the media organizations, the editors would reasonably ask: Were the sources lying then, or are they lying now?<sup>180</sup> If the editors are persuaded that the recantation is accurate, they might well publish a correction, or revise or even take down the original article. But if they think the original report was accurate, and the recantation was false—perhaps coerced using the threat of a lawsuit—they might stand by their story.

<sup>175</sup> See Plaintiff's First Amended Petition, *Generational Equity, LLC v. Does* #1–100, No. 401-00232-2014 (Tex. Dist. Ct. Collin Cty. Mar. 21, 2014); Second Judgment Modifying Order Granting *Generational Equity's* Permanent Injunction, No. 401-00232-2014 (Tex. Dist. Ct. Collin Cty. April 2, 2014) (requiring material to be removed from certain URLs and “related pages”).

<sup>176</sup> Plaintiff's First Amended Petition at 11–12, *Generational Equity, LLC v. Does* #1–100, No. 401-00232-2014 (Tex. Dist. Ct. Collin Cty. Mar. 21, 2014).

<sup>177</sup> Agreed Final Judgment & Permanent Injunction, *Salle v. Marine Logistics Group, LLC*, No. 50 2015 CA 004469 XXXX MB (Fla. Cir. Ct. Palm Beach Cty. June 19, 2015).

<sup>178</sup> Order Granting Judgment & Entry of Permanent Injunction, *Kriss v. Reviewer*, No. A1502350 (Ohio Ct. Com. Pl. Hamilton Cty. Sept. 10, 2015).

<sup>179</sup> Order & Permanent Injunction, *United Realty Advisors, LP v. Verschleiser*, No. 14-cv-05903(JGK)(MHD) (S.D.N.Y. May 28, 2015).

<sup>180</sup> This question is sometimes credited to Agatha Christie's *Witness for the Prosecution* (and to the Charles Laughton and Marlene Dietrich film based on Christie's play), see, e.g., Franklin R. Garfield, *Deposing Witnesses: Who's Lying Now?*, 41 L.A. L. 48, 48 (2018), but it was already old by then. See, e.g., *Archbishop Kenrick*, 22 CHRISTIAN WORLD 225, 225 (1871) (“Substantially the question which they put to him is this: Were you lying then, or are you lying now?”).

Yet when a plaintiff sues the source, gets a stipulation, and submits the order to Google with a deindexing request, the plaintiff is trying to short-circuit the news organization's review of the matter. The plaintiff aims to get the original story hidden, with no independent evaluation of whether the story was and continues to be correct.

Consider, for example, *Ball v. Saurman*. A *Ventura County Star* article had quoted Sandee Saurman as sharply criticizing Dr. Kiely Ball's hearing aid company.<sup>181</sup> Ball sued Saurman, who eventually agreed to a stipulation in which she stated that her original allegations were false.<sup>182</sup> A court then issued an injunction, which was submitted to Google for deindexing of the newspaper article.<sup>183</sup>

Likewise, consider *Welter v. Does*, an Arizona case filed by the law firm that filed the cases containing apparently forged notarizations discussed in Part IV. Megan Welter made the national news as an Iraq War veteran who became an Arizona Cardinals cheerleader,<sup>184</sup> but then made the news again when she was arrested for allegedly beating her boyfriend, Ryan McMahan.<sup>185</sup> Two years later, Welter filed a defamation lawsuit against McMahan, and McMahan submitted a stipulation saying that his original allegations were false.<sup>186</sup>

Welter then got an injunction stating that McMahan's allegedly defamatory statements were posted on ABC News, Fox Sports, CBS News, and *USA Today*, presumably because articles on those sites were based on those statements.<sup>187</sup> The injunction ordered the defendant to take all actions, "including requesting removal of the URLs from all Internet search engines, . . . to remove all such webpages and cache from the Internet, such that the Content is rendered unsearchable."<sup>188</sup> Again, because this was a stipulated judgment, there was no factual determination of whether McMahan's statements were actually defamatory. Indeed, at the hearing, McMahan made clear that he stood by his initial story on the facts, but was supporting Welter out of sympathy:

Even though she did these things, I really believe that everybody deserves a fresh start. And if it ever happened to me, I would want someone to do

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<sup>181</sup> Judgment, *Ball v. Saurman*, No. 56-2012-00418245-CU-DF-VTA (Cal. Super. Ct. Ventura Cty. Dec. 28, 2016).

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> See, e.g., *Cardinals Cheerleader Also Iraq Vet*, FOX SPORTS (July 31, 2013, 1:00 AM), <http://www.foxsports.com/nfl/story/arizona-cardinals-cheerleader-megan-welter-also-an-iraq-war-vet-073113> [<https://perma.cc/5YM4-58L2>].

<sup>185</sup> See, e.g., Aditi Roy & Alexis Shaw, *Arizona Cardinals Cheerleader Megan Welter Caught on Video Allegedly Attacking Boyfriend*, ABC NEWS (Aug. 3, 2013, 9:49 AM), <http://abcnews.go.com/US/iraq-war-vet-turned-nfl-cheerleader-arrested-allegedly/story?id=19861885> [<https://perma.cc/W2NA-M29K>].

<sup>186</sup> Stipulated Order for Permanent Injunction, *Welter v. Does*, No. CV2016-004734 (Ariz. Super. Ct. Maricopa Cty. June 29, 2016).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

this for myself. So I am okay with that. I guess that I hope she learns her lesson, and she takes care of it and doesn't do it again.<sup>189</sup>

Yet plaintiff asked Google to deindex all those mainstream media articles, on the strength of McMahon's formal stipulation.<sup>190</sup> (Google did not go along.)

For another example of the same technique, see *Desert Palm Surgical Group v. Petta*, which was used to try to deindex a CNN Money article:<sup>191</sup>

1. The Court finds that the parties published statements about one another at the following webpages that will cause the parties irreparable commercial harm if the webpages are not removed from the Internet or if the webpages continue to appear in Internet search engine results when Internet users search for the parties' names online:

<http://www.ripoffreport.com/r/dr-abert-carlotti-and-dr-michelle-cabret-carlotti/scottsdale-arizona-85255/dr-abert-carlotti-and-dr-michelle-cabret-carlotti-oral-surgeons-doing-plastic-surgery-pr-1049218>

<http://www.ripoffreport.com/r/carlotti-cosmetic-surgery-center/scottsdale-arizona-85255/carlotti-cosmetic-surgery-centerdesert-palm-surgical-centeralbert-carlottimichelle-cab-1104344>

<http://money.cnn.com/gallery/smallbusiness/2013/01/09/doctors-quitting-reasons/5.html>

<http://www.ripoffreport.com/r/dr-abert-carlotti-and-dr-michelle-cabret-carlotti/scottsdale-arizona-85255/dr-abert-carlotti-and-dr-michelle-cabret-carlotti-oral-surgeons-doing-plastic-surgery-pr-1049218>

2. The parties shall remove the above webpages or the statements they published via the

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<sup>189</sup> *Hear Audio Recording of Status Conference, Welter v. Does*, No. CV2016-004734 (Ariz. Super. Ct. Maricopa Cty. June 29, 2016).

<sup>190</sup> Stipulated Order for Permanent Injunction, *Welter v. Does*, No. CV2016-004734 (Ariz. Super. Ct. Maricopa Cty. June 29, 2016), <http://www.lumendatabase.org/notices/12644181> [<https://perma.cc/4XEN-ESUV>].

<sup>191</sup> Order for Injunction, at 1, *Desert Palm Surgical Group, PLC v. Petta*, No. CV2008-010464 (Ariz. Super. Ct. Maricopa Cty. June 13, 2016); *see also* Judgment, *Bansal v. Kumar*, No. V425852 (Md. Cir. Ct. Montgomery Cty. Dec. 13, 2016) (aimed at deindexing *Phoenix New Times* article titled, "Wealthy Tempe Lawyer Rips Off Clients, Loses License"); Ray Stern, *Wealthy Tempe Lawyer Rips Off Clients, Loses License*, PHOENIX NEW TIMES (Dec. 14, 2015, 2:38 PM), <https://www.phoenixnewtimes.com/news/wealthy-tempe-lawyer-rips-off-clients-loses-license-7896537> [<https://perma.cc/VAB2-M5VV>].

webpages from the Internet if they are able to remove them without obtaining approval from any third person.

3. In the event the parties are unable to remove the webpages or the statements without obtaining approval from a third person, the parties may submit this Order to Google, Bing, Metacrawler, Yahoo!, Ask.com, AOL, Dogpile, and any other Internet search engine, so that the applicable webpages can be removed, delisted, and de-indexed from all search engine results in accordance with the policies of the search engine company.

#### X. IMPLICATIONS: DESIGNING SYSTEMS IN A FALLEN WORLD

I hope that I've told you an enjoyable story—a more lurid one than usual, by the admittedly tame standards of law reviews. But can we do more with this than just marvel at the enduring human capacity for cheating?

It seems that this is a good case study (though just one of many possible case studies) for thinking about designing legal systems to deal with the risk of fraud. Trust may be a sound default in many aspects of life, especially in dealing with repeat players. Elaborate checking is often so expensive and taxing on a relationship that it's better to run the risk of occasional fraud. If you go to your neighborhood supermarket and complain that some food you bought was spoiled, they probably won't have elaborate verification procedures; instead, they'll tell you to get a replacement for free, even if that means that some people can game the system that way. Indeed, trust is often important to help build relationships, in situations—such as among coworkers—where people work with each other repeatedly.<sup>192</sup>

But in some areas, especially where valuable things—such as reputations—are at stake, and where the parties generally don't have enduring business relationships with each other, systems that trust excessively actually breed more fraud, as potential defrauders realize how easily the systems can be deceived. Google had the best of intentions, I think, in agreeing to deindex material based on a court order addressed to a third party. In a world full of honest people, that would be an unalloyed good. Yet, of course, in a world full of honest people, there would be a lot less need for libel law. And in a world full of real people, some of whom are more honest and some less so, Google's policy has likely prompted people to cheat in order to try to exploit it.

People often remark that internet fraud is common because the internet was not designed with security in mind. Its architects understandably focused on how useful it would be for people to easily communicate with each other—but they didn't worry

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<sup>192</sup> See Nan S. Russell, *The Problem with a Trust-But-Verify Approach*, PSYCH. TODAY (July 25, 2015), <http://www.psychologytoday.com/us/blog/trust-the-new-workplace-currency/201507/the-problem-trust-verify-approach> [<https://perma.cc/R3VR-84Q5>] (“Trust, but verify when outcome trumps relationship. But if it doesn't, go first with trust and build trusted relationships.”).

enough about people being able to maliciously misuse these communication mechanisms (for instance, by launching “denial-of-service” attacks that use a deluge of communications to block access to a site) and thus didn’t build in protections against such misuse.<sup>193</sup> As they say, “The ‘S’ in internet stands for security.”<sup>194</sup>

What we see here is that the Internet takedown request system likewise wasn’t designed with security in mind, or at least with security against these sorts of shenanigans. If everyone is honest, then the takedown system works fairly well. But cheaters have many ways of gaming it, some of which are hard for recipients of orders to spot. With that in mind, let me offer a few observations, though I hope that readers will draw many others that haven’t occurred to me.

### A. Preventing Fraud Through Verification

#### I. Consumers of Orders

##### (a) Vigilance Generally

To begin with, anyone who gets a court order should at least check that it is authentic. Fortunately, many court systems place their documents online, sometimes available for free and sometimes at a modest expense that shouldn’t be hard for a search engine company or a hosting company to bear.<sup>195</sup>

At least, the recipient should confirm that the case exists (most of the forgeries I have uncovered can be caught based on that alone) and that the order is listed on the docket. But to be careful, the recipient should also get a copy of the order from the court and compare it to the submitted order. Some sophisticated forgers have taken real documents from real cases but then substituted new URLs to be deindexed (which had never been submitted to the court) instead of the authentic ones.<sup>196</sup>

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<sup>193</sup> See, e.g., Dave Lee, *Huge Hack “Ugly Sign of Future” for Internet Threats*, BBC (Feb. 11, 2014), <http://www.bbc.com/news/technology-26136774> [<https://perma.cc/3MDP-FX2U>].

<sup>194</sup> Well, they say it especially about “IoT,” the Internet of Things (as a Google search for “The S in IoT stands for Security” will reveal). See, e.g., Chris Romeo, *The S in IoT Stands for Security*, IOT, INC., <https://www.iot-inc.com/the-s-in-iot-stands-for-security-article/> [<https://perma.cc/3BJ2-CZ5F>]. But it’s also true of the Internet more broadly.

<sup>195</sup> Federal court documents, for instance, cost 10 cents per page on PACER; perhaps they ought to be available for free for various reasons, but this cost isn’t a serious barrier for businesses that are trying to verify whether an order they received is authentic, especially given that employee time will likely be a much larger expense. Even the L.A. Superior Court fee, \$1 per page for the first five pages in a document and \$0.40 per page for further pages, isn’t that high for such purposes. See *Electronic Public Access Fee Schedule*, PACER, [https://www.pacer.gov/documents/epa\\_feesched.pdf](https://www.pacer.gov/documents/epa_feesched.pdf) [<https://perma.cc/7KPQ-UAVZ>].

<sup>196</sup> See, e.g., *Apparently Forged Permanent Injunction, Gorman v. Steinborn*, <http://lumendatabase.org/?sid=2338651> [<https://perma.cc/6V5V-YGWP>] (copying everything except for the URL from *Permanent Injunction, Gorman v. Steinborn*, No. 2:14-cv-00890-GAM (E.D. Pa. May 20, 2015)).

With some courts, this requires more work. Some courts require you to call the court clerk's office, pay by credit card, and then wait for the copies to arrive in the mail. Some require you to send a letter and a check. A few don't accept checks drawn on out-of-state banks, which generally means you have to pay by money order (something one might have expected in the 1970s, not in the 2020s). A few don't send records at all, so you can only get the records through a document retrieval service, which can cost \$50 to \$100. Indeed, I'm surprised at how many of the forged court orders purported to be from courts that have good online document retrieval services. If you're going to forge an order, why not pretend that it comes from a court whose records are hard to track down, hoping that anyone doing the checking will just give up?

Google, as best I can tell, has generally tried to check the authenticity of the orders that it has received, and has only rarely been duped into deindexing based on forgeries. Likewise, it has tried to spot other obvious frauds. Other consumers of orders should do the same.

*(b) Notice to Affected Parties*

Unfortunately, many frauds aren't obvious from the face of an order. Say, for instance, that a defendant stipulates to a takedown order, but the defendant didn't actually write the allegedly libelous post (see Part V). Nothing in the order would signal that the defendant was lying, at least unless the order is part of a suspicious pattern (as with the Texas orders where all the defendants' signatures were notarized in California).

Our legal system usually deals with this risk through the adversary process. If a fake order is aimed at, say, getting a site to take down a post, and the order is sent to the site operator, then the operator can look closely at it. The operator might check, for instance, whether the defendant's location matches the location connected to the Internet Protocol address from which the post was posted. Or if the operator has the author's e-mail address, the operator can e-mail the author and see the author's response.

That can help prevent mistaken takedowns, and it can also help expose the fraudulent schemes. Indeed, that's how the fake defendant scam discussed in Part III was uncovered (and how I began to research this field more broadly):

- a. Yelp got an order that appeared to be a stipulated judgment in a libel case.
- b. Yelp informed the target of the order, Matthew Chan.
- c. Chan let Yelp know that he hadn't been sued, and gave them evidence that supported his position (for instance, that the lawsuit was against a "Mathew Chan" in Baltimore, and the real Chan was a Georgia resident who posted a comment about a Georgia dentist).
- d. Based on this, Yelp decided not to take down Chan's review.
- e. Chan then let me know, which led Paul Alan Levy and me to investigate the matter further and find two dozen other cases that were part of the same scam.

Had Yelp just acted on the order, deleting the comment without letting Chan know about it, Chan would doubtless have never noticed. But when Google is asked to deindex a page, it generally doesn't notify the owner of that page, or even of that site. Web pages might not have an e-mail address attached to them, but even when an e-mail address for the site operator is easy to find, Google generally doesn't inform the operator of any deindexing plans.<sup>197</sup> This, I think, is a missed opportunity for helping avoid takedown frauds.

## 2. Courts

### (a) *Verifying Authenticity of Orders*

Courts should also make it as easy as possible to verify whether court orders are authentic. Even if they don't have their records online, they should at least have an e-mail address to which someone can submit a purported order to verify that it is real.

Indeed, after CBS News started investigating the forgeries discussed in Part II<sup>198</sup>—of which 12 purported to be from Hamilton County, Ohio—the Hamilton County Clerk announced “a customer service telephone hotline and email system for anyone who questions the authenticity of a judicial order: 513-946-5686 or recordsverify@cms.hamilton-co.org.”<sup>199</sup> This likely involves only modest expense, since any particular court system is likely to get only a few such queries. But I think it's necessary to preserve the court system's own credibility and effectiveness. After all, judges want people to promptly follow their orders; providing such verification helps with that. As the Hamilton County Clerk put it,

It is critical that our citizens have faith in the accuracy of judicial orders and court documents . . . . That they know when a judge sentences someone to prison, or decides a child's custody, that order is legitimate and true.<sup>200</sup>

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<sup>197</sup> See, e.g., E-mail from Michael Podolsky, CEO of PissedConsumer.com, to Eugene Volokh, author (Aug. 5, 2019) (on file with the author) (noting Google does not notify PissedConsumer when its content is deindexed from Google).

<sup>198</sup> See Axelrod & Bast, *supra* note 55.

<sup>199</sup> Kevin Grasha & Max Londberg, *Aftab Announces New Protocols in Wake of Report About Fake Court Orders*, CINCINNATI ENQUIRER (July 25, 2019, 9:09 PM), <https://www.cincinnati.com/story/news/2019/07/25/forged-hamilton-county-judicial-orders-prompts-investigation/1831680001/> [<https://perma.cc/4MW8-HVXB>].

<sup>200</sup> Raven Richard, *Forged Court Orders Trigger New Security Measures in Hamilton County*, WCPO (July 26, 2019, 2:49 PM), <http://www.wcpo.com/news/local-news/hamilton-county/forged-court-orders-trigger-new-security-measures-in-hamilton-county> [<https://perma.cc/4GSG-U25C>].

And of course, such a system can be used to catch other kinds of forged orders besides just forged libel takedown orders.<sup>201</sup>

(b) *Verifying Authenticity of Sealed Orders*

Such verification systems are especially important in the rare situations where court records (including orders) are sealed: juvenile court cases are one example, and in many states expungement orders are another.<sup>202</sup>

Because of the risk of forgery—and people’s need to be able to confirm that a document is not forged—overly aggressive sealing systems may be counterproductive even for the very people who ostensibly benefit from the sealing. Say, for instance, that you get a conviction or an arrest expunged. You send the expungement order to a newspaper that covered the case in its police blotter and ask that the newspaper remove your name from the archived article on the Web. Some newspapers might be willing to do that.<sup>203</sup>

If the editors are aware of the risk of forgery, they will want to be able to confirm that the order is authentic. Simply seeing the document, however official it might look, wouldn’t suffice; they would need to look up the order on the court’s record system, or call the clerk of the court to check the order’s validity. But if the state views the expungement as completely sealing the case—or, in some states, as mandating that the case file be deleted outright—then there is no way to prove that the order is indeed authentic.

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<sup>201</sup> See, e.g., *United States v. Grados*, 758 F. App’x 247, 248 (3d Cir. 2018) (affirming conviction of ex-husband who forged court order to block distribution of property settlement payments to his ex-wife); *United States v. Cowan*, 116 F.3d 1360, 1361 (10th Cir. 1997) (finding that a lawyer had forged a court order so that his client would think that his case had been dismissed on the merits, rather than because of the lawyer’s failure to act on the case); *United States v. Barber*, 39 F.3d 285, 287 (10th Cir. 1994) (finding that a lawyer forged a court order dismissing his client’s case after failing to inform client the case had been dismissed three years earlier); *United States v. Goldberg*, 67 F.3d 1092, 1094 (3d Cir. 1995) (finding that an inmate forged court order to get unrestricted access to prison law library); *Superseding Indictment, United States v. Greene*, No. 2:07-cr-00120-JS (E.D. Pa. Oct. 25, 2007) (finding that an identity thief forged judge’s signature on subpoena); *Petition on Supervised Release, United States v. Greene*, No. 2:07-cr-00120-JS (confirming that the identity thief was indeed sentenced for that crime).

<sup>202</sup> Compare *Commonwealth v. Pon*, 14 N.E.3d 182, 196 (Mass. 2014) (holding that routine expungement of criminal records was consistent with the First Amendment); *State v. D.H.W.*, 686 So. 2d 1331, 1336 (Fla. 1996) (likewise), with *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 511 (1st Cir. 1989) (holding that such expungement is constitutional only in extraordinary cases).

<sup>203</sup> See, e.g., ONLINE NEWS ASS’N, *Removing Material from Your Archives*, <http://ethics.journalists.org/topics/removing-material-from-your-archives/> [https://perma.cc/8C9F-8RK4] (“If proper and complete documentation is produced that shows an arrest was expunged from a person’s record, you should consider whether that is grounds to remove the charge from your website.”).



Thus, if a state does authorize the sealing of some orders, whether expungement orders, orders in juvenile criminal cases, or even some libel or invasion of privacy judgments, it needs to provide a verification mechanism. Even if the editors can't ask the court for a copy of an order, they should at least be able to send the court a purported copy and ask whether it is authentic.<sup>204</sup> That way, a web site operator that wants to act on such orders can do so, while still being confident that the orders are authentic.

### 3. *Lawyers*

Lawyers should also think about the risk of client fraud when organizing their own practices. Of course, lawyers are supposed to be skeptical and careful people, who are always aware of the danger that people—including their clients—will lie (or, even more often, simply err). And though lawyers may construct an argument that they suspect, or even know, is inconsistent with the facts (e.g., casting doubt on a witness's honesty or accuracy even if they know the witness is telling the truth), there are limits: they are forbidden from knowingly presenting perjured testimony or fraudulent documents.<sup>205</sup>

Still, it's often tempting to assume that documentary evidence is authentic, rather than forged. I suspect that few of us—at least when we were young lawyers who hadn't seen enough of the world around us—would wonder about a document that our client hands us: “Is the notarization stamp forged? Does the ostensible signer even exist?”

Yet if your clients dupe you into helping them defraud the court, you may end up facing a bar investigation, or possible court-ordered sanctions. The Arizona lawyers involved in the fake-notarization cases (and other fake-defendant) cases learned that.<sup>206</sup> Another prominent defamation lawyer was investigated by a state bar, and apparently privately informally admonished, though the bar declined to lodge formal charges. Even those lawyers who were cleared of any deliberate wrongdoing, such as those involved in the Texas Attorney General's investigation of the Solvera matter,<sup>207</sup> likely faced a considerable amount of work, worry, and expense as a result of the investigation.

Even if you don't face these formal sanctions, a judge who learns that you filed fraudulent documents won't be happy with you. Just the suspicion that you may have been complicit in the fraud will badly damage your credibility, with the judge and possibly with the judge's colleagues. But even if the judge recognizes that your error was inadvertent, and the fraud was generated by the client or by a reputation management company, being easy to fool is not a well-regarded trait in a lawyer.

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<sup>204</sup> See UTAH COURTS, EXPUNGING ADULT CRIMINAL RECORDS, <https://www.utcourts.gov/howto/expunge/> [<https://perma.cc/8DPU-8FK7>]. As with other record requests, the court might charge a modest fee for this service.

<sup>205</sup> See MODEL RULES OF PROF'L CONDUCT r. 3.3(a)(3) (AM. BAR ASS'N 2019); FED. R. CIV. P. 11.

<sup>206</sup> See Volokh, *Apparently-Fake-Defendant*, *supra* note 71; Parts III & IV.

<sup>207</sup> See Part V.

Of course, a lawyer can't afford to investigate every document that a client submits. Many honest clients will legitimately try to get statements from witnesses themselves, and hand them to their lawyers in order to minimize legal fees. If you tell the client that you need to spend several hours verifying the documents, the client may be quite rightly upset. This is likely why some courts take the view that—at least for the purposes of Rule 11—lawyers are “entitled to rely on the representations of their client[s], without having to assess [their clients’] credibility,”<sup>208</sup> at least when the lawyer is not on notice that the client is likely lying<sup>209</sup> (though other courts disagree<sup>210</sup>).

Still, most lawyers would like to do more than avoid sanctionable conduct. They would like to avoid even the possibility of participating in a fraud on the court, and the reputational damage that this can cause.

It's therefore good to at least closely look at the papers. Were you asked to file seven lawsuits against supposed Houston residents, all of whose signatures were notarized in Northern California? Did the defendant assert that he had created documents that are housed not just on Ripoff Report or what looks like the defendant's own site, but on a government site, a media site, or a caselaw repository? Is there something fishy about the notarization stamp?

More broadly, if you're getting the client documents through some third party, you might want to look into the third party. Does it, for instance, promote “guaranteed takedown” of libelous materials—a guarantee that honest people using honest legal techniques likely can't afford to honestly make? This sort of diligence may take some time and effort, and of course, it cannot protect you completely. But it can help protect you against some very unpleasant questions if it turns out that your client is dishonest.

## *B. Preventing Fraud Through Deterrence*

### *1. Government*

Of course, no system of preventing fraud is perfect, and even the imperfect ones are often too expensive. So, one important tool for stopping fraud, as with all crimes and intentional torts, is the threat of punishment. Some of the stratagems I describe

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<sup>208</sup> *Jeffreys v. Rossi*, 275 F. Supp. 2d 463, 481 (S.D.N.Y. 2003); *see also* *Braun ex rel. Advanced Battery Techs., Inc. v. Zhiguo Fu*, 2015 WL 4389893, at \*16 (S.D.N.Y. July 10, 2015) (“[A]n attorney who relies on a client’s verification made under the penalty of perjury is not acting in bad faith; indeed, it is unlikely that such reliance would even rise to the level of objective unreasonableness.”).

<sup>209</sup> *Almeciga v. Center for Investigative Reporting, Inc.*, 185 F. Supp. 3d 401, 436 (S.D.N.Y. 2016); *Childs v. State Farm Mutual Auto. Ins. Co.*, 29 F.3d 1018, 1024 (5th Cir. 1994).

<sup>210</sup> “In light of these facts, . . . counsel is reminded of his duty to reasonably investigate the factual and legal grounds before filing further defensive pleadings. He cannot merely rely on what his client tells him.” *Chemtall, Inc. v. Citi-Chem, Inc.*, 992 F. Supp. 1390, 1409 n.21 (S.D. Ga. 1998).

here are legally defensible, or at least the illegality is hard to ferret out—but the forgeries, at least, are blatantly criminal.<sup>211</sup> One might think that people would be reluctant to attach a judge’s signature to a document the judge never signed. Among other things, one might expect that this would upset the judge, and judges tend to know prosecutors and are likely to be able to persuade them to act.

Yet the forgers weren’t deterred, and perhaps for good reason: Very few of the forgeries actually did lead to prosecutions, even when the judges or prosecutors were alerted to the problem. Perhaps I am mistaken, but my sense is that prosecutors’ attention is often hard to get, at least when there are no dead bodies, no missing millions, and no kilos of cocaine.

And when there have been prosecutions, they are often invisible and thus do little to deter people. In 2014, music businessman Don Lichterman was federally prosecuted for forging a libel takedown order and pleaded guilty.<sup>212</sup> But to my knowledge, there was no coverage of the prosecution nor even a U.S. Department of Justice press release (something that sometimes happens with other federal prosecutions or even federal civil enforcement actions). No publication covered the prosecution, other than when I found it two years later and wrote about it on my blog.

The 2014 state prosecution of Garner Ted Aukerman likewise got no coverage.<sup>213</sup> To my knowledge, the first serious coverage happened in 2017, when the DOJ put out a press release about the Michael Arnstein prosecution, and some publications covered the story (as did I on my blog, then hosted on the *Washington Post* site).<sup>214</sup> Of course, prosecutors have limited resources, and perhaps their decisions not to prosecute many of the forgers make sense. But if there are to be prosecutions, it seems to me that it makes sense to publicize them so as to maximally deter other would-be forgers and defrauders.

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<sup>211</sup> See, e.g., 18 U.S.C. § 505 (barring forgery of federal judges’ signatures or seals).

<sup>212</sup> Sealed Complaint, *United States v. Lichterman*, No. 1:14-mj-02735-UA (S.D.N.Y. filed Dec. 5, 2014); Judgment in a Criminal Case, *United States v. Lichterman*, No. 1:15-cr-00302-JGK (S.D.N.Y. Feb. 22, 2016) (the precise charge was “Forging A Court Seal”).

<sup>213</sup> See Judgment & Sentence for Indirect Criminal Contempt, *Aukerman v. Adams*, No. 2013-33765-FMCI (Fla. Cir. Ct. Volusia Cty. Feb. 5, 2014); see also *supra* note 46 and accompanying discussion.

<sup>214</sup> U.S. Dep’t of Justice, S.D.N.Y., *Businessman Pleads Guilty to Conspiracy to Forge a Federal Judge’s Signature* (Sept. 15, 2017), <http://www.justice.gov/usao-sdny/pr/businessman-pleads-guilty-conspiracy-forge-federal-judge-s-signature> [<https://perma.cc/9ALF-W8WC>]; Ruth Brown, *Jewelry Seller Forged Court Docs to Scrub Bad Reviews from Google*, N.Y. POST (Oct. 31, 2018, 3:42 PM), <https://nypost.com/2018/10/31/jewelry-seller-forged-court-docs-to-scrub-bad-reviews-from-google/> [<https://perma.cc/74E9-YE97>]; Kelly Weill, *Jeweler Forged Judge’s Signature to Force Google to Kill Negative Reviews*, DAILY BEAST (Sep. 19, 2017, 2:16 PM), <http://www.thedailybeast.com/jeweler-forged-judges-signature-to-force-google-to-kill-negative-reviews> [<https://perma.cc/DCG8-5YQF>]; Eugene Volokh, Opinion, *N.Y. Businessman Prosecuted for Forging Court Orders to Send to Google for Deindexing*, WASH. POST (Apr. 19, 2017, 4:51 PM), <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/04/19/n-y-businessman-prosecuted-for-forging-court-orders-to-send-to-google-for-deindexing/> [<https://perma.cc/5VCJ-8DAS>]. For additional discussion of the Arnstein prosecution, see *supra* at notes 27–30.

## 2. Search Engines and Web Site Operators

Google has also apparently not done much to try to deter abuse. The page that people use to submit deindexing requests backed by court orders does say:

Please note that a copy of each legal notice we receive may be sent to the Lumen project (<http://www.lumendatabase.org>) for publication and annotation . . . .

We may also send the original notice to the alleged infringer or, if we have reason to suspect the validity of your complaint, to the rights holder.<sup>215</sup>

But Google doesn't threaten to inform law enforcement about any forgeries, a threat that might have scared off at least some submitters. I would think that a supplementary warning such as this might have been sobering:

If we have reason to think that any court order has been forged or illegally altered, or was procured fraudulently, we may also inform law enforcement about it. For examples of people who have been convicted and jailed as a result of forgeries, see [here](#), [here](#), and [here](#). For examples of people who have been ordered to pay sanctions or fines (of up to \$300,000), see [here](#) and [here](#).<sup>216</sup>

Google actually does try to deter wrongful Digital Millennium Copyright Act takedown requests that claim copyright infringement, and wrongful responses to such requests. The "Report alleged copyright infringement" page warns submitters,

**IMPORTANT:** Misrepresentations made in your notice regarding whether material or activity is infringing may expose you to liability for damages (including costs and attorneys' fees). Courts have found that you must consider copyright defenses, limitations or exceptions before sending a notice. In one case involving online content, a company paid more than \$100,000 in costs and attorneys fees after targeting content protected by the U.S. fair use doctrine. Accordingly, if you are not sure whether material available online infringes your copyright, we suggest that you first contact an attorney.<sup>217</sup>

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<sup>215</sup> *Submit a Court Order*, GOOGLE, [http://support.google.com/legal/contact/lr\\_courtorder?product=websearch&uraw=\[https://perma.cc/38VX-NENR\]](http://support.google.com/legal/contact/lr_courtorder?product=websearch&uraw=[https://perma.cc/38VX-NENR]) (last visited Jan. 14, 2020).

<sup>216</sup> The links could go to news accounts or court documents; if Google was hesitant about using the names of the people who were punished, it could post copies with the names redacted.

<sup>217</sup> *Report Alleged Copyright Infringement*, GOOGLE, [http://support.google.com/legal/contact/lr\\_dmca?product=artists&uraw=&hl=en](http://support.google.com/legal/contact/lr_dmca?product=artists&uraw=&hl=en) [https://perma.cc/H6NJ-CF5M] (last visited Jan. 14, 2020).

Likewise, the “Removing Content from Google” page warns people who want to contest copyright takedown requests,

Be aware that there may be adverse legal consequences from abusing this process. For example, you could be liable for damages and attorney’s fees under section 512(f) of the DMCA if you knowingly misrepresent that the content was removed by mistake or misidentification.<sup>218</sup>

But this isn’t done on the “Submitting a Court Order to Google” page.<sup>219</sup>

Yelp, on the other hand, does try to deter at least some sort of legal shenanigans (including ones that it views as anti-consumer and not just ones it views as fraudulent). The Yelp page for the dentist who was the plaintiff in *Patel v. Chen*, for instance, shows—in a special box that has to be clicked before any reviews are visible—

**Consumer Alert: Questionable Legal Threats**

This business may have tried to abuse the legal system in an effort to stifle free speech, for example through legal threats or contractual gag clauses. As a reminder, reviewers who share their experiences have a First Amendment right to express their opinions on Yelp.<sup>220</sup>

*C. Preventing and Exposing Fraud Through Public Scrutiny*

Google’s deindexing system thus had some vulnerabilities, but it also had one important strength: it made the bulk of the deindexing requests publicly accessible. As a result, a corresponding strength of the court system—public access to the bulk of court records—made it much easier to spot the frauds, and in some measure stop them.

*1. Ordinary Court Files*

Most of the frauds discussed in this Article were only uncovered because the court documents in these cases were publicly accessible. Access to just the court dockets (as opposed to the underlying documents) wouldn’t have sufficed. Some

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<sup>218</sup> *Removing Content from Google*, GOOGLE, <http://support.google.com/legal/troubleshooter/11114905#ts=1115655%2C1614942> [<https://perma.cc/Q4ET-MP3C>] (last visited Jan. 14, 2020).

<sup>219</sup> *Submitting a Court Order to Google*, GOOGLE, [http://support.google.com/legal/contact/lr\\_courtorder?product=websearch&uraw=](http://support.google.com/legal/contact/lr_courtorder?product=websearch&uraw=) [<https://perma.cc/J6LX-FWVG>] (last visited Jan. 14, 2020). (The page warns submitters that a copy of the takedown request will be posted on the Lumen Database, but it doesn’t warn of the risk of prosecution or sanctions for forged or fraudulent requests.)

<sup>220</sup> *Family & Cosmetic Dental Care*, YELP, <http://www.yelp.com/biz/family-and-cosmetic-dental-care-suwanee-2?osq=mitul+patel> [<https://perma.cc/2EES-73AP>] (last visited Jan. 14, 2020).

forgeries could have been found this way, but others involved modifications to real documents in real cases, so catching the forgery required viewing the authentic document to compare it against the one submitted to Google. All the non-forgery frauds involved real cases, so anyone reviewing the orders generally needed to see the complaints, stipulations, motions, and other filings.

Indeed, it was often necessary to see even personal information about parties, such as the addresses of the ostensible defendants in the fake-defendant cases.<sup>221</sup> Of the 26 fake-defendant cases discussed in Part III, 23 included defendants' addresses (presumably because court practices in those jurisdictions required them for pro se defendants). The lack of any connection in public records between the supposed defendants and their supposed addresses helped show that the lawsuits were indeed fraudulent.

In recent years, I have noticed a trend in which libel plaintiffs ask for cases to be sealed, in whole or in part.<sup>222</sup> Indeed, in part because of my experience with the fraudulent orders, I have moved—with some success—to intervene and to unseal records in several such cases.<sup>223</sup>

It makes sense that even honest plaintiffs, who have genuinely been libeled, would want to litigate their cases confidentially. If the libel lawsuit filings are open to the public, then people might find them and report on them, in the process discussing (and thus repeating) the libelous allegations. The “fair report” privilege will immunize any such reporters who fairly and accurately summarize the allegations in court documents;<sup>224</sup> and even a fair and accurate report that makes clear the plaintiff

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<sup>221</sup> See *supra* Part III.

<sup>222</sup> See Eugene Volokh, *Another Decision Against Sealing Records in Libel Cases*, REASON: THE VOLOKH CONSPIRACY (Oct. 10, 2019, 12:13 PM), <https://reason.com/2019/10/10/another-decision-against-sealing-records-in-libel-cases/> [<https://perma.cc/FR2Z-6QYU>].

<sup>223</sup> Trial Order, *Bouari v. Chaney*, No. D-13-473819-D (Nev. Dist. Ct. Clark Cty. Mar. 2, 2018) (unsealing record, in response to my motion to unseal); Motion to Intervene and to Unseal the Order Granting Plaintiff's Motion to Seal All Documents, *Packers Sanitation Servs., Inc. v. Acosta*, No. CS-2017-206 (Okla. Dist. Ct. Garfield Cty. June 5, 2018) (entire case was sealed); Motion of Eugene Volokh to Intervene and Unseal Record Documents, to File Via CM/ECF, and to Consider This Motion on an Expedited Basis, *Parson v. Farley*, 352 F. Supp. 3d 1141 (N.D. Okla. 2018) (No. 16-cv-423-JED-TLW) (alleged libel sealed); Motion of Eugene Volokh to Intervene and to Unseal Record, *Doe v. Does*, No. 1:16-cv-07359 (N.D. Ill. May 25, 2018) (alleged libel sealed); Notice of Motion and Motion, *Fargo v. Tejas*, No. BC685343 (Cal. Ct. App. May 20, 2019) (alleged libel sealed); Motion to Intervene and Opposition to Motion to Seal, *Kestenbaum v. Globus*, No. 516803/2018 (N.Y. Sup. Ct., Kings Cty., Oct. 2, 2018) (alleged libel sealed).

<sup>224</sup> RESTATEMENT (SECOND) OF TORTS § 611 (AM. LAW INST. 1977); see, e.g., *Funk v. Scripps Media, Inc.*, 570 S.W.3d 205, 212 (Tenn. 2019); *Salzano v. N. Jersey Media Grp. Inc.*, 993 A.2d 778, 796–97 (N.J. 2010).

claims a certain accusation is libelous will still in some measure amplify the allegation. An attempt to restrict speech, for instance, through a lawsuit aimed at getting a libel takedown injunction, would thus backfire, even if it were entirely legitimate.<sup>225</sup>

But this desire can't justify an exception to the general openness of court records. Courts have long recognized that openness "provide[s] a means . . . by which citizens scrutinize and 'check' the use and possible abuse of judicial power," and "enhance[s] the truth finding function of the proceeding."<sup>226</sup> Likewise, openness provides a means by which citizens might be able to determine whether judges may have too readily accepted proposed orders (for instance, by uncritically accepting a proposed order that lists documents that the defendant clearly had not written)—or whether they were just duped by a crafty scheme involving fake defendants. And such openness is especially important in default judgment and stipulated judgment cases, where the orders aren't policed by any adversarial process.

"Access to records serves the important functions of ensuring the integrity of judicial proceeding."<sup>227</sup> "Public scrutiny of trials creates accountability, minimizing judicial error and misconduct, and thus benefits the litigants, defendants and society as a whole."<sup>228</sup> The cases discussed here show that such public scrutiny can help expose litigant misconduct as well as judicial misconduct, and expose judicial errors (honest mistakes though they might be on the judge's part) that stem from such litigant misconduct.

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<sup>225</sup> This is often known as the "Streisand Effect," named after singer Barbra Streisand. See T.C., *What Is the Streisand Effect?*, *ECONOMIST* (Apr. 16, 2013), <http://www.economist.com/the-economist-explains/2013/04/15/what-is-the-streisand-effect> [<https://perma.cc/7K2L-C2NY>]:

Ms Streisand inadvertently gave her name to the phenomenon in 2003, when she sued the California Coastal Records Project, which maintains an online photographic archive of almost the entire California coastline, on the grounds that its pictures included shots of her cliffside Malibu mansion, and thus invaded her privacy.

That raised hackles online. . . . As the links proliferated, thousands of people saw the pictures of Ms Streisand's house—far more than would otherwise ever have bothered to browse through the CCRP's archives. By the time a judge eventually threw the suit out, Ms Streisand's privacy had been far more thoroughly compromised than it would have been had she and her lawyers left the CCRP alone.

*Id.* The Streisand case involved a frivolous lawsuit, but the effect can apply to well-founded lawsuits as well.

<sup>226</sup> *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 980 P.2d 337, 366 (Cal. 1999).

<sup>227</sup> *Metlife, Inc. v. Fin. Stability Oversight Council*, 865 F.3d 661, 665 (D.C. Cir. 2017) (cleaned up).

<sup>228</sup> *B.H. v. McDonald*, 49 F.3d 294, 301 (7th Cir. 1995); see also *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1178 (6th Cir. 1983).

## 2. *The Lumen Database*

Of course, forged court orders by definition can't be found in court files; I found nearly all of them through the Lumen Database, a repository run by the Berkman Center for Internet and Society at Harvard Law School and the Electronic Frontier Foundation. Google, Twitter, and other companies send takedown requests to Lumen for archiving, and Lumen makes them available to researchers. If you think that the material uncovered in this Article is useful, thank Lumen.

Even when it comes to genuine court orders, Lumen is an invaluable supplement to court records. Without seeing the Lumen-archived court orders, I wouldn't have known about most of the cases I am writing about here; only armed with the case number from Lumen could I find further records in those cases.

## 3. *Text-Searchable Dockets*

The results of this Article also show the value of text-searchable dockets, chiefly those kept by Bloomberg Law, but also those available in Westlaw Dockets and Lexis Dockets. For instance, I found many of the fake-defendant cases discussed in Part III by searching through the dockets in Bloomberg, Westlaw, and Lexis for telltale boilerplate phrases that I saw in *Patel v. Chan*, such as "Consent Motion for Injunction and Final Judgment." And because those services collect all filed Complaints in some court systems, even when those court systems don't generally make the full text of filed documents freely available, I could find other cases through a search for boilerplate in the Complaints, such as the phrase "Dated, so respectfully."

## 4. *PACER*

What I found also makes me wonder what I didn't find. Many court systems don't keep their records online, or at least don't keep them online in a way that Bloomberg, Westlaw, and Lexis can download and make searchable.

The federal court system is an odd hybrid, because—unusually for electronic court records systems—it charges money to download dockets, and not just to download documents.<sup>229</sup> Because of this, Bloomberg, Westlaw, and Lexis don't routinely have all the federal docket entries available online (since that would cost too much). Rather, they generally wait until users who are interested in a case manually ask for the docket to be updated; as a result, when you search through federal docket entries,

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<sup>229</sup> *Accessing Court Documents—Journalist's Guide*, U.S. COURTS, <https://www.uscourts.gov/statistics-reports/accessing-court-documents-journalists-guide> [<https://perma.cc/RM2T-NZXB>] (last visited Jan. 22, 2020). Many state court systems provide both dockets and documents online for free, but most court systems that charge money make their money through charging to download documents or charging for case name searches—in most states that keep records online, looking up a case by case number is free. *See, e.g., Case Number/Case Name Search*, WASHINGTON COURTS, <https://dw.courts.wa.gov/?fa=home.casesearchTerms> [<https://perma.cc/8YR5-M5E9>] (last visited March 14, 2020).



you aren't searching through all docket entries, but only through those that Bloomberg, Westlaw, or Lexis happen to have downloaded.

Many have argued that PACER should be free to the public,<sup>230</sup> much like many state court systems that provide documents online for free without breaking the bank. This would be helpful in many ways, but one is that it would facilitate research. Someone who sees a suspicious court filing could find any similar filings in other cases and see whether they form a pattern. And that's true even if PACER itself doesn't provide full-text global searches, but only lets people pull up cases one at a time. If PACER were free, then services such as Bloomberg, Westlaw, and Lexis could gather the data from PACER and make it searchable for their users, and non-profit sites such as CourtListener might be happy to provide it for free to the general public.

If PACER documents were entirely free, people could do such searches through the text of all the documents, which would be especially useful. But even if just the dockets were available for free, then at least people would be able to search the text of all the docket entries and not just the limited set that's currently available on the various online services.

#### *D. Minimizing the Harm of Fraud*

However hard one may try to catch and deter fraud, some frauds will be successful (especially when they involve default judgments or stipulated judgments, where there is no adversarial process to smoke out possible misconduct). Sometimes, recipients of orders will be duped. Sometimes, they may suspect an order is unsound, but not be certain. One way of dealing with such situations, and of minimizing the harm of fraud, is by avoiding all-or-nothing approaches; let me offer two examples.

##### *1. Search Engines and Web Site Operators: More Information Rather than Removal of Information*

Instead of deindexing pages based on court orders, Google could include a link to a libel judgment alongside any search result that appears to be covered by the judgment, for example:

About 274 results (0.51 seconds)  
Xyzy.com John Smith Internet Fraud - Ripoff Report  
<https://www.ripoffreport.com/.../xyzycom-john-smith-fraud-and-deceptive-in...>

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<sup>230</sup> See, e.g., Adam Liptak, *Attacking a Pay Wall that Hides Public Court Filings*, N.Y. TIMES (Feb. 4, 2019), <http://www.nytimes.com/2019/02/04/us/politics/pacer-fees-law-suit.html> [<https://perma.cc/8A45-P3NT>].

Mar 4, 2013 - Xyzzy.com John Smith Fraud and Deceptive, Internet. Ripoff report against Xyzzy.com. Don't let them get away with it!

**[This post has been found false and defamatory by this libel judgment.]**

Yelp might post such a note alongside reviews that had been found libelous (and perhaps exclude them from the star average rating that it calculates for each site, and that many users heavily rely on); WordPress could include it on a WordPress-hosted page that is the subject of such an order.

I expect that many libel plaintiffs wouldn't be satisfied with such a counter-speech remedy. Most of us would prefer to look like we had never been accused, rather than accused but vindicated. But perhaps posting the judgment might still be the best bet, given that there's reason to suspect that many such libel judgments are not entirely reliable. Or perhaps a company might have a policy of (1) sometimes removing material for which there is a libel judgment if the judgment seems especially trustworthy—perhaps when there has been a trial at which the defendant was present—but (2) just posting a note about the judgment, without removing the material, if there are some questions about the judgment's soundness.

Indeed, one prominent complaint site, Ripoff Report, notes at least some libel judgments, but usually doesn't take down the speech:

In some cases, a Court may find that specific statements made by the author of a Ripoff Report are false and defamatory. When both sides of a dispute appear and contest the facts of a situation in court it is believed that the findings of the court are generally reliable and fair.

Out of respect for the courts and the judicial process, Ripoff Report, upon request, may post that kind of finding with special prominence. In some cases, Ripoff Report may even redact the information specifically identified by the court as false from the original Report. Of course, in order to do that, Ripoff Report needs to see the specific finding of the Court and those findings (meaning the Judgment itself) needs to be self-explanatory, i.e., containing specific identification of the Report(s) at issue and specific identification of the statement(s) that were found to be false in the Report(s).

We often get people who provide us with default judgments or stipulated orders that does not consider evidence, and ask us to consider Report redaction content based on that. Those types of judgments don't meet our criteria. In that case, we advise people to post their default judgment or stipulated order, and whatever other sort of supporting documentation they have, as a Rebuttal to the Report, and to tell their side of the story.<sup>231</sup>

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<sup>231</sup> *Ripoff Report Legal Department*, RIPOFF REPORT, <http://www.ripoffreport.com/legal> [<https://perma.cc/4DFB-9JLE>] (last visited Feb. 28, 2020) (paragraph breaks added).

Some are skeptical of the merits of such complaint sites generally; but if you think they are valuable forums for consumer comments, then prominently posting court judgments this way may be a reasonable compromise.<sup>232</sup>

This sort of remedy is especially apt for newspapers and similar media. If a source quoted in an article has stipulated to a judgment that the statement is false (as in the orders discussed in Part IX), a reader reading the article would want to know that. But the newspaper may be rightly reluctant to just let the story—or even a portion of the story—vanish down the memory hole, especially if it thinks the stipulation may have stemmed from fear of legal costs or a change of heart, rather than from a genuine admission that the accusations were false. A disclaimer can give readers more information rather than taking information out of the public domain.

## 2. Courts: Limiting the Binding Scope of Orders

Successful libel plaintiffs have sometimes argued that they should be able to enforce anti-libel injunctions not just against the defendants, but also against online service providers that host the libelous speech—Yelp, WordPress, and the like.<sup>233</sup> They have even argued that they should be able to enforce the injunctions against search engines that index the speech.<sup>234</sup> Trial courts sometimes do order Google and other search engines to deindex material,<sup>235</sup> though my sense is that Google fights such orders if plaintiffs attempt to enforce them,<sup>236</sup> and generally persuades the

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<sup>232</sup> Prominently posting such judgments may also be reasonable even for default judgments and stipulated orders, even though they involve a higher risk of fraud than does a judgment in a contested case. Often the defendant really is not findable or really does stipulate to a judgment because the statements really are defamatory. Even if a judgment in such a case does not merit a site's removing the criticism, it should merit at least prominent posting, since reasonable readers would find it especially noteworthy.

<sup>233</sup> See *Hassell v. Bird*, 420 P.3d 776 (Cal. 2018) (rejecting argument that Yelp was obligated to take down material based on libel judgment against Yelp poster); *Blockowicz v. Williams*, 630 F.3d 563, 568 (7th Cir. 2010) (rejecting argument that Ripoff Report was obligated to take down material based on libel judgment against Ripoff Report poster).

<sup>234</sup> See *Google, Inc. v. Expunction Order*, 441 S.W.3d 644 (Tex. Ct. App. 2014) (rejecting argument that Google was obligated to deindex material based on expungement order).

<sup>235</sup> See, e.g., *Order, Toussant v. Williams*, No. 2:14-cv-04266-ER (E.D. Pa. Apr. 17, 2015), ECF No. 36; *Order, Glennon v. Rosenblum et al.*, No. 5:16-cv-00804-MHH (N.D. Ala. Aug. 14, 2018) ECF No. 41, at 1 ¶ 1; *Final Judgment, May v. Von Drechsel*, No. 296-01125-2019 (Tex. Dist. Ct. Collin Cty. Apr. 25, 2019); *Orders Requiring Removal of Posts*, ECF Nos. 45-47, *Reiterman v. Abid*, No. 8:19-cv-02282 (M.D. Fla. Mar. 10, 2020).

<sup>236</sup> See generally *Google, Inc. v. Expunction Order*, 441 S.W.3d 644 (Tex. Ct. App. 2014).

plaintiffs to change the order into a nonbinding request.<sup>237</sup> Trial courts likewise sometimes order to platforms to remove material.<sup>238</sup>

Appellate courts have rejected such attempts to view libel judgments against posters as binding on platforms or search engines, most recently in the California Supreme Court's *Hassell v. Bird* decision.<sup>239</sup> But three of the seven Justices in *Hassell* would have accepted the argument; they thought Yelp (the service provider in that case) could be required to take down a review that was the subject of a default judgment obtained by lawyer Dawn Hassell against the ostensible reviewer, Ava Bird. This would be fine, one of the dissenting Justices concluded, because "the trial court ordered Yelp to remove postings that have been already *adjudicated* to be defamatory."<sup>240</sup> Another dissenter likewise reasoned that, "Nothing is excessively burdensome as a matter of law about the removal of posts a California court has deemed defamatory, even if Yelp would much prefer to wash its hands of this responsibility."<sup>241</sup> Likewise, the court below had concluded that Yelp could be required to abide by the injunction against Bird because the injunction "was issued following a determination . . . that those statements are defamatory."<sup>242</sup> Indeed, there is currently a pending U.S. Senate bill that would require Google and Internet service providers to remove material "that has been determined by a Federal or State court to violate . . . State defamation law."<sup>243</sup>

But this Article shows that a trial court's "adjudicat[ing]" something to be defamatory (or "deem[ing]" it defamatory) may not tell us much about whether it's actually defamatory—especially when the judgment was a stipulated judgment or a default judgment. If parties stipulate to some facts, the judge won't second-guess them. If a defendant chooses not to contest a case, the judge will generally accept the plaintiff's factual claims.<sup>244</sup>

It may be fair to bind *the defendant* to the judgment in such a case. But there is little reason to think that the judgment is factually reliable enough to be trusted by

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<sup>237</sup> Amended Order, ECF No. 56, *Reiterman v. Abid*, No. 8:19-cv-02282, at 3 (M.D. Fla., Mar. 31, 2020) (replacing the earlier order commanding Google to deindex materials, ECF No. 46, with one "encourag[ing]" Google to do so).

<sup>238</sup> Orders Requiring Removal of Posts, ECF Nos. 41-44, 48, *Reiterman v. Abid*, No. 8:19-cv-02282 (M.D. Fla., Mar. 10, 2020) (orders issued to Automattic—which hosts WordPress blogs—Change.org, Imgur, Reddit, and the Internet Archive).

<sup>239</sup> *Hassell*, 420 P.3d at 778–79.

<sup>240</sup> *Id.* at 803 (Liu, J., dissenting).

<sup>241</sup> *Id.* at 818 (Cuellar, J., dissenting).

<sup>242</sup> *Hassell v. Bird*, 247 Cal. App. 4th 1336, 1360 (Cal. Ct. App. 2016), *rev'd*, 420 P.3d 776 (Cal. 2018). The court said that this was "a determination at trial," *id.*, but the "trial" was simply a prove-up hearing for the default judgment, in which only the plaintiff appeared. *Id.* at 1363.

<sup>243</sup> Platform Accountability and Consumer Transparency Act [PACT Act], S.B. 4066, 116th Cong., 2d Sess., secs. 2(5), 5(c)(1)(A).

<sup>244</sup> "Because the default *confesses* those properly pleaded facts, plaintiff has no responsibility to provide the court with sufficient evidence to prove them—they are treated as true for purposes of obtaining a default judgment." *Kim v. Westmoore Partners, Inc.*, 33 Cal. Rptr. 3d 774, 787 (Cal. Ct. App. 2011).

third parties. It is said that “the principal purpose of the legal process,” as practiced within an adversarial system such as ours, “is not to obtain answers; it is to resolve disputes.”<sup>245</sup> Whether or not this is an exaggeration in some cases, it’s true for stipulated and default judgments.

For this reason, such a judgment shouldn’t be imposed as a binding obligation on services such as Google, Yelp, or WordPress when they aren’t parties to the litigation. It shouldn’t be imposed on authors whose posts people are trying to get removed or deindexed (but who often aren’t directly sued). And it shouldn’t be imposed on readers, who are denied the information in those posts—information that plaintiff may claim is libelous, but that has never been reliably determined to be libelous in a trustworthy adversarial process.<sup>246</sup>

Indeed, the Due Process Clause should preclude viewing Yelp, Google, and the like as being bound by injunctions in cases in which they were not parties: “One is not bound by a judgment *in personam* in a litigation in which he is not designated as a party or to which he has not been made a party by service of process”<sup>247</sup>—a rule that is part of our “deep-rooted historic tradition that everyone should have his own day in court.”<sup>248</sup> And the pattern of frauds discussed above helps show that this deep-rooted tradition remains wise today.

Indeed, it seems that Internet company discretion is the best (though imperfect) way of dealing with the epidemic of questionable court orders. Such discretion leaves companies free to investigate such submitted orders, including by requiring submitters to provide more information.

Say, for instance, that Google sees that an order includes an article in the *Davis Enterprise*, the *Ventura County Star*, or *Inc.* magazine, a Web page on the California Department of Real Estate site, a federal district court order hosted on a federal government computer, or a court decision listed on findlaw.com.<sup>249</sup> Google can use its discretion to disregard such an order, at least until the plaintiff provides some serious proof that the media or government entities were indeed found to have libeled the plaintiff. And taking away this discretion would give unscrupulous reputation management companies an especially strong incentive to do whatever it takes to get such an order.

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<sup>245</sup> Michael J. Saks, *Enhancing the Restraining Accuracy in Adjudication*, 51 LAW & CONTEMP. PROBS. 243, 244 (1988).

<sup>246</sup> See *McCarthy v. Fuller*, 810 F.3d 456, 461 (7th Cir. 2015) (noting that removing or restricting speech “had the potential to harm nonparties to the litigation because enjoining speech harms listeners as well as speakers”).

<sup>247</sup> *Taylor v. Sturgell*, 553 U.S. 880, 893 (2007). Justice Kruger’s concurrence in the judgment in *Hassell* likewise concluded that the Due Process Clause barred imposing obligations on Yelp flowing from the order against Bird; the plurality opinion didn’t reach the issue, because it held in Yelp’s favor under a federal statute, 47 U.S.C. § 230. *Hassell*, 420 P.3d at 778–79, 794.

<sup>248</sup> *Taylor*, 553 U.S. at 892–93.

<sup>249</sup> For examples of injunctions that people were using to try to deindex such material from those sites, see Parts III, VIII, and IX.

To be sure, in theory, there is an alternative way of giving companies an opportunity to decline deindexing or removal demands—requiring them to affirmatively intervene in a case to challenge a suspicious order, if they think they have a basis to doubt the order and therefore wish to avoid enforcing it. But it seems to me that this would unduly burden those companies:

The law does not impose upon any person absolutely entitled to a hearing the burden of voluntary intervention in a suit to which he is a stranger. . . . Unless duly summoned to appear in a legal proceeding, a person not a privy may rest assured that a judgment recovered therein will not affect his legal rights.<sup>250</sup>

Because of this, “a party seeking a judgment binding on another cannot obligate that person to intervene; he must be joined.”<sup>251</sup> Title 47 U.S.C. § 230<sup>252</sup>—which generally immunizes online platforms from liability for their users’ speech—might make any such attempt to directly join Google, Yelp, or WordPress substantively fruitless (as the *Hassell* majority indeed held). But in any event, procedurally, such companies can’t be bound by a judgment in which they did not participate, whether or not they have an opportunity to intervene after the fact.

In practice, intervention is also unlikely to be difficult and expensive. It would require finding and engaging local counsel, who would need to write the motion to intervene, conduct possibly extensive discovery, attend hearings, further brief arguments, and so on. The bill could easily reach into the tens of thousands of dollars for any one case.<sup>253</sup> Even if some of this money could be recouped as sanctions in the event that plaintiffs are found to have misbehaved in getting the order, much of the time the guilty parties will get away without providing full restitution. And some of the time, the facts may be ambiguous, or no sanctions may be available (for instance, because the plaintiff is a *pro se* litigant who has no money).

Moreover, such intervention may be largely precluded by procedural rules. Intervention in a case after a judgment has been rendered is rare and disfavored. In California, for example, a motion to intervene must be “timely,”<sup>254</sup> which generally means that it isn’t allowed after a judgment.<sup>255</sup> In Arizona, “a motion to intervene

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<sup>250</sup> *Martin v. Wilks*, 490 U.S. 755, 763 (1989) (quoting *Chase Nat’l Bank v. Norwalk*, 291 U.S. 431, 441 (1934)).

<sup>251</sup> *Id.*

<sup>252</sup> 47 U.S.C. § 230 (2012).

<sup>253</sup> Recall the \$71,000 sanctions imposed on the reputation management company in *Smith v. Garcia*, one of the fake-defendant cases discussed in Part III. That amount represented the attorney fees for the lawyer who proved the documents were fraudulent. *See supra* Part III, at notes 63–75 and accompanying text.

<sup>254</sup> CAL. CIV. PROC. CODE § 387 (West 2017).

<sup>255</sup> *Morton Regent Enters., Inc. v. Leadtec Cal., Inc.*, 74 Cal. App. 3d 842, 846 (Ct. App. 1977). Although *Morton* also notes that intervention is allowed after a *default* judgment where “default judgment was rendered . . . because of mistake, surprise, inadvertence or

after judgment is considered timely only in extraordinary and unusual circumstances.”<sup>256</sup>

Other jurisdictions have similar rules. For instance, Federal Rule of Civil Procedure 60 allows a judgment to be reopened because of “fraud . . . , misrepresentation, or misconduct,” but expressly provides that this may be done only “no more than a year after the entry of the judgment.”<sup>257</sup> And because victorious plaintiffs can control when they present an order to Google, they can deliberately wait until well after final judgment has been entered, when any period for possible reopening has passed.

These barriers, both legal and financial, would give Google, Yelp, and similar companies a strong incentive not to challenge orders submitted to them, if the orders were legally binding absent such a challenge. And there would be little countervailing incentive to bring challenges. After all, such a challenge would primarily benefit the author of the posted material, not Google or Yelp itself. Legally, Google and Yelp do have First Amendment rights to communicate user-supplied material. But practically speaking, they are unlikely to have any deep desire to spend tens of thousands of dollars just as a matter of principle.<sup>258</sup>

#### *E. Systems of Libel Liability and 47 U.S.C. § 230*

All these phenomena have, of course, arisen in an era when 47 U.S.C. § 230 has largely immunized online intermediaries from liability posted by third parties;<sup>259</sup> for instance,

- Google is immunized from liability for excerpting, in search results, pages that contain libelous information, and from liability for linking to such pages.
- WordPress is immunized from liability for libels on blogs that they host.
- Newspapers are immunized from liability for libels in user-posted comments.
- Yelp and similar sites are immunized from liability for libels posted by consumers.
- So are the complaint sites such as Ripoff Report.

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excusable neglect,” *id.*, such an exception might not apply to stipulated judgments. In addition, having to show legally adequate “mistake, surprise, inadvertence or excusable neglect” would often require a great deal of effort and money.

<sup>256</sup> *Weaver v. Synthes, Ltd.*, 784 P.2d 268, 272 (Ariz. Ct. App. 1989).

<sup>257</sup> FED. R. CIV. P. 60(b)(3), (c)(1).

<sup>258</sup> There are some exceptions, such as *Hassell v. Bird*, 420 P.3d 776 (Cal. 2018) (litigated by Yelp), and *Google, Inc. v. Expunction Order*, 441 S.W.3d 644 (Tex. Ct. App. 2014). But I suspect that Yelp and Google were willing to spend money on these cases precisely because the cases were seen as rare attempts to require platforms to take down posts, and litigating them was seen as a good way to set favorable precedent that would help prevent many similar future lawsuits.

<sup>259</sup> *See* 47 U.S.C. § 230 (2012).

In recent years, various people have called for 47 U.S.C. § 230 to be partly repealed. These calls generally don't suggest that search engines or site operators should be required to proactively monitor their sites (or the sites they index), since that would be extremely burdensome. Instead, they often call for a notice-and-takedown procedure, similar to that provided by the DMCA for copyright infringement allegations.<sup>260</sup> Someone who alleges he was libeled would inform the intermediary about this; the intermediary would then have to choose—either (1) take down (or deindex) the material or (2) keep the material but then be subject to a libel lawsuit over it.

Indeed, one proposal—the PACT Act—would expressly strip Internet platforms of libel immunity if they fail to take down material after being sent [a] copy of the order of a Federal or State court under which the content or activity was determined to violate Federal law or State defamation law, and to the extent available, any references substantiating the validity of the order, such as the web addresses of public court docket information.<sup>261</sup> Others have written extensively on § 230 reform,<sup>262</sup> and I don't want to repeat that; here, I want to suggest that when we consider notice-and-takedown proposals, we need to consider the risk of fraudulent (or at least shady) takedown demands, including fraudulently obtained court orders.

Say, for instance, that WordPress gets a notice that some post on a blog it hosts allegedly libels Joe Schmoe. How is WordPress to know whether the post is indeed libelous? WordPress would presumably e-mail the blogger to hear his side of the story, but the result is likely to be a “Did Not!”/“Did Too!” dispute that WordPress may find hard to adjudicate—especially given that both the complainant and the blogger might be lying.

Even if (as with the copyright notice-and-comment regime) the parties are required to file statements under penalty of perjury,<sup>263</sup> we know this is going to be of little use. People whose reputations are on the line, and companies hired by those people, are often willing to forge court orders, file fraudulent court documents, and perjure themselves in court filings. It follows that plenty of people will lie when it comes to mere takedown demands and libel lawsuit threats. And hard as it is to get prosecutors to prosecute for outright forgery of judges' signatures, it would likely be harder still to get them to prosecute over perjury in documents that never made their way to court.

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<sup>260</sup> See, e.g., Olivera Medenica & Kaiser Wahab, *Does Liability Enhance Credibility: Lessons from the DMCA Applied to Online Defamation*, 25 CARDOZO ARTS & ENT. L.J. 237, 239 (2007); Lee K. Royster, *Fake News: Political Solutions to the Online Epidemic*, 96 N.C. L. REV. 270, 294 (2017).

<sup>261</sup> Platform Accountability and Consumer Transparency Act (PACT Act), S. 4066, 116th Cong., 2d Sess., sec. 6(a) (2019).

<sup>262</sup> See, e.g., Eric Goldman, *Why Section 230 Is Better than the First Amendment*, NOTRE DAME L. REV. ONLINE 33 (2019); Brent Skorup & Jennifer Huddleston, *The Erosion of Publisher Liability in American Law, Section 230, and the Future of Online Curation*, 72 OKLA. L. REV. 635 (2020).

<sup>263</sup> 17 U.S.C. §§ 512(c)(3)(A)(vi), (g)(3)(C) (2012).



This problem is likely to be more severe than with copyright law because a typical libel dispute tends to be harder to resolve than a typical copyright dispute. An unauthorized literal copy of *Game of Thrones* posted on someone's site will usually be clearly a copy, and will often be clearly unlicensed by HBO and not a fair use (especially if it's a literal copy posted with no commentary, parody, or other justification).<sup>264</sup> But in libel cases, if someone posts an allegation that some lawyer, doctor, or plumber has served him badly, it will often not be at all clear whether that allegation is correct.

And even copyright takedown notices often prove to be unfounded;<sup>265</sup> indeed, some such notices appear to be part of organized fraudulent schemes. Here is one example, for instance, sent to Google in the name of Fox18 News Network LLC, asking that Google deindex a *New York Daily News* article:

Copyright claim #1

DESCRIPTION the source of my article is being used here . Everything is copied and even the image . Please look into this matter .

ORIGINAL URLS: <http://fox18news.com/2014/11/25/teen-missing-from-north-carolina-wilderness-therapy-camp-found-dead-after-breaking-hip-in-stream-autopsy/>

ALLEGEDLY INFRINGING URLS: <http://www.nydailynews.com/news/national/teen-missing-n-therapy-camp-found-dead-article-1.2025238><sup>266</sup>

The *Daily News* article did indeed have the same text as Fox18 News, and the Fox18 article was dated April 25, 2014, one day before the *Daily News* article.

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<sup>264</sup> See generally 17 U.S.C. § 107 (2012).

<sup>265</sup> See Jack M. Balkin, *Old-School/New-School Speech Regulation*, 127 HARV. L. REV. 2296, 2314 (2014); Christina Mulligan, *Technological Intermediaries and Freedom of the Press*, 66 S.M.U. L. REV. 157, 181–84 (2013); Rebecca Tushnet, *Power Without Responsibility: Intermediaries and the First Amendment*, 76 GEO. WASH. L. REV. 986, 1003 (2008) (“Because DMCA notice requirements are minimal and ISPs have no incentive to investigate, the notice-and-takedown process can be used to suppress critical speech as well as copyright infringement.”).

<sup>266</sup> See DMCA (Copyright) Complaint to Google, LUMEN, <http://www.lumendatabase.org/notices/12082585> [<https://perma.cc/2AGH-HWME>] (last visited Jan. 20, 2020). This example is borrowed from Mostafa El Manzalawy, *Data from the Lumen Database Highlights How Companies Use Fake Websites and Backdated Articles to Censor Google's Search Results*, LUMEN, Aug. 24, 2017, [http://www.lumendatabase.org/blog\\_entries/800](http://www.lumendatabase.org/blog_entries/800) [<https://perma.cc/T4YT-PA9T>]. Because the Fox18 News site is no longer up, I am relying on El Manzalawy's research, as well as that on the WebActivism site. See Web Activist, *Trails Carolina—Investigation for Fraud, Impersonation and Perjury—Fake DMCA 12224947*, WEB ACTIVISM (July 23, 2016), <http://www.webactivism.com/trails-carolina-investigation-for-fraud-impersonation-and-perjury-fake-dmca-12224947/> [<https://perma.cc/Z7W9-D7ZH>].

Things thus looked clear: the *Daily News* article infringed on the Fox18 article. Google therefore apparently deindexed the *Daily News* article.<sup>267</sup>

But how do we know when the Fox18 article was actually posted? We could have looked at the date stamp on the article, but that is on Fox18's site and under its control. We might be able to see the creation date of Fox18's web page, but that too is under its control; computer owners can change the creation dates of files on their own computers.<sup>268</sup>

In fact, tracking down when the Fox18News.com site was registered suggests that the site wasn't even set up until 2016, over a year after the *Daily News* article was posted.<sup>269</sup> It is the Fox18 version that's the copy of the *Daily News* original—a copy backdated to pretend to be the original. And this is just one of many examples of this DMCA backdating scam,<sup>270</sup> and there are other kinds of fraudulent DMCA takedown attempts as well.

Any notice-and-takedown libel regime would thus pose a challenging task for Google, WordPress, and every site, large or small, that allows user comments. Such platforms would have to evaluate claims about which allegations are true and false—what courts are generally supposed to do, however imperfectly—but without the tools that courts have: no in-person cross-examination, no subpoena authority, no realistic risk of punishment for false statements within the takedown process.<sup>271</sup>

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<sup>267</sup> Web Activist, *supra* note 266.

<sup>268</sup> See also Aseem Kishore, *How to Change the Last Modified Date, Creation Date, and Last Accessed Date for Files and Folders*, ONLINE TECH TIPS (Oct. 10, 2014), <http://www.online-tech-tips.com/computer-tips/how-to-change-the-last-modified-date-creation-date-and-last-accessed-date-for-files-and-folders/> [<https://perma.cc/RG57-JCRE>].

<sup>269</sup> Web Activist, *supra* note 266.

<sup>270</sup> See Tim Cushing, *Reputation Management Revolution: Fake News Sites and Even Faker DMCA Notices*, TECHDIRT (Apr. 29, 2016, 8:32 AM), <https://www.techdirt.com/articles/20160424/16230834264/reputation-management-revolution-fake-news-sites-even-faker-dmca-notices.shtml> [<https://perma.cc/G328-UFCZ>] (examples of similar scams).

<sup>271</sup> A libel notice-and-takedown regime based on the DMCA might call on Google, WordPress, and the like to restore taken down material if the author challenges the takedown demand, unless the challenger promptly files suit against the author. See 17 U.S.C. § 512(g)(2)(C) (2012) (contemplating that a service provider would “replace[] the removed material and cease[] disabling access to it in [10 to 14] business days following receipt of the counter notice,” unless the provider “first receives notice from the person who submitted the notification . . . that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material”). But under such a DMCA-based regime, material would still stay down, based just on the takedown demand, until the lawsuit is done, which could be many years in the future—a powerful tool for censorship of any statements that are merely alleged to be libelous, and the analog of *ex parte* preliminary injunctions against libels, which are generally unconstitutional. See Eugene Volokh, *Anti-Libel Injunctions*, 168 U. PA. L. REV. 73, 93–96 (2019). The only way to avoid such censorship under this DMCA-based regime would be for Google, WordPress, and similar companies to examine such takedown demands and see if they seem to have enough substantive merit; and that raises all the factfinding concerns discussed in the text.

Moreover, the virtue of notice-and-takedown compared to the current regime—that it would be vastly cheaper and quicker for complainants to use, compared to the costs and delays of litigation—would likely become a vice. Imagine that everyone can indeed easily and cheaply demand that (say) Google deindex material that allegedly libels them, and (unlike now) their demands have real teeth, in the form of the threat that Google would lose its immunity if it rejects the demands. Everyone would then, indeed, make such demands. And many of the demands won't be about genuine libels but will be about derogatory opinions, or about claims that are in reality accurate.

And, as the evidence I've gathered suggests, some of those demands would be backed by forgeries, fake witnesses, and barefaced lies. If people are willing to do that even in court proceedings, in front of government officials with the power to jail people for contempt or to impose meaningful financial sanctions, they are likely to be much more willing to do so in informal notice-and-takedown proceedings where no government official is likely to intervene.

To be sure, perhaps it's possible to design some effective notice-and-takedown procedure that would minimize the risk that constitutionally protected speech would be taken down by intermediaries who are afraid of liability. I certainly can't rule that out. But any such system will create a massive incentive—a far greater incentive than under the current system—for complainants to cheat, and it would need to somehow be designed to deal with such cheating.

## XI. CONCLUSION

“It's a basic truth of the human condition that everybody lies . . . the only variable is . . . what they're willing to lie for.”<sup>272</sup> Protecting one's own reputation and livelihood—whether protecting it against lies, against opinions, or against the truth—is likely high on many people's willing-to-lie-for lists. Making money is, too.

Yet though I don't think of myself as naïve on this score, the sheer magnitude and brazenness of these schemes surprised me. My sense is that it surprised many of my colleagues. Perhaps it surprised you. And this reminder of just how common fraud can be might help keep us alert to shenanigans in many other fields as well—and might help us design systems that deal better with such risks.

### APPENDIX A: APPARENT FORGERIES

For these, I give the purported jurisdiction, the purported parties, and the location where they can be found. I don't include the case numbers and filing dates, because there are no real cases and the documents were never filed. Some (unusually amateurish) forgeries do not include an express caption; for those, I include the name of the apparent beneficiary of the forgery; for those that do include a real caption, I have confirmed that (1) no such case exists in the court records, or that (2) the case

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<sup>272</sup> *House: Pilot* (NBCUniversal Nov. 16, 2004).

exists but that there is no such order in the case, or that (3) there is an order in the case for the relevant date but the copy submitted to Google or some other party is an altered version of the order that actually appears in the court records:

1. Alabama, Gregg County (fictional): Order, State v. Redacted, <https://www.lumendatabase.org/notices/15172094> [<https://perma.cc/KPN6-TV2L>] (forging expungement order for the nonexistent Gregg County, AL).
2. Arizona, Maricopa County: Order for Permanent Injunction, Hauca v. Podopolis, <https://www.lumendatabase.org/notices/16462661> [<https://perma.cc/FYZ4-P4L4>].
3. Arizona, Phoenix: US Support v. Watson, <http://lumendatabase.org/?sid=16565103> [<https://perma.cc/4BVH-4XLQ>].
4. Arizona, Maricopa County: Order, In the Matter Agg DUI-Lic Susp/Rev for DUI, 28-1383A1 (F4), Brad Tyler Vorce, <http://lumendatabase.org/?sid=21724359> [<https://perma.cc/H8NM-U2VA>] (real case, no document in the docket shares a label or the date with those on the Apparently Forged Order (Aug. 17, 2018); all documents in the docket are dated Dec. 4, 2018 or later).
5. California, Contra Costa County: Pewzner v. Quigley, <http://lumendatabase.org/notices/14081118> [<https://perma.cc/LKY7-5SHY>] (changing name of defendant in real case no. MSC15-00879 from Simonin to Quigley).
6. California, Los Angeles County: “Judgement” [sic], Dior v. XYZ, <http://www.lumendatabase.org/notices/13179169> [<https://perma.cc/RQW5-Q4FE>] (using case number from real case of Argyropoulos v. Doe, No. BC 558812 (Cal. Super. Ct. L.A. Cty. Oct. 27, 2015)); *see also supra* note 41 and accompanying text and image.
7. California, Los Angeles County: Order to Seal Record, California v. Farzam, <http://lumendatabase.org/?sid=15936937> [<https://perma.cc/37EB-EBAL>] (apparently forging order to seal the entire record on defendant’s ex parte application); *see also supra* notes 38 and 49 and accompanying text.
8. California, Los Angeles County: Order Granting Motion for Injunction, Morris v. Dirty-World Entertainment Recordings, LLC, <http://lumendatabase.org/?sid=2233687> [<https://perma.cc/8KFU-G744>] (purported case number is 12-3-456789-1, which appears not to exist in court records; the purported judge is “Pamela J.L. Brown, Circuit Court Judge,” which is a title that does not exist in this court; *see supra* text accompanying note 40).
9. California, Los Angeles County: Order Granting Motion for Injunction, Morris v. Bail Bond City, <http://lumendatabase.org/?sid=12886152> [<https://perma.cc/KHX6-V3WP>] (see item 8 *supra*).
10. California, Los Angeles County: Order Granting Motion for Injunction, Morris v. Bail Bond City, <http://lumendatabase.org/?sid=12913153> [<https://perma.cc/TTW6-FNUR>] (see item 8 *supra*).
11. California, Los Angeles County: Default Judgment, Shaloub v. Ripoff Report, <http://lumendatabase.org/notices/14092054> [<https://perma.cc/ES6F-Y9YS>] (using case number of Elite Consultants and Management Inc. v. Jason Mock et al., No. BC605175 (Cal. Super. Ct. filed Dec. 23, 2015)).

12. California, Los Angeles County: Order, A Hollywood Ending Studios, <http://lumendatabase.org/notices/16415984> [<https://perma.cc/37TN-GLE4>] (purported order contains no caption, case name, case number, or specific facts).
13. California, Los Angeles County: Kamran Syed, <http://lumendatabase.org/notices/16417242> [<https://perma.cc/PF9S-K8DK>] (purported order contains no caption, case name, case number, or specific facts).
14. California, Los Angeles County: Kamran Kastle, <http://lumendatabase.org/notices/16415983> [<https://perma.cc/SB3Z-2SQM>] (purported order contains no caption, case name, case number, or specific facts).
15. California, Los Angeles County: Stipulated Final Judgement [sic], Correira v. Kenefick, <https://www.lumendatabase.org/notices/17541230> [<https://perma.cc/BA74-236Q>].
16. California, Mono County: Default Judgment, Khorasani v. Sampson, <http://lumendatabase.org/?sid=1037493> [<https://perma.cc/BJS8-8WP8>]; *see also supra* note 43 and accompanying text.
17. California, Mono County: Final Judgment and Permanent Injunction, Giunta v. Bosley, <http://lumendatabase.org/?sid=1896816> [<https://perma.cc/U4YU-6ZTV>]; *see also supra* note 43 and accompanying text.
18. California, Plumas County: Final Judgment and Permanent Injunction Increase Visibility v. Ruiz, <http://lumendatabase.org/?sid=2164422> [<https://perma.cc/JU7G-C7PX>]; *see also supra* note 43 and accompanying text.
19. California, Plumas County: Increase Visibility v. Thomas, <http://lumendatabase.org/?sid=2174997> [<https://perma.cc/XM9K-DPP8>]; *see also supra* note 43 and accompanying text.
20. California, Plumas County: Final Judgment and Permanent Injunction, Schwartzapfel v. Goldstein, <http://lumendatabase.org/?sid=1657779> [<https://perma.cc/7FYJ-DT66>] (same plaintiff as Final Judgment and Permanent Injunction, Schwartzapfel v. Guidry, No. 2014-42698 (Tex. Harris Cty. Dist. Ct. July 25, 2014)); *see also* notes 43 and 51 and accompanying text.
21. Colorado, Arapahoe County: Findings and Order on Petitioner's Verified Petition for Expungement of Records, *In re* Neil Kiggen, <https://lumendatabase.org/notices/21355519> [<https://perma.cc/W8Y7-KPVB>].
22. Connecticut: Memorandum Opinion and Order, Haas v. Berriault, <http://www.lumendatabase.org/notices/14045627> [<https://perma.cc/5HYJ-S9ND>] (purported case number, 13-cv-1569, and case name appear not to exist in court records) (purporting to be issued by the Conn. Super. Ct., using the name of real federal judge from the U.S. District Court for the Northern District of Illinois, John W. Darrah, who died in 2017; this is the same judge's name used in the apparently forged documents in: *Katelanis v. Blockshopper LLC*, *supra* note 36 and *infra* Appendix A, No. 36, and *State v. Pennant*, *supra* note 47 and *infra* Appendix A, No. 23); *see also supra* note 37.
23. Connecticut: Order of Dismissal, *State v. Pennant*, <https://www.lumendatabase.org/notices/14718291> [<https://perma.cc/6U7L-J24T>] (purporting to be issued by the Conn. Super. Ct., using the name of real federal judge from the

- U.S. District Court for the Northern District of Illinois, John W. Darrah, who died in 2017). This is the same judge's name used in the apparently forged documents in *Haas v. Berriault*, *supra* note 37 and Appendix A, No. 22, and *Katelanis v. Blockshopper LLC*, *supra* note 36 and *infra* Appendix A, No. 36. This forgery resulted in Pennant's prosecution and sentencing to one year in jail. *See supra* note 47 and accompanying text (citing *State v. Pennant*, No. T19R-CR18-0111799-S (Conn. Super. Ct. Aug. 22, 2019)).
24. Federal, C.D. Cal.: Order Granting Ex Parte Motion to Seal Documents, *United States v. Fontaine*, <https://lumendatabase.org/notices/13178352> [<https://perma.cc/W9ZE-494P>] (real case, but no such order in the case). *See Minute Entry, Order Granting In Part Petitioner's Ex Parte Motion to File Documents under Seal, United States v. Fontaine*, No. 2:94-cr-00386-CBM (C.D. Cal. June 6, 2008)).
  25. Federal, D. Denver [sic]: Order, *Kiggen v. Call Center Management*, <https://lumendatabase.org/notices/21342819> [<https://perma.cc/ZL6N-WAVU>].
  26. Federal, D.N.J.: Opinion and Order, *CommScope Inc. v. Milman Smith*, <http://lumendatabase.org/?sid=13004762> [<https://perma.cc/G9WY-HXUZ>].
  27. Federal, D.N.J.: Order to Vacate Attorney Suspensions, *Walterscheid v. State Bar* (on file with author).
  28. Federal, D. Ore.: Stipulated Judgment and Permanent Injunction, *IEPlexus v. Harmon*, <http://lumendatabase.org/?sid=2359995> [<https://perma.cc/YC4J-SCQK>].
  29. Federal, D.R.I.: Order Granting Consent Motion for Injunction and Final Judgment, *Maziar v. Garcia*, <http://lumendatabase.org/?sid=13449795> [<https://perma.cc/6V3K-TNTR>] (using much of the same text as Order Granting Consent Motion for Injunction and Final Judgment, *Smith v. Garcia*, No. 16-144 S, 2017 WL 412722 (D.R.I. Apr. 22, 2016)); *see also supra* note 51.
  30. Federal, E.D. Mich.: Default Judgment and Permanent Injunction, *Motamedi v. Oesterblad*, <https://lumendatabase.org/notices/11741554> [<https://perma.cc/A8RH-PTCT>].
  31. Federal, E.D. Pa.: Permanent Injunction, *Gorman v. Steinborn*, <http://lumendatabase.org/?sid=2338651> [<https://perma.cc/6V5V-YGWP>] (copy of real order in *Gorman v. Steinborn*, No. 2:14-cv-00890-GAM (E.D. Pa. May 20, 2015), but with the URL approved by the judge replaced by a different URL); *see also supra* note 196 and accompanying text.
  32. Federal, E.D. Pa.: Order Granting Plaintiff's Motion for Injunctive Relief, *Manley v. NAVMAR*, <http://www.lumendatabase.org/notices/17164539> [<https://perma.cc/6G5B-E88U>] (copying caption, case number, and judge's signature from Order Denying Plaintiff's Motion and Granting Defendant's Motion to Dismiss, *Manley v. Navmar Applied Sciences Corp.*, No. 2:12-cv-05493 (E.D. Pa. Jan. 24, 2013)); *see also* Apparently Forged Order Removal of Defamatory Contents on Internet, *Manley v. Ellarbee and Thompson*, <http://www.lumendatabase.org/notices/17164539> [<https://perma.cc/6G5B->

- E88U] (copying stamp and case number of Complaint at 1, *Manley v. Lockheed Martin*, No. 1-17-cv-1320 (N.D. Ga. filed Apr. 13, 2017)); *see also supra* note 33.
33. Federal, E.D. Tenn.: Order, *Hubbard v. City of McMinnville Police Dep't*, <https://www.lumendatabase.org/notices/15369288> [<https://perma.cc/AR78-VK2F>] (using header, judge's signature, and footer from Order to Pay Filing Fee, *Hubbard v. City of McMinnville Police Dep't*, No. 4:17-cv-37 (E.D. Tenn. Sept. 25, 2017)).
  34. Federal, E.D. Tex.: *Ginn v. Farid*, <https://www.lumendatabase.org/notices/20215041> [<https://perma.cc/S6GR-NWCU>] (copy of real order, but with the URL approved by the judge replaced by a different URL).
  35. "Judgement Entry" [sic], *State v. Mazer*, <http://www.lumendatabase.org/notices/17665123> [<https://perma.cc/DU4F-D2TL>] (purporting to be an order in U.S. District Court for the Northern District of California, but using the name of the Ohio state judge (Hon. Donald Oda) and docket number in *State of Ohio v Aukerman*, No. 14CR29792 (Ohio Ct. Com. Pl. filed Jan 21, 2014), discussed *supra* at note 39); *see also supra* note 32.
  36. Federal, N.D. Ill.: "Memorandum Opinion and [sic] Order" [sic], *Katelanis v. Blockshopper LLC*, <http://www.lumendatabase.org/notices/16161042> [<https://perma.cc/AG3G-8H6P>]; *see also supra* note 36. This document uses the same (inaccurate) judge name as used in *State v. Pennant*, *supra* note 47 and Appendix A, No. 23, and *Haas v. Berriault*, *supra* note 37 and Appendix A, No. 22.
  37. Federal, S.D. Fla.: Order, *Louis Vuittons Malletier v. GummistiefelProfis.de*, <https://www.lumendatabase.org/notices/17514569> [<https://perma.cc/2JCR-4MNG>].
  38. Federal, S.D.N.Y.: Order for Default Judgment, *Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd.*, <http://lumendatabase.org/?sid=12549270> [<https://perma.cc/VL4M-WCJ2>]. This item and the following ones related to the *Arnstein* case all involved a real order, *Walter Arnstein, Inc., v. Transpacific Software Pvt Ltd.*, No. 11-CV-5079 (S.D.N.Y. Oct. 26, 2012), but altered to change the date and the URLs. For discussion of the real, original court order and the 11 apparent forgeries that followed, *see supra* notes 27–30.
  39. Federal, S.D.N.Y.: Order for Default Judgment, *Walter Arnstein v. Transpacific Software*, <http://lumendatabase.org/?sid=13298449> [<https://perma.cc/H3SV-KKE6>].
  40. Federal, S.D.N.Y.: Order for Default Judgment, *Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd.*, <https://lumendatabase.org/notices/13178597> [<https://perma.cc/LF8A-F38C>].
  41. Federal, S.D.N.Y.: Order for Default Judgment, *Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd.*, <https://lumendatabase.org/notices/13178626> [<https://perma.cc/B8SA-VVQE>].
  42. Federal, S.D.N.Y.: Order for Default Judgment, *Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd.*, <https://lumendatabase.org/notices/13178667> [<https://perma.cc/74S4-6KAV>].

43. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <https://lumendatabase.org/notices/13178727> [<https://perma.cc/QAF5-GZFA>].
44. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <https://lumendatabase.org/notices/13178742> [<https://perma.cc/NXE7-CZAW>].
45. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <https://lumendatabase.org/notices/13178769> [<https://perma.cc/T9BE-HWWQ>].
46. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <https://lumendatabase.org/notices/13178937> [<https://perma.cc/J5Q2-EGYN>].
47. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <https://lumendatabase.org/notices/13178951> [<https://perma.cc/BHA5-9DPD>].
48. Federal, S.D.N.Y.: Order for Default Judgment, Walter Arnstein, Inc. v. Transpacific Software Pvt Ltd., <http://lumendatabase.org/notices/13844954> [<https://perma.cc/XM9P-9XUX>].
49. Federal, S.D.N.Y.: [Real] Letter Addressed to Magistrate Judge Netburn from Matthew L. Levine, Bringing to Court’s Attention the Possible Forged Court Order in *Abshier v. Sunset Recordings, Inc.*, No. 1:14-cv-03227-CM-SN (S.D.N.Y. Mar. 12, 2015), ECF No. 103 (real court document, attaching as Exhibit A an Apparently Forged “Proposed Order Granting Motion for Court’s Authorization to Delete Certain Web Site Pages,” *Sunset Recordings, Inc. and Lichterman v. Zdrakov*). The federal prosecution of Don Lichterman is discussed *supra* at notes 45 and 212.
50. Federal, S.D.N.Y.: [Real] Order, *Abshier v. Sunset Recordings, Inc.*, No. 1:14-cv-03227-CM-SN (S.D.N.Y. Sept. 12, 2014), ECF No. 88 (order finding an apparently forged document in this case, suggesting that Mr. Lichterman prepared it, and revoking Mr. Lichterman’s authorization to file documents in this case via the ECF system). The federal prosecution of Don Lichterman is discussed *supra* at notes 45 and 212.
51. Federal, S.D. Tex.: Order to Remove Content, *Fernandez v. Doe* (on file with author) (the case number and document number are the same as in the *Iyogi, Inc. v. Beeting* apparent forgery, cited immediately below).
52. Federal, S.D. Tex.: Order to Remove Content, *Iyogi, Inc. v. Beeting*, <https://www.lumendatabase.org/notices/13178566> [<https://perma.cc/P4Z2-T4SH>].
53. Florida, Leon County: Final Default “Judgement” [sic], *Among v. Anonymous John Doe 1*, <https://www.lumendatabase.org/notices/18883057> [<https://perma.cc/N7LT-LNE5>] (using docket number, jurisdiction and date of Default & Final Judgment, *Shavolian v. Doe*, No. 2014 CA 000845 (Fla. Cir. Ct., 2d Cir., Leon Cty. July 8, 2014)).
54. Florida, Miami-Dade County: Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, <https://www.lumendatabase.org/notices/13179181> [<https://perma.cc/>



- 6LST-8UEM] (apparently forging order by changing URL addresses, but otherwise copying Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, Case No. 13-11166 CA 15 (Fla. Cir. Ct., 11th Cir., Miami-Dade Cty. Dec. 17, 2013)).
55. Florida, Miami-Dade County: Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, [perma.cc/JCZ4-FTSA](https://perma.cc/JCZ4-FTSA) [<https://perma.cc/JCZ4-FTSA>] (apparently forging order by changing URL addresses, but otherwise copying Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, Case No. 13-11166 CA 15 (Fla. Cir. Ct., 11th Cir., Miami-Dade Cty. Dec. 17, 2013)).
56. Florida, Miami-Dade County: Final Judgment *Allied Medical Supply, Inc. v. Bryson*, <https://www.lumendatabase.org/notices/13179112> [<https://perma.cc/P2WB-69WT>] (apparently forging order by changing URL addresses, but otherwise copying Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, Case No. 13-11166 CA 15 (Fla. Cir. Ct., 11th Cir., Miami-Dade Cty. Dec. 17, 2013)).
57. Florida, Miami-Dade County: Final Judgment, *MergeworthRX, Inc. v. Ampel*, <http://www.lumendatabase.org/notices/13179239> [<https://perma.cc/TKS9-WT6Z>] (changing case number and party names, but using much of the same text as Final Judgment, *Allied Medical Supply, Inc. v. Bryson*, Case No. 13-11166 CA 15 (Fla. Cir. Ct., 11th Cir., Miami-Dade Cty. Dec. 17, 2013), including leaving in order's note to send copies to John Bryson); *see also supra* note 1 and accompanying text.
58. Florida, Orange County: Ex Parte Temporary Injunction, *Moore v. Steinberg*, <https://www.lumendatabase.org/notices/13178608> [<https://perma.cc/W9HU-93NH>] (based on Ex Parte Temporary Injunction, *Moore v. Steinberg*, No. 2012-CA-005204-O (Fla. Cir. Ct., 9th Cir., Orange Cty. Mar. 29, 2012), but changing URLs, some party names, and formatting); *see also* note 51.
59. Florida, Broward County: Agreed Order, *State Certified Contractors, Inc. v. Mitchell*, <https://www.lumendatabase.org/notices/13178052> [<https://perma.cc/P9GZ-PAFG>].
60. Florida, Volusia County: Entry and Order Granting Motion to Seal Record, *Aukerman v. Adams*, <https://www.lumendatabase.org/notices/13178241> [<https://perma.cc/4XNY-T2C2>] (apparently forging 2013 order in real case of *Aukerman v. Adams*, No. 2013-33765-FMCI (Fla. Cir. Ct. Volusia Cty.)). *See* notes 46 and 213 and accompanying discussion. A related apparent forgery involving *Aukerman* also occurred in 2017 in Ohio. *See* note 39 and accompanying text.
61. Georgia, Fulton County: Amended Final Default Judgement, *Narconon Rehab Servs. LLC v. Doe*, <http://lumendatabase.org/?sid=12960667> [<https://perma.cc/HC93-PCF5>]; *see also* notes 35 and 51 and accompanying discussion.
62. Illinois, Cook County: Agreed Order, *Doe v. Privacy Prot. Servs., Inc.*, No. 2014-L-006608 (Ill. Cir. Ct., Cook/Ill. Cty., Law Div. Feb. 24, 2015) <http://lumendatabase.org/?sid=2295684> [<https://perma.cc/L8YZ-LVFW>] (case number exists but with different party names; Agreed Order in the original case includes different URLs).

63. Illinois, Cook County: “Agreed Order of Acknowledgement” [sic], Illinois v. Cordogan, <http://lumendatabase.org/notices/13555164> [<https://perma.cc/3AQQ-TU9T>]; *see also supra* note 34 and accompanying text.
64. Illinois, U.S. Dist. Ct. for the 6th Mun. Dist. (fictional): Order of Default for Failure to Appear and Answer to the Allegations of Online Slander and Defamation, Redman v. Wills, <https://www.lumendatabase.org/notices/13178726> [<https://perma.cc/ALR6-NGQD>].
65. Kansas, Johnson County: Order, Watson v. Michael (on file with author) (using case number and jurisdiction from Miller v. Kendrick, No. 09CV107715 (Kan. Dist. Ct., Johnson Cty., Civ. Dept. dismissed Aug. 26, 2009)).
66. Kansas, Johnson County: Order, Cohen v. Crawford, <https://www.lumendatabase.org/notices/18310870> [<https://perma.cc/TH3Y-Z5M2>].
67. Maryland, Baltimore City: Order Granting Default Judgement, Luna v. Munoz, <http://lumendatabase.org/?sid=2360003> [<https://perma.cc/6ADM-FZPQ>].
68. Michigan, Genesee County: “Notice to Cease and Desist Defamation,” Moncado v. Thomas, <https://www.lumendatabase.org/notices/19474481> [<https://perma.cc/FSP2-M6J6>].
69. Mississippi, Hinds County: Judgment, Sundance Vacations, LLC v. Morgan (on file with author).
70. Missouri, St. Louis County: Notice of Court Ruling of Removal of Published Material, Church v. Casper, <http://lumendatabase.org/notices/17214045> [<https://perma.cc/JFS5-L6UN>] (using docket number of French-Gerleman Elec. Co. v. Solar Rich Power, LLC, No 18SL-CC00818 (Mo. Cir. Ct, St. Louis Cty. default judgment issued May 9, 2018)).
71. Missouri, Clay County: “Judgement [sic] and Permanent Injunction,” Wilcox v. Totic, <http://lumendatabase.org/?sid=1920836> [<https://perma.cc/TH6Q-NLSD>] (using docket number of Dorsch v. Clark, No. 12CY-CV14362 (Mo. Cir. Ct., Clay Cty. Judgment entered Nov. 27, 2013)).
72. Nevada, Clark County: Default Judgment, Michaelides v. Chaker, <http://lumendatabase.org/notices/20340972> [<https://perma.cc/K5AQ-ES84>] (based on real document, but with May 28, 2019 Application for Default Judgment altered to make it appear that the judgment was actually issued). Court docket records show that although default was entered, default *judgment* was not entered, and the court granted defendant’s motion to set aside default in April 2020. *See* Michaelides v. Chaker, No. A-18-779028-C (Nev. Dist. Ct., Clark Cty. Apr. 2, 2020).
73. New Hampshire, Merrimack County: Order of Expungement, State v. Holt, <http://lumendatabase.org/notices/20049754> [<https://perma.cc/F5JG-3XBJ>].
74. New Jersey, Bergen County: “Agreed Final Judgment and Permanent Injunction,” 42nd Street Photo, Inc. v. Nguyen, <http://lumendatabase.org/?sid=2364180> [<https://perma.cc/Q7KH-CXXP>].
75. New Jersey, Bergen County: “Agreed Final Judgment and Permanent Injunction,” Am. Truck Group, LLC v. Rodriguez, <http://lumendatabase.org/?sid=2362326> [<https://perma.cc/CX74-EEWY>]; *see also* note 51.

76. New Jersey, Bergen County: Judgment by Consent, National Truck Funding, LLC v. Rustamov, <http://lumendatabase.org/?sid=2365958> [<https://perma.cc/G4U7-PUSP>].
77. New Jersey, Essex County: Order, [No Case Name Given,] No. 21-40305, <http://lumendatabase.org/?sid=23229375> [<https://perma.cc/KCN2-6E59>].
78. Ohio, Hamilton County: “Orders Granting Judgement [sic] and Entry of Permanent Injunction,” Asia Pacific Resources Int’l Holdings v. “Neomi Wendy Chen” (on file with author) (using same docket number as Wild Strawberry Entertainment Co. v. John Doe, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment & injunction granted Mar. 30, 2015)); *see also supra* note 31.
79. Ohio, Hamilton County: Order Granting Judgement and Entry of Permanent Injunction, Am. Truck Group, LLC v. Your Savior, <http://lumendatabase.org/?sid=2350253> [<https://perma.cc/XF6E-KX5M>] (using same docket number as Adam Meer v. Procter & Gamble Co DBA Old Spice, No. A-1804003 (Ohio Ct. Com. Pl. Hamilton Cty. filed July 26, 2018)); *see also* notes 51, 52.
80. Ohio, Hamilton County: Order, Capital Gold Group, Inc. v. Ripoff Report, <http://lumendatabase.org/?sid=2256029> [<https://perma.cc/8VAD-DXXJ>] (purported docket number A634109 appears not to exist in court records).
81. Ohio, Hamilton County: Order Granting Judgment and Entry of Permanent Injunction Clarkson v. Ali191, <http://lumendatabase.org/notices/14041069> [<https://perma.cc/WMA9-R2YQ>]; *see also supra* note 52 and accompanying text.
82. Ohio, Hamilton County: Agreed Judgment and Permanent “Injunction” [sic], Friedman v. Wright, <http://lumendatabase.org/?sid=2368931> [<https://perma.cc/5YQ5-89VQ>]; *see also supra* note 52 and accompanying text.
83. Ohio, Hamilton County: “Order Granting Judgement [sic] and Entry of Permanent Injunction,” IntaCapital Swiss SA v. “IRLGLegal” (on file with author) (apparently based on Intacapital Swiss SA v. IRGLegal, No. A-1407254 (Ohio Ct. Com. Pl. Hamilton Cty. Apr. 17, 2015), but using a later judgment date than last item in docket, and including URLs that do not appear in the actual court-entered judgment); *see also supra* notes 51 and 52 and accompanying text.
84. Ohio, Hamilton County: Entry Adopting Magistrate’s Decision, Martin v. Eirikis, <http://lumendatabase.org/?sid=2365955> [<https://perma.cc/HEA5-SFLC>].
85. Ohio, Hamilton County: Order Granting Judgment and Entry of Permanent Injunction Noie v. Seabrook, <http://lumendatabase.org/?sid=2348633> [<https://perma.cc/NN64-AUMR>]; *see also supra* note 52 and accompanying text.
86. Ohio, Hamilton County: Order Granting Judgment and Entry of Permanent Injunction, Soba Living, LLC v. WILL, <http://lumendatabase.org/?sid=2352943> [<https://perma.cc/YP39-ZZ8L>]; *see also supra* note 52 and accompanying text.
87. Ohio, Hamilton County: “Orders Granting Judgement [sic] and Entry of Permanent Injunction, Tranquil Rehab Swiss SA v. Deathhamster,” <http://lumendatabase.org/?sid=12987034> [<https://perma.cc/NY5C-NQFX>] (uses same docket number and jurisdiction as real case of Wild Strawberry Entertainment

- Co. v. John Doe, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment & injunction Mar. 30, 2015)); *see also supra* notes 35, 51, 52. The same docket number is also used in the apparently forged Asia Pacific Resources Int'l Holdings v. "Neomi Wendy Chen," *see supra* note 31, and Tranquility Rehab v. Billibob, *see supra* note 35.
88. Ohio, Hamilton County: "Orders Granting Judgement [sic] and Entry of Permanent Injunction," Tranquility Rehab v. Billibob, <http://lumendatabase.org/?sid=2353293> [<https://perma.cc/56Y4-FVA7>] (using same docket number and jurisdiction as Wild Strawberry Entertainment Co. v. John Doe, No. A1407255 (Ohio Ct. Com. Pl. Hamilton Cty. judgment & injunction Mar. 30, 2015)); *see also supra* notes 35, 51, 52. This also uses the same docket number and same spelling errors as in Asia Pacific Resources Int'l Holdings v. "Neomi Wendy Chen," *supra* note 31, and Tranquil Rehab v. Deathhamster, *supra* note 35.
  89. Ohio, Hamilton County: Order Granting Judgment and Entry of Permanent Injunction, VehicleHistory LLC v. EdInGeorgia, <http://lumendatabase.org/?sid=2359742> [<https://perma.cc/N94T-PQ5F>]; *see also supra* note 52.
  90. Pennsylvania, Montgomery County: Opinion and Order, Spattaco v. Pinaud, <http://lumendatabase.org/?sid=13385653> [<https://perma.cc/AC7T-K6F3>] (purporting to be an order of the "State of Pennsylvania, The Judicial Superior Court of Montgomery County, Civil Division," which does not exist).
  91. Pennsylvania, Philadelphia County: Order Granting Consent Motion for Injunction and Final Judgement, SPR, Inc. v. Doe, <http://lumendatabase.org/?sid=12928496> [<https://perma.cc/7QNL-H84M>] (copying case number and caption of Order Granting Consent Motion for Injunction and Final Judgment at 1, Callagy v. Roffman, No. 160603108 (Pa. Ct. Com. Pl. Phila. Cty., July 1, 2016), *vacated* Oct. 21, 2016); *see also supra* notes 35 and 51.
  92. Pennsylvania, Philadelphia County: Order, CASDAQ Trading v. GoDaddy.com LLC, <http://www.lumendatabase.org/notices/19326764> [<https://perma.cc/P4CR-WMQX>] (copying case number from Nelson v. Spear, No. 160600824 (Pa. Ct. Com. Pl. Phila. Cty.)).
  93. Texas, Dallas County: Minute Order, Bonnycastle v. Cityline, <http://lumendatabase.org/?sid=1457539> [<https://perma.cc/2W3P-N7TL>] (claiming to be from the "Superior Court of Texas, County of Dallas, Central"; there is no "Superior Court" in Texas; the court in Dallas is a District Court; Judge Judith F. Hayes was a judge in the Superior Court of San Diego, and her name is misspelled under signature line; court reporter listed is also located in California).
  94. Virginia, Fairfax County: Order, Somani v. Lalji (on file with author).

#### APPENDIX B:

#### LAWSUITS THAT SHARE BOILERPLATE WITH THE FAKE-DEFENDANT CASES

It's impossible to tell for certain that all the cases in Appendix B include fake defendants, but the filings and court documents share much of the language with the two cases that were vacated on the grounds that they involved fake defendants; and

for the 21 other cases that included the purported defendants' purported addresses, there appears not to be any such person associated with such an address.

These cases were found using Bloomberg Law searches for phrases that appeared in the *Patel* papers, such as “Consent Motion for Injunction and Final Judgment,” “Dated, so respectfully,” or a phrase like “If the Defendant cannot remove the Defamation from the Internet, the Plaintiff shall submit this Order to Google, Yahoo, Bing, or any other Internet search engine so that the link can be removed from their search results pursuant to their existing policies concerning de-indexing of defamatory material.” Though such phrases could appear in unrelated cases, looking through results revealed that many of the orders that use one of the phrases also use several others, and thus appear to come from the same source (even though all are ostensibly pro se lawsuits). For further discussion of these cases and why they appear suspicious, see *supra* Part III.

1. *Glatter v. Castle*, No. SC125890 (Cal. Super. Ct. L.A. Cty. order granted June 24, 2016).
2. *Glatter v. Castle*, No. 184324 (Cal. Super. Ct. Shasta Cty. filed Mar. 3, 2016).
3. *Lyman v. Bernard*, No. LC104275 (Cal. Super. Ct. L.A. Cty. order granted June 22, 2016).
4. *Serenbetz v. McDonald*, No. BC621992 (Cal. Super. Ct. L.A. Cty. dismissed because plaintiff failed to appear Oct. 11, 2016).
5. *Williams v. Li*, No. L15-03752 (Cal. Super. Ct. Contra Costa Cty. order granted Dec. 28, 2015).
6. *Carter v. Quinn*, No. 2016-021440-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. voluntarily dismissed Oct. 10, 2016).
7. *Wasserman v. Mack*, No. 2016CA002402000000 (Fla. Cir. Ct. Polk Cty. order granted July 28, 2016).
8. *Cast v. Pawloski*, No. 2016-CH-09649 (Ill. Cir. Ct. Cook Cty. filed Jul. 22, 2016, voluntarily dismissed Nov. 21, 2016).
9. *Jones v. Conti*, No. 24C15006945 (Md. Cir. Ct. Balt. City order granted Dec. 21, 2015).
10. *Norbu v. Campbell*, No. 24-C-16-00250 (Md. Cir. Ct. Balt. City filed Jan. 19, 2016, dismissed for lack of jurisdiction July 18, 2016).
11. *Patel v. Chan*, No. 24C16003573 (Md. Cir. Ct. Balt. City order granted July 22, 2016).
12. *Ruddie v. Kirschner*, No. 24C15005620 (Md. Cir. Ct. Balt. City order granted Dec. 14, 2015).
13. *Tanoto v. Brown*, No. 24C16000901 (Md. Cir. Ct. Balt. City dismissed Sept. 21, 2016).
14. *Hanne v. Garcia*, No. 12-C-16-001705 (Md. Cir. Ct. Harford Cty. order granted June 27, 2016).
15. *Norbu v. Campbell*, No. 12-C-16-001959 (Md. Cir. Ct. Harford Cty. order granted July 18, 2016).
16. *Tanoto v. Brown*, No. 12-C-16-001958 (Md. Cir. Ct. Harford Cty. order granted July 20, 2016).

17. Mohlman v. Jones, No. 13C16107924 (Md. Cir. Ct. Howard Cty. order denied June 15, 2016).
18. Benedict v. Matthews, No. A16738922C (Nev. Dist. Ct. Clark Cty. order granted July 12, 2016).
19. Horner v. Davis, No. A16738996C (Nev. Dist. Ct. Clark Cty. filed June 23, 2016).
20. Callagy v. Roffman, No. 160603108 (Pa. Ct. Com. Pl. Phila. Cty. order granted July 1, 2016, vacated Oct. 20, 2016).
21. Murtagh v. Reynolds, No. 160901262 (Pa. Ct. Com. Pl. Phila. Cty. order denied Oct. 26, 2016).
22. Nelson v. Spear, No. 160600824 (Pa. Ct. Com. Pl. Phila. Cty. filed June 14, 2016).
23. Talson v. Martinez, No. 160603109 (Pa. Ct. Com. Pl. Phila. Cty. Com. Pl. order granted July 1, 2016).
24. Olea v. James, No. 2016-49734 (Tex. Dist. Ct. Harris Cty. filed July 27, 2016, dismissed for lack of prosecution Jan. 4, 2018).
25. Smith v. Garcia, No. 1:16-cv-00144, 2017 WL 412722 (D.R.I. order granted Apr. 22, 2016, vacated Jan. 31, 2017).
26. Mohlman v. Jones, No. H-16-0274 (S.D. Tex. dismissed for lack of diversity Feb. 4, 2016).

#### APPENDIX C:

##### OUT-OF-STATE ORDERS WITH CALIFORNIA NOTARIZATIONS

Seven Harris County, Texas orders from one lawyer; the defendants' signatures in these cases were notarized in Alameda, Contra Costa, Sacramento, or Solano Counties—basically, the San Francisco to Sacramento corridor:

1. Waiver of Service, BCI Property Management v. Ramos, No. 2016-29570 (Tex. Dist. Ct. Harris Cty. filed May 5, 2016).
2. Waiver of Service, Eccentric Holdings v. Largo, No. 2016-61892 (Tex. Dist. Ct. Harris Cty. filed Sept. 22, 2016).
3. Defendant's Original Answer, Fox & Assocs. v. Wallace, No. 2016-06674 (Tex. Dist. Ct. Harris Cty. filed Feb. 1, 2016).
4. Waiver of Service, Grisak Properties v. Baroro, No. 2016-46539 (Tex. Dist. Ct. Harris Cty. filed July 14, 2016).
5. Waiver of Service, Holdren v. Ortega, No. 2016-49421 (Tex. Dist. Ct. Harris Cty. filed July 26, 2016).
6. Waiver of Service, Kosage v. Nelson, No. 2016-39989 (Tex. Dist. Ct. Harris Cty. filed June 9, 2016).
7. Waiver of Service, Tax Help Services v. Smalls, No. 2016-12697 (Tex. Dist. Ct. Harris Cty. filed Feb. 29, 2016).

Seven Harris County, Texas orders from a mix of other lawyers; the defendants' signatures were notarized in Alameda, Contra Costa, Solano, and (in one case) Los Angeles Counties:

8. Waiver of Service, Amovious Networks v. Edwards, No. 2016-45988 (Tex. Dist. Ct. Harris Cty. filed July 28, 2016).
9. Waiver of Service, Med Link Networking Solutions v. Jones, No. 2016-24479 (Tex. Dist. Ct. Harris Cty. filed Apr. 29, 2016).
10. Waiver of Service, Somerset v. Galvan, No. 2016-07791 (Tex. Dist. Ct. Harris Cty. filed Feb. 5, 2016).
11. Waiver of Service, RF Holdings v. Tibay, No. 2015-67469 (Tex. Dist. Ct. Harris Cty. filed Dec. 18, 2015).
12. Waiver of Service, RBJ Enters. v. Alexander, No. 1071267 (Tex. Dist. Ct. Harris Cty. filed Dec. 29, 2015).
13. Waiver of Service, MB Ventures v. Medina, No. DC-16-05087 (Tex. Dist. Ct. Dallas Cty. filed Apr. 29, 2016).
14. Sworn Statement of Defendant Anthony Guidry, Schwartzapfel v. Guidry, No. 2014-42698 (Tex. Dist. Ct. Harris Cty. filed July 25, 2014).

Five Ohio orders, all from the same lawyer; the defendants' signatures were notarized in Contra Costa, Santa Clara, and Solano counties:

15. Sworn Statement of Defendant Richard Williamson, ASIAUSA v. Williamson, No. CV-15-841465 (Ohio Ct. Com. Pl. Cuyahoga Cty. Apr. 3, 2015).
16. Affidavit of Nuuanu Kahapeachow, Dr-Max Limited v. Kahapeachow, No. CV-16-858256 (Ohio Ct. Com. Pl. Cuyahoga Cty. Mar. 10, 2016).
17. Sworn statement of Defendant Stacy Dinsdale, Gossels Casting v. Dinsdale, No. CV-2015-05-2812 (Ohio Ct. Com. Pl. Summit Cty. June 18, 2015).
18. Affidavit of Hamie Valencia, Premiere Casting Events v. Valencia, No. 16CV005975 (Ohio Ct. Com. Pl. Franklin Cty. Aug. 16, 2016).
19. Affidavit of Samantha Peralto, Shatsman v. Peralto, No. CV-2015-12-5717 (Ohio Ct. Com. Pl. Summit Cty. Jan. 21, 2016).

Two cases from other states, with notarizations in San Francisco and in Solano County; the Florida case was filed by a lawyer at the same firm where the lawyer involved in the Ohio cases was practicing at the time, and the Maryland case was apparently submitted to Google by the Ohio lawyer, <https://www.lumendatabase.org/notices/12982683> [<https://perma.cc/Y2ND-LAMG>]:

20. Affidavit in Support of Stipulation and Order, Blue Haven Nat'l Mgm't v. Galvan, No. 2016CA2880 (Fla. 4th Cir. Ct. Duval Cty. June 16, 2016).
21. Affidavit of Melisa Handley, Groza v. Handley, No. C-16-71540 (Md. Cir. Ct. Carroll Cty. Aug. 9, 2016).

## APPENDIX D:

## LEON COUNTY, FLORIDA (TALLAHASSEE) – DEFAULT JUDGMENTS WITH NO APPARENT ATTEMPT TO SUBPOENA ANONYMOUS POSTERS’ IDENTITIES

Many of these “affidavits of diligent search” contain the same boilerplate text, and nothing in the affidavits indicates any attempt to do what plaintiffs in Internet libel cases routinely do in trying to identify defendants who have anonymously posted a comment on a website—subpoenaing the records of the website where the alleged defamation was posted, to try to get the poster’s IP address and then track that address down to the poster’s Internet provider. *See supra* notes 124–125 and accompanying discussion. It is possible that the plaintiffs in these cases did something else to find the defendants, but these affidavits do not indicate that.

1. Affidavit of Diligent Search & Inquiry, *Brand.Com v. Anonymous John Doe I*, No. 2013CA003200 (Fla. Cir. Ct. Leon Cty. Nov. 15, 2013).
2. Affidavit of Diligent Search & Inquiry, *Bean v. Anonymous John Doe I*, No. 2013CA003528 (Fla. Cir. Ct. Leon Cty. Jan. 3, 2014).
3. Affidavit of Diligent Search & Inquiry, *Zammuto v. Anonymous John Doe I*, No. 372013CA003606 (Fla. Cir. Ct. Leon Cty. Jan. 3, 2014).
4. Affidavit of Diligent Search & Inquiry, *Equities First Holdings, LLC v. Anonymous John Doe I*, No. 372014CA000016 (Fla. Cir. Ct. Leon Cty. Jan. 3, 2014).
5. Affidavit of Diligent Search & Inquiry, *Savage v. Anonymous John Doe I*, No. 372014CA000129 (Fla. Cir. Ct. Leon Cty. Jan. 21, 2014).
6. Affidavit of Diligent Search & Inquiry, *Dhanik v. Anonymous John Doe I*, No. 372014CA000368 (Fla. Cir. Ct. Leon Cty. Feb. 18, 2014).
7. Affidavit of Diligent Search & Inquiry, *Ryburn v. Ivas*, No. 372014CA000362 (Fla. Cir. Ct. Leon Cty. Feb. 18, 2014).
8. Affidavit of Diligent Search & Inquiry, *Jehan v. Anonymous John Doe I*, No. 372014CA000467 (Fla. Cir. Ct. Leon Cty. Feb. 21, 2014).
9. Affidavit of Diligent Search & Inquiry, *Barefoot Spas v. Anonymous John Doe I*, No. 372014CA000465 (Fla. Cir. Ct. Leon Cty. Feb. 21, 2014).
10. Affidavit of Diligent Search & Inquiry, *Vettese v. Anonymous John Doe I*, No. 372014CA000462 (Fla. Cir. Ct. Leon Cty. Feb. 21, 2014).
11. Affidavit of Diligent Search & Inquiry, *Salinas v. Anonymous John Doe I*, No. 372014CA000479 (Fla. Cir. Ct. Leon Cty. Feb. 24, 2014).
12. Affidavit of Diligent Search & Inquiry, *The College Network v. Anonymous John Doe I*, No. 372014CA000483 (Fla. Cir. Ct. Leon Cty. Feb. 24, 2014).
13. Affidavit of Diligent Search & Inquiry, *Trend Sound Promoter v. Anonymous John Doe I*, No. 372014CA000481 (Fla. Cir. Ct. Leon Cty. Feb. 24, 2014).
14. Affidavit of Diligent Search & Inquiry, *Hart v. Anonymous John Doe I*, No. 372014CA000480 (Fla. Cir. Ct. Leon Cty. Feb. 24, 2014).
15. Affidavit of Diligent Search & Inquiry, *Abes of Maine v. Anonymous John Doe I*, No. 372014CA000626 (Fla. Cir. Ct. Leon Cty. Mar. 7, 2014).



16. Affidavit of Diligent Search & Inquiry, GCI Solar v. Anonymous John Doe I, No. 372014CA000623 (Fla. Cir. Ct. Leon Cty. Mar. 7, 2014).
17. Affidavit of Diligent Search & Inquiry, Baur, Kirk v. Anonymous John Doe I, No. 372014CA000638 (Fla Cir. Ct. Leon Cty. Mar. 10, 2014).
18. Affidavit of Diligent Search & Inquiry, Climber Com v. Anonymous John Doe I, No. 372014CA000656 (Fla Cir. Ct. Leon Cty. Mar. 11, 2014).
19. Affidavit of Diligent Search & Inquiry, IT University Online v. Anonymous John Doe I, No. 372014CA000657 (Fla Cir. Ct. Leon Cty. Mar. 11, 2014).
20. Affidavit of Diligent Search & Inquiry, Western Pavers v. Anonymous John Doe I, No. 372014CA000702 (Fla Cir. Ct. Leon Cty. Mar. 17, 2014).
21. Affidavit of Diligent Search & Inquiry, HFP Capital Markets v. Anonymous John Doe I, No. 372014CA000765 (Fla Cir. Ct. Leon Cty. Mar. 25, 2014).
22. Affidavit of Diligent Search & Inquiry, IDC Technology v. Anonymous John Doe I, No. 372014CA000762 (Fla Cir. Ct. Leon Cty. Mar. 21, 2014).
23. Affidavit of Diligent Search & Inquiry, Heneman v. Anonymous John Doe I, No. 372014CA000759 (Fla Cir. Ct. Leon Cty. Mar. 21, 2014).
24. Affidavit of Diligent Search & Inquiry, Dietrich v. Anonymous John Doe I, No. 372014CA000760 (Fla Cir. Ct. Leon Cty. Mar. 21, 2014).
25. Affidavit of Diligent Search & Inquiry, Shavolian v. Anonymous John Doe I, No. 2014CA000845 (Fla. Cir. Ct. Leon Cty. Apr. 1, 2014).
26. Affidavit of Diligent Search & Inquiry, Nomoreraack Com v. Anonymous John Doe I, No. 372014CA000846 (Fla Cir. Ct. Leon Cty. Apr. 1, 2014).
27. Affidavit of Diligent Search & Inquiry, Cancilla v. Anonymous John Doe I, No. 372014CA000864 (Fla Cir. Ct. Leon Cty. Apr. 2, 2014).
28. Affidavit of Diligent Search & Inquiry, Scalamandre v. Anonymous John Doe I, No. 372014CA000870 (Fla Cir. Ct. Leon Cty. Apr. 3, 2014).
29. Affidavit of Diligent Search & Inquiry, Eyler v. Anonymous John Doe I, No. 372014CA000879 (Fla Cir. Ct. Leon Cty. Apr. 3, 2014).
30. Affidavit of Diligent Search & Inquiry, Glazers v. Anonymous John Doe I, No. 372014CA000917 (Fla Cir. Ct. Leon Cty. Apr. 4, 2014).
31. Affidavit of Diligent Search & Inquiry, Loncar v. Anonymous John Doe I, No. 372014CA000920 (Fla Cir. Ct. Leon Cty. Apr. 7, 2014).
32. Affidavit of Diligent Search & Inquiry, International Career Institute v. Anonymous John Doe I, No. 372014CA000995 (Fla Cir. Ct. Leon Cty. Apr. 15, 2014).
33. Affidavit of Diligent Search & Inquiry, 1Seo.Com v. Doe, Anonymous J 1 372014CA001086 (Fla Cir. Ct. Leon Cty. Apr. 24, 2014).
34. Affidavit of Diligent Search & Inquiry, Bezoni v. Doe, Anonymous J 1 372014CA001095 (Fla Cir. Ct. Leon Cty. Apr. 25, 2014).
35. Affidavit of Diligent Search & Inquiry, Shechtman v. Doe, Anonymous J 1, No. 372014CA001094 (Fla Cir. Ct. Leon Cty. Apr. 25, 2014).
36. Affidavit of Diligent Search & Inquiry, Destination Wealth Management v. Doe, Anonymous J 1, No. 372014CA001102 (Fla Cir. Ct. Leon Cty. Apr. 28, 2014).

37. Affidavit of Diligent Search & Inquiry, Brand.Com, Inc. v. Doe, No. 372014CA001113 (Fla. Cir. Ct. Leon Cty. Apr. 28, 2014).
38. Affidavit of Diligent Search & Inquiry, Krause v. Doe, Anonymous J 1 372014CA001111 (Fla Cir. Ct. Leon Cty. Apr. 28, 2014).
39. Affidavit of Diligent Search & Inquiry, Jeter v. Doe, Anonymous J 1 372014CA001207 (Fla Cir. Ct. Leon Cty. May 8, 2014).
40. Affidavit of Diligent Search & Inquiry, Whole Body Research v. Doe, Anonymous J 1, No. 372014CA001219 (Fla Cir. Ct. Leon Cty. May 9, 2014).
41. Affidavit of Diligent Search & Inquiry, Butler v. Doe, Anonymous J 1 372014CA001247 (Fla Cir. Ct. Leon Cty. May 13, 2014).
42. Affidavit of Diligent Search & Inquiry, Diaco v. Anonymous John Doe 1, No. 372014CA001287 (Fla Cir. Ct. Leon Cty. May 19, 2014).
43. Affidavit of Diligent Search & Inquiry, Holiday Cruise Line v. Doe, Anonymous J 1, No. 372014CA001285 (Fla Cir. Ct. Leon Cty. May 19, 2014).
44. Affidavit of Diligent Search & Inquiry, Thermospas Hot Tub Products In v. Doe, Anonymous J 1, No. 372014CA001318 (Fla Cir. Ct. Leon Cty. May 21, 2014).
45. Affidavit of Diligent Search & Inquiry, 5 North Inc v. Anonymous John Doe I, No. 372014CA001340 (Fla Cir. Ct. Leon Cty. May 23, 2014).
46. Affidavit of Diligent Search & Inquiry, Brand.Com Inc v. Doe, Anonymous J 1 372014CA001370 (Fla Cir. Ct. Leon Cty. May 27, 2014).
47. Affidavit of Diligent Search & Inquiry, Musca v. Doe, Anonymous J 1 372014CA001390 (Fla Cir. Ct. Leon Cty. May 28, 2014).
48. Affidavit of Diligent Search & Inquiry, Avante Garde Engineering & Con v. Doe, Anonymous J 1, No. 372014CA001395 (Fla Cir. Ct. Leon Cty. May 29, 2014).
49. Affidavit of Diligent Search & Inquiry, Newsmax Media Inc v. Doe, Anonymous J 1, No. 372014CA001426 (Fla Cir. Ct. Leon Cty. June 2, 2014).
50. Affidavit of Diligent Search & Inquiry, Saint Jude Retreats v. Doe, Anonymous J 1, No. 372014CA001431 (Fla Cir. Ct. Leon Cty. June 2, 2014).
51. Affidavit of Diligent Search & Inquiry, Brookfield Homes v. Doe, Anonymous J 1 372014CA001425 (Fla Cir. Ct. Leon Cty. June 2, 2014).
52. Affidavit of Diligent Search & Inquiry, Lvnv Funding LLC v. Doe, Anonymous J 1 372014CA001462 (Fla Cir. Ct. Leon Cty. June 4, 2014).
53. Affidavit of Diligent Search & Inquiry, Featherly v. Anonymous John Doe I, No. 372014CA001717 (Fla Cir. Ct. Leon Cty. June 27, 2014).
54. Affidavit of Diligent Search & Inquiry, Finkelstein v. Anonymous John Doe 1, No. 372014CA001815 (Fla Cir. Ct. Leon Cty. July 11, 2014).
55. Affidavit of Diligent Search & Inquiry, The Power Co. v. Anonymous John Doe 1, No. 372014CA001867 (Fla Cir. Ct. Leon Cty. July 17, 2014).
56. Affidavit of Diligent Search & Inquiry, Wall & Assoc. Inc v. Anonymous John Doe 1, No. 372014CA001971 (Fla Cir. Ct. Leon Cty. July 28, 2014).
57. Affidavit of Diligent Search & Inquiry, Jarmin v. Anonymous John Doe 1, No. 372014CA001999 (Fla Cir. Ct. Leon Cty. July 30, 2014).

58. Affidavit of Diligent Search & Inquiry, Sobel Affiliates Inc v. Anonymous John Doe 1, No. 372014CA002139 (Fla Cir. Ct. Leon Cty. Aug. 14, 2014).
59. Affidavit of Diligent Search & Inquiry, Global Connections Inc v. Anonymous John Doe 1, No. 372014CA002775 (Fla Cir. Ct. Leon Cty. Oct. 21, 2014).
60. Affidavit of Diligent Search & Inquiry, Kinas v. Anonymous John Doe 1, No. 372014CA002995 (Fla Cir. Ct. Leon Cty. Nov. 18, 2014).
61. Affidavit of Diligent Search & Inquiry, Fiorentino v. Anonymous John Doe 1, No. 372014CA003027 (Fla Cir. Ct. Leon Cty. Nov. 19, 2014).