

Debora K. Kristensen, ISB #5337
Kenneth R. McClure, ISB #2616
GIVENS PURSLEY LLP
601 West Bannock Street
Boise, Idaho 83702
Telephone: (208) 338-1200
Fax: (208) 388-1300
Email: dkk@givenspursley.com
krm@givenspursley.com

Mark J. MacDougall (*Pro Hac Vice* Pending)
Connor Mullin (*Pro Hac Vice* Pending)
AKIN GUMP STRAUSS HAUER & FELD, LLP
1333 New Hampshire Avenue, NW
Washington, DC 20036
Telephone: (202) 887-4000
Facsimile: (202) 887-4288
Email: mmacdougall@akingump.com
cmullin@akingump.com

Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

CHOBANI, LLC, a Delaware limited liability
company,

Plaintiff,

vs.

ALEXANDER (“ALEX”) E. JONES;
INFOWARS, LLC, a Texas limited liability
company; FREE SPEECH SYSTEMS, LLC, a
Texas limited liability company,

Defendants.

Case No. CV42-17-1659

VERIFIED COMPLAINT

Category **A. A.**
Fee: **\$221**

JURY TRIAL DEMANDED

Plaintiff Chobani, LLC (“Chobani”), by and through its undersigned counsel of record, alleges as its Complaint against Defendants Alexander (“Alex”) E. Jones, InfoWars, LLC (“InfoWars”), and Free Speech Systems, LLC (collectively, the “Defendants”) as follows:

PARTIES

1. Chobani is a Delaware limited liability company with roughly 1,000 employees in Twin Falls, Idaho and principal offices located at 147 State Highway 320, Norwich, New York 13815.

2. Defendant Alex Jones is a resident of Austin, Texas. He is the host of radio and web-based shows, including “The Alex Jones Show,” and owns and operates the websites InfoWars.com and PrisonPlanet.com. “The Alex Jones Show” has millions of weekly listeners and is nationally syndicated on approximately 60 radio stations.

3. Defendant InfoWars, LLC is a Texas limited liability company with principal offices located at 100 Congress Avenue, 22nd Floor, Austin, Texas 78701.

4. Defendant Free Speech Systems, LLC is a Texas limited liability company with principal offices located at 100 Congress Avenue, 18th Floor, Austin, Texas 78701.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to Idaho Code Section 1-705.

6. This Court has personal jurisdiction over each of the Defendants in this action pursuant to Idaho Code Sections 5-514(a)-(b) because the Defendants have transacted business within the State of Idaho and have committed tortious acts within the State of Idaho that have caused harm to the Plaintiff’s business, which is located in the State of Idaho.

7. Venue is proper in Twin Falls County, Idaho pursuant to Idaho Code Section 5-404 because the Plaintiff resides in Twin Falls County and maintains a place of business in the State in Twin Falls County.

GENERAL ALLEGATIONS

8. Defendant Alex Jones is no stranger to spurious statements. He has claimed that the U.S. government orchestrated the 9/11 attacks and the mass shooting at Sandy Hook Elementary School in Connecticut. The Southern Poverty Law Center described Mr. Jones as “almost certainly the most prolific conspiracy theorist in contemporary America.”¹ Mr. Jones has now taken aim at Chobani and the Twin Falls community.

9. On April 11, 2017, Defendants published a video on InfoWars.com and “The Alex Jones Channel” of YouTube, purporting to describe (1) Chobani’s practice of hiring refugees, and (2) an assault unrelated to Chobani. The background of the video repeatedly depicts, and in doing so misrepresents, Chobani’s owner and Chobani’s products.

10. The reporters featured in the video are David Knight, who has been employed as a nightly news reporter for Defendant InfoWars for approximately four years, and Lee Ann Mcadoo, who is also a reporter for Defendant InfoWars.

11. In the video, Mr. Knight republishes the false statement that the Chobani plant brought crime and tuberculosis to the community.

12. On April 11, 2017, Defendants promoted the video on “The Alex Jones Channel” of YouTube—which has more than two million subscribers—using the headline “MSM [mainstream media] Covers for Globalist’s Refugee Import Program After Child Rape Case.”²

¹ <https://www.splcenter.org/fighting-hate/extremist-files/individual/alex-jones>.

² <https://www.youtube.com/watch?v=ffiP6I5APCM>.

The video published on “The Alex Jones Channel” has received 22,349 views as of the date of this Complaint.



13. On April 11, 2017 at 10:33 AM, Defendants’ InfowarsNews Twitter handle (@PrisonPlanetTV) published the video on Twitter with the headline “**Idaho Yogurt Maker Caught Importing Migrant Rapists.**” (Emphasis added). That same day, the video was republished in a wide range of YouTube channels with the same headline, including a channel apparently associated with the Defendants (“Best of INFOWARS”).³

³ <https://www.youtube.com/watch?v=gxgv-POnX1c>.



InfowarsNews
@PrisonPlanetTV

Follow

Idaho Yogurt Maker Caught Importing Migrant Rapists

- youtube.com/watch?v=ffiP6l...

#MigrantCrisis #border #usa



Chobani's Own Private Idaho

The rape of a 5 yr old special needs girl by 2 refugee teenagers in Twin Falls, ID was mocked as false news. This last week they confessed as part of a plea ...

youtube.com

RETWEETS
147

LIKES
123



10:33 AM - 11 Apr 2017

13 147 123



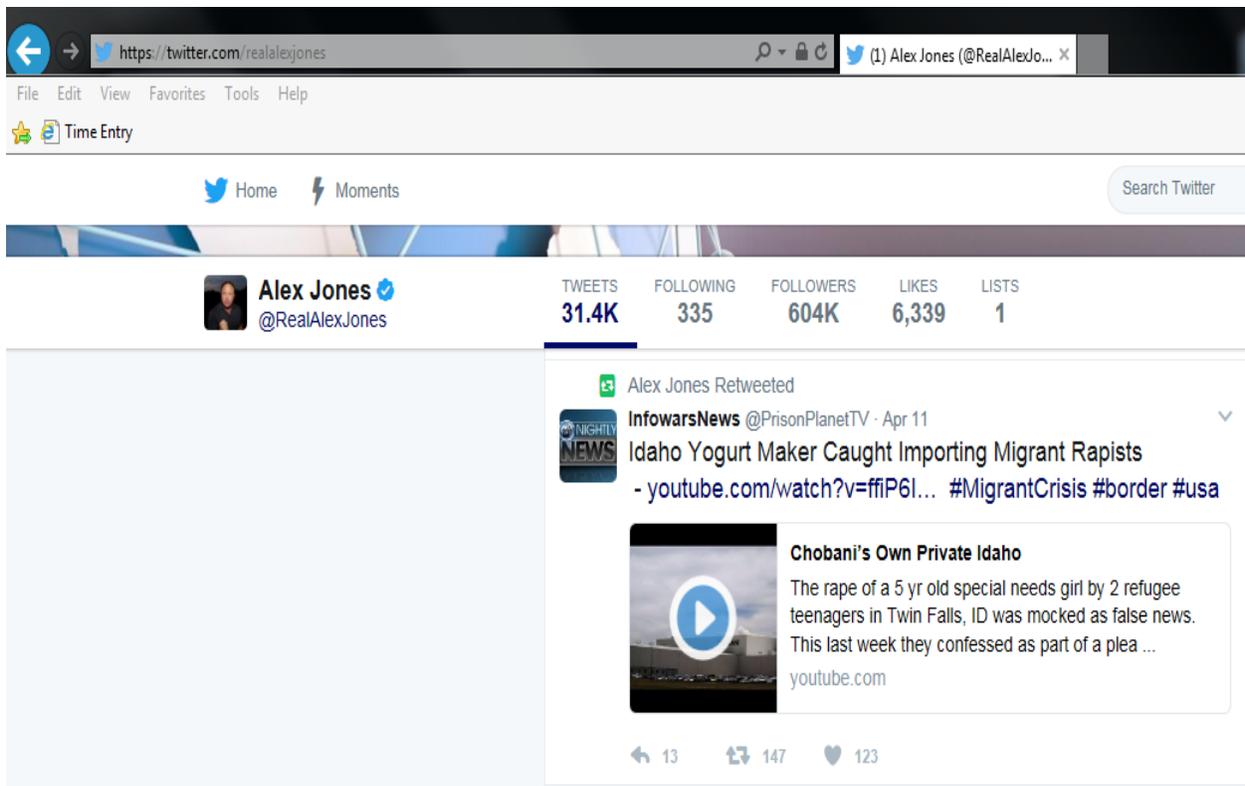
Leilani Jessee @LeilaniJessee · Apr 11

Replying to @PrisonPlanetTV

Another product to Boycott. Soon I won't be able to buy anything. No morals left, no wonder others want the west dead.

 2 4

14. On April 11, 2017, Defendant Alex Jones, using the Twitter handle @RealAlexJones, re-tweeted the video with the same headline.



15. At the time of filing of this Complaint, Defendant Alex Jones' tweet has been re-tweeted 148 times.

16. Several Twitter users and other Internet commentators have responded to Defendants' statements with calls to boycott Chobani.

17. Defendants' statements and related videos have proliferated on websites around the Internet.

18. As of the date of this Complaint, the defamatory statements remain accessible online.

19. Defendants have declined to remove the defamatory statements or publish a retraction despite multiple written demands from the Plaintiff.

FIRST CLAIM FOR RELIEF

DEFAMATION (Against All Defendants)

20. Plaintiff repeats and realleges the foregoing paragraphs as though set forth fully herein.

21. The Defendants' statements described in Paragraphs 9-14 above (collectively, the "defamatory statements") are false and defamatory.

22. Defendants published to thousands of subscribers and viewers on Twitter, YouTube, and other platforms widely available to the public, false statements, including the false accusations that Chobani was "caught importing migrant rapists" and that Chobani's plant has brought "crime and tuberculosis" to the Twin Falls community. Defendants' defamatory statements were subsequently republished with great velocity on a wide range of websites.

23. The Defendants' defamatory statements were made as assertions of fact.

24. The Defendants' defamatory statements were of and concerning the Plaintiff.

25. The Defendants' defamatory statements were designed to (1) discourage members of the public from purchasing Plaintiff's products, (2) harm Plaintiff's reputation, (3) subject the Plaintiff to public contempt, disgrace, or ridicule, and (4) adversely affect Plaintiff's business interests.

26. Defendants acted with actual malice. Defendants' defamatory statements were knowingly false or made with reckless disregard for the truth or falsity of the statements at the time the statements were made. Nowhere in the video do the Defendants state that the Plaintiff was "caught importing migrant rapists." Defendants promoted the video with the defamatory headline "Idaho Yogurt Maker Caught Importing Migrant Rapists" despite knowing that the statement was false or while clearly doubting the truth of the statement.

27. The Defendants' defamatory statements were not privileged.

28. The Defendants' defamatory statements were designed to cause—and did in fact cause—customers to call for a boycott of Chobani's products.

29. The Defendants' defamatory statements have caused and continue to cause harm to Idaho residents, including Chobani employees, their families, and other members of the Twin Falls community associated with Chobani.

30. As a result of the conduct of the Defendants, the Plaintiff has suffered and continues to suffer substantial damages in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF

DEFAMATION *PER SE* (Against all Defendants)

31. Plaintiff repeats and realleges the foregoing paragraphs as though set forth fully herein.

32. The Defendants' defamatory statements constitute defamation *per se*. The harmful nature of the defamatory statements is self-evident.

33. The defamatory statements plainly and unambiguously impute conduct on the part of Chobani that amounts to a criminal offense. Defendants falsely accuse Chobani of "importing migrant rapists" and bringing "crime and tuberculosis" into the community, among other false statements. Such bald accusations of criminal conduct constitute classic examples of defamation *per se*.

34. The defamatory statements further constitute defamation *per se* to the extent they impute conduct on the part of Chobani that is incompatible with the lawful operation of its business.

35. The Defendants publicly communicated the defamatory statements to a wide audience of subscribers and other online viewers causing significant damages to the Plaintiff.

36. As a result of the conduct of the Defendants, the Plaintiff has suffered and continues to suffer substantial damages in an amount to be proven at trial.

37. As a result of the defamatory *per se* conduct of Defendants, the Plaintiff is entitled to an award of presumed damages.

THIRD CLAIM FOR RELIEF

BREACH OF IDAHO CONSUMER PROTECTION ACT – UNFAIR COMPETITION (Against all Defendants)

38. Plaintiff repeats and realleges the foregoing paragraphs as though set forth fully herein.

39. Idaho Code Section 48-603(8) provides: “The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful, where a person knows, or in the exercise of due care should know, that he . . . is . . . [d]isparaging the goods, services, or business of another by false or misleading representations of fact.”

40. By publishing the statements that Chobani was “caught importing migrant rapists” and was responsible for introducing “crime and tuberculosis” into the community, Defendants knowingly misrepresented the facts.

41. The Defendants made these false and misleading statements in order to cause harm to Plaintiff’s business and reputation.

42. The Defendants’ statements constitute acts of unfair competition in violation of the Idaho Consumer Protection Act.

43. Plaintiff has been damaged as a direct and proximate result of Defendants' unfair competition in an amount to be determined at trial.

PUNITIVE DAMAGES

44. The Defendants' conduct in this matter was extreme, outrageous, and warrants punitive damages. Chobani expressly reserves the right to seek leave to add a claim for punitive damages pursuant to Idaho Code Section 6-1604.

DEMAND FOR ATTORNEYS' FEES

45. The Defendants' actions have required Plaintiff to retain counsel to represent its interests. Plaintiff is entitled to an award of its reasonable costs and attorneys' fees pursuant to Idaho Code Sections 12-120(3), 12-120(5), 12-121, and 12-123.

DEMAND FOR JURY TRIAL

46. Pursuant to Idaho Rule of Civil Procedure 38, Plaintiff respectfully demands a jury trial of twelve citizens on all issues raised in this Complaint and triable of right by jury. Plaintiff will not stipulate to less than 12 jurors.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for the following relief:

1. For judgment against the Defendants for the monetary (both actual and presumed) damages suffered by Chobani as a result of the actions and conduct of the Defendants described above, in an amount to be determined at trial, but in excess of \$10,000;
2. For judgment that each of the Defendants are jointly and severally liable for the monetary damages suffered by Chobani as a result of the actions and conduct of the Defendants;
3. For a declaratory judgment from this Court stating that the Defendants' statements are false and defamatory and that the Plaintiff is entitled to judgment as a matter of law;

4. For judgment against each Defendant for Chobani's reasonable costs and attorneys' fees; and

5. For such other and further relief as the Court deems just and equitable.

DATED this 24th day of April, 2017.

GIVENS PURSLEY LLP

By: /s/ *Debra K. Kristensen*
Debra K. Kristensen

AKIN GUMP STRAUSS HAUER & FELD, LLP

By: /s/ *Mark J. MacDougall*
Mark J. MacDougall

Attorneys for Plaintiff

