

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK


-----X	Index No:
MICHAEL CISNEROS, individually,	Date Purchased:
ALEX HANSON, individually, MICHAEL	
CISNEROS and ALEX HANSON as parents	Plaintiffs designate New
and legal guardians of M.H., a minor; ERICA	York County as place of
MCKENNA, individually, DANIEL MCKENNA	trial
individually, ERICA MCKENNA	
and DANIEL MCKENNA as parents and legal	Basis of venue are the
guardians of F.M., a minor.	residences of Plaintiffs
Plaintiffs,	<u>SUMMONS</u>
-against-	
LOGAN COOK, DONALD J. TRUMP, and	
DONALD J. TRUMP FOR PRESIDENT, INC.,	
jointly and severally,	
Defendants.	
-----X	

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.


Dated: New York, New York
September 16, 2020

Maggiano, DiGirolamo & Lizzi, P.C.


By: Michael Maggiano, Esq.
Attorneys for Plaintiffs DANIEL
MCKENNA, ERICA MCKENNA
individually and as parents and legal
guardians of F.M., a minor

The Grinnell Building
800 Riverside Drive, Suite 1A
New York, New York 10032
(212) 543-1600

Christopher H. Fitzgerald, Esq.


By: Christopher Fitzgerald, Esq.
Attorneys for Plaintiffs MICHAEL
CISNEROS, ALEX HANSON
individually and as parents and legal
guardians of M.H., a minor
The Woolworth Building
233 Broadway, Suite 2348
New York, NY 10279
(212) 226-2275

Defendant's Address:

RONALD D. COLEMAN, Esq.
Mandelbaum Salsburg, P.C.
On behalf of Defendant LOGAN COOK
3 Becker Farm Road
Roseland, NJ 07068
rcoleman@lawfirm.ms

DONALD J. TRUMP
1600 Pennsylvania Avenue NW
Washington, DC 20500

and

1100 South Ocean Boulevard
Palm Beach, Florida 33480

DONALD J. TRUMP FOR PRESIDENT, INC.
725 Fifth Avenue
New York, New York, 10022

and

4701 Cox Road, Suite 285
Glen Allen, Virginia 23060-6808

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X	Index No: _____
MICHAEL CISNEROS, individually,	:
ALEX HANSON, individually, MICHAEL	:
CISNEROS and ALEX HANSON as parents	:
and legal guardians of M.H., a minor; ERICA	:
MCKENNA, individually, DANIEL MCKENNA	:
individually, ERICA MCKENNA and	:
DANIEL MCKENNA parents and legal	:
guardians of F.M., a minor.	:
	:
Plaintiffs,	:
	:
-against-	:
	:
LOGAN COOK, DONALD J. TRUMP, and	:
DONALD J. TRUMP FOR PRESIDENT, INC.,	:
jointly and severally,	:
	:
Defendants.	:
-----X	

VERIFIED COMPLAINT

Plaintiffs MICHAEL CISNEROS, Individually, ALEX HANSON, Individually, MICHAEL CISNEROS and ALEX HANSON as parents and legal guardians of M.H. (age 3), a Minor, by their attorney CHRISTOPHER FITZGERALD, ESQ., and ERICA MCKENNA, Individually, DANIEL MCKENNA, Individually, and ERICA MCKENNA and DANIEL MCKENNA as parents and legal guardians of F.M. (age 3), a Minor, by and through their attorneys, MAGGIANO DIGIROLAMO & LIZZI, P.C. in support of their Complaint allege as follows, and on information and belief:

1. At all times relevant to this lawsuit, Plaintiffs Michael Cisneros ("Michael")

and Alex Hanson ("Alex") reside as a married couple in New York City, County of New York, in the State of New York and are the parents and legal guardians of their son, M.H., a minor.

2. At all times relevant to this lawsuit, Erica McKenna ("Erica") and Daniel McKenna ("Dan") reside as a married couple in New York City, County of New York, in the State of New York and are the parents and legal guardians of their son, F.M., a minor.
3. At all times relevant to this lawsuit, Logan Cook ("Cook") was a resident of Overland Park, Kansas and holds himself out as a creator and distributor of social media "memes" for money often in support of right wing, conservative causes including but not limited to Defendant, Donald J. Trump ("Trump") and his re-election campaign, Defendant, Donald J. Trump for President, Inc. ("Campaign").
4. At all times relevant to this lawsuit, Trump is an individual who maintains his primary personal residence in Mar-a-Lago, Palm Beach, Florida, and on information and belief also maintains a residence in New York City, County of New York, in the State of New York as well as 1600 Pennsylvania Avenue, Washington, DC at the White House.
5. Although Trump was at all times relevant to this lawsuit the President of the United States, he is being sued here in his individual capacity in view of the fact that his actions involved in this case were done as a private United States citizen.
6. Although Trump was at all times relevant to this lawsuit the President of the

United States, he has never divested himself from his business interests and continues to profit from and to promote the “Trump Brand” and name and his private business and commercial interests.

7. At all times relevant to this lawsuit, Campaign conducts business and has its principal offices in The Trump Tower located at 725 Fifth Avenue, New York, New York, 10022, as the political campaign to reelect Trump, including but not limited to, raising money for Trump’s re-election.
8. Campaign is also instrumental and/or is used by Trump for the promotion of the “Trump Brand” and name and Trump’s private business and commercial interests.
9. On July 11, 2019 Cook met with Trump at the White House for a “Social Media Summit” where Cook reportedly had a private meeting with Trump in the Oval Office, wherein Trump referred to Cook as “the genius.”
10. Cook, via his Instagram account entitled “carpedonktum,” describes himself as, “Sarcastic Memesmith specializing in the creation of memes to support President Donald J. Trump.”
11. In approximately September 2019, a cellphone video was created by Michael Cisneros and Daniel McKenna of their two sons on a sidewalk in New York City, after the first day of school, wherein the two-year-old boys (now three years old) embraced and were clearly elated to see one another.
12. Shortly thereafter, this video went “viral” on social media as the epitome of love and unity showing a two-year-old black boy hugging and enjoying the warmth and companionship of his friend, a two-year-old white boy.

13. Approximately one week later, unknown to all of the above named Plaintiffs at that time, Cook, without Plaintiffs written consent, manipulated and adulterated the Plaintiffs' video, cut it down in size, and knowingly used a portion of it out of context, sending out an extremely distorted and false message.
14. The defendant Cook, in creating the new video, misappropriated the pictures and likenesses of the Plaintiffs M.H. and F.M.
15. The defendant Cook, in creating the video and sharing it with Trump and/or Campaign, used the pictures and likenesses of Plaintiffs M.H. and F.M., without Plaintiffs' consent, for advertising purposes and/or for the solicitation of patronage for himself and/or for Trump and Campaign in the State of New York.
16. The defendant Cook, added fraudulent text to the manipulated video further distorting it, including but not limited to, improperly applying the CNN chyron, referred to it as "Breaking News" throughout the manipulated video, and specifically created a negative and racist overtone to the video depicting M.H. running and being chased after by F.M.
17. The defendant Cook falsely and maliciously added in font, "Terrified Todler (sic) Runs From Racist Baby" and thereafter, "Racist Baby Probably A Trump Voter."
18. Cook created the false video knowing of its falsity and/or with reckless disregard of the true nature of the original video.
19. Cook created the video for the purposes of commercial exploitation for his economic benefit and/or that of the Co-Defendants, Donald Trump and

Campaign.

20. Cook sought and/or collected money from people for making memes including but not limited to the subject video of the Plaintiffs' children taken by their parents.
21. Trump and Campaign sought donations and/or money for the re-election campaign, including by way of using Cook's memes, including the subject video.
22. On Thursday, June 18, 2020, the night before Juneteenth, Trump utilized his personal Twitter page, @realDonaldTrump, and tweeted Cook's manipulated video of the subject young children without the Plaintiffs' written consent. (See Exhibit A-@realDonaldTrump's twitter page)
23. Shortly thereafter, Campaign, via its Twitter page, @TeamTrump, retweeted Trump's post of the above manipulated distortion of Plaintiff's video, without Plaintiffs' written consent. (See Exhibit B-@TeamTrump's twitter page screen shots)
24. Trump, in publishing the new video, misappropriated the pictures and likenesses of the Plaintiffs M.H. and F.M. without Plaintiffs' consent.
25. Trump did so to exploit the children's images for his own purposes and gain.
26. Trump, in publishing the video, used the pictures and likenesses of Plaintiffs M.H. and F.M., without the Plaintiffs' consent, for advertising purposes and/or for the solicitation of patronage for himself and/or Campaign in the State of New York pushing his brand of sensationalism in complete disregard for the truth.

27. Trump published the false video knowing of its falsity and/or with reckless disregard of the true nature of the original video.
28. Trump published the video for the purposes of commercial exploitation for himself and/or on behalf of Campaign.
29. Trump published the video images of the young plaintiffs for purpose of advertising himself and his “brand” and advance his economic and political goals for his own business purposes rather than in connection with a broadcast or social media communication known as a “tweet” that was (a) informative and (b) concerned a matter of public interest or current news interest and that (c) the original video of plaintiffs taken, used and manipulated by the defendants bears no real relationship to the tweet sent out by Defendants, Trump and Campaign and knew the manipulated video with distorted and untrue messaging was totally false yet published or broadcast the video without Plaintiffs’ consent.
30. Campaign, in publishing the new video, misappropriated the pictures and likenesses of the Plaintiffs M.H. and F.M. without Plaintiffs’ consent.
31. Campaign, in publishing the video, used the pictures and likenesses of Plaintiffs M.H. and F.M., without Plaintiffs’ consent, for advertising purposes and/or for the solicitation of patronage for Trump in the State of New York.
32. Campaign published the false video knowing of its falsity and/or with reckless disregard of the true nature of the original video.
33. Campaign published the video for the purposes of commercial exploitation for itself and/or on behalf of Trump.

34. Additionally the purpose of sending out over the internet through social media the manipulated video for the infant plaintiffs and the distorted and untrue messaging superimposed upon the video was broadcast for purposes of trade to attract customers, patronage, and money for Trump's benefit and the benefit of Campaign and Cook.
35. In a relatively short period of time, the Trump tweet in conjunction with Campaign's retweet was viewed over 20 million times.
36. Shortly thereafter, Plaintiffs saw Trump's and/or Campaign's tweet, or otherwise became aware of it, became distraught not only because this video was done without appropriate written consent, but that it also promoted racist and inciteful words and likenesses to these young boys and thus to their families.
37. The next day, on Friday, June 19, 2020, Juneteenth, Facebook and Twitter removed the above mentioned stolen video from Trump's and Campaign's postings in view of the fact that it was in violation of their copyright rules, did not have the appropriate authorization by the above parents/Plaintiffs as well as it was "likely to cause harm," in particular to all of the above Plaintiffs.
38. The following week on Tuesday, June 23, 2020, Twitter permanently banned Cook and carpedonktum in view of the multiple infractions that they had perpetrated by way of unauthorized use of various videos that were created without written consent from Plaintiffs and to likely cause harm to them.
39. Despite the above, Cook through the present date continues to feature the subject video on Instagram and other social media platforms.

40. As a direct and proximate result of the misconduct perpetrated by all of the defendants, Plaintiffs have suffered significant damages including severe emotional distress and irreparable harm by defendants ongoing use of the video.

FIRST CAUSE OF ACTION
(Violation of New York Civil Rights Law §§ 50 and 51)

41. Plaintiffs reassert and reallege all paragraphs numbers 1 through 40 as if fully set forth herein.
42. Pursuant to New York Civil Rights Law § 50-51, a person, firm or corporation, like defendants, that uses for advertising purposes, or for the purposes of trade, the name, portrait or picture of any living person without having first obtained the written consent of such person, or if a minor of his parent or guardian, is guilty of a misdemeanor as well as may be held civilly liable in an equitable action in the Supreme Court of New York, wherein the jury, in its discretion may award exemplary/punitive damages.
43. All defendants owed a duty to Plaintiffs, so as to abide by the above laws and to refrain from using videos or likenesses of people without prior consent and to refrain from using the video for crass commercial exploitation and/or advertising purposes and/or as a solicitation for patronage in an attempt to raise or to make money.
44. All defendants flagrantly and knowingly violated these statutes in numerous regards but in particular in their failure to obtain written consent of the above Plaintiffs/parents before utilizing the video as well as utilized this stolen video as a method by which to advertise or for purposes of crass commercial exploitation,

advertising, trade and/or make money for each of them individually, themselves collectively and/or for Trump and/or Campaign.

45. As a direct and proximate result of all the defendants' violations of the above statutes, all of the Plaintiffs herein have sustained damages, including, but not limited to:

- a. Conscious pain and suffering;
- b. Mental anguish;
- c. Fright and shock;
- d. Denial of social pleasures and enjoyments;
- e. Embarrassment, humiliation or mortification; and

WHEREFORE, Plaintiffs respectfully request This Honorable Court enter Judgment in their favor and against defendants for:

- a. damages in a sum that exceeds the jurisdictional limits of all lower courts;
- b. restraining the defendants from using Plaintiffs' images, names, likenesses, and voice by way of a preliminary injunction and a temporary restraining order;
- c. permanent injunction barring defendants from using Plaintiffs' video in any way;
- d. compensatory damages in an amount to be determined at trial;
- e. exemplary/punitive damages in an amount to be determined at trial;
- f. requiring defendants to account to Plaintiffs' for all proceeds derived from their wrongful conduct;

- g. award of Plaintiffs' costs and expenses including reasonable attorney fees incurred enforcing their right; and
- h. such other and further relief as to the Court may seem just and proper.

**SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

- 46. Plaintiffs reassert and reallege all paragraphs numbers 1 through 45 as if fully set forth herein.
- 47. Defendants' above described behavior is extreme, shocking and outrageous conduct, beyond the bounds of decency, which was intended to cause harm and/or disregarded a substantial probability of causing severe emotional distress to all of Plaintiffs.
- 48. As a direct and proximate result of defendants' misconduct, it caused all Plaintiffs to suffer injuries, including but not limited to:
 - Conscious pain and suffering and/or severe emotional distress;
 - Mental anguish;
 - Fright and shock;
 - Denial of social pleasures and enjoyments;
 - Embarrassment, humiliation or mortification; and

WHEREFORE, Plaintiffs respectfully request This Honorable Court enter Judgment in their favor and against defendants for:

- a. damages in a sum that exceeds the jurisdictional limits of all lower courts;
- b. restraining the defendants from using Plaintiffs' images, names, likenesses, and voice by way of a preliminary injunction and a temporary restraining order;

- c. permanent injunction barring defendants from using Plaintiffs' video in any way;
- d. compensatory damages in an amount to be determined at trial;
- e. exemplary/punitive damages in an amount to be determined at trial;
- f. requiring defendants to account to Plaintiffs' for all proceeds derived from their wrongful conduct;
- g. award of Plaintiffs' costs and expenses including reasonable attorney fees incurred enforcing their right; and
- h. such other and further relief as to the Court may seem just and proper.

**THIRD CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)**

49. Plaintiffs reassert and reallege all paragraphs numbers 1 through 48 as if fully set forth herein.
50. At the time of the defendants' misconduct described above, they owed Plaintiffs a duty to act reasonably and avoid using the video without written consent of Plaintiffs and changing the video, adding words to it that would harm Plaintiffs, and to avoid using the video to make money.
51. The harm and consequences of the defendants' misconduct and wrongful actions were foreseeable to the defendants.
52. As a direct and proximate result of defendants' misconduct, Plaintiffs have suffered injuries as a direct, rather than a consequential result, of the above breaches and have caused all Plaintiffs to suffer injuries, including but not limited to:
- Conscious pain and suffering and/or severe emotional distress;

- Mental anguish;
- Fright and shock;
- Denial of social pleasures and enjoyments;
- Embarrassment, humiliation or mortification; and

WHEREFORE, Plaintiffs respectfully request This Honorable Court enter Judgment in their favor and against defendants for:

- a. damages in a sum that exceeds the jurisdictional limits of all lower courts;
- b. restraining the defendants from using Plaintiffs' images, names, likenesses, and voice by way of a preliminary injunction and a temporary restraining order;
- c. permanent injunction barring defendants from using Plaintiffs' video in any way;
- d. compensatory damages in an amount to be determined at trial;
- e. exemplary/punitive damages in an amount to be determined at trial;
- f. requiring defendants to account to Plaintiffs' for all proceeds derived from their wrongful conduct;
- g. award of Plaintiffs' costs and expenses including reasonable attorney fees incurred enforcing their right; and
- h. such other and further relief as to the Court may seem just and proper.

**FOURTH CAUSE OF ACTION
(General Negligence)**

53. Plaintiffs reassert and reallege all paragraphs numbers 1 through 52 as if fully set forth herein.

54. At the time of the defendants' misconduct described above, they owed Plaintiffs a duty to act reasonably and avoid using the video without written consent of Plaintiffs and changing the video, adding words to it that would harm Plaintiffs, and to avoid using the video to make money.

55. The harm and consequences of the defendants' misconduct and wrongful actions were foreseeable to the defendants.

56. As a direct and proximate result of defendants' misconduct and wrongful actions, Plaintiffs have suffered injuries as a direct, rather than a consequential result, of the above breaches and have caused all Plaintiffs to suffer injuries, including but not limited to:

- Conscious pain and suffering and/or severe emotional distress;
- Mental anguish;
- Fright and shock;
- Denial of social pleasures and enjoyments;
- Embarrassment, humiliation or mortification; and

WHEREFORE, Plaintiffs respectfully request This Honorable Court enter Judgment in their favor and against defendants for:

- a. damages in a sum that exceeds the jurisdictional limits of all lower courts;
- b. restraining the defendants from using Plaintiffs' images, names, likenesses, and voice by way of a preliminary injunction and a temporary restraining order;
- c. permanent injunction barring defendants from using Plaintiffs' video in any way;

- d. compensatory damages in an amount to be determined at trial;
- e. exemplary/punitive damages in an amount to be determined at trial;
- f. requiring defendants to account to Plaintiffs' for all proceeds derived from their wrongful conduct;
- g. award of Plaintiffs' costs and expenses including reasonable attorney fees incurred enforcing their right; and
- h. such other and further relief as to the Court may seem just and proper.

Date: New York, New York
September 16 2020


Respectfully submitted,

Maggiano, DiGirolamo & Lizzi, P.C.


By: Michael Maggiano, Esq.

Attorney for Plaintiffs
DANIEL MCKENNA, ERICA MCKENNA
individually and as parents and legal
guardians of F.M., a minor
The Grinnell Building
800 Riverside Drive, Suite 1A
New York, New York 10032
(212) 543-1600

Christopher H. Fitzgerald, Esq.


By: Christopher Fitzgerald, Esq.
Attorney for Plaintiffs
MICHAEL CISNEROS, ALEX HANSON
individually and as parents and legal
guardians of M.H., a minor
The Woolworth Building
233 Broadway, Suite 2348
New York, NY 10279
(212) 226-2275

VERIFICATION

STATE OF NEW YORK)

)

ss.:)

COUNTY OF NEW YORK)

Erica McKenna, individually, Daniel McKenna, individually, Erica McKenna and Daniel McKenna, as parents and legal guardians of F.M., a minor, being duly sworn, deposes and says that he/she has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true of his/her knowledge, except as to those matters therein stated to be on information and belief, and that as to those matters he/she believes it to be true.

Erica McKenna
Erica McKenna

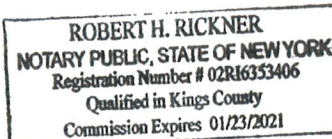
Daniel McKenna
Daniel McKenna

Subscribed and sworn to before me
this 7th day of September 2020.

Robert H. Rickner
Notary Public

On this 7th Day of September 2020 before me, by audio-video conference authorized by Gov. Andrew M. Cuomo's Executive Order 202.7 dated March 19, 2020, ERICA McKENNA and DANIEL McKENNA personally appeared via audio-video conference, affirmatively represented that they were physically situated in the State of New York, and at the time of the audio-video conference executed, by his/her hand the within instrument before me;

and was personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument; and acknowledged to me that he/she executed same in his/her capacity; and that by his/her signature on the instrument, the individual, or person upon behalf of which individual acted, executed the instrument; and there has been full compliance with the requirements set forth in Executive Order 202.7.



VERIFICATION

STATE OF NEW YORK)
)
 COUNTY OF NEW YORK)

ss.:

Michael Cisneros, individually, Alex Hanson, individually and Michael Cisneros and Alex Hanson as parents and legal guardians of M.H., a minor, being duly sworn, deposes and says that he/she has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true of his/her knowledge, except as to those matters therein stated to be on information and belief; and that as to those matters he/she believes it to be true.


 Michael Cisneros


 Alex Hanson

On this 7 Day of September 2020 before me, by audio-video conference authorized by Gov. Andrew M. Cuomo's Executive Order 202.7 dated March 19, 2020, MICHAEL CISNEROS and ALEX HANSON personally appeared via audio-video conference, affirmatively represented that they were physically situated in the State of New York, and at the time of the audio-video conference executed, by his/her hand the within instrument before me, and was personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument; and acknowledged to me that he/she executed same in his/her capacity; and that by his/her signature on the instrument, the individual, or person upon behalf of which individual acted, executed the instrument; and there has been full compliance with the requirements set forth in Executive Order 202.7.


 Notary Public

ROBERT H. RICKNER
 NOTARY PUBLIC, STATE OF NEW YORK
 Registration Number # 02R16353406
 Qualified in Kings County
 Commission Expires 01/23/2021

SUPREME COURT OF THE STATE OF NEW YORK Index No.:
COUNTY OF NEW YORK

MICHAEL CISNEROS, individually,
ALEX HANSON, individually, MICHAEL
CISNEROS and ALEX HANSON as parents
and legal guardians of M.H, a minor; ERICA
MCKENNA, individually, DANIEL MCKENNA
individually, ERICA MCKENNA and DANIEL
MCKENNA as parents and legal
guardians of F.M., a minor.

Plaintiffs,

-against-

LOGAN COOK, DONALD J. TRUMP, and
DONALD J. TRUMP FOR PRESIDENT, INC.
jointly and severally,

Defendants.

SUMMONS

VERIFIED COMPLAINT

MAGGIANO, DIGIROLAMO & LIZZI, P.C.

Michael Maggiano, Esq.

*Counsel for Plaintiffs DANIEL MCKENNA, ERICA MCKENNA individually and as parents and
legal guardians of F.M., a minor*

The Grinnell Building

800 Riverside Drive, Suite 1A

New York, New York 10032

212-543-1600

Christopher Fitzgerald, Esq.

*Counsel for Plaintiffs MICHAEL CISNEROS, ALEX HANSON individually and as parents and
legal guardians of M.H., a minor*

The Woolworth Building

233 Broadway, Suite 2348

New York, NY 10279

(212) 226-2275