IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION

CASE NO. 502013CA015257XXXXAI
CASE NO. 502015CA001012XXXXAI
(Consolidated for discovery purposes only)

HAROLD PEERENBOOM,

Plaintiff,

vs.

ISAAC ("IKE") PERLMUTTER, et al.,

Defendants.
/

ISAAC ("IKE") PERLMUTTER, et al.,

Counter-Plaintiffs,

vs.

HAROLD PEERENBOOM, et al.,

Counter-Defendants.
/

DEFENDANTS/COUNTER-PLAINTIFFS' MOTION TO RE-DEPOSE STEVEN REESOR AND TO CONTINUE LAURA PERLMUTTER'S DEPOSITION

Harold Peerenboom and David Smith, it seems, are an inseparable pair. They were in business together for almost 15 years, during which time David Smith served as a partner of Peerenboom's company, Mandrake Management, and served as a director of a Mandrake affiliate. In December 2012, not long before David Smith formally ended his business relationship with Peerenboom and began working for a competitor, Peerenboom alleges that he

became the victim of a so-called anonymous hate-mail campaign. For four years, David Smith and Peerenboom shared a common interest in framing Isaac ("Ike") and Laura Perlmutter for the hate-mail campaign. To conceal David Smith's identity as the culprit and to preserve Peerenboom's extortionate claims against the Perlmutters, the two worked in parallel to mislead police, defraud the courts, and publicly shame the Perlmutters. In January 2016, the criminal enterprise finally unraveled when police intercepted a packet of new hate-mail letters sent by David Smith that match the hate mail at issue in this case. To preserve the integrity of these proceedings and to ensure that the Perlmutters are not subject to further unwarranted harassment, the Perlmutters respectfully request that this Court permit a second deposition of Steven Reesor and postpone the deposition of Laura Perlmutter pending a further Order of this Court.

A. <u>The Perlmutters' Persist in Their Efforts to Obtain the Public Records Necessary to Clear Their Names and Stop Peerenboom's Harassment and Abuse</u>

For too long, Peerenboom and his agents – including his current lead counsel, Kasowitz Benson Torres LLP, some of whose attorneys are appearing before this Court *pro hac vice* – have been using the machinery of law enforcement and the courts as tools to enrich themselves at the Perlmutters' expense. Ignoring the scores of personal and political enemies that Peerenboom amassed throughout Canada and the United States, they fixated on the Perlmutters – his distant neighbors whom he gratuitously identifies in all of his pleadings as "billionaire[s]," *see, e.g.*, [4th Am. Compl. at 16, ¶ 72]; [3rd Am. Compl. at 15, ¶ 66]; [2d Am. Compl. at 12, ¶ 56]; [Am. Compl. at 12, ¶ 56]; [Compl. at 24, ¶ 78] – as the only possible suspects. According to Peerenboom's allegations, the Perlmutters engaged in an intense letter-writing campaign – purportedly consisting of thousands of letters, [4th Am. Compl., Ex. A], sent in at least 15 separate "salvos," [4th Am. Compl. at 1-2, ¶ 2], over the course of four years – that included

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letters sent to prison inmates and others accusing him of committing heinous crimes like child molestation and murder.

The only motive that has been offered for this conduct is that the Perlmutters opposed Peerenboom's efforts to replace the manager (a single mother of two children) who operates the tennis center that they share with Peerenboom at the Sloan's Curve condominium complex, even though "others at Sloan's Curve" pursued those same efforts (but were not the subject of any hate mail) and even though "various" other Sloan's Curve residents opposed those efforts (but were not accused by Peerenboom of sending hate mail). [4th Am. Compl. at 5-7, ¶¶ 20-21, 26]. Recognizing that the patent absurdity of these allegations would not support a plan to extort the Perlmutters for hundreds of millions of dollars, Peerenboom and his agents carried out a criminal scheme to frame the Perlmutters and conceal the true culprit of the hate-mail campaign.

1. *The Public Records Requests*

Even though it was obvious that the Perlmutters were not involved in the hate-mail campaign, proving the negative – i.e., that they did not mail any hate-mail letters – was particularly hard to do in this case. By "focus[ing] on the Perlmutters" as his "chief suspects" from "[v]ery early on," while dismissing all other potential suspects, [Apr. 28, 2016 Hr'g Tr. at 9], and steering the criminal investigation in the same direction, Peerenboom made his objectives clear, and those objectives never had anything to do with the truth.

Peerenboom is a uniquely reviled character who has so many enemies and inspired so many lawsuits across the United States and Canada as a result of his involvement in local politics, business organizations, private schools and camps, and even tawdry familial disputes, *see, e.g.*, [4th Am. Compl. at 4-5, ¶¶ 17-18]; [Apr. 13, 2016 Hr'g Tr. at 99-101]; [Apr. 13, 2016 Hr'g Tr. at 102-103], that he has lost count of them all. *See* [Apr. 8, 2016 Hr'g Tr. at 89]

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(testifying that a list of 16 "cases [in which he was] involved in as a plaintiff or a defendant" is incomplete, and that he could not be certain "how many more" cases there were, but estimated that it was at least "[s]ix, a dozen, maybe more"). According to one Sloan's Curve resident: "I think [the] first time I ever met him he told me he's involved in litigation with 23 people." [Police Interview].

Peerenboom not only inexplicably refused to consider the possibility that any of these individuals might be responsible for the hate-mail campaign, but did everything in his power to frustrate the efforts of the Perlmutters and law enforcement officials to investigate these obvious suspects. *See, e.g.*, [Defs.' Ex. 181]; [Sept. 9, 2015 Pl.'s Resp. to 4th Req. for Prod. at 1-2, No. 1] (Peerenboom refusing to provide any information to help the Perlmutters find the true culprit by providing any documents "containing false or defamatory statements" about him, documents relating to his prior lawsuits, or documents reflecting any recent "complaints, grievances, or criticisms asserted against" him). This critical information remained hidden from the Perlmutters both because Peerenboom refused to provide it in discovery – calling the Perlmutters' requests not only irrelevant, but "sanctionable," *see, e.g.*, [Defs.' Ex. 181]; [Apr. 8, 2016 Hr'g Tr. at 61-63]; [Sept. 9, 2015 Pl.'s Resp. to 4th Req. for Prod. at 1-2, No. 1] – but also because this is a cross-border case where the Perlmutters were denied the benefit of Florida's liberal civil discovery rules to obtain information that lurked beyond the subpoena power of this Court.

But the Perlmutters never gave up. On April 6, 2016, before Detective Menniti of the Palm Beach Police Department was scheduled to testify in an evidentiary hearing concerning Peerenboom's criminal and fraudulent scheme to collect, test, and disclose the Perlmutters' DNA, Det. Menniti's counsel asked to delay Det. Menniti's testimony for a period of 45 days. The criminal investigation into the hate-mail campaign would be concluded by that time, he said,

which would allow Det. Menniti to testify without fear of compromising the investigation. Although this Court denied his request and the hearing continued as scheduled, we now know the reason for this request. In January 2016, three months before the evidentiary hearing, the police intercepted a packet of hate mail and identified David Smith as the culprit, and the Palm Beach Police Department was winding down the criminal investigation.

The Perlmutters knew that police agencies have access to information denied to civil litigants and so, after waiting 45 days for the investigation to close, as Menniti represented, the Perlmutters immediately issued a public records request to the Palm Beach Police Department for the criminal investigation file. For the next 15 months, the Perlmutters persisted, sending request after request to the Palm Beach Police Department until, finally, on May 19, 2017, at 7:24 a.m., the Palm Beach Police Department responded. The Perlmutters, at long last, obtained the case supplemental report, which confirmed that they are innocent. The Palm Beach Police Department Case Supplemental Report is attached as Exhibit A.

2. *The Palm Beach Police Department Case Supplemental Report*

In January 2016 (17 months ago), United States Homeland Security agents based in Detroit, Michigan examined a suspicious package, bearing the shipper label UPSCV5572RFMMLK and tracking number 1Z V55 72 R 68 3911 6864, that had been intercepted by Customs and Border Protection agents assigned to the Detroit Advance Targeting Unit. The package was a hate-mail kit, which included a manila envelope labeled "Legal Documents Private and Confidential," containing printed hate-mail letters stuffed into postage-paid sealed envelopes with the addresses pre-printed on white laminated labels, and three latex gloves to allow the recipient to handle the contents without leaving any DNA or fingerprints. The sealed envelopes were pre-stamped as international first-class mail with the same Global Forever

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International Stamp that had been used for previous rounds of hate mail at issue in this case, and were pre-addressed on white laminated labels that had been used for previous rounds hate-mail envelopes at issue in this case. The hate-mail letters found inside the sealed envelopes match the hate mail at issue in this case, including, for example, letters in the same formatting, font-type, and style containing the same content, demanding that Peerenboom leave his home in Palm Beach, and threatening to inform various prison inmates that Peerenboom is a child molester. The letters were addressed to Peerenboom's wife and employees of his company, Mandrake, who had received hate-mail letters in the past. One of the letters also referenced Moongate, which is Peerenboom's vacation home in Keswick, Canada, where an unidentified person was captured on surveillance footage locking chains across the front gate.

The package was shipped from a UPS Store in Toronto, Canada to a UPS Store in Aventura, Florida. After law enforcement officials seized and inspected the contents of the package, they discovered that the Palm Beach Police Department was investigating the same case. Working with the Palm Beach Police Department, Homeland Security replaced the package with a dummy and arranged for the shipping information to reflect that the package was "in transit," to avoid arousing suspicion. With the full cooperation of the ownership and staff at the Aventura UPS Store, law enforcement officials began a surveillance operation at the store. Unfortunately the package was not picked up. Homeland Security contacted the federal authorities in Canada and the investigation continued there. This investigation revealed that David Smith mailed the package to himself from Toronto, Canada to Aventura, Florida using an alias.

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3. *David Smith*

David Smith is a former employee of Peerenboom's company, Mandrake, where he worked for 14 years, eventually rising to the rank of partner, and served as a director of a Mandrake affiliate. *See* David Smith, LinkedIN (May 29, 2017), available at https://goo.gl/uqxBLN. When David Smith mailed the package, he impersonated his current business partner, Tom Thorney. David Smith mailed the package from Toronto, Canada to himself in Aventura, Florida, so the hate-mail letters would arrive by U.S. Mail, from Florida, with Florida postmarks, to both conceal his identity as the sender and frame the Perlmutters as the culprits instead. The three latex gloves contained in the package would allow the sealed hate-mail envelopes to be handled upon their arrival in Florida without leaving his fingerprints or DNA. The handwritten text reading "Legal Documents Private and Confidential" that appeared on the manila envelope containing the sealed hate-mail letters appears to match the signature on David Smith's driver's license.

Numerous batches of hate mail – beginning with the first batch of hate mail in December 2012 – were sent to Mandrake employees, and David Smith obscured that he was the sender by including himself (and his spouse) as recipients of the hate mail. *See* [4th Am. Compl., Ex. A at 13, 23-24, 34-35, 44-45, 55-56, 66]. But this plan backfired because, unlike the other Mandrake recipients, David Smith's name does not appear to have been listed on Mandrake's webpage. By including himself among the Mandrake employees who received hate mail David Smith in fact narrowed the list of potential suspects to individuals – unlike the Perlmutters – who could have known that he was a Mandrake employee. Similarly, David Smith sent hate mail to a Mandrake employee and his wife at their home address, even though his wife has a different last name and is not listed in the phone book. Once again, by sending hate mail to individuals and

addresses that were only accessible to people associated with Mandrake, David Smith narrowed the list of potential suspects, and did so in a manner that excluded the Perlmutters.

The case supplemental report reflects that David Smith was contacted by law enforcement officials pursuant to their criminal investigation but he hired Frank Addario, a prominent Canadian criminal defense lawyer. Attempts by law enforcement officials to contact Mr. Addario have reportedly been unsuccessful, and there is total silence from both David Smith and his lawyer. Because the investigation has now focused on Smith in Toronto, the Palm Beach Police Department has suspended their Florida investigation. The criminal investigation is now being pursued by law enforcement authorities in Canada, where Peerenboom and the perpetrator both live.

4. *Steven Reesor*

According to Det. Menniti, he informed Peerenboom's private investigator, Steven Reesor, about the results of the police investigation identifying David Smith as the individual responsible for the hate-mail campaign months ago. And yet, just last week, Peerenboom and Kasowitz filed a scathing petition in an ancillary New York proceeding that they initiated to demand discovery from Marvel Entertainment and other Marvel employees, in which they falsely imply that the Perlmutters are still under criminal investigation for

> wag[ing] a years-long despicable and outrageous hate-mail campaign, [and] defaming Peerenboom in periodic waves of mass mailings of hundreds of anonymous letters . . . . [L]aw enforcement authorities, including the Palm Beach Police Department and the U.S. Postal Inspection Service, launched criminal investigations of the hateful anonymous letters . . . .

[May 25, 2017 Pet. for an Order to Enforce N.Y. Subpoenas at 2-3, 5].

Reesor, who made it a point to introduce himself to Det. Menniti at the outset of the Florida criminal investigation as a former Deputy Chief of the Toronto Police Department, *see*

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[Apr. 13, 2016 Hr'g Tr. at 60], worked "very closely" with Det. Menniti throughout the criminal investigation. [*Id*. at 77]. He "spoke to [Det. Menniti] regularly, updated [Det. Menniti] regularly," and met "face-to-face" with Det. Menniti whenever he was in Palm Beach. [*Id*. at 77]. Reesor received the critical disclosure concerning David Smith – which points up the misrepresentation in Peerenboom and Kasowitz's recent New York filing – directly from Det. Menniti himself.

Reesor also has a long-standing personal and professional relationship with Peerenboom that goes back 20 years, [*id*. at 53], and has served as Peerenboom's trusted agent in charge of his private hate-mail investigation. Over the years, Reesor has rendered investigative services to Peerenboom, to Peerenboom's company, Mandrake, and to Peerenboom's children. [June 3, 2016 S. Reesor Depo. Tr. at 7]. Indeed, Reesor prominently advertises his relationship with Mandrake on his firm's website. *See* Harbour Group Security & Investigations Inc. (May 29, 2017), available at https://goo.gl/Ix0az5. There would be no reason for Reesor to delay or conceal critical, case-dispositive information about this hate-mail investigation from his "high net worth client," Peerenboom. [*Id*.].

On June 3, 2016 – four months after law enforcement agents unmasked David Smith – Steven Reesor appeared for a deposition. He testified under oath that the main suspects were "Ike Perlmutter and Stephen Raphael." [June 3, 2016 S. Reesor Depo. Tr. at 104-05]. But when the Perlmutters attempted to ask him about other likely suspects, Kasowitz – who was jointly representing Peerenboom and Reesor for purposes of the depositions – stopped the Perlmutters dead in their tracks:

> Q. [D]uring your investigation, did you look into other suspects outside the ones we have discussed so far today?

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> [Kasowitz]: Hold on. Let me speak with the witness for a minute in relation to matters off the record.
>
> * * *
>
> [Kasowitz]: So, further to my comments earlier this morning, [Reesor] cannot testify and will not testify as to contemplated suspects or any strategy applied during his investigation and who they considered to be suspects or not to be suspects and why they decided to take materials from certain individuals.

[*Id.* at 105-06].

Kasowitz likewise refused to allow Reesor to respond to the Perlmutters' questions about any individuals – like David Smith, for example – who may have had access to the private information necessary to send the hate mail, such as the names of the spouses of Mandrake employees who received hate mail and the personal addresses of the Mandrake employees who received hate mail at their homes:

> Q. A number of these letters were sent to executives and other people at the various Mandrake entities. Did you do any investigation to determine how one could obtain the addresses of these people?
>
> [Kasowitz]: Object to the form and instruct the witness not to answer based on privilege.
>
> Q. Some of these people were sent letters at their home addresses. Did you do any investigation as to where or how one could obtain the home address of Mandrake employees?
>
> [Kasowitz]: Objection to the form and objection, instruct the witness not to answer based on privilege.

[*Id.* at 108-09]; *accord* [*id*. at 111] (Kasowitz objecting and instructing Reesor not to answer whether "any investigation done on anyone outside of the suspects named by Harold Peerenboom").

At the time Reesor was deposed, the Perlmutters were unaware of the evidence linking David Smith to the mailings, but since that fact has come to light, the landscape has shifted

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dramatically. Kasowitz's objections clearly frustrated the Perlmutters' ability to get to the truth about David Smith, and the Perlmutters must be given the opportunity to question Reesor further. Not only has Reesor been Peerenboom's primary liaison for communications with Det. Menniti, [Apr. 8, 2016 Hr'g Tr. at 130-31] (Menniti testifying that he "spoke mainly with Steve Reesor" after the initial stages of the investigation), but he also has strong ties to the Toronto Police Department, which is conducting the criminal investigation into David Smith. His testimony is crucial to putting an end to Peerenboom's scheme to falsely accuse the Perlmutters of crimes that they did not commit.

5. *Peerenboom's Suspicious Conduct*

It would seem rational that once Peerenboom found out that David Smith was behind the hate mailings he would have dropped this lawsuit and made the appropriate apologies to the Perlmutters. But he did not. He continued making the same now-proven false accusations in order to continue this lawsuit. Peerenboom's irrational conduct raises disturbing questions about his motivations.

Sloan's Curve residents and employees who are familiar with the case, as well as the police detective responsible for investigating it, all voiced suspicions that ***Peerenboom himself*** might be responsible for the hate-mail campaign: When Peerenboom's counsel asked a Sloan's Curve employee if she "ha[d] a theory of [he]r own as to who is doing this," she testified, "I think Mr. Peerenboom is doing it." [Feb. 11, 2015 P. Wesson Depo. Tr. at 46]. A Sloan's Curve resident similarly testified that, given what "I've read about Peerenboom's past exploits," his public comments "that he would settle the thing for $400 million" or "$600 million . . . ," and the transparent hints in the letters "pointing . . . to Ike Perlmutter," "I thought Peerenboom was sending out the hate mail, because he knows that Ike Perlmutter is a multibillionaire and wanted

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to hold him up for some money." [Nov. 30, 2016 S. Raphael Depo. Tr. at 180-81]; *accord* [*id*. at 182] ("I believe it was [Peerenboom]" who "sent them."). Another resident told Det. Menniti in an interview that, "based on [Peerenboom's] past action [and] behavior," it is possible that "Mr. Peerenboom may be circulating the letters." When that resident admitted that his theory may sound "farfetched," the lead Palm Beach Police detective investigating this matter responded: "I don't take it as farfetched," and added that "it's not the first time that I've heard that scenario." [Police Interview].

B. The Extortion Scheme

In the pleading that started this lawsuit – and in every pleading since – Peerenboom saw fit to highlight that the Perlmutters are "widely reported" to be "billionaire[s]," even though that has nothing to do with his legal claims. [Compl. at 24, ¶ 78]; *accord* [4th Am. Compl. at 16, ¶ 72]; [3rd Am. Compl. at 15, ¶ 66]; [2d Am. Compl. at 12, ¶ 56]; [Am. Compl. at 12, ¶ 56]. That gratuitous allegation betrays Peerenboom's motivation to focus exclusively on the Perlmutters – and their fictitious "crew" – as the suspects in the letter-writing campaign, as well as his commitment to frustrate the efforts of police and the Perlmutters to uncover the true culprit.

1. *The June 2011 Articles That Appear to Have Inspired the Extortion Scheme*

The narrative reflected in Peerenboom's complaint begins in 1991, when the Perlmutters began living at Sloan's Curve, a residential community in Palm Beach. Eventually, the Perlmutters developed a "close relationship" with Karen Donnelly, who operates the local tennis center, and Mr. Perlmutter, "an avid tennis player," became "an influential member of an *ad hoc* 'tennis committee.'" [4th Am. Compl. at 6, ¶¶ 22, 25]. Twenty years later, when Peerenboom "moved into a single-family home at Sloan's Curve" in 2010, [4th Am. Compl. at 5, ¶ 19], he

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"attempt[ed] to prompt . . . changes in how the Tennis Center Contract is handled." [4th Am. Compl. at 6, ¶ 23].

Based on Peerenboom's sudden and active political involvement in matters affecting the Perlmutters and their community, Mr. Perlmutter did what most of us would do: he asked his assistant to run an internet search on Peerenboom's name to learn who he is. And that internet search yielded troubling results. The articles described how Peerenboom, who had been billed a political "reformer" for public projects in Canada, in fact "spent millions on lawyers and detectives in a cloak-and-dagger campaign," and "as much energy . . . junketing first-class all over Europe." They also showed how Peerenboom misled government investigators by denying that he had flown on a private jet to a Stanley Cup playoff game with a political ally who had been accused of accepting kickback**s**, until flight records, customs documents, cellphone records, and his ally's own admissions to the contrary forced Peerenboom to submit a sworn statement to correct his purported memory lapse. *Accord* [Countercl. at 3-6, ¶¶ 14-27] (providing examples of numerous news reports identifying Peerenboom as "Scary Harry Perry" and describing his "unsettling penchant for personal and political vendettas" that caused him to become the subject of death threats prior to September 1999, as well as his propensity to misuse criminal accusations to intimidate and retaliate against individuals who oppose him). Thus, in June 2011, a year and a half before the hate-mail campaign began, Mr. Perlmutter hand-delivered and had his assistant email to his friends copies of those publicly-available and true articles published, without any alterations, and without any commentary of any kind, let alone a single defamatory word. He additionally mailed copies of the same materials to friends, neighbors and Sloan's Curve board members in envelopes with a return address of High Ridge Country Club, of which Perlmutter was a member. Thus began and ended the Perlmutters' involvement in the matters alleged in

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Peerenboom's complaint. It appears that this innocuous mailing gave Peerenboom and/or David Smith the idea to frame the Perlmutters.

2. *The Hate Mail Campaign That Serves as the Foundation for the Extortion Scheme*

In December 2012 – 18 months later – Peerenboom alleges that the hate-mail campaign began. *See* [4th Am. Compl. at 18, ¶ 81]. These letters, which Peerenboom himself described as being "vastly" and "strikingly" different in "tone" and "content" than the June 2011 articles, *see* [4th Am. Compl. at 8, ¶ 37]; [3rd Am. Compl. at 8, ¶ 37]; [2d Am. Compl. at 8, ¶ 37]; [Am. Compl. at 8, ¶ 37]; [Compl. at 20, ¶ 61], match the letters in the packet sent by David Smith. In contrast to the modest collection of articles from the internet that Mr. Perlmutter had distributed to his neighbors a year and a half earlier, these anonymous screeds were original works of unhinged drivel that contained outrageous lies about Peerenboom's sexual assault of an eleven-year old boy at knifepoint and involvement in a double murder, which were supposedly sent to a wide circle of Peerenboom's business associates, including distant associates whom the Perlmutters would have no ability to identify, and prison inmates. These hate-mail letters – with a recurring litany of tell-tale signs that hinted that the Perlmutters were responsible for sending them – appeared once per month for nearly a year, and then every couple of months thereafter.

Although David Smith's hate-mail letters are distasteful, Peerenboom was likely complicit – or at least indifferent – to the campaign. The letters were only sent to individuals who knew Peerenboom personally. And because their content is so outrageous that no intelligent person could take them seriously, they did not cause Peerenboom to suffer any actual harm, and ultimately reflected more poorly on the apparent sender (i.e., the Perlmutters) than the subject (i.e., Peerenboom). *See* [SMARTIN_0000001] (email chain to Peerenboom and other Sloan's Curve residents remarking that, if Peerenboom "is right[,] this Ike [Perlmutter] is a mental case";

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"he thinks he is untouchable"). In fact, after representing to the Court that "the lost business" resulting from the hate mail "enormous" and "immense," [Oct. 14, 2014 Hr'g Tr. at 13, 24], he eventually conceded, after two and a half years of litigation, that "***there are no documents to support his individual economic losses***." [Apr. 5, 2016 Hr'g Tr. at 9] (emphasis added).[1]

In this same connection, the only potentially disturbing hate-mail letters are the ones that Peerenboom alleged had been sent to prison inmates for the purpose of instigating them "to come attack Mr. Peerenboom . . . or worse yet . . . his family." [May 27, 2015 Hr'g Tr. at 28]. But if Peerenboom had actually been disturbed by those letters, he would have immediately attempted to determine whether they were actually sent or received by any prison inmate, which would have been a simple task because prison mail is screened before it is delivered to the inmates, and any such letters would have been reported and logged. And if Peerenboom had done even that minimal amount of due diligence, he would have discovered that not all of the alleged prisons are operational, and none of the prisons that were operational had any record – or least none that we could find – reflecting that such correspondence was ever sent to, much less received by, any inmate. So when the Perlmutters asked Peerenboom to "[i]dentify all facts and documents establishing that [such] letters . . . were ***actually*** sent to or received by any inmate," other than the anonymous threats to send such letters, [Aug. 5, 2015 Defs.' First Set of Interrogatories to Pl. No. 12] (emphasis added), Peerenboom pretended that such evidence existed but was shielded by a claim of privilege. [Nov. 3, 2016 Pl.'s Opp'n to Defs.' Mot. to Compel at 3]; *accord* [Dec. 1,

[1] Consistent with his pattern of pretending that supporting information exists, but that the Perlmutters are not entitled to see it, Peerenboom refused to produce Mandrake's "profit and loss statements" on the grounds that it "is neither relevant nor likely to lead to the discovery of relevant information," [Sept. 9, 2015 Pl.'s Responses and Objections to Defs.' Fourth Req. for the Produc. of Docs. No. 28], and two years into the litigation incredibly complained that the Perlmutters' request for "a 'precise' calculation" of his business losses was "improper and . . . premature." [Jan. 29, 2016 Pl.'s Opp'n to Defs.' Mot. to Compel at 2].

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2016 Hr'g Tr. at 7] ("[T]hat is getting into counsel's work product in terms of investigating where these letters came from."). When the Court eventually forced Peerenboom to end the charade and disclose whether there is any evidence – other than the anonymous threats to send such letters – that any threatening letter has been sent to any prison inmate, he was finally forced to admit that "the answer is . . . no[.]" [Dec. 1, 2016 Hr'g Tr. at 7].[2]

Peerenboom's initial expressions of dismay about the hate-mail letters dissipated quickly, and were eventually replaced by elaborate fantasies, including an incident – that never occurred – in which the Perlmutters supposedly offered "to settle the dispute privately," first for $20 million, and then for $100 million, both of which offers Peerenboom refused because he would only "be prepared to let this thing slide" for $400 million. *See* Robert Fife, *The Battle of Palm Beach,* THE GLOBE AND MAIL, Apr. 15, 2016. Later, scuttlebutt among Sloan's Curve residents emerged that Peerenboom "would settle the thing for . . . $600 million." [Nov. 30, 2016 S. Raphael Depo. Tr. at 181]. With so much riding on his extortion scheme, Peerenboom is adamant: "WE ALL WANT A WIN ON THIS." [Pl.'s Ex. 10]. And his friends are jubilant: "[I] hope that you win big time!" [SMARTIN_0000004].

3. *Peerenboom and David Smith Frame the Perlmutters*

Peerenboom and David Smith's interests in framing the Perlmutters for the hate-mail campaign were perfectly aligned. David Smith gathered information about the Perlmutters that were a matter of public record and dropped prominent breadcrumbs in the hate-mail letters that would point to the Perlmutters as the culprits. Peerenboom, in turn, gobbled them up. Putting

[2] Peerenboom later reiterated that he "is not aware of any other documents or other evidence that the anonymous prison letters were sent to or received by a particular prison inmate," but inexplicably added that "unknown third parties . . . plac[ed] locks on the private gate to his Canadian residential property." [Jan. 25, 2017 Pl.'s Am. Resp. Defs.' First Set of Interrogatories No. 12].

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aside the fact that it would not make sense for the Perlmutters to transparently identify themselves in a supposedly ***anonymous*** hate-mail campaign, David Smith's efforts were so clumsy they could only possibly fool someone – like Peerenboom – who either wanted to be fooled or was in on the act.

For example, Peerenboom points out that "the letters contain Hebrew slang and profanity," which link the Perlmutters to the hate-mail campaign because it is well-known that "Mr. Perlmutter, who is from Israel, speaks Hebrew." [Oct. 13, 2014 Pl.'s Reply in Supp. of Renewed Mot. for Leave at 3]. But the Hebrew and Yiddish expressions contained in the hate mail were lifted directly from a website, even copying the same spelling and usage errors that no native speaker would make. Similarly, Peerenboom points out that the letters were "mailed and postmarked from a West Palm Beach zip code," [Compl. at 3, ¶ 5]; [2d Am. Compl. at 8, ¶ 37], but we now know that David Smith was mailing the hate mail packets from Canada to himself in Florida to make it appear as though the letters originated from the Perlmutters' local post office. Similarly obtuse examples abound, yet fail to comprise – alone or in concert – a case against the Perlmutters that could overcome the most cursory critical analysis.

4. *Peerenboom and his Legal Team Frame the Perlmutters by Illegally and Fraudulently Collecting and Testing Their DNA, Concealing the Genuine Exculpatory Results, and Disclosing a Distorted Inculpatory Result in Furtherance of the Extortion Scheme*

The centerpiece of the extortion scheme commenced in February 2013, when Peerenboom and his legal team: secretly collected the Perlmutters' DNA under false pretenses (which was a fraud on the court); subjected it to unauthorized testing without their knowledge or consent (which is a crime); failed to provide the Perlmutters notice that their DNA had been tested and the results had been disclosed (which is also a violation of Florida law); concealed from police the genuine DNA results that were exculpatory as to the Perlmutters (which is

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another crime); and provided false information to the police that tended to inculpate the Perlmtuters (which is a crime as well).

As this Court put it, Peerenboom committed "a fraud on the trial court" by directing his attorney in a separate lawsuit, William Douberley, to "use the subpoena power of the court to depose the Perlmutters" as nonparty witnesses in that lawsuit as a pretext "to obtain the Perlmutters' DNA samples without their consent." [July 1, 2016 Court Order at 13-14]. Not only were the Perlmutters' depositions noticed under "false pretenses," [*id*. at 14], but the Perlmutters were asked to handle phony exhibits to secure their fingerprints and DNA, which would later be used to frame them in connection with the hate-mail campaign in this case. "Peerenboom repeatedly asserted during his testimony . . . that it was . . . Douberley's idea to collect [the Perlmutters'] DNA." [*Id.* at 4]; *accord* [Apr. 8, 2016 Hr'g Tr. at 107-08]; [Apr. 13, 2016 Hr'g Tr. at 127]; [Apr. 22, 2016 Hr'g Tr. at 20]. Douberley testified that it was Peerenboom's idea. [Apr. 8, 2016 Hr'g Tr. at 57]. When asked to elucidate his role in the DNA scheme, Douberley invoked his Fifth Amendment privilege and refused to testify. [Aug. 26, 2015 W. Douberley Depo. Tr. at 82-83]. Both Peerenboom and Douberley cannot be telling the truth; either Peerenboom or his attorney lied under oath about defrauding the courts and committing crimes for the purpose of framing and/or extorting the Perlmutters.

Peerenboom testified that he "became aware of" Florida Statute § 760.40, "which prohibits the testing and publication of DNA samples without the informed consent of the person to be tested," during a meeting with Kasowitz in April 2013. [July 1, 2016 Court Order at 7]. Yet, he continued to analyze the Perlmutters' DNA and disclose the results, [*id*. at 19], with the full knowledge and participation of Kasowitz. Moreover, although that same statute requires any "person who performs DNA analysis or receives records, results, or findings of DNA analysis"

to "provide the person tested with notice that the analysis was performed or that the information was received," Fla. Stat. § 760.40, both Peerenboom and Kasowitz withheld such notice from the Perlmutters for more than a year. By fraudulently concealing the DNA scheme from the Perlmutters, despite a legal duty to disclose it, Peerenboom and Kasowitz conspired to deprive the Perlmutters of their ability to protect their legal rights and prevent the harmful disclosures that followed. The "results of the Perlmutters' DNA analysis" were disclosed "to multiple parties, including," among others, "Reesor, Detective Menniti, Speckin, an employee of Speckin Laboratories, and an official at the Canadian Broadcasting Company." [July 1, 2016 Court Order at 18-19].

The Perlmutters' DNA was initially analyzed by Dr. Elmer Otteson of Genquest DNA Laboratory, and he produced results that were completely exculpatory as to the Perlmutters. *See* [Apr. 8, 2016 Hr'g Tr. at 98-99]. But Speckin Laboratories, who Peerenboom's own counsel referred to as a "hired gun," [May 26, 2016 Hr'g Tr. at 13], was commissioned to conduct an unnecessary, second-layer review of Dr. Otteson's analyses. Peerenboom remained in constant contact with Speckin, speaking with its principal on the phone between 65 and 120 times, [Apr. 8, 2016 Hr'g Tr. at 101], and implied that he was willing to pay a premium for results that would support his extortion scheme. [Def.'s Ex. 227-9] ("[H]e can charge me triple price."); [June 23, 2015 E. Speckin Depo. Tr. at 88] ("[M]oney is no object [i]n this case"). To satisfy its demanding client, Speckin disregarded the conclusions reached by Dr. Otteson of Genquest, the laboratory and scientist that had actually performed the DNA analysis, [Apr. 22, 2016 Hr'g Tr. 39-40], and instead limited its focus to Peerenboom's "selective determination . . . as to who the suspects were," (e.g., the Perlmutters), [Apr. 25, 2016 Hr'g Tr. at 45], and relied on the one single data point (out of many) generated by one single erratic test run (out of many) of one

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single DNA sample (out of many) taken from one single piece of mail (out of many). [Apr. 13, 2016 Hr'g Tr. at 83]. The results of this exercise in biased junk science notably failed to allow even Peerenboom's "hired guns" to conclude that there had been a DNA "match," although they opined that Mrs. Perlmutter "cannot be excluded" as a suspect. [Defs.' Ex. 34]; [Apr. 8, 2016 Hr'g Tr. at 99].

Armed with that dubious finding, which was the best that his self-described "hired guns" could muster, Peerenboom and his team provided false and incomplete information to police in violation of Florida law. *See* Fla. Stat. §§ 837.05 ("[A] person who knowingly gives false information to a law enforcement officer concerning the alleged commission of any crime commits a misdemeanor of the first degree"); 918.13 (making it a felony to "conceal[ ] or remove any record, document, or other thing with the purpose to impair its verity or availability in such proceeding or investigation"). In June 2015, Detective Menniti requested "an overview of circumstances that had taken place," so he could get "a grasp of what took place in the labs," including "information about chain of custody." [Apr. 13, 2016 Hr'g Tr. at 46]. In other words, he asked for information that would have revealed Genquest's reports that exculpated the Perlmutters. But Peerenboom and his team provided Det. Menniti with incomplete and misleading materials, including a chain of custody report reflecting that the "[e]vidence [c]ollected" was "turned over to [Speckin] for DNA processing," [Pl.'s Ex. 24-25], without mentioning that the evidence was, in fact, delivered to Genquest, the laboratory that conducted the tests and excluded the Perlmutters as suspects.[3] Accordingly, Det. Menniti was left with the false impression that Speckin "actually did the DNA testing," and that its skewed analyses would

[3] The forensic evidence was actually sent to a middle-man entity associated with Speckin, named Semen and Sperm Detection Incorporated, before it was ultimately forwarded to Genquest. [Apr. 25, 2016 Hr'g Tr. at 31-33].

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represent the last word concerning any DNA evidence. [Apr. 13, 2016 Hr'g Tr. at 38] (Det. Menniti testifying that he was neither "aware that Speckin has no DNA equipment at all" nor that Speckin "outsource[s] all of [its] DNA work to another laboratory"). Indeed, until Det. Menniti was confronted with the exculpatory Genquest report by the Perlmutters' counsel during the evidentiary hearing, he had never seen it before and was not "aware that the results of the actual testing actually exclude the Perlmutters from the hate mail." [Apr. 13, 2016 Hr'g Tr. at 39-40].

As if it were not enough that Peerenboom's hired guns generated a distorted report opining that Mrs. Perlmutter "could not be excluded" as a suspect, Peerenboom and Kasowitz made matters much worse by persistently misrepresenting in its court papers and other public forums that they had in fact identified a DNA "match" linking the Perlmutters to the hate mail, which simply is not true. *See, e.g.*, [Apr. 8, 2016 Hr'g Tr. at 21-22]; [May 13, 2016 Pls.' Post-Hr'g Submission in Opp. to Defs.' Mot. to Compel at 3, 6, 15, 19] [July 1, 2016 Mot. to Compel Defs. to Pay Non-Party Fees and Expenses at 3]; [Sept. 16, 2016 Pl.'s Mot. to Dismiss Countercl. at 2]; [Nov. 7, 2016 Hr'g Tr. at 13]; [Apr. 17, 2017 Pl.'s Answer and Affirmative Defenses to Am. Countercl. at 6]. After Peerenboom and Kasowitz dragged Marvel Entertainment into court in New York, they repeated the lie in those ancillary discovery proceedings, claiming that Mr. Perlmutter remains "a prime suspect in th[e] ongoing criminal [hate mail] investigation," in part based on purported "test results" reflecting a "match between DNA found on a water bottle used by [Mrs. Perlmutter] and DNA recovered from one of the hate mail letters." [Aug. 12, 2016 Pet'r's Mem. of Law in Opp'n to Mot. for Protective Order at 3]. Peerenboom also planted that damaging misrepresentation in at least one publication authored by his friend, Robert Fife, *see* Robert Fife, The battle of Palm Beach, THE GLOBE AND MAIL, Apr. 16, 2016, at A19 (quoting

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Peerenboom that "I got a call from the Erich Speckin lab and . . . [t]he female DNA is Mrs. Perlmutter."), and it was reported in other media outlets as well.

5. *Peerenboom and His Legal Team Continue Their Pattern of Deception to Advance the Extortion Scheme*

After throwing their lot in with Peerenboom and his criminal plot, Kasowitz has been forced to spin a web of lies, distortions, and misrepresentations to advance the extortion scheme and to conceal its fraudulent and illegal components. Although Kasowitz attempted to distance itself from the extortion scheme by misrepresenting that "[t]he DNA evidence pre-dated Mr. Peerenboom's engagement of our firm," and that Peerenboom's cooperation with the" Palm Beach Police Department, "which involv[ed] the collection and analysis of the DNA evidence, did not involve our law firm," [July 23, 2014 Correspondence from M. Bowen to M. Goldberg], we now know that is not true.

"In or about March, 2013," in the thick of the DNA scheme, Peerenboom retained Kasowitz "to provide legal representation in connection with the issues that are now the subject of the above-styled matter . . . ." [Jan. 30, 2014 Verified Mot. for Admis. to Appear *Pro Hac Vice* at 2]. Between March and April 2013, Peerenboom, Kasowitz, and Reesor exchanged a series of emails concerning, among other things, the "Perlmutter[s'] deposition[s]" in which their DNA was stolen. In April 2013, Peerenboom's investigator, Reesor, "met [with Kasowitz partner, Michael Bowen,] in [his] law office in New York City," and discussed the "Statute [concerning the] collection of DNA." [Apr. 13, 2016 Hr'g Tr. at 87].

Kasowitz, however, baldly misrepresented that Peerenboom's "cooperation with the PBPD" involving "the collection and analysis of the DNA evidence . . . did not involve our law firm." [July 23, 2014 Correspondence from M. Bowen to M. Goldberg]. But according to correspondence that was recently obtained from Det. Menniti – and not produced by Peerenboom

and Kasowitz in discovery – it turns out that Kasowitz wrote to Det. Menniti in April 2013 to "enclose a report of the DNA analysis so far," and in which Kasowitz promised to "immediately provide any additional reports to you," before stating that Kasowitz "look[s] forward to continuing, and augmenting, Mr. Peerenboom's assistance with law enforcement." [Defs.' Ex. 224]. Kasowitz, in other words, has been involved from the start, and lied about it.

To conceal the fact that the Perlmutters' DNA had been collected under false pretenses, as well as tested and disclosed in violation of Florida criminal law, Peerenboom and Kasowitz filed a complaint for a pure bill of discovery in which they sought "to take discovery of" the Perlmutters. [Compl. at 95]. The Court was taken aback by the peculiar invasiveness of the discovery that Peerenboom and Kasowitz sought: "Do you want to talk about the nature of the discovery? I mean, DNA evidence, it seems overwhelming, the discovery that you're seeking at this point in time." [Feb. 11, 2015 Hr'g Tr. at 43-44]. We now know that, in addition to being "overwhelming," Peerenboom and Kasowitz's request to conduct DNA testing was deceptive, as well. Although the Perlmutters and the Court did not know it at the time, the Perlmutters' DNA had already been fraudulently collected and illegally tested, and the Court's after-the-fact authorization would have given Peerenboom and Kasowitz the tools necessary to whitewash the fraudulent and criminal conduct that had occurred. *See* [Apr. 8, 2016 Hr'g Tr. at 66-68] (Peerenboom admitting that he asked the Court to require the Perlmutters to submit to genetic testing months after he had already done so without the Perlmutters' knowledge or consent). This Court ultimately dismissed Peerenboom and Kasowitz's complaint as an improper use of the pure bill of discovery. [Feb. 24, 2014 Court Order at 5].

In the context of pursuing the complaint for a pure bill of discovery, Kasowitz was unequivocal: As of February 2014, Kasowitz represented that it did not "have a good faith basis"

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to "make any . . . claims against" the Perlmutters consistent with its ethical obligations to the Court, and Kasowitz admitted that to assert such a claim "would be irresponsible." [Feb. 11, 2014 Hr'g Tr. at 33-34, 36]; *accord* [Feb. 24, 2014 Court Order at 5] ("Plaintiff contends that to initiate a cause of action . . . would be irresponsible"). Mere weeks after admitting the absence of any good-faith basis to assert any claims against the Perlmutters, and with no new information to support the claims that they had characterized as "irresponsible" to assert only weeks before, Kasowitz filed the complaint for damages against the Perlmutters. When the Perlmutters asked Kasowitz to "identify the requisite good faith basis for filing" the Amended Complaint after the Pure Bill of Discovery, Kasowitz stonewalled, contending that any such information was protected from disclosure by the attorney-client privilege or work product doctrine. *See* [May 6, 2014 Mot. to Appoint Special Magistrate at 1-2]. Consistent with Peerenboom's pattern of lodging privilege objections to hide the absence of any evidence to support his claims, it is fair to infer that no such information exists.[4]

If Peerenboom and Kasowitz stretched the truth in their interactions with this Court, the police, and the Perlmutters, then they snapped it when describing this case to other courts that are not as familiar with these proceedings. When Peerenboom and Kasowitz sought a writ of certiorari from the Fourth District Court of Appeal, for example, many of the statements in their brief were flatly inconsistent with the record, as shown in the chart that filled the first three pages of the Perlmutters' response. *See* [Jan. 25, 2017 Consolidated Response to Pets. for Writ of Cert.

[4] This Court took the extraordinary step of requiring Peerenboom to create a record – "in a closed and secure envelope" to be maintained in the Court's file "until the Court adjudicates, if necessary, [the Perlmutters'] Motion for Sanctions" – comprising the (purportedly privileged) facts that gave rise to a good-faith basis to support Peerenboom's claims against the Perlmutters at the time the complaint for damages was filed. [May 29, 2014 Court Order at 1-2]. The Perlmutters' motion for sanctions remains pending and, absent a prompt and mutually-agreeable resolution of this matter, it will be necessary for the Court to adjudicate it.

at 1-3]. Among other things, Peerenboom and Kasowitz ignored Peerenboom's admission that he "disclose[d]" the "results of the [DNA] testing" to a "man named Fife, [who] works at the CBC, the Canadian Broadcasting Company," and told the Fourth District Court of Appeal that this Court's Order was "erroneous" because "[t]here is no evidence of . . . what was said" during "Peerenboom's discussion . . . with Robert Fife, a reporter." [*Id*. at 2].

Similarly, when Peerenboom and Kasowitz initiated ancillary proceedings in New York to demand discovery from Marvel Entertainment, they again made numerous false and misleading assertions. *See* [Mar. 21, 2016 Reply Mem. in Support of Mot. for Protective Order at 3-4]. Among other things, they repeated the false assertion that "the Perlmutters brought five separate motions to have the case dismissed," and that this Court, "[i]n each instance, after oral argument, . . . denied" those motions to dismiss. [May 25, 2017 Pet. for an Order to Enforce N.Y. Subpoenas at 6]. As this Court knows – but as the New York court could not know – the Perlmutters have not filed five motions to dismiss, this Court has not had five oral arguments on such motions, and with the exception of a single one, each of the Perlmutters' motions to dismiss were ***granted*** in whole or in part. In another filing, Peerenboom and Kasowitz told the New York court that this Court "has repeatedly held that, based on the facts alleged and factual showings in [this] proceeding to date, Perlmutter is responsible for the horrendous and extortionate hate mail campaign that is the focus of [this] Action." [Aug. 12, 2016 Pet'r's Mem. in Opp'n to Mot. for Protective Order at 2]. Of course, contrary to the misrepresentation Peerenboom and Kasowitz made to another court unfamiliar with these proceedings, this Court has not made a factual determination concerning the ultimate disputed issue in this case that the Perlmutters are "responsible for the . . . hate mail campaign." Worse yet, this false statement was made in August 2016, a full seven months after the police intercepted the packet of hate mail sent by

David Smith, confirming that the Perlmutters were not responsible for the hate mail campaign after all.

It is no wonder that this Court has already found – after a four-day evidentiary hearing in which Peerenboom testified for the better part of a full day – that Peerenboom is "not credible," [July 1, 2016 Court Order at 3], and that "a critical portion" of the testimony that he offered under oath, on the record before this Court, "was inconsistent with that of other witnesses and documentary evidence." [*Id*. at 3, 14, 19]. Peerenboom was the only witness whose testimony this Court found to be not credible. Based on the course of these proceedings to date, it appears that Peerenboom's propensity for misrepresentation has infected his counsel, Kasowitz.

6. *The Efforts to Conceal the True Culprit, David Smith*

Peerenboom's greed not only caused him to imagine (or fabricate) connections between the Perlmutters and the hate-mail campaign that did not exist, but also motivated him to go to great lengths to protect the true culprit from ever being unmasked. Recall that David Smith, the person we now know to be responsible for the hate-mail campaign, is a Canadian who worked at Peerenboom's company, Mandrake, for nearly 15 years, and was a director of a Mandrake affiliate. Recall also that police intercepted a packet of hate mail sent by David Smith in January 2016. Recall finally that Peerenboom's investigator had knowledge of that critical fact by March 2017 at the latest. Now consider the following:

There is reason to believe that Peerenboom and Kasowitz knew – or at least suspected – that David Smith was responsible for the hate-mail campaign from the start. For example, in January 2013, the first batch of hate mail included a number of letters that were sent to employees at Mandrake at their office address. Peerenboom and his executive assistant collected the letters that were sent to the Mandrake office and sent an email to the employees to whom the

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letters were addressed, asking them not to open any envelope with a US stamp or a Florida or Palm Beach post mark so that they could be inspected by postal authorities and police investigating the hate-mail campaign. Conspicuously, however, David Smith was not a recipient of these emails, even though he sent several hate mail letters to himself at the Mandrake office. [4th Am. Compl., Ex. A at 13, 23-24].

Similarly, Peerenboom's discovery violations in this case have been precisely targeted to make it harder for the Perlmutters to learn about David Smith. For instance, Peerenboom received an email from a Mandrake employee who reported that he and his wife received hate mail that had been sent to their home address, even though his wife has a different last name and is not listed in the phone book. Although this email narrows the field of potential suspects to current and former Mandrake employees who would have had access to such information (like David Smith) and eliminates members of the public who would not (like the Perlmutters), Peerenboom never produced this email in discovery.

Likewise, when the parties met and conferred to establish an electronic discovery protocol, the Perlmutters specifically requested that Peerenboom search his electronic records for the name "David Smith." Although the Perlmutters had no way of fully appreciating the significance of this proposed search term at the time, Peerenboom and Kasowitz only agreed to search for the email address associated with David Smith, a former Canadian senator. Peerenboom and Kasowitz claimed that it would be unduly burdensome to search for documents relating to that particular Mandrake employee (even though they demanded – and the Perlmutters agreed – to search their own electronic records for the names of various Marvel employees), and that to do so would generate too many responsive documents (even though the number of

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additional responsive documents would represent a small fraction of the voluminous number of documents that have been exchanged in discovery in this case).

And, finally, this Court ordered that Peerenboom "permit the Perlmutters to inspect the subject letters and envelopes in [Peerenboom]'s possession, custody, or control . . . ." [Apr. 6, 2016 Order at 2]. In May 2017, the Perlmutters and their evidence technicians conducted for an inspection of the hate mail consistent with the Court's Order. It turned out, however, that Peerenboom and Kasowitz did not produce for inspection a box of hate mail that Peerenboom had in his possession, custody, and control in Canada. Only three days before Det. Menniti was to inform the Perlmutters that David Smith had been identified as the culprit of the hate-mail campaign – information that had already been known to Peerenboom's investigator for months – Peerenboom and Kasowitz came clean about the missing box of hate mail.

In addition to those discovery violations, Peerenboom continued to cover the trails leading to David Smith (while publicly smearing the Perlmutters) even after David Smith emerged as the individual responsible for the hate-mail campaign. For example, in August 2016 – seven months after police had intercepted the packet of hate mail sent by David Smith and four months after Det. Menniti told this Court that the conclusion of the criminal investigation was imminent – Peerenboom told a court in New York that Mr. Perlmutter remains "a prime suspect in th[e] ongoing criminal [hate mail] investigation." [Aug. 12, 2016 Pet'r's Mem. of Law in Opp'n to Fourth Mot. for Protective Order at 3]. *Accord* [Sept. 16, 2016 Pl.'s Mot. to Dismiss Countercl. at 3-4] (Peerenboom accusing the Perlmutters, in September 2016, of "deflect[ing] the Court's attention from their role in the hate mail campaign and to further delay the efficient and orderly adjudication of Peerenboom's claims.").

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In November 2016 – eleven months after police intercepted the packet of hate mail sent by David Smith and seven months after Det. Menniti told this Court that the conclusion of the criminal investigation was imminent – Peerenboom ridiculed the Perlmutters' reasonable request to learn about any individuals who might have sent the hate mail because they had sued or been sued by Peerenboom in the past: "Why the Perlmutters believe any of this is within the proper scope of discovery is anyone's guess. . . . These requests are . . . intended to harass and annoy [and are] nothing more than an attempt to tar Peerenboom with a 'dirty past.'" [Nov. 3, 2016 Pl.'s Opp'n to Defs.' Mot. to Compel at 1-2]; *accord* [Dec. 14, 2016 Hr'g Tr. at 4-5] (Peerenboom refusing to produce documents relating to an incident that he characterized as a "dramatic confrontation" in which he was charged with "physically assaulting his sister-in-law").

In March 2017 – around the time that police informed Peerenboom's investigator about David Smith – Peerenboom resisted the Perlmutters' efforts to learn about the Mandrake clients who allegedly received hate mail, and were thus likely to have discoverable information about former Mandrake employee and partner David Smith in particular. Peerenboom complained that "these discovery demands are nothing more than harassment," because "[t]here is no justification for the Perlmutters' . . . requests" for "information pertaining to nonparties that has no conceivable relevance to the issues in dispute in this litigation." [Mar. 27, 2017 Pl.'s Opp. to Defs.' Mot. to Compel at 2].

In April 2017 – by the time that Peerenboom's investigator likely knew about David Smith – Peerenboom again exploded when the Perlmutters issued a subpoena to his son, Robert, who was an executive and officer of Mandrake and thus has discoverable information regarding the matters at issue in this case, including former Mandrake employee and partner David Smith in particular: "[The Perlmutters] have no good faith basis to believe that Peerenboom's son

Robert" has "any information even remotely bearing on the issues in dispute between the parties. It is at best a 'fishing expedition,' and, at worst, harassment . . . ." [Apr. 3, 2017 Pl.'s Mot. for Protective Order at 2].

To put it simply, even though Peerenboom's private investigator has been aware of the facts proving the Perlmutters' innocence for months, neither Peerenboom nor Kasowitz disclosed those facts to any of the courts in New York or Florida in which this action is pending. Rather, Peerenboom and Kasowitz have continued to file accusatory motions – including a motion filed in New York court as recently as last week – repeating false allegations for which they have no factual support. This is a perversion of justice and a violation of Kasowitz's obligation to "comply with the provisions of the Florida Rules of Professional Conduct . . . ." [Jan. 30, 2014 Verified Mot. for Admis. to Appear *Pro Hac Vice* at ¶ 18].

7. *The Extortionate Offer to Stop Falsely Accusing the Perlmutters of the Hate-Mail Campaign in Exchange for Hundreds of Millions of Dollars*

At the same time, Peerenboom continued to extort the Perlmutters by publicly accusing them of being the "mental case[s]," [SMARTIN_0000001], responsible for the hate-mail campaign while at the same time publicizing that he would "be prepared to let this thing slide" for hundreds of millions of dollars. *See* Robert Fife, *The Battle of Palm Beach*, THE GLOBE AND MAIL, Apr. 15, 2016.

In March 2016 – months after the police identified David Smith – the influential New York Times Dealbook Section described "the bizarre litigation involving Isaac Perlmutter, the enigmatic billionaire chief executive of the Marvel Entertainment unit of the Walt Disney Company," repeating the false assertion that Peerenboom had made in the public court file and elsewhere, that a DNA lab supposedly "found a direct DNA match on one of the [hate-mail] envelopes." Andrew Ross Sorkin, *Lurid Suit Over Hate Mail Embroils Isaac Perlmutter, Marvel*

Chief, N.Y. TIMES: DEALBOOK, (March 7, 2016), available at goo.gl/ic7udY. Other popular publications similarly shamed the Perlmutters and lauded Peerenboom. *See, e.g.*, Sam Dangremond, *This Hate Mail Scandal Is Sending Shockwaves Through Palm Beach*, TOWN AND COUNTRY, (March 8, 2016), available at goo.gl/S6Fej9 (repeating false assertion that "a lab 'had found a direct DNA match on the outside of on one of the [hate mail] envelopes"); Rich Johnson, *Perlmutter DNA "Excluded" From Hate Mail Claims, In Palm Beach Tennis Club Case*, BLEEDING COOL, (March 10, 2016), available at goo.gl/F1jbc3 (reporting that "Peerenboom secretly obtained the DNA of Isaac Perlmutter's wife . . . and matched it to saliva on one of the posted pieces of hate mail"); Peter Bart, *Is Marvel's Ike Perlmutter A Lousy Neighbor?*, DEADLINE/HOLLYWOOD, (March 10, 2016), available at goo.gl/G4t5yH (lauding the "courage of [Peerenboom] in taking on [Mr. Perlmutter]"). Peerenboom planted one of the damaging articles himself, crowing, "I have a strong hand in this," in an email attaching a long article written by his friend, Robert Fife, for the Globe and Mail, which inspired some of Peerenboom and the Perlmutters' neighbors to respond, based on Peerenboom's false accusations, that Mr. Perlmutter "is a mental case" who "f[-cke]d with the wrong guy," and that they "hope [Peerenboom] win[s] big time!" [SMARTIN_0000001-0000004]. *See* Robert Fife, The battle of Palm Beach: *A Toronto businessman, a hate campaign, and a four-year legal fight*, THE GLOBE AND MAIL, April 15, 2016 at A19.

To complete the extortion scheme, Peerenboom ensured that his willingness to stop falsely accusing the Perlmutters for the hate-mail campaign if they were willing to pay the right price was communicated to the Perlmutters in clear terms, including his on-the-record statements to the media. The Fife article, for example, begins by reporting that Peerenboom believes he has records to show that the Perlmutters "launched the vicious hate-mail campaign," and ends with a

story fabricated by Peerenboom in which Mr. Perlmutter purportedly "offered [him] $20 million," and then "$100 million," before Peerenboom finally said, "I'd be prepared to let this thing slide for $400 million." *Id*.

C. Unwinding the Extortion Scheme

Now that the true culprit of the hate-mail campaign has been identified, the time has come for this Court to put an end to Peerenboom's scheme to extort the Perlmutters, which requires two preliminary steps.

First, to unwind this four-year extortion scheme, it is necessary for the Perlmutters to learn what Peerenboom and Kasowitz knew and when they knew it. To do so, the Perlmutters must be given an opportunity to depose Reesor concerning the areas of inquiry that Kasowitz's objections barred them from exploring during his first deposition. And the privilege objections that Kasowitz lodged – while jointly representing Peerenboom and Reesor – appear particularly dubious where they concern communications that Reesor had with third parties, including reporters, concerning the crimes and frauds that comprise the extortion scheme. The information in Reesor's possession is critical to ending the extortion scheme, as he is the common link and conduit of information between all of the major players in this case, including the Toronto Police Department, which represents the hub of the hate-mail investigation now that David Smith has been exposed.

Second, it is necessary for Peerenboom to be precluded from further harassing the Perlmutters. To do so, it is necessary to postpone Mrs. Perlmutter's deposition, which is presently set to begin on June 22, 2017. Mrs. Perlmutter has already been examined three times in connection with this matter as a result of Peerenboom's false accusations. She was subjected to two police interviews, including one in which her statements were tape recorded without her

knowledge. Her third examination was the deposition in which Peerenboom violated her privacy rights by secretly stealing her DNA and subjecting it to illegal testing and disclosure for the purpose of falsely portraying her and her husband as criminals in the public eye. Mrs. Perlmutter's upcoming deposition was only scheduled recently, in April 2017, after Peerenboom's investigator, Reesor, had been informed by Det. Menniti that police had identified David Smith. If the Perlmutters had known what Reesor knew, they would have had an opportunity to preclude Mrs. Perlmutter's deposition by seeking a prompt hearing on their pending motion for sanctions, and sought the immediate dismissal of this action, which has proven to be a sham.

D. Conclusion

Peerenboom should have listened to his wife and Det. Menniti, who warned him that his zeal to implicate the Perlmutters and to interfere with the criminal investigation was misguided. Peerenboom testified that he and his "wife . . . are at total opposite ends of this. She does not want to pursue civil, she wants to pursue criminal. She's very unhappy with this." [Apr. 22, 2016 Hr'g Tr. at 11]. And Det. Menniti testified that he unsuccessfully attempted "to dissuade" Peerenboom from conducting his vigilante investigation because "it just keeps the lines clear and if and when a case is to be brought to these buildings here, I think that is preferable to everybody concerned." [Apr. 8, 2016 Hr'g Tr. at 122-23]. Peerenboom should have heeded these calls from cooler heads because, after committing numerous acts of fraud, deceit, and outright criminality in a four-year crusade to falsely accuse the Perlmutters of being responsible for the letter-writing campaign, the results of the criminal investigation prove that he was wrong all along.

WHEREFORE, Defendants/Counter-Plaintiffs Isaac ("Ike") and Laura Perlmutter respectfully request that this Court permit a second deposition of Steven Reesor and postpone the deposition of Laura Perlmutter pending a further Order of this Court.

Dated: May 30, 2017

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CERTIFICATE OF SERVICE

I certify that the foregoing document was served via the Florida Courts E-Filing Portal on the 30th day of May, 2017, on the following:

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Exhibit A

Palm Beach Police Department OCA: ***12001453***

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: *SUSPENDED* **Case Mng Status:** *SUSPENDED* **Occurred:** *12/05/2012*

Offense: *DEFAMATION*

Investigator: *MENNITI, LAWRENCE …* **Date / Time:** *05/11/2017 17:47:48, Thursday*

Supervisor: *WILKINSON, DANIEL A …* **Supervisor Review Date / Time:** *NOT REVIEWED*

Contact: **Reference:** *Suspension*

SUPPLEMENT
CASE 12-1453
Det. Menniti
DATE 05/11/17

On January 21, 2016 this office was contacted by Homeland Security out of Detroit, Michigan. Contact was made in reference to a package that was stopped in transit, by customs officials in Detroit. The package in question was sent by an individual via United Parcel Service, utilizing Toronto, Ontario Canada U.P.S. store # 336, located at 2 Toronto Street, Toronto Ontario, M5C 2B5.

I was informed by the contacting H.S.I., from the Detroit office, that the inbound package, a white U.P.S. legal sized mailer envelope with shipper label UPSCV5572RFMMLK and tracking number 1Z V55 72 R 68 3911 6864, had been stopped for inspection by Custom and Boarder Protection Officer(s) assigned to the Detroit Advance Targeting Unit (ATU). The mailer was found to contain latex gloves, four sealed and addressed letters and a manila envelope. On the manila envelope was written, - "Legal Documents Private and Confidential", two times on one side.

The mailer contained the shipper`s information as follows: Tom Thorney 416-500-4380, 567 Queens Street West, Suite 200, Toronto, On M5V2B6, Canada. It also held the ship to information as follows: David Smith c/o UPS store # 1952, 305-935-1600, 20533 Biscayne Blvd, Ste 4, Miami, Florida, 33180.

Inside the manila envelope were the three latex gloves and four postage paid letters, pre-addressed, with white laminated shipping labels with black type, as follows:
Robin Peerenboom 8 Sloans Curve Road, Palm Beach, Florida 33480,
Robin Peerenbbom 174 Warren Road, Toronto Canada, M4V 2S5,
Louise Daigneault, Mandrake, 55 Saint Clair Avenue West, Toronto Ontario, Canada, M4V 2Y7 and
Lori Hansford, Mandrake, 55 Saint Clair Avenue West, Toronto Canada, M4V 2Y7.
The package was inspected by the Detroit customs officials. One of the letters was opened and found to contain threating content. Letters reported herein can be found in P.B.P.D. evidence unit.
Research was conducted via open sources and it was determined that the letters were linked to an investigation being conducted by this agency. This lead to this investigator being notified about the suspect package by Detroit H.S.I. The package was seized by Customs Boarder Protection and turned over to H.S.I. Detroit. A dummy package was put in its place to be forwarded to the original destination.

A request was made by this investigator to have H.S.I. ask U.P.S. Detroit International Imports office, 2115 Howard St., Detroit, Mi 48216 have the package listed as "in transit" and that the electronic examination hold on the item be removed. This would enable the package to seem that no stop of the package and examination of that package had taken place.

Investigator Signature Supervisor Signature

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With Postal Inspector Wisneski, West Palm Beach Postal Inspectors office, I made contact with the owner of U.P.S. store # 1952, 20533 Biscayne Blvd, Ste 4, Miami, Florida, 33180, and received full cooperation from the owner and staff. Furthermore, lengthy surveillance and checks for the package being picked up was conducted at store # 1952, on and about 01/21/16, which were presumably, the dates the package should have been picked up by the receiver. This was met with negative results when no one claimed the package.

After being contacted by H.S.I. Detroit, that office made contact with H.S.I. office in West Palm Beach. The suspect package was forwarded to the West Palm Beach Office of H.S.I. and subsequently tuned over to P.B.P.D. and is being held at the Crime Scene Evidence Unit.
Later contact with U.P.S. store # 1952, in Aventura, revealed that the package had not been picked up.
After obtaining the sender / receiver information for the U.P.S. mailer, a request was made for H.S.I., Canada to assist this agency by speaking with the sender of the package, Thomas Thorney.
On 06/29/16, H.S.I. made contact with Thorney at his office, 567 Queens Street West, Suite 200, Toronto, On M5V2B6. Investigators soon realized that Thorney seemed unaware of the matter under investigation by this office. In addition, investigators discovered that the w/m that entered U.P.S. store # 336 and mailed the package giving, Thorneys` name, was in fact Thorney`s partner, David Smith, w/m, DOB 02/08/1962. I was informed of the identity of actual person that sent the package, and asked H.S.I. to conduct an interview with Smith. It should be noted that Smith and Thorney are similar in appearance. H.S.I. left a message for Smith in reference to setting an interview time. A return call came from an attorney stating that he represented Smith. I informed H.S.I. that I would make contact with the attorney. I attempted to contact Attorney Frank Addario 416-649-5055, on more than one occasion, but did not receive a return call.

Also noteworthy is the fact that David Smith had been employed at a company owned by Harold Peerenboom, the complainant in this matter. Smith had been fired from the executive placement company by the name of Mandrake, owned by Peerenboom and based out of Toronto and Montreal.

Having the aforementioned suspect information, attempts were made by this agency to have the case reviewed in both local court, Judicial District 15, as well as in the United States Attorney`s Office, Southern District, office in West Palm Beach.

The letters stopped in Detroit addressed, to Mrs. Peerenboom, were threatening in that the sender stated that he would send letters to various jails and prisoners in those jails, stating that Mr. Peenrenboom is a child molester, if the Peeremboom`s did not leave their home on Palm Beach. Common belief being that child molesters are targets for assaults by prisoners and convicts. Possible charges were discussed with local State Attorney and A.U.S.A. office(s) to include harassment, defamation and extortion related charges.

The United States Attorney`s Office as well as The Circuit Court of the 15th Judicial Circuit, Palm Beach

Palm Beach Police Department

OCA: ***12001453***

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County Florida, reviewed this case and advised this case lacks sufficient evidence necessary to proceed with an arrest, prosecution and desired final outcome.

This agency along with P.B.S.O. and labs associated with P.B.S.O. has processed numerous letters and envelopes in reference to this investigation, to include search for latent print evidence and DNA evidence.

At this time, pending any future developments, I recommend that this case be suspended.
[05/11/2017 17:47, MENNITI, 44, PBPD]

Investigator Signature Supervisor Signature