

November 21, 2011

Dear Mock Trial Teacher and Attorney Coaches:

The Arizona Foundation for Legal Services & Education and the Young Lawyers of Arizona welcome you and your team to the 2011-2012 Arizona High School Mock Trial Program.

Please review all of the material carefully. If you have any questions about registration or administration of the program, please contact Susan Nusall with the Arizona Foundation for Legal Services & Education at 602-340-7361. If you have any questions about the case, the Rules of the Program or the legal aspects of the program, please post your question(s) on the Mock Trial website, www.azflse.org/mocktrial.

The Regional Tournaments will be held on March 3, 2012, and the State Tournament will be held on March 24, 2012 at the Sandra Day O'Connor United States District Courthouse in Phoenix.

Case Materials

As you will see, this year's case is a civil negligence and defamation case involving bed bugs at a hotel. The case is fictional, and any similarity or resemblance of any character to an actual person or entity is strictly unintentional and coincidental. This case was adapted from a case that originally was prepared by Susan Roberts for the Indiana Mock Trial Association. The Arizona Foundation for Legal Services & Education appreciates Ms. Roberts and the Indiana Mock Trial Association for their efforts in preparing the case materials and for their permission in allowing the materials to be used in the Arizona High School Mock Trial Program.

Program and Evidence Rules

All team members are expected to know the Mock Trial Rules of Evidence and the Rules of the Program. The Rules of Evidence and the Rules of the Program can be found on the mock trial website, www.azflse.org/mocktrial, in the Download Center. Please check back occasionally for any revisions to the Rules.

Trials

This year's case materials again include jury instructions to set forth the applicable law. When scoring panels are used, such as at the state tournament, the trial should be presented as a jury trial with the scoring judges serving as the jury. When single presiding/scoring judges are used, such as at most (if not all) regional tournaments, the trial should be presented as a bench trial using the same law and legal principles set forth in the jury instructions.

As you will see, the case materials contain a lot of information--much of which is intended as background information and not necessarily to be admitted into evidence. As such, teams will have to make strategic decisions regarding what evidence they want to present within the allotted time. It will be impossible for any team to present all of the evidence contained in the materials within the time constraints. Please be advised that the time rules will be strictly enforced.

State Tournament

The State Tournament is scheduled for Saturday, March 24, 2012, at the United States District Courthouse located in downtown Phoenix. Teams that did not compete in the Maricopa County Regional Tournament will be eligible for overnight lodging the evening before the State Finals. More details about the State Tournament will be forthcoming.

National Mock Trial Tournament

The National Mock Trial Tournament will be held May 3-6, 2012 in Albuquerque, New Mexico. Please note that the National Tournament is a week earlier than normal. It is strongly recommended that schools have a fundraising plan in place in the event that they are the State winners and are eligible to travel to the National Tournament.

We hope you enjoy the problem. Have fun and good luck with your tournaments!

Susan Nusall
Mock Trial State Coordinator

Dewain Fox
Legal Counsel Coordinator

CASE BACKGROUND

Kelly Boyd was on the rise in the world of broadcast news. Kelly had a reputation for getting stories that no one else could get. But some people questioned whether Kelly crossed the line on occasion with his/her dramatic, if not theatrical, exposés. Kelly's outspoken style and brashness has won him/her both praise and condemnation. In climbing the ladder to fame and notoriety in the broadcast venue, Kelly made enemies along the way. Undeterred, Kelly's latest exposé was on bed bugs in the hotel industry. At the time, no other reporters had broken the story, locally or nationally, and Kelly planned to be the first. Around the same time that Kelly was trying to get a story on bed bugs, he/she was also interviewing with a global broadcast cable network for a position as a host of a prime time news exposé, to be scheduled opposite Nancy Grace. During the interview, Kelly mentioned that he/she was currently working on an exposé of bed bugs in the hotel industry. After the interview, Kelly was certain he/she would be offered the position. The general manager of the global broadcast cable network, Devin Case, advised Kelly that a decision would be made in two weeks. Case also expressed an interest in seeing footage of the bed bug exposé when it was completed.

Shortly thereafter, Kelly stayed a weekend at Le Condé Inn for a co-worker's wedding reception. Le Condé Inn is a prestigious and well-established boutique hotel in Scottsdale, and for that matter, the State of Arizona. On Sunday morning, Kelly found he/she experienced severe itching, redness and swelling on his/her face, neck, hands, arms and back. Because Kelly had previously researched bed bugs for his/her exposé, he/she immediately recognized the symptoms and had a camera crew promptly capture the bed bug ridden bed in his/her hotel room at Le Condé Inn. The story was aired a few days later.

Le Condé Inn's Hotel Manager, Terry Garnier, publicly accused Kelly or the news station of planting the bed bugs to fabricate a story. After Kelly's exposé aired, Le Condé Inn experienced significant cancellations of reservations, approximately 75% of bookings for the month of July 2008. The following two quarters showed revenue down by a third compared to the same quarters in the past two years. Le Condé Inn claims that Kelly's defamatory comments resulted in the loss of income to the hotel. The global broadcast cable network learned of Le Condé Inn's claims that the story was fabricated and did not hire Kelly for the host position.

Plaintiff's Witnesses:

Kelly Boyd – Plaintiff News Anchor

Casey Bennett – Treating Physician/Dermatology and Entomology Expert

Devin Case – General Manager of Global Broadcast Cable Network

Defendant's Witnesses:

Terry Garnier – Defendant's Hotel Manager

Taylor Quick – Former Producer for Local Television Station

Sidney Brock – Pest Control Expert

The Case Background is not to be used as evidence in the case, but rather is provided for background purposes only. This case is a work of fiction. The names and events described herein are intended to be fictional. Any similarity or resemblance of any character to an actual person or entity should be regarded as only fictional for purposes of this mock trial exercise.

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8 Attorneys for Plaintiff

6 **SUPERIOR COURT OF ARIZONA**
7 **MARICOPA COUNTY**

8 **KELLY BOYD,**

9 Plaintiff,

10 v.

11 **LE CONDÉ INN, INC.,** an Arizona
12 corporation,

13 Defendant.

Case No. CV2011-2012-MT

COMPLAINT

14 Plaintiff alleges:

15 **COUNT I**

16 (Negligence)

- 17 1. Plaintiff is a resident of the State of Arizona.
- 18 2. Defendant is an Arizona corporation doing business in the State of Arizona.
- 19 3. Venue and jurisdiction are proper in Maricopa County, Arizona.
- 20 4. At all relevant times herein, defendant owned and operated the Le Condé Inn hotel
21 located at 7503 East Main Street in Scottsdale, Arizona.
- 22 5. On or about July 11, 2008, through July 13, 2008, plaintiff was a guest at the Le
23 Condé Inn.
- 24 6. Plaintiff was exposed to bed bugs while a guest at Le Condé Inn.
- 25 7. Defendant had a duty to exercise reasonable care to detect and prevent bed bug
26 infestation for the protection of the safety and health of its guests, including plaintiff.
- 27 8. Defendant negligently failed to exercise reasonable care in detecting bed bugs from
28 becoming infested in the guest room at Le Condé Inn occupied by plaintiff.

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6 **SUPERIOR COURT OF ARIZONA**
7 **MARICOPA COUNTY**

8 KELLY BOYD,
9 Plaintiff,

10 v.

11 LE CONDÉ INN, INC., an Arizona
12 corporation,
13 Defendant.

14 LE CONDÉ INN, INC., an Arizona
15 corporation,
16 Counterclaimant,

17 v.

18 KELLY BOYD; and FAUNTLEROY
19 ISAACSON BABINEAUX ENTERPRISES,
20 LLC, an Arizona limited liability company,
21 Counterdefendant.

Case No. CV2011-2012-MT

ANSWER AND COUNTERCLAIM

21 Defendant answers the Complaint as follows:

- 22 1. Defendant is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations of paragraph 1 of the Complaint.
- 24 2. Defendant admits the allegations of paragraph 2 of the Complaint.
- 25 3. Defendant admits the allegations of paragraph 3 of the Complaint.
- 26 4. Defendant admits the allegations of paragraph 4 of the Complaint.
- 27 5. Defendant admits the allegations of paragraph 5 of the Complaint.
- 28 6. Defendant is without knowledge or information sufficient to form a belief as to the

1 truth of the allegations of paragraph 6 of the Complaint.

2 7. Defendant admits the allegations of paragraph 7 of the Complaint.

3 8. Defendant denies the allegations of paragraph 8 of the Complaint.

4 9. Defendant denies the allegations of paragraph 9 of the Complaint.

5 10. Paragraph 10 does not require an answer. To the extent an answer is
6 required, however, defendant incorporates its answers as set out above.

7 11. Defendant is without knowledge or information sufficient to form a belief as to the
8 truth of the allegations of paragraph 11 of the Complaint.

9 12. Defendant is without knowledge or information sufficient to form a belief as to the
10 truth of the allegations of paragraph 12 of the Complaint.

11 13. Defendant admits the allegations of paragraph 13 of the Complaint.

12 14. Defendant admits the allegations of paragraph 14 of the Complaint.

13 15. Defendant admits the allegations of paragraph 15 of the Complaint.

14 16. Defendant denies the allegations of paragraph 16 of the Complaint.

15 17. Defendant denies the allegations of paragraph 17 of the Complaint.

16 18. Defendant denies the allegations of paragraph 18 of the Complaint.

17 19. Defendant denies the allegations of paragraph 19 of the Complaint.

18 20. Defendant denies the allegations of paragraph 20 of the Complaint.

19 21. Defendant denies the allegations of paragraph 21 of the Complaint.

20 22. Defendant denies the allegations of paragraph 22 of the Complaint.

21 23. Defendant denies the allegations of paragraph 23 of the Complaint.

22 24. Defendant denies the allegations of paragraph 24 of the Complaint.

23 AFFIRMATIVE DEFENSES

24 First Affirmative Defense

25 With regard to Count II, any statements made by defendant, through the scope of the
26 employment of Terry Garnier, upon which plaintiff bases his/her claims for defamation, are
27 true and are therefore not actionable.

28 Second Affirmative Defense

1 With regard to Count II, plaintiff's claims are barred to the extent his/her damages were
2 caused by the publication of the alleged defamatory statements as referenced in plaintiff's
3 Complaint, by persons other than defendant, its agents, and employees.

4 WHEREFORE, Defendant prays for:

- 5 (1) A judgment dismissing all of plaintiff's claims with prejudice;
- 6 (2) A judgment against plaintiff for defendant's costs; and
- 7 (3) Such further relief as the Court deems proper.

8 COUNTERCLAIM

9 Counterclaimant alleges:

10 COUNT I

11 (Defamation)

- 12 1. Le Condé Inn, Inc. is an Arizona corporation doing business in the State of Arizona.
- 13 2. At all relevant times herein, counterclaimant owned and operated the Le Condé Inn
14 hotel located at 7503 East Main Street in Scottsdale, Arizona.
- 15 3. Kelly Boyd is a resident of the State of Arizona.
- 16 4. At all relevant times herein Kelly Boyd was a news anchor and investigative reporter
17 employed by Fautleroy Isaacson Babineaux Enterprises, LLC doing business as KFIB-TV
18 ("KFIB-TV").
- 19 5. As a news reporter and anchor for KFIB-TV, Kelly Boyd worked on an investigative
20 report regarding bed bug infestations at hotels in the Phoenix metropolitan area.
- 21 6. The news story of hotel bed bug infestation aired on the KFIB-TV Station on July
22 17, 2011.
- 23 7. The news report falsely reported that Le Condé Inn puts its profits above its guests'
24 health and safety.
- 25 8. The news report falsely reported that Le Condé Inn's housekeeping staff is
26 overworked and rushed, and bed bug infestations occur.
- 27 9. The news report falsely reported that Le Condé Inn has poor quality assurance and
28 failed to have adequate safeguards to prevent bed bugs.

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8 Attorneys for Plaintiff and Counterdefendants

6 **SUPERIOR COURT OF ARIZONA**
7 **MARICOPA COUNTY**

8 KELLY BOYD,
9 Plaintiff,

10 v.

11 LE CONDÉ INN, INC., an Arizona
12 corporation,
13 Defendant.

14 LE CONDÉ INN, INC., an Arizona
15 corporation,
16 Counterclaimant,

17 v.

18 KELLY BOYD; and FAUNTLEROY
19 ISAACSON BABINEAUX ENTERPRISES,
20 LLC, an Arizona limited liability company,
21 Counterdefendant.

Case No. CV2011-2012-MT

REPLY TO COUNTERCLAIM

21 Counterdefendants answer the Counterclaim as follows:

- 22 1. Counterdefendants are without knowledge or information sufficient to form a belief
23 as to the truth of the allegations of paragraph 1 of the Counterclaim.
- 24 2. Counterdefendants are without knowledge or information sufficient to form a belief
25 as to the truth of the allegations of paragraph 2 of the Counterclaim.
- 26 3. Counterdefendants admit the allegations of paragraph 3 of the Counterclaim.
- 27 4. Counterdefendants admit the allegations of paragraph 4 of the Counterclaim.
- 28 5. Counterdefendants admit the allegations of paragraph 5 of the Counterclaim.

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

KELLY BOYD,
Plaintiff,

v.

LE CONDÉ INN, INC., an Arizona
corporation,
Defendant.

LE CONDÉ INN, INC., an Arizona
corporation,
Counterclaimant,

v.

KELLY BOYD; and FAUNTLEROY
ISAACSON BABINEAUX ENTERPRISES,
LLC, an Arizona limited liability company,
Counterdefendant.

Case No. CV2011-2012-MT

STIPULATIONS

The parties have entered into, and the Court hereby adopts, the stipulations set out below, which are binding on all parties.

1. All exhibits included in these case materials are authentic and accurate in all respects; no objection to the authenticity of these exhibits will be entertained. Unless stated otherwise herein, the admissibility of the exhibits on other grounds may be challenged.

2. All witness statements were signed under penalty of perjury by each witness.

3. Exhibits 2 (picture of bed bug bites), Exhibit 3 and 4 (picture of bed bugs

1 present in Kelly Boyd's hotel room at Le Condé Inn on July 13, 2008), and Exhibit 5
2 (picture of the bed bug infested mattress with bed bug fecal stains present in Kelly
3 Boyd's hotel room at Le Condé Inn on July 13, 2008) are accurate copies of the original
4 photographs and accurately depict the items shown in the photographs.

5 4. Exhibits 1 and 6 were made at or about the time of the events by a person
6 with knowledge of the events, and are kept in the course of regularly conducted
7 business activity of KFIB-TV, and it is the regular practice of KFIB-TV to make such
8 records. Exhibits 1 and 6 do not need to be introduced through the custodian of the
9 records.

10 5. Exhibit 7 is admissible, without objection.

11 6. Exhibits 8 was made at or about the time of the events by a person with
12 knowledge of the events, and is kept in the course of regularly conducted business
13 activity of Dr. Bennett's medical practice, and it is the regular practice of Dr. Bennett to
14 make such records. Dr. Bennett is the custodian of such record.

15 7. Exhibits 9 and 10 were made at or about the time of the events by a person
16 with and knowledge of the events, and are kept in the course of regularly conducted
17 business activity of Le Condé Inn, and it is the regular practice of Le Condé Inn to make
18 such records. Exhibits 9 and 10 do not need to be introduced through the custodian of
19 the records.

20 8. Exhibit 11 is a compilation of business records made at or about the time of
21 the events by a person with and knowledge of the events, and are kept in the course of
22 regularly conducted business activity of Le Condé Inn, and it is the regular practice of
23 Le Condé Inn to make such records. It was compiled by Terry Garnier. Terry Garnier
24 is the custodian of such record.

25 9. Exhibit 12 is a true and accurate copy of the original note located in the waste
26 basket of Kelly Boyd's hotel room at Le Condé Inn on July 13, 2008. The handwriting
27 contained in Exhibit 12 has been confirmed to be that of Kelly Boyd, per expert
28 handwriting analysis. Exhibit 12 is admissible, without objection.

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SO ORDERED.

DATED: February 13, 2012.

/s/ Andrew M. Perloff

Andrew M. Perloff
Superior Court Judge

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**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

KELLY BOYD,
Plaintiff,

v.

LE CONDÉ INN, INC., an Arizona
corporation,
Defendant.

LE CONDÉ INN, INC., an Arizona
corporation,
Counterclaimant,

v.

KELLY BOYD; and FAUNTLEROY
ISAACSON BABINEAUX ENTERPRISES,
LLC, an Arizona limited liability company,
Counterdefendant.

Case No. CV2011-2012-MT
JURY INSTRUCTIONS

***PRESIDING JUDGES: Do not read these instructions in
open court during the Mock Trial Competition***

Duty of Jurors

Ladies and Gentlemen:

I will now tell you the rules that you must follow to decide this case. I will instruct you on the law. It is your duty to follow the law whether you agree with it or not.

It is also your duty to determine the facts. You must determine the facts from the

1 evidence produced in court. You should not speculate or guess about any fact. You
2 must not be influenced by sympathy or prejudice. You must not be concerned with any
3 opinion you may feel I have about the facts. You are the sole judges of the facts.

4 You must take account of all my instructions on the law. You are not to pick out
5 one instruction, or part of one, and disregard the others. However, after you have
6 determined the facts, you may find that some instructions do not apply. You must then
7 consider the instructions that do apply, together with the facts as you have determined
8 them.

9 Decide the case by applying the law in these instructions to the facts.

10 **Evidence**

11 You will decide what the facts are from the evidence presented here in court.
12 That evidence consists of testimony of witnesses, any documents and other things
13 received into evidence as exhibits, and any facts stipulated or agreed to by the parties or
14 which you are instructed to accept.

15 You will decide the credibility and weight to be given to any evidence presented
16 in the case, whether it be direct or circumstantial evidence.

17 **Rulings of the Court**

18 Admission of evidence in court is governed by rules of law. I have applied those
19 rules during the trial and resolved any issues concerning the admission of evidence.

20 If an objection to a question was sustained, you must disregard the question and
21 you must not guess what the answer to the question might have been. If an exhibit was
22 offered into evidence and an objection to it was sustained, you must not consider that
23 exhibit as evidence. If testimony was ordered stricken from the record, you must not
24 consider that testimony for any purpose.

25 Do not concern yourselves with the reasons for my rulings on the admission of
26 evidence. Do not regard those rulings as any indication from me of the credibility or
27 weight you should give to any evidence that has been admitted.

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Arguments of Counsel

In the opening statements and closing arguments the lawyers have talked to you about the law and the evidence. What the lawyers said is not evidence, but it may help you to understand the law and the evidence.

Stipulations

The parties are permitted to stipulate or agree that certain facts exist. You must regard any stipulated or agreed upon fact as having been proved.

Credibility of Witnesses

In deciding the facts of this case, you should consider what testimony to accept, and what to reject. You may accept everything a witness says, or part of it, or none of it.

In evaluating testimony, you should use the tests for truthfulness that people use in determining matters of importance in everyday life, including such factors as: the witness's ability to see or hear or know the things the witness testified to; the quality of the witness's memory; the witness's manner while testifying; whether the witness had any motive, bias, or prejudice; whether the witness was contradicted by anything the witness said or wrote before trial, or by other evidence; and the reasonableness of the witness's testimony when considered in the light of the other evidence.

Consider all of the evidence in the light of reason, common sense, and experience.

Expert Witness

A witness qualified as an expert by education or experience may state opinions on matters in that witness's field of expertise, and may also state reasons for those opinions.

Expert opinion testimony should be judged just as any other testimony. You are not bound by it. You may accept it or reject it, in whole or in part, and you should give it as much weight as you think it deserves, considering the witness's qualifications and experience, the reasons given for the opinions, and all the other evidence in the case.

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Burden of Proof

Burden of proof means burden of persuasion. Unless instructed otherwise, the party who has the burden of proof must persuade you, by the evidence, that the claim is more probably true than not true. This means that the evidence that favors that party outweighs the opposing evidence. In determining whether a party has met this burden, consider all the evidence that bears on that claim, regardless of which party produced it.

Some facts must be proven by a higher standard of proof. When a fact is required to be proven by clear and convincing evidence, the party who has the burden of proof must persuade you that the fact to be proved is highly probable or reasonably certain.

Corporate Party

A corporation is a party in this lawsuit. Corporations (and other forms of non-individual entities) and individuals are entitled to the same fair and impartial consideration and to justice reached by the same legal standards.

When I use the word “person” in these instructions, or when I use any personal pronoun referring to a party, those instructions also apply to Le Condé Inn, Inc. and Fauntleroy Isaacson Babineaux Enterprises, LLC.

A corporate party is responsible for the actions of its employee, if the employee was acting within the scope of his or her employment. In this case, Le Condé Inn, Inc. and Fauntleroy Isaacson Babineaux Enterprises, LLC. are responsible for the actions of their respective employees.

Claims and Elements

I will give you detailed instructions of law later in these instructions. But I will now give you a statement of each claim in the case, and a general statement of what has to be proved on each claim.

Plaintiff claims that defendant was at fault in failing to detect and prevent bed bug infestation at its hotel, which resulted in injury to plaintiff. Fault is negligence that was a cause of plaintiff’s injury. Negligence is the failure to use reasonable care.

1 Negligence may consist of action or inaction. Negligence is the failure to act as a
2 reasonably careful person would act under the circumstances.

3 Before you can find any person or entity at fault, you must find that person's or
4 entity's negligence was a cause of plaintiff's injury. Negligence causes an injury if it
5 helps produce the injury, and if the injury would not have happened without the
6 negligence. Plaintiff must prove that: (i) defendant was at fault; and (ii) plaintiff was
7 injured as a result.

8 Plaintiff also claims that defendant defamed plaintiff by reporting to the Phoenix
9 Gazette newspaper that plaintiff fabricated the news story about the bed bug infestation
10 at defendant's hotel. Defendant claims that plaintiff and his/her employer defamed
11 defendant by falsely reporting about a bed bug infestation at defendant's hotel.

12 To prevail on a claim for defamation, the party making the claim must prove that
13 the other party published a false and defamatory statement, which caused injury to the
14 party making the claim. A statement is defamatory if it (i) brings a party into disrepute,
15 contempt, or ridicule, or (ii) impeaches a party's honesty, integrity, virtue or reputation.

16 A statement is defamatory *per se*, if it is a communication of such a nature that
17 the Court can presume as a matter of law that the communication will tend to degrade or
18 disgrace the defamed party. Defamation *per se* includes statements that tend to injure a
19 person in his or her profession, trade or business. If you find that a person has defamed
20 another person, and that the statement constitutes defamation *per se*, then you may
21 award the injured person general (or presumed) damages, even if the injured person has
22 not proven actual pecuniary damages.

23 With respect to matters of public concern, the party making the defamation claim
24 also must prove actual malice by clear and convincing evidence. Actual malice exists
25 when the person who made the statement did so with knowledge of the statement's
26 falsity or with reckless disregard for the statement's truth.

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WITNESS STATEMENTS

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STATEMENT OF KELLY BOYD

My name is Kelly Boyd. I am a news anchor for the 6 pm news at KFIB-TV in Phoenix. I also have a weekly investigative news report exposé that airs on Thursdays, called “*No Apologies.*” I view myself as a victim’s advocate and someone who is for the people. Having been a victim myself in an unsolved crime, I made it my mission to expose the bad acts of people or businesses that law enforcement or the government either doesn’t have the time or inclination to pursue. When I go after these bad people or companies, I make no apologies for hitting them below the belt. As far as I’m concerned they deserve to be publicly humiliated.

I was born and raised in Tupelo, Mississippi, the birthplace of Elvis Presley. I knew from a young age I would be a star too. I have drive and determination, and there isn’t anything that gets in the way of this steam-roller. I excelled in high school, both academically and in sports, and received a full-ride scholarship from Mizzou (University of Missouri). I had several other options with scholarships, but Mizzou was my first choice. It has been on top of the rankings for its Journalism and Mass Communications programs since rankings have been done. I received a bachelor’s degree from Mizzou in Journalism and a minor in Mass Communications in 1998, graduating with highest distinction. I then attended law school at Northwestern University. I left law school before completing my degree because I was mugged in Chicago. Due to the time I spent in the hospital and at home recuperating from broken ribs and a concussion, I could not finish my third year of law school. I did not view it as a setback, rather it was an opportunity for me to start a new chapter in my life.

When the crime went unsolved, I decided to use my journalism skills and knowledge of the law for other victims like me. In 2000, I began my career as a news reporter at a local television station in Yuma, Arizona. In 2004, I was hired at an affiliate station, KFIB-TV, in Phoenix. Taylor Quick hired me to start as a morning anchor and news reporter on KFIB-TV’s *First Light News*. As a rising star at KFIB-TV, within a year, I had been promoted to anchor of the *Evening News* in the primetime slot. I was given quite a bit of latitude too. KFIB-TV even agreed to let me showcase the weekly exposé, “*No Apologies.*”

I thrived on reporting the news and investigating timely events that mattered to the people. News reporters gather information, prepare stories, and make broadcasts that inform the public about local, State, national, and international events. We present points of view on current issues and report on the actions of public officials, corporate executives, interest groups, and others who exercise power. As a news anchor, my responsibility is to examine, interpret, and broadcast news received from various sources. News anchors present news stories and introduce videotaped news or live transmissions from on-the-scene reporters.

Before I joined the KFIB-TV team, other local stations and Joe Public would joke about the station’s call letters and make up slogans like, “Fib TV. The only news station honest enough to admit it lies!” The call letters actually stand for our station’s founder--Fauntleroy Isaacson Babineaux III--who is very proud of his name. Anyway, I turned that all around in a short time. Now, all the other anchors and reporters want to be like me. I’ve received numerous awards and recognitions for integrity in reporting, including the Writers Guild Award in 2007 for outstanding writing, and, in 2008, I received the Society of Professional Journalist Awards for

1 TV Consumer Reporting and TV Investigative Reporting, as well as the Arizona Broadcasters'
2 Association Spectrum Award. KFIB-TV was a floundering station when I began there in 2004.
3 Now it is well recognized and its ratings and market share in the Phoenix market increased by 4
4 times from 2004 to 2008. However, our market share currently is only twice the share we had in
5 2004. After the Le Condé Inn manager accused me of fabricating the story, and defamed my
6 character, we lost a significant part of our audience.

7
8 The news I report and my investigative exposés are often cutting edge. I go after the
9 story that no one else can get, or even thought to get. I believe that the success of my news
10 career and the increased market share is because the viewers can relate to me. I frequently
11 discuss issues from a victim's rights standpoint. I sometimes get personal and become
12 emotionally involved in presenting the news story. This makes me more real to the audience.
13 They can relate to me and they know I can relate to them. I just don't present the news in the
14 same boring way that has been done before. Adding dramatic flair to a story doesn't change the
15 news, it just makes it more interesting. The viewers want some sensationalism; they're thirsty
16 for the fight and for justice to prevail. They see me as their fighter. I have an outspoken style
17 that has won me both praise and condemnation. The people who condemn me are often the
18 people that I have targeted. If a business is ruined because I showed the public the truth, then so
19 be it. News is news. The truth is not always nice, polite, or easy to go down. Sometimes it's just
20 plain harsh.

21
22 One of my award winning stories focused on the victim of a light rail train operator who
23 was texting while operating the train. I broke this story before anyone else. Another breaking
24 news story that won an award was a story that aired on June 26, 2008. In that piece, I
25 interviewed a mother whose daughter had been misidentified in a fatal automobile accident. The
26 daughter actually had not taken the trip as planned, but instead had gone camping in the
27 wilderness for a week, while mom had a funeral and buried the person that she thought was her
28 daughter. It was a very emotional story. Even now I have goose bumps telling it. The KFIB-TV
29 producer at the time for the *Evening News*, Taylor Quick, wanted me to present the story in the
30 traditional manner. I thought the story had more impact by showing my emotional involvement
31 in the story. After interviewing the mother, I went back to the studio and filmed a close up of me
32 with a tear rolling down my cheek. Then I added that clip to the story. Quick suggested that it
33 crossed the ethical line. I didn't see it that way. I was emotionally moved by the story, even
34 choked up, so there was nothing unreal about it. Besides, the ethical line keeps changing, and
35 you have to adjust with the times. We filmed the interview of the mother on June 17, 2008, and
36 the following day Taylor and I argued back and forth about keeping the clip of my tears in or out
37 of the story.

38
39 On June 25th, when Taylor learned that I had put the clip back in the story, he/she insisted
40 that as producer, he/she had the final say. So, I approached the station manager, Daryl Licht, and
41 explained the effect I was trying to achieve by adding that clip to the story. I told Daryl that
42 Taylor was out-dated with old-fashioned ideas about news reporting. Daryl sided with me.
43 Taylor was unwilling to make any compromise. He/She shouted at Daryl. It was ugly. I was
44 not surprised when Daryl fired Taylor with the way he/she talked to him. Plus, it was Taylor's
45 time to go – he/she had outlived his/her relevancy in the ever-changing world of news reporting.
46 The story aired on June 26th, and received the SPJ Award for Best TV Investigative Reporting.

1
2 I also did an exposé on “*No Apologies*” on the infestation of bed bugs in hotels. I was the
3 first news reporter, locally and nationally, to break the story. I approached it like any other
4 investigative reporting news story. I did thorough research to learn about bed bugs – what they
5 look like, their habits, how they can be detected, the effect and treatment of their bites, and hotel
6 protocols for detecting bed bug infestations. After doing some initial research, I met with Dr.
7 Casey Bennett on June 4, 2008. Dr. Bennett not only is a dermatologist, but he/she also has a
8 background in entomology, so he/she was a valuable resource. I gave Dr. Bennett a \$2000 check
9 from KFIB-TV as a retainer for his/her expertise for the story. Dr. Bennett was unable to
10 provide me with names of bed bug victims, naturally due to confidentiality issues, so I returned
11 on June 9th and provided Dr. Bennett with a flyer to provide to patients with bed bug bites.
12 Exhibit 1 is a true and accurate copy of the flyer.
13

14 The following day, I filmed an interview with an exterminator. I learned that bed bugs
15 can travel on luggage and clothing from one hotel to another hotel. The exterminator showed me
16 pictures of the bugs and of a mattress and bedding that showed the bed bugs hiding in the folds
17 of the mattress and the stains they leave behind. He told me where hotels should be looking to
18 find evidence of a bed bug infestation, and the reasonable steps a hotel should use for the
19 detection and prevention of a bed bug infestation. After meeting with the exterminator, I felt
20 knowledgeable enough to detect the signs of a bed bug infestation for my investigative report.
21

22 Later that day, I scouted out several cheap or seedy hotels in the area that likely would
23 have an infestation problem. On June 14th, using my producer, Taylor, as the front person, we
24 booked a hotel room in one of those cheap motel/hotels. I looked at the bed linens, pulled the
25 bed sheets back and looked at the mattresses, but we didn’t find any evidence of bed bugs.
26 When you’re breaking the story without some news tip, sometimes it just takes time to uncover
27 it. So, the next day, June 15th, we went to another cheap motel, this time we booked three rooms
28 to increase the odds – same inspection, same results. Nothing. The following day, June 16th, we
29 struck out again with three rooms at a different cheap hotel. The following week, on June 21st
30 and 22nd, we went to two different cheap hotels and booked four rooms at each. No signs of bed
31 bugs. Taylor and Daryl both were getting pushy about getting the story. KFIB-TV had invested
32 some money in it and we weren’t getting very far with finding either hotels with infestations or
33 victims. Daryl told me that if we didn’t have a story soon on bed bugs, he was going to can it. I
34 never said, “Maybe we should just plant some bed bugs.”
35

36 On June 23, 2008, I met with a dog trainer who uses canines to detect bed bugs. I learned
37 that canine scent detection is an excellent way to inspect hotels with hundreds of rooms. A dog
38 can check a certain number of rooms on a weekly or monthly basis, potentially catching bed bug
39 infestations in the very early stages. Very few hotels use dogs as part of a prevention program
40 for bed bug infestation. The disadvantage of canine scent detection is that the dogs cost about
41 \$10,000 a piece, so there are only a few dogs to go around. The dog trainer showed me how she
42 trains the dogs using live bed bugs. The dogs can only detect live bed bugs. The trainer had a
43 vial or test tube with live adult bed bugs. She then let them loose on a mattress. The dog is then
44 trained to locate the bed bugs. I had only seen pictures of the bed bugs, so I was happy when the
45 trainer handed me a vial of live adult bed bugs to look at more closely. I did not keep the vial of
46 bed bugs.

1 In the meantime, Taylor was fired and my show on the misidentified daughter aired on
2 June 26th. Even before the show received the award, I knew it was really good stuff. I had seen
3 a web advertisement for a news host with Global Broadcast Company (GBC), called “*Justice*
4 *Prevails.*” I thought I was just the sort of person they needed as the host for a show to go toe-to-
5 toe with Nancy Grace. I sent a couple of my tapes from “*No Apologies*” – the Light Rail Texting
6 Accident story and the Misidentified Fatality Victim.
7

8 It was a stressful week the following week. I was anxious if I would be called for an
9 interview with GBC, I no longer had a producer, and I was under pressure to get the bed bug
10 story wrapped up. Plus, it was the 4th of July weekend, and my family was coming up from
11 Tupelo to visit. I had booked 5 rooms for my family at the prestigious Le Condé Inn in
12 Scottsdale. We celebrated the 4th as a family at Le Condé. The hotel had a lot of activities for
13 the 4th festivities. I tried to unwind from the stress, and apparently became pretty inebriated that
14 evening at the hotel. I remember the hotel providing its limousine driver to return me home. I
15 don’t recall much of anything else from that night. I certainly don’t remember saying anything
16 threatening to anyone. Besides, how much stock are you going to put into what a drunk says? I
17 don’t recall much from the following day either. I had a hangover, and therefore wasn’t the most
18 pleasant person to be around. I was upset that the hotel charged me more than the room rate
19 quoted to me when I made the reservations. But, the manager, Mr./Ms. Garnier made some
20 accommodations, and gave me a free night’s stay to use whenever I wanted. I held no grudge
21 against Le Condé. It sounds like I was the jerk. Also, I had a reservation already booked for a
22 co-worker’s wedding reception at Le Condé for July 12th. If I held a grudge, why wouldn’t I
23 have just cancelled that reservation?
24

25 On Monday, July 7th, Devin Case of GBC called me to schedule an interview in New
26 York City for the host position of “*Justice Prevails.*” I was thrilled – this was my big break. But
27 I still had work to do at KFIB-TV – especially my bed bug story. Later that day, I called Dr.
28 Bennett and inquired if he/she had seen any bed bug bite victims, and whether there was any way
29 I could obtain their names and addresses. I was disappointed that no victims had contacted me
30 from the flyers that were distributed, and I was equally disappointed that I had not yet found a
31 hotel with live bed bug infestation. Sure, there were other ways to go with the story. I could
32 have made it an educational piece – what to look for, precautions one should take, but I wanted it
33 more dramatic. I wanted the hotel industry to be on guard that “Big Brother” was watching and
34 so they better have good safeguards in place. It’s always better to have a victim in an exposé.
35

36 The next day, July 8th, I called Dr. Bennett to set up a time to interview him/her for the
37 news story. I was prepared to just make the story an educational piece rather than an exposé.
38 There would always be a breaking story another day. I interviewed Dr. Bennett on July 9th. The
39 interview with Dr. Bennett went well, and I knew I could package the story to make it appeal to
40 our audience.
41

42 I flew out to New York early the next morning for the interview with GBC. The
43 interview was a success. The General Manager, Devin Case, was impressed with the tapes I had
44 submitted. He/She was equally impressed with my style. He/She said they were looking for
45 someone edgy like me. I was confident throughout the entire interview. I even told Mr./Ms.
46 Case that I was working on the bed bug infestation story, and I offered to give him/her a copy of

1 the tape when it aired. Mr./Ms. Case was interested and I thought it might factor into his/her
2 decision. It was a promise I intended to keep. I thought for sure that would lock in the position
3 for me as the host of “*Justice Prevails.*” Not only would I be the star I was destined to become,
4 it would also be lucrative. GBC was paying \$1.5 million for the host of the show. It was a
5 substantial increase from my \$155,000 salary at KFIB-TV.
6

7 I stayed in NYC the evening of July 10th because it would have been hard to get a flight
8 back after the late afternoon interview. I was elated with the success of the interview and
9 decided I deserved an extra day away from the pressures of the station. Then I remembered that
10 I had a free night stay at Le Condé. So I called from New York and booked to stay at Le Condé
11 the following day. I had previously booked a room at Le Condé for July 12th because that was
12 the night of the wedding reception for a co-worker of WYBU.
13

14 I was exhausted when I arrived at Le Condé on Friday, July 11th. I put on soft
15 background music, pulled the drapes, and just relaxed. The wedding reception the following day
16 was fun. I ran into Taylor Quick at the wedding reception. He/She acted nervous. I stayed out
17 pretty late at the reception, and was exhausted when I finally turned in for the evening.
18

19 When I woke up the next morning in my hotel room at Le Condé, I had bite marks all
20 over my arms, legs, back and hands. I couldn’t stop scratching. I was in excruciating pain. My
21 body felt as if it was on fire. I just wanted to tear it off! I thought the bites looked like the
22 pictures of bed bug bites that Dr. Bennett had shown me. Exhibit 2 is one of the photographs
23 provided by Dr. Bennett. So I pulled back the duvet cover to check the bed linens. I noticed the
24 blood on the bed. I became very upset and alarmed. I then pulled back the sheets and saw a
25 mass of bed bugs scurrying around on the mattress and dark reddish-brown spots all over the
26 mattress. Exhibits 3 and 4 are photographs of the bed bugs that were present in my hotel room at
27 Le Condé Inn. Exhibit 5 is a photograph of the bed bug infested mattress in my hotel room at Le
28 Condé Inn. I immediately called the hotel’s front desk and reported the incident. I also called
29 my camera crew to film the bugs, mattresses and my bites. While I never intended to be the
30 victim for my bed bug story, that’s what happened.
31

32 When the hotel manager came to the room, he/she was very apologetic for exposing me
33 to bed bugs and causing my suffering. He/She offered to set me up in a different room, give me
34 a week’s stay, clean my luggage and clothing with hot water, and take me to get medical care. I
35 declined Le Condé’s offers. Instead, I went to the person I trusted most – Dr. Bennett. Dr.
36 Bennett examined me and confirmed my sores were bed bug bites. He/She noted that I was one
37 of the rare individuals who had a severe allergic reaction to bed bug bites. He/She gave me
38 prescriptions for an antihistamine and steroid to reduce my allergic reaction, and an ointment and
39 an antibiotic to prevent secondary infection. I continued being treated by Dr. Bennett twice a
40 week for the next two weeks. Eventually, the pain and sores subsided. I have some scarring on
41 my back from the bed bug bites.
42

43 I did not look for bed bugs at the Le Condé during my hotel stay until I woke up on
44 Sunday morning with the bites. I knew how to check for bed bugs; I simply didn’t think to do it.
45 I was tired from traveling on Friday, and on Saturday I had stayed out late for the wedding

1 reception. Plus, this was a prestigious hotel – I would have assumed that they would have
2 exercised reasonable care to prevent bed bug infestations.
3

4 On Monday, July 14th, I had the camera crew re-film the bites and sores I received. The
5 sores had become worse due to my severe allergic reaction, and some of the sores had become
6 infected from scratching. The bed bug hotel infestation exposé aired on “*No Apologies*” on
7 Thursday, July 17. Exhibit 6 is a true and accurate copy of a part of the transcript from that
8 show. I sent a copy of the tape to GBC that same day by overnight courier.
9

10 On Sunday, July 20th, a newspaper article appeared in the front page of the Phoenix
11 Gazette quoting Mr./Ms. Garnier, the Hotel Manager for Le Condé, that I had fabricated the bed
12 bug story by planting the bugs there myself. Exhibit 7 is a true and accurate copy of the news
13 article. That’s preposterous and an outright lie! Garnier’s comments were defamatory and
14 smeared my good name and reputation in this community and in the news world as a credible
15 journalist. Shortly after the news article appeared I learned that GBC would no longer offer me
16 the host position for “*Justice Prevails.*”
17

18 Le Condé’s claim that it has been defamed is ridiculous. Everything in my news story is
19 truthful. There is nothing defamatory. Truth hurts. On the other had, Le Condé’s statements to
20 the Phoenix Gazette are complete lies! And Garnier’s defamatory statements have caused me to
21 lose a career opportunity of a lifetime with earnings almost ten times my current earnings,
22 besides the potential for product endorsements, and other doors that could have been opened to
23 me. In addition, I had to endure excruciating pain for weeks, and I have permanent scars from
24 the bites.
25

26 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
27 belief and knowledge.
28

Kelly Boyd_____.

1 **STATEMENT OF CASEY BENNETT**

2 My name is Casey Bennett. I am a licensed dermatologist at the Skin Clinic Institute of
3 Paradise Valley. Exhibit 8 is a true and accurate copy of my curriculum vitae. In addition to my
4 expertise in dermatology, I have significant background and experience in entomology. I earned
5 my Bachelor of Science degree in Entomology at Purdue University. I enhanced my knowledge
6 of insects working as a Field and Lab Technician for the USDA Beneficial Insect Laboratories in
7 the biological control of cockroaches. I also spent a short time with E. I. DuPont conducting
8 field testing of insecticides, herbicides and fungicides.

9 I appeared in Kelly Boyd’s news story on infestation of bed bugs in hotels that aired on
10 KFIB-TV on July 17th, 2008. I’ve heard the piece has gone viral over the Internet. I have gained
11 some fame and notoriety because of my appearance in the news story. Since then, I have been
12 featured as an expert on bed bugs on NBC Dateline, CBS’s The Early Show, NBC’s Today
13 Show, and I have been a repeat guest on National Public Radio (NPR). I expect to continue my
14 guest appearances in the immediate future because the bed bug problem is epidemic. I have seen
15 an increase in people with bedbug bites. In 2010, I also edited the Bed Bug Chapter in the
16 dermatology industry’s most well respected textbook reference, The Handbook of Investigative
17 Dermatology, 10th Edition. I’d like to think that I was asked to contribute to the reference book
18 because of my blend of backgrounds in entomology and dermatology, but I wasn’t very well
19 known among my peers until Kelly’s news report on bed bugs. This has been a lucrative side
20 career and I am scaling back on scheduling appointments in my dermatology practice. I am
21 looking into consulting and expert witness testimony in bed bug cases. I am currently engaged
22 in discussions with a plaintiff’s lawyer in a case involving a Chicago woman who is suing a New
23 York hotel for \$20 million after she woke up in her bed with over 600 bed bug bites.

24 Bed bugs, *Cimex lectularius*, are reddish-brown, oval-shaped, flattened insects that are
25 about 1/4 inch long. Nymphs (immature bed bugs) resemble the adult bugs but are often smaller
26 and lighter in color. Exhibits 3 and 4 are true and accurate photographs of bed bugs. The adults
27 appear more reddish after feeding on blood meal. The nymphs will appear bright red after
28 feeding. Bed bugs require blood in order to reproduce and complete their life cycle. There are
29 five larval stages, and each one requires a blood meal before molting into the next life cycle
30 stage. Both adult male and female bed bugs feed on blood and take repeated blood meals during
31 their lives. Females require blood for the development of eggs. The five larval stages are
32 completed in about a month under suitable conditions of temperature, humidity, and availability
33 of hosts for blood meals. Larvae can survive inside dwellings for several months without a
34 blood meal, but they do not molt into the next life cycle stage until they engorge on blood.
35 Adults can survive even longer under the same conditions, but do not develop eggs unless they
36 feed on blood.

37 Bed bugs usually feed on the blood of humans during the nighttime hours and crawl away
38 during the day to hide in nearby cracks, crevices and recesses of furniture, especially mattresses.
39 Bed bugs detect carbon dioxide emitted from warm-blooded animals and respond to warmth and
40 moisture as they approach the potential host. On humans, they tend to feed on exposed surfaces
41 such as the face, neck, arms, hands and back. A peculiarity of bed bug bites is the tendency to
42 find several pink bumps lined up in a row with central red spots through which blood is sucked.

1 Dermatologists refer to this as the “breakfast, lunch, and dinner” sign, recognizing the sequential
2 feeding that occurs from site to site.

3 The effect of bed bug bites varies among people, but they eventually produce red welts
4 that itch. If scratched, the bite areas can become infected. The bites themselves are not painful
5 and typically are not felt. Frequent feeding can disrupt people’s sleep and make them irritable,
6 and seeing bites may cause emotional distress in some people. Heavy rates of feeding can result
7 in significant blood loss and eventually lead to anemia. At least 27 agents of human disease have
8 been found in bed bugs, including viruses, bacteria, protozoa, and parasitic worms. None of
9 these agents reproduce or multiply within bed bugs, and very few survive for any length of time
10 inside a bed bug. Most people experience itching, pain and/or swelling of the skin where a bed
11 bug bite occurs within one day of a bite. Although the bites can cause considerable discomfort
12 and loss of sleep, bed bugs do not transmit disease after feeding on multiple hosts. A small
13 percentage of people experience significant allergic reactions to bed bug bites, causing greater
14 swelling, itching, and pain.
15

16 Treatment of the bed bug bites consists of treating the itching and inflammation
17 associated with the bites. Antihistamines and/or corticosteroids may be prescribed to reduce
18 allergic reactions. Antimicrobial ointment or antibiotics may prevent secondary infection.
19

20 Bed bugs are sometimes thought to occur only in poor and unsanitary conditions. This is
21 not the case. Bed bugs can be found even in very clean environments. Eradication of a bed bug
22 infestation is difficult and should be performed with the help of a professional pest control
23 company. Hotels have seen a significant rise in bed bug infestations. While the elimination of
24 DDT has contributed to the problem, in my opinion, the fault clearly lies with the hotel industry.
25 The hotel industry, in the past several years in light of a difficult economy, has cut staff. One
26 critical reduction of staff has been in housekeeping. Housekeeping no longer is able to follow
27 guidelines and protocol of the hotel industry because 1 person is doing the work of 2 or 3. The
28 housekeeping staff is rushed to complete basic cleaning tasks. Housekeeping staff does not have
29 adequate time to look at bed linens to see if brown, red or dark specks indicate bed bug
30 infestation. They do not have time to look at the crevices of the mattresses to check for bed
31 bugs. So, when guests stay in hotels, it is important to check the beds for signs of bed bug
32 infestations and to put your luggage on a luggage rack rather than on the bed or other places
33 where bed bugs like to be.

34 I met Kelly Boyd on Wednesday afternoon June 4, 2008. The office is closed usually on
35 Wednesday afternoons. Kelly had Googled me. My CV is posted on Skin Clinic’s website. My
36 article that appeared in Pediatrics Annual in 2006 on insect bites and infestations is also
37 referenced on the Internet. Kelly learned that I had a background in entomology and
38 dermatology. Prior to meeting Kelly, I was familiar with his/her notoriety for advocating for
39 victims as an investigative reporter and news anchor for KFIB-TV. I had admired Kelly’s
40 willingness to help victims and expose those to blame. When Kelly called, he/she explained that
41 he/she was doing a story on the hotel industry’s unsafe practices and the rise of bed bug
42 infestations. Kelly wanted to schedule a meeting with me to explore the medical side of bed bug
43 bites. I was enthusiastic for the opportunity to meet him/her and contribute to the project.

1 In our initial meeting, Kelly stated that he/she wanted to retain my services and that I
2 would be compensated at the same hourly rate I charge patients for examinations. The
3 proposition seemed fair to me because I would be taking away from patient time when meeting
4 with Kelly. Kelly presented me a check for \$2000 from KFIB-TV as a retainer fee for consulting
5 with him/her for the investigative report, which I accepted. We spent two hours in that first
6 meeting discussing bed bugs – their feeding habits, clinical signs to look for if you have been
7 bitten by a bed bug, possible medical effects from bed bug bites, and treatment. I showed Kelly
8 photographs of the bugs and their bites from one of the medical textbooks I had in my office.
9 Exhibit 2 is a copy of one of those photographs. We also discussed how hotels could use
10 reasonable care to avoid bed bug infestation with simple checks through housekeeping of the bed
11 linens and the mattresses. Kelly had clearly done his/her research prior to meeting with me.
12 He/she asked probative questions and was well versed on the topic. Nevertheless, Kelly
13 furiously took notes while I instructed him/her on bed bugs.

14 Kelly asked me if any patients had recently presented to me with bed bug bites. I told
15 Kelly that I had seen a significant increase in patients exhibiting signs of bed bug bites in the past
16 several months. Kelly wanted me to provide some names of patients with bed bug bites so that
17 he/she could interview them. Of course, under HIPPA, I couldn't provide confidential
18 information regarding a patient. But I told Kelly that if a patient came in I could give the patient
19 Kelly's name and they could contact him/her if they were interested.

20 Kelly stopped in my office the following Monday, June 9th, and dropped off a flyer for
21 me to provide to patients with bed bugs. I agreed to provide the flyer to patients for them to
22 make a choice if they wanted to discuss the matter with Kelly. Kelly offered to pay me \$100 for
23 every referral of a patient with bed bug bites. I declined that offer. Exhibit 1 is a true and
24 accurate copy of the flyer that Kelly provided to me. Kelly and I discussed some omitted
25 questions that had occurred to him/her after our initial meeting. Kelly wanted to know how long
26 it took for the bite to manifest itself, and how it could be linked to exposure at a hotel if there
27 was delay in the bite marks. I advised Kelly that the bites would manifest in one day. So,
28 ordinarily, the bites would be visible on the second day following the exposure at a hotel or
29 elsewhere. Kelly confirmed the facts for the story that if a guest stayed at a hotel for two nights
30 that the physical manifestations from the exposure to the human body would be visible, the hotel
31 guest would still be present at the hotel to look for evidence of the bed bug in the crevices of the
32 mattress, and the guest could report it to hotel management.

33 Over the next four weeks, I treated a handful of patients with bed bug bites. I distributed
34 the flyers to those patients. Kelly called me the afternoon of July 7th and inquired if I had treated
35 any patients with bed bug bites. I detected panic in Kelly's voice. I told Kelly I had distributed
36 the flyers to patients that I treated with bed bug bites, and assumed if they were interested in
37 being part of the news story would call him/her. Kelly told me that he/she had not received any
38 phone calls from people with bed bug bites. Kelly seemed frustrated. He/she remarked that
39 he/she "had hit a wall," but that he/she had "invested too much to throw the story away." Kelly
40 pleaded with me to give him/her the name of a patient or two with recent bed bug bites. He/she
41 was convinced that if he/she could talk to them, he/she could convince them to open up, and
42 make a difference to reducing the growing bed bug infestation problem. I told Kelly I would not
43 violate HIPPA by disclosing private patient information. I suggested alternatives to Kelly, such

1 as using textbook pictures instead of videoing a patient's bites. Kelly appreciated the suggestion
2 but said that viewers relate to real people. I suggested to Kelly that there was no urgency to
3 airing the story by any specific date and that the bed bug infestation was not going to go away
4 overnight. I think Kelly may have been worried that someone else was going to air a similar
5 story before he/she could.

6 The next day, Kelly called me to schedule a time to meet on Wednesday, July 9th to tape
7 me for the bed bug news story. Kelly was in much better spirits. We briefly discussed the
8 questions that Kelly planned to ask me in the interview. I never felt coached by Kelly to say
9 anything I hadn't planned on saying anyway. I didn't ask Kelly how he/she was presenting the
10 victim's story. I assumed Kelly had located someone with bed bug bites – maybe even one of
11 my patients, who had received a flyer, and decided to call.

12 In any event, on July 9th, Kelly came to my office with the KFIB-TV camera crew for the
13 scheduled interview. Kelly made me feel relaxed in front of the cameras and with the crew
14 adjusting my coat and microphone. The interview taping was like an orchestra playing a Mozart
15 Concerto. The questions and answers were in a synchronized rhythm. The voice inflections,
16 body movements, and nonverbal cues harmonized. Kelly was dynamic and energized. I could
17 tell by his/her expressions and voice that Kelly was genuinely concerned about the victims of
18 bed bug bites and controlling the problem before it became an epidemic. It wasn't rehearsed but
19 it came together as if the smallest detail had been planned. Kelly said that he/she hoped to have
20 it aired the following week.

21 On Sunday, July 13th, Kelly called me at home and said, unequivocally, that he/she had
22 bed bug bites. Kelly certainly had enough information through his/her investigative reporting on
23 the topic to identify the cause for his/her itching, bumps, and swelling. I met Kelly at my office
24 an hour later, and confirmed Kelly's lay diagnosis. Kelly had severe bites, at least 150, all over
25 his/her face, neck, hands, arms and back. They looked very similar to those shown in Exhibit 2.
26 The bites to his/her hands, arms and face were of a similar nature. Kelly showed signs of having
27 a severe allergic reaction to the bites, and was in significant pain. I provided Kelly with
28 prescriptions for an antihistamine and corticosteroids to reduce his/her allergic reaction, and
29 antimicrobial ointment and an antibiotic to prevent secondary infection. I continued to see Kelly
30 as a patient twice a week over the next two weeks to monitor the possibility of infection. Kelly
31 endured significant pain during that period of time. While I was examining the sores during one
32 of the visits, Kelly remarked, "I'd do it all over again to get the story." Eventually, the bites
33 dissipated, and except for a few small scars on his/her back, Kelly healed well, without any long-
34 term effect. I did not maintain a medical record for Kelly for the diagnosis or treatment. I
35 suppose I was Kelly's treating physician, but Kelly's visits seemed more like an extension of the
36 news story. Even though I was Kelly's treating physician when he/she suffered from the bed bug
37 bites, I didn't charge Kelly. Rather, I just charged the cost of my services to the retainer that
38 Kelly previously provided to me. Kelly has provided me with a separate fee, however, for my
39 testimony for this statement and if called to testify as his/her treating physician and as an expert
40 in dermatology and entomology. My fee for this statement and trial testimony is \$4000.

41
42 I know there have been accusations that Kelly fabricated the story. I don't believe it for a
43 minute! I saw for myself the severity of the bites Kelly received. That certainly wasn't

1 fabricated. And, Le Condé doesn't deny there were bed bugs in Kelly's hotel room. So, that's
2 not fabricated. The idea that Kelly would purposefully plant the bugs in the room and suffer the
3 bites is illogical. Why would anyone do that, even to get a story? I've spent some time with
4 Kelly as he/she was developing this story. If Kelly cared more about getting the story and not
5 the facts, Kelly would have coached me more in the interview. I've watched Kelly's news story
6 on bed bug infestation and I believe it is fairly presented.

7

8 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
9 belief and knowledge.

10

Casey Bennett, M.D.

1
2
3 **STATEMENT OF DEVIN CASE**

4 My name is Devin Case. I am the General Manager of the New York office for Global
5 Broadcast Company (GBC), a global broadcast cable network. Global Broadcast Company has
6 grown exponentially over the past ten years. What started as a single London station became the
7 company responsible for the first global broadcast cable television network. GBC's business has
8 appeal in the global markets, particularly the European markets. GBC has been expanding its
9 market in the States, and opened a New York office five years ago to concentrate our efforts in
10 appealing to the American market. Between our London and New York offices, GBC stays
11 connected equally with its audiences and their viewing wants and needs.

12 In 2008, GBC's strategic plan was to target certain prime time audiences. GBC's
13 philosophy is that to stay relevant, you have to reinvent. GBC continues to rebrand and
14 reinvigorate its established programming. GBC's 2008 strategic plan included a news exposé to
15 be scheduled opposite Nancy Grace at 8 pm and 10 pm daily. The program would consist of
16 credible news reports that expose industries and people for bad practices or acts. No person or
17 industry was above reproach.

18
19 I transferred from the GBC London office to become the first General Manager of the
20 GBC New York office in 2005. I have twelve years of professional tenure including project
21 management, newsroom staff training and management, contract negotiations, and board
22 governance. I have a proven track record of award-winning writing, producing, editing,
23 reporting, anchoring and management.

24
25 I was born and raised in Liverpool in the UK (United Kingdom). I graduated from the
26 National Broadcasting School in Liverpool. For several years, I worked as a writer, and later
27 producer, in radio broadcasting. I wanted more from my career, so I returned to school and
28 subsequently received an M.A. in Television Journalism from Goldsmiths, University of
29 London. The Department of Media and Communications at Goldsmiths is one of the UK's
30 leaders in the field of media theory and media practice.

31
32 After receiving my M.A., I started my career at GBC in London for seven years, rising up
33 in the ranks until I received a transfer to GBC in New York. I have been working in New York
34 at GBC for five years as the General Manager. As the General Manager, I routinely recruit,
35 train, cultivate, and manage freelance, temporary, and contract writers, editors, producers,
36 reporters, anchors and hosts, maintaining a high quality control standard while ensuring expenses
37 remain within budget. It is my job to coordinate news-gathering resources and to shape the
38 content of the broadcast, exercising final editorial control.

39 GBC of New York has received the Edward R. Murrow Award and George Foster
40 Peabody Award to my credit. I find my career gratifying. But, don't get me wrong - I do not
41 intend to glamorize the world of the broadcast network industry. It is not for the faint of heart.
42 Long hours, tight deadlines, frazzled nerves, and chronic understaffing often result in emotional
43 outbursts, which are a daily occurrence at GBC, or any other network. News anchors, reporters,
44 and correspondents gather information, prepare stories, and make broadcasts that inform the
45 public about local, State, national, and international events; present points of view on current

1 issues; and report on the actions of public officials, corporate executives, interest groups, and
2 others who exercise power. News anchors or hosts examine, interpret and broadcast news
3 received from various sources. News anchors or hosts present news stories and introduce
4 videotaped news or live transmissions from on-the-scene reporters.

5 In June 2008, we decided to implement our strategic plan for a prime time news exposé.
6 We had performed test markets on focus groups. The show would be called *Justice Prevails*.
7 The position for host of the show was advertised on our website, and we had contacted specific
8 higher profile personalities for the position. GBC was looking for someone who was “edgy.”
9 Our ratings had slipped to some of the other networks. To keep the audience’s attention and
10 have them turn the channel to our network every day, we needed someone who offered a
11 dramatic flair and wasn’t afraid to take an occasional risk.

12 Our records show that on June 27th, Kelly Boyd submitted his/her tapes from a television
13 station out of Phoenix, KFIB-TV. I do not recall now the specifics of the tapes that were
14 submitted; I saw so many from numerous candidates at the time. I know, however, that based
15 upon Kelly’s tapes, we were impressed enough to bring him/her to GBC for an interview. There
16 were only two other candidates that made the same cut. Kelly’s tapes stood out above all the
17 others, however. Kelly’s tapes showcased his/her flair for the dramatic, if not theatrical,
18 presentation of the story. The exposés were cutting-edge. That’s what we were looking for in a
19 host for *Justice Prevails*. In this day and age of technology, news is available from a variety of
20 sources 24/7, 365 days a week. Our audiences don’t want just ordinary news anymore. They
21 want sensationalism. After reviewing Kelly’s tapes, I studied Kelly’s market appeal in Phoenix.
22 Kelly’s audiences responded to him/her as well. Most viewed Kelly favorably as his/her persona
23 was as a victim’s rights advocate – someone who was “for the people.” Regardless of whether
24 viewers perceived Kelly favorably or unfavorably, he/she had people’s attention and they tuned
25 into him/her at KFIB-TV. KFIB-TV’s ratings and market share in the Phoenix market had
26 increased by 4 times since Kelly had joined the KFIB-TV team.

27
28 I contacted Kelly on Monday morning, July 7, 2008 and interviewed him/her in New
29 York on Thursday, July 10, 2008. The interview was equally impressive. Kelly has a nose for
30 news, persistence, initiative, poise, resourcefulness, a good memory, and physical stamina, as
31 well as the emotional stability to deal with pressing deadlines, irregular hours, and dangerous
32 assignments. Kelly is intelligent, but in a way that is relatable to viewers. Kelly has street
33 smarts too. Kelly thinks outside the box to solicit information from news sources. As a reporter
34 or host, Kelly could corner even the toughest interviewee. Kelly is confident, almost cocky.
35 Kelly could be condescending too, if you were the target of his/her exposé. Kelly was definitely
36 edgy. In the interview, it was clear that Kelly’s outspoken style, and brashness with his/her
37 adversaries, would be an asset for *Justice Prevails*. Kelly was the fresh face we needed. I even
38 did some test runs of Kelly in front of our cameras. I usually don’t take the time for camera test
39 runs if I’m not inclined to hire the person. After the test run, I readily recognized that Kelly
40 would be comfortable on camera as the host of our show.

41
42 I advised Kelly that a decision would be made within the next two weeks. At the time of
43 Kelly’s interview, there were two other candidates that I had planned to interview, who were
44 equally impressive, even though their reporting styles may not have been as theatrical. But GBC

1 was also teetering on finding the right balance of capturing the audience attention versus the
2 shock factor employed by some less credible “news” outlets and television programming.
3 GBC’s tag line is “news you can trust.” We didn’t want to lose sight of that. We still wanted to
4 report and present the news credibly, albeit dressed up a little more. Some were concerned that
5 Kelly was maybe more edgy than the direction we had planned to go.
6

7 During the interview, Kelly described to me a project he/she was currently working on
8 for KFIB-TV. It was an exposé on the hotel industry’s standards in housekeeping, and
9 specifically bed bug infestation in hotels. Kelly claimed that his/her investigative journalism had
10 uncovered that housekeeping staff were given unreasonable quotas for cleaning rooms.
11 Consequently, Kelly said the staff was often rushed and failed to do their jobs properly for a
12 clean, sanitary, and healthy environment. Kelly said the exposé would show that housekeeping
13 staff did not follow hotel policies by examining beds for signs of bed bug infestation. The
14 exposé was to include footage of hotel beds infested with bed bugs, and victims with bed bug
15 bites. Kelly agreed to provide me with the footage. I was interested in the story because at that
16 time, to my knowledge, it had not been covered globally or nationally. At the time of the
17 interview, I had no intention of factoring in the bed bug exposé in my hiring decision. However,
18 I suppose Kelly may have thought it was critical to my decision for the position. I was more
19 curious than anything. I had heard some talk about New York hotels with bed bug problems. No
20 one else had thought to cover the story at the time. Now it is big news, of course. I wish now
21 GBC had broken the story.
22

23 Kelly delivered on his/her promise to send me a copy of the tape of his/her exposé on the
24 bed bug problem of hotels. I received an overnight package of the story on July 18th. Kelly’s
25 note along with the tape said that the piece had aired on KFIB-TV on July 17th. Actually, that
26 was pretty good timing on Kelly’s part because that gave me the weekend to review the entire
27 piece. Typically my hectic schedule would allow time for a look at only a brief clip. Also, I had
28 completed the last of the interviews for the prime time host position on that same Friday, the 18th.
29 Upon reviewing the tape, I was reminded of Kelly’s abilities and style. I thought the story had
30 some real appeal. It was gritty, and would be universally interesting to viewers because it didn’t
31 just target the cheap hotels, but targeted even a premier hotel like the Le Condé. I have to admit,
32 I was a bit taken aback that Kelly was the victim in the story. Reporters or anchors aren’t the
33 news themselves, rather they only present the news. But in this case, it really personalized Kelly
34 with the viewers, and perhaps this was the type of edge we needed to increase our market share.
35 GBC has succeeded by trying to be different and doing things no one expected. Kelly’s bed bug
36 exposé put him/her over the top in my view. Kelly was my number one choice. Kelly was the
37 quintessential persona for the GBC *Justice Prevails* host position.
38

39 I had planned on meeting with the Executive Producer and News Director on Monday,
40 July 21st, to make my recommendation in favor of hiring Kelly. However, as I mentioned, there
41 were two other candidates for consideration. If the other decision-makers thought Kelly’s style
42 was too brash, another candidate might be preferred. The News Director had expressed some
43 concerns to me that Kelly’s outspoken nature could invite lawsuits. Also, one of the other
44 candidates would be a hire from within GBC – one was a foreign correspondent of GBC, the
45 other candidate hosted our *Just In Time* in the early morning time slot. The candidate currently
46 hosting *Just In Time* had a certain celebrity quality with an established audience who likely

1 would follow him to the evening time slot and show. In addition, he had worked with our
2 executive producer and therefore was a known quantity. But I thought we needed a new face or
3 persona. I felt confident we would hire Kelly because my hiring recommendations are usually
4 followed -- but not always. Our London Office was the final decision maker.
5

6 On Monday, July 21, 2008, I received an anonymous voicemail that advised me to check
7 the online edition of the Phoenix Gazette for a story about Kelly Boyd. I did just that. Exhibit
8 7 is a true and accurate copy of the news article. I learned that Le Condé accused Kelly and
9 KFIB-TV of fabricating the story. Le Condé didn't deny that bed bugs were found in Kelly's
10 room, but rather questioned how the bugs got there. The voicemail also described a separate
11 incident where Kelly edited a piece to fake a tear in reaction to a story. In any event, the
12 accusations made by Le Condé's hotel manager, Terry Garnier, killed the deal for Kelly to host
13 *Justice Prevails*. Reporters, anchors, and hosts should be dedicated to providing accurate and
14 impartial news. Accuracy is important both to serve the public and because untrue or libelous
15 statements can lead to lawsuits.
16

17 I notified the other decision-makers to pull Kelly from consideration for the host position.
18 I always had a back-up plan, just in case it didn't work out with Kelly. So, later that day, we
19 made the decision to promote from within and offer the position to our foreign correspondent,
20 Lara Morgan, who already had some name and face recognition with our current audience, and
21 also is a known factor to GBC based upon our experience with her. We pulled back from the
22 decision to go with edginess. You have to have the right person to move in that direction, and
23 Kelly was that person.
24

25 I contacted Kelly by phone the following day. I informed Kelly that we had learned
26 about Le Condé's accusations and other stories about questionable ethics. He/she sounded
27 shocked. Kelly said, "the ethics line is always moving." Then he/she said, "this really
28 backfired."
29

30 It may appear that because the hotel's accusations against Kelly killed the deal for
31 him/her that I believed that Kelly's bed bug story had been fabricated. That's not necessarily
32 true. Let's just say I did not completely dismiss the hotel's claims. I had doubts. In light of the
33 hotel's accusations and the edited tearful reaction in the other story, it wasn't worth the risk or
34 the loss of our credible reputation. Our decision to hire Lara in Kelly's stead reflects the
35 importance of maintaining credibility with our viewers. Rather than hiring an outspoken, brash
36 host, *Justice Prevails* remains interesting because it does not repeat mainstream news, but rather
37 it is an honest reflection of issues that matter to the audience.
38

39 Had we hired Kelly as the host of *Justice Prevails*, the salary offered was \$1,500,000
40 annually. The contract for employment would have only been for a one-year period that could
41 be renewed, at our discretion. Of course, there was no guarantee that the contract would be
42 renewed beyond the first year. GBC had taken risks with other cutting-edge shows and had been
43 successful with most, but some didn't fare as well, and were cut after a year. The show under the
44 format with Lara Morgan as host has been successful. In the case with Kelly, a contract renewal
45 was tenuous because we had no idea whether the edgy, dramatic style would have been well
46 received by our viewers.

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4
5

I affirm under penalty of perjury that the foregoing is true and correct to the best of my belief and knowledge.

Devin Case .

1 **STATEMENT OF TERRY GARNIER**

2
3 My name is Terry Garnier. I am the Hotel Manager for Le Condé Inn at 7503 East Main
4 Street in Scottsdale, Arizona. I am French Canadian; I was born and raised in Quebec. I am now
5 a United States citizen. I came to the United States in 1997 to attend Purdue University in
6 Lafayette, Indiana. In 2001, I received my Bachelor of Science degree from Purdue in
7 Hospitality and Tourism Management with a Marketing/Sales concentration. Purdue has always
8 had one of the leading programs in Hospitality. In 2002, Purdue was ranked the number one
9 school in the country for Hospitality and Tourism Management. I have continued to keep abreast
10 of the latest information and developments in hospitality management by taking additional
11 classes at Northern Arizona University, including Facilities Management, Business Etiquette for
12 Managers, and Consumer Behavior in Hospitality & Tourism. Le Condé is a member of the
13 Greater Phoenix Hotel and Lodging Association and the American Hotel and Lodging
14 Association. AHLA and GPHLA also provide educational seminars and resources. I have taken
15 advantage of these seminars every year, as well as the training resources available to me through
16 GPHLA and AHLA. I also annually attend the Desert Southwest Hospitality Conference, co-
17 sponsored by GPHLA, and receive the latest industry information on a variety of topics. I have
18 received information on safeguards and prevention of bed bug infestation through NAU,
19 GPHLA, AHLA, and the Desert Southwest Hospitality Conference from 2007 through the
20 present.
21

22 I joined the staff at Le Condé in 2007. Le Condé Inn is a boutique, luxury hotel with
23 fifteen guest floors, 150 guest rooms (10 per floor), 30 deluxe suites (2 per floor), and one
24 honeymoon or executive suite, which occupies the entire sixteenth floor. Le Condé is the
25 premier hotel in the Scottsdale area and a legend in Arizona hotel history. The hotel was the
26 vision of Frank Lloyd Wright, an influential architect of the time. In 1937, Mr. Wright built his
27 winter home in Scottsdale and set out to create a hotel that would reflect his vision of organic
28 architecture, fitted to its landscape, adapted to its environment and expressive of its purpose.
29 The result was a hotel that departed from the European grandeur of the day, and included
30 extensive use of glass, and custom-made furniture integrated into the building's design. The
31 construction of the hotel began in 1938, and opened its doors in 1939.
32

33 The hotel quickly became the city's business and social center for the who's who among
34 the elite. The hotel has had many famous guests over the years, including John F. Kennedy,
35 Harry Truman, the Duke of Windsor, Madonna, Michael Jackson, Lady Gaga, David Letterman
36 and Ashley Judd. The hotel opened as the country was recovering from the Great Depression,
37 and the hotel has thrived ever since its inception. Through the years, this boutique hotel has
38 developed customer loyalty.
39

40 In the 1980's, amid the country's recession, the hotel was purchased by Boutique Inn
41 Group (BIG) to become its signature hotel in the States. The hotel was renamed Le Condé Inn.
42 A \$17 million renovation in 2007 revived its prestige and luxury. I was hired at Le Condé in
43 2007 to oversee the renovation. The renovation was completed in March 2008. Through the
44 renovation, Le Condé continues its tradition of prestige and excellence. Once a vision of a single
45 man, now it's a city's pride and joy. Although Mr. Wright probably would not approve of some
46 of the changes made by BIG, Le Condé now takes luxury to the next level. The luxury starts

1 with a lavish lobby with crystal chandeliers, spacious rooms (550 sq. feet) with high ceilings,
2 bathrooms of Spanish Ramora marble, plasma TVs with LCD screens in the bathroom, 5”
3 pillowtop feather beds, Egyptian cotton sheets and European white goose down comforters. The
4 luxury continues with impeccable personal service, attentive to the guests’ every need.
5

6 Prior to joining Le Condé in 2007, I started my career in the hotel industry as the
7 Assistant Hotel Manager at Hotel Célestin Quebec from 2001 to 2004. Célestin is another
8 boutique hotel of BIG. As the Assistant Manager, I maintained the highest standards of services,
9 including overseeing maintenance and cleanliness for guest rooms and the facilities. I was
10 responsible for ensuring the cleanliness of all food and beverage facilities, banquet rooms, and
11 storage rooms. I also coordinated and implemented marketing activities for the hotel. I was then
12 promoted to Associate Hotel Manager at Hotel Célestin and served in that position until January,
13 2007. As the Associate Manager, I was fully responsible for coordinating and managing the staff
14 and hotel operations. In January 2007, BIG promoted me to the position of Hotel Manager at its
15 Scottsdale boutique hotel, Le Condé. As the hotel manager at Le Condé, in addition to
16 overseeing the \$17 million renovation, I was, and continue to be in charge of ensuring employees
17 are trained for their positions to maximize service, production and efficiency. I am also in
18 charge of managing the property operations to assure optimum performance and property
19 appearance. I ensure that the hotel’s property is well maintained and all mechanical equipment is
20 in good working order. I handle any concerns arising with guests or visitors to the hotel
21 including billing issues.

22 In the year 2000, the hospitality industry did not want to adopt bed bug action plans.
23 Having a bed bug action plan was like admitting your hotel had bed bugs. About five to seven
24 years ago, the AHLA recommended hotels to change some of their housekeeping protocols as a
25 way to identify a problem early. Now, if your hotel does not have a bed bug action plan, you are
26 at risk of losing your reputation and a lawsuit. In the hotel industry it is deemed below the
27 standard of reasonable care if the hotel does not have a reasonable bed bug detection program in
28 place, and if the hotel does not implement or adhere to the protocol. Le Condé had implemented
29 a bed bug action plan prior to my taking the position as the Hotel Manager. However, I
30 continually review and improve the protocol as we learn more in the hotel industry to increase
31 employee awareness, training, and eradication of potential infestations. The management of the
32 Le Condé takes the issue of bed bugs very seriously, as the safety and comfort of our guests are
33 our top priorities.

34 Let me first say, there is no way to stop bed bugs from being brought into any hotel.
35 New guests are arriving every day from all over the world, and bringing their potentially infested
36 luggage with them. Your hotel can be bed bug free one day and infested in multiple rooms the
37 next. So prevention, in the lodging industry, is early detection. Bed bugs must be detected very
38 quickly after they are brought in, hopefully, before they bite someone. To facilitate this early
39 bed bug detection, all Le Condé hotel employees receive some bed bug identification training.
40 This includes the reception staff, maids, facilities personnel, hotel managers, event planners,
41 maintenance staff, catering staff, bellhops, cooks, janitors, and absolutely everyone else. Why
42 everyone? Because our employees are located all over the hotel, and if everybody is looking for
43 bed bugs there is a greater chance that you will discover them quickly.
44

1 After our renovation was completed in March 2008, I wanted to implement the highest
2 quality of standards for Le Condé. Raising employee awareness on the issues surrounding bed
3 bug infestations has become a critical element in hotel property operations. Trained and
4 knowledgeable housekeeping staff is one of the best lines of defense, along with having regular
5 pest control inspections. Bed bugs can crawl out of a traveler's suitcase and establish themselves
6 in hotel rooms. The process of eliminating bed bugs from hotel rooms can be quite expensive
7 and lead to litigation, large settlements and loss of business. So, beginning in March 2008, I
8 contracted with the best pest management company in the Scottsdale area, DDT Pest Control, to
9 train our employees for early bed bug detection and to perform regular pest control inspections.
10 DDT Pest Control trained our housekeeping personnel to know what bed bugs and their fecal
11 stains look like so they can then alert management immediately if they think they see bed bug
12 evidence in a hotel room. This early detection helps to identify infestations before they get
13 started. The trained bed bug staff members also serve as handy inspectors if a guest complains
14 about bites or bed bugs in their room, an incident we have never had to deal with except in the
15 case of Kelly Boyd's alleged complaint.
16

17 The protocol at Le Condé requires that as beds are being stripped, the linens and
18 pillowcases used by hotel guests be checked for small blood stains that look like small reddish
19 brown spots. The mattress also is checked by closely examining the seams for brown spots that
20 could be bug feces, shed skin or actual bed bugs. Bed bugs can hide in the smallest spaces
21 between headboards and walls. Headboards are checked thoroughly, as well as under the bed
22 skirting, and especially pleated seams. We also check draperies, molding, pictures, and
23 baseboards, especially ones near beds. Housekeeping personnel are provided with flashlights to
24 check small cracks and crevices. Thorough vacuuming is important as well. Le Condé, under
25 my direction, has also taken measures to remove clutter from the guest rooms where bed bugs
26 can hide and if any cracks or crevices are detected they are sealed to remove hiding places. All
27 of these measures were in place in 2008 when Kelly Boyd was a guest at Le Condé. Exhibit 9 is
28 a true and accurate copy of the Bed Bug Inspection Protocol information sheet that is distributed
29 to employees of Le Condé in the training for bed bug inspections, and that was used in 2008. It
30 is also posted in the housekeeping area of the hotel. The Protocol has not changed materially
31 since that time. We do not use canines to detect bed bugs. It is costly, about \$10,000 per
32 inspection. Also, not all dogs are 100% accurate (but usually they are above 90% accurate).
33

34 The Bed Bug Inspection Protocol is required of all housekeeping employees, in addition
35 to their routine housekeeping functions. Exhibit 10 is a true and accurate copy of the
36 Housekeeper Task List, which details the tasks required of the housekeeping staff member for
37 the cleaning of each guest room. In addition to these tasks, the housekeepers also have the
38 responsibility for stocking their carts, and removing roll away beds or cribs, previously
39 performed by housemen. Due to the economic downturn the housemen positions were
40 eliminated and assigned to the housekeeping staff. The reassignment of these tasks is not
41 substantial, in my opinion, because guests at luxury hotels rarely ask for roll away beds or cribs.
42 Moreover, the stocking of the housekeeper's cart can be performed rather expeditiously.
43

44 We had to make several tough decisions due to the economic downturn. In 2007, when I
45 became manager at Le Condé, housekeepers had a 14-room quota. In March 2008, I downsized
46 the housekeeping staff and required a 20-room quota for room cleaners, not including turndowns.

1 This quota would apply in all conditions, whether a cleaner is covering suites, double or single
2 rooms, and whether a room cleaner has to travel to multiple floors. The increased quota does not
3 impair the quality of our housekeeping services. Our renovation in March 2008 significantly
4 reduced the time and effort required of our housekeeping staff because everything is in new,
5 pristine condition. We installed bathroom surfaces and flooring that are easier to clean, and our
6 newly installed heating and cooling ventilation system includes an air filtration system. With the
7 new filtration system and the fan running full time, all the air goes through the filtration system
8 four times per hour and virtually removes all dust particles. So, there is little dusting required by
9 the housekeeping staff. Previously, under the 14-room quota, housekeepers were expected to
10 clean each room in approximately thirty minutes. With the 20-room quota, housekeepers have
11 approximately twenty minutes to clean each room. I have had no complaints from any
12 housekeeping staff that the new quota is too cumbersome. Nor have we had any significant
13 complaints that a room is not cleaned to a guest's expectations. Of course, there are always
14 minor complaints, such as amenities not sufficiently supplied, or an occasional complaint of a
15 dirty towel left behind the bathroom door, but nothing of any significance. There has been no
16 change in the number of these minor complaints after the housekeeping room quota increased.
17 However, subsequent to the incident involving Kelly Boyd, we decreased the room-quota for our
18 housekeeping staff to the previous 14-room quota and we hired additional housekeeping staff.

19
20 I am familiar with Kelly Boyd. Mr./Ms. Boyd was a guest at Le Condé Inn the weekend
21 of July 11-13, 2008. Prior to that weekend, I also had two encounters with Mr./Ms. Boyd on the
22 weekend of July 4, 2008 to resolve certain problems concerning him/her. Prior to these
23 occasions, I was familiar with Kelly Boyd through his/her news reporting/anchor position at
24 KFIB-TV. I have never been a fan of Mr./Ms. Boyd. His/her reporting style seems to me to lack
25 credibility and integrity. He/she goes for the dramatic effect rather than merely reporting the
26 facts. I think the news should impartially report facts and not attempt to manipulate them to
27 achieve a certain appeal and turn it into a "story." I held these opinions of Mr./Ms. Boyd long
28 before the incidents involving Mr./Ms. Boyd at our hotel. Now, I can say with firsthand
29 knowledge, that Mr./Ms. Boyd is a liar, and fabricates things just to create a "story."

30
31 With regard to the July 4th weekend, Mr./Ms. Boyd had booked five rooms for family
32 members for a one night stay on Friday, July 4th. Mr./Ms. Boyd was not a guest at the hotel for
33 that evening. However, Mr./Ms. Boyd was a visitor at the hotel and participated in some of the
34 hotel festivities for the July 4th weekend. At approximately 1:30 a.m. on Saturday, July 5th, my
35 assistant manager called me to handle an intoxicated guest in our Le Fantastique Lounge. When
36 I arrived shortly thereafter, I observed Mr./Ms. Boyd in a drunken, loud, raucous and obnoxious
37 state harassing other hotel guests, visitors and our staff. The bartender had refused to serve
38 Mr./Ms. Boyd with any further alcohol, which resulted in Mr./Ms. Boyd becoming belligerent. I
39 learned from my assistant manager that the bartender and the assistant manager had already tried
40 to subdue Mr./Ms. Boyd. When I spoke with Mr./Ms. Boyd, I introduced myself as manager of
41 the hotel. When my efforts to quiet him/her down failed, and guests were leaving due to the
42 annoyance of Mr./Ms. Boyd's conduct, I offered to have our limousine driver take Mr./Ms. Boyd
43 to his/her home. I informed him/her that the only other option was for me to call the police and
44 report him/her for public intoxication. Mr./Ms. Boyd was visibly angry. He/she shouted, "Do
45 you know who I am? I am a celebrity. I'm the star news anchor at KFIB-TV. If I want, I can
46 ruin you and this hotel, just like that," and then he/she tried to snap his/her fingers but couldn't

1 because he/she was drunk. Mr./Ms. Boyd's speech was slurred, but I'm pretty sure that's what
2 he/she said. I could decipher most of what he/she was saying. In any event, he/she understood
3 my resolve to end the disruption to our hotel, and our limousine driver took him/her home a few
4 minutes later.

5
6 That was not the end of our problems with Mr./Ms. Boyd. On July 5th approximately
7 around noon, Mr./Ms. Boyd had returned to the hotel and became belligerent again when
8 checking out the rooms for his/her family. A billing issue was the source of the problem this
9 time. I think that Mr./Ms. Boyd, in his/her hungover state, was still holding a grudge because
10 he/she had been escorted out of the building due to the lounge incident. In any event, Mr./Ms.
11 Boyd claimed that he/she had been quoted a special rate of \$199 per night for each of the 5
12 rooms rather than our standard rate of \$279 per night. However, the \$199 room rate was
13 applicable only if you booked the room for a two-night stay. I used the "LAST" approach to
14 deal with Mr./Ms. Boyd's complaint. LAST stands for listen, apologize, solve, and thank.
15 Guests are less likely to leave frustrated if we have genuinely and actively listened to the
16 complaint, demonstrated understanding and thanked them after the problem has been resolved to
17 reassure them that the hotel does not begrudge them the right to speak up. I asked Mr./Ms. Boyd
18 to come to my office to resolve the problem because he/she was yelling in the lobby area and
19 disturbing our other guests. Once in my office, after listening to his/her complaint, I explained
20 that the discounted rate was our way of increasing hotel occupancy for more than just the July 4th
21 evening, as we expected near full occupancy for the 4th. July 5th is often less than full
22 occupancy, so we offered the special two-night room rate. I even showed Mr./Ms. Boyd the
23 website page that showed the special room rate was for a two-night stay. To resolve the problem
24 and to maintain good customer relations, I offered to discount the \$279 rate to \$259 per night and
25 offered to give Mr./Ms. Boyd a free night's hotel stay on another occasion. Mr./Ms. Boyd still
26 wanted to argue with me – I take it he/she doesn't like to concede on any point – but he/she
27 finally agreed to the compromise. When he/she left my office, Mr./Ms. Boyd said, "You haven't
28 heard the last of me yet!" I didn't know what he/she was referring to at the time, but after he/she
29 made the bed bug complaint, I knew this was his/her way of getting back at the hotel.

30
31 Mr./Ms. Boyd had previously booked a guest room for July 12th as part of a block of
32 rooms that was reserved for the Roberts-Keeley wedding reception. However, on July 10, 2010,
33 Kelly Boyd called the hotel to book an extra night stay, arriving on July 11th, instead of the 12th.
34 He/she indicated he/she was using the free night stay that I had given as a concession to him/her
35 to resolve the prior billing dispute.

36
37 Nothing unusual occurred over the weekend until the morning of July 13th. On that
38 morning, approximately at 9 a.m., Mr./Ms. Boyd called our front desk and reported bed bug bites
39 and infestation. Our Associate Manager called me immediately, and we rushed to the room.
40 When we arrived, the camera crew from KFIB-TV was already present with their cameras and
41 other equipment filming the hotel room, and more specifically a mattress inundated with bed
42 bugs, along with evidence of bed bug fecal stains on the mattress. The camera crew, at Boyd's
43 direction, turned toward me to film my reaction. Naturally, I was shocked – and honestly –
44 horrified. Such an incident can kill a hotel's business. Mr./Ms. Boyd was scratching his/her
45 bites, which they filmed, while accusing the hotel of poor quality assurance measures in our
46 housekeeping protocols for bed bug prevention. I went into automatic mode of using the LAST

1 approach in dealing with hotel guest complaints. When I apologized to Mr./Ms. Boyd, it was not
2 intended as an admission that the hotel had been negligent. I told him/her that we would waive
3 the bill, and offered a free week's stay whenever he/she wanted. I merely was trying to alleviate
4 any frustration experienced by a hotel guest. You know, "the customer is always right"
5 approach. I didn't realize the cameras were turned on me, and captured the apology like the
6 hotel was guilty of neglect. The events that occurred that morning were cut and pasted together
7 for the exposé to create a "better story." Boyd manipulated statements out of context.
8

9 I offered to provide Mr./Ms. Boyd another room in the hotel, but he/she said, "No, I have
10 a story to report." I offered to wash Boyd's clothing and scrub down his/her luggage so that any
11 bed bugs would not be transported elsewhere. It's a known fact that bed bugs spread from place
12 to place by way of luggage and clothing. Mr./Ms. Boyd declined my offer. Taylor Quick
13 approached me when all of the commotion was going on, and said "Things are not always as
14 they seem. Give me a call," and then he/she gave me a piece of paper with his/her name and
15 phone number on it. I had no idea what he/she meant at the time, and didn't give it much
16 thought. At the time, I was preoccupied that we had an infestation of bed bugs in our hotel.
17

18 I don't deny that there were bed bugs in the room occupied by Kelly Boyd. I saw them
19 for myself. Not only did I see the mattress with the bed bugs scurrying in the crevices and folds
20 of the mattress, but I also saw the fecal stains. Exhibit 5 is a true and accurate picture of the bed
21 bugs and stains appearing on the mattress in the guest room occupied by Kelly Boyd at Le
22 Condé. The question is not whether the bed bugs were there; it's a question of when and how
23 they got there. I feel confident that our hotel housekeeping staff exercises exemplary care and
24 skill in cleaning rooms and inspecting for bed bugs.
25

26 Mr./Ms. Boyd left an hour later. We called DDT Pest Control, who arrived within the
27 hour and began an inspection and extermination of the bed bugs. A complete detailed inspection
28 was performed of the room occupied by Boyd. Other than the mattress, all areas of the room
29 were inspected with no evidence of any infestation found. We also systematically checked each
30 hotel room, as guests checked out. No other rooms showed any evidence of bed bugs. In fact,
31 other than Kelly Boyd's complaint, we have never before and never since had any complaints or
32 signs of bed bugs. I called Kelly Boyd at the KFIB-TV station and reported the results of the
33 inspection, but, of course, the fact that there wasn't any other evidence of bed bugs did not make
34 his/her "news story."
35

36 Kelly Boyd's news exposé on bed bugs in the hotel industry aired on Thursday evening,
37 July 17th during his/her "*No Apologies*" investigative news segment. Exhibit 6 is a true and
38 accurate copy of the transcript of part of the "report." No Apologies? He/She should be
39 apologizing for fabricating a story that caused the hotel its reputation and business. Le Condé is
40 depicted in the show as a hotel with poor quality assurance and cleanliness. The story was one-
41 sided. Mr./Ms. Boyd did not report that it was the only guest room where bed bugs were
42 detected. He/she also did not report that a pest control expert immediately eradicated the
43 infestation. The story seems to infer that the problem was widespread at Le Condé. I was
44 furious with Kelly Boyd's exposé, and particularly how he/she targeted Le Condé. It was as if
45 he/she knew it made his/her story better by having a luxury hotel with bed bugs. The story was
46 damaging to Le Condé. As a result of Boyd's fabricated story, the hotel experienced a

1 significant loss of business. Approximately 75% of reservations for the remainder of July 2008
2 were cancelled. The following two quarters showed revenue down by a third compared to the
3 same quarters in the past two years. Exhibit 11 is a true and accurate summary of the revenue
4 comparisons for third and fourth quarters of 2006 through 2008. Le Condé Inn claims that Kelly
5 Boyd's defamatory comments resulted in the loss of income to the hotel.
6

7 When we prepared the room for eradication of the bed bugs, we bagged everything in the
8 room. The mattress was of course, discarded, and the linens were washed and dried in high
9 heat. On Saturday, July 19th, after the room and its contents were re-inspected and cleared for re-
10 use, we began to return objects to the room. It was then, that I noticed a note crumbled in a
11 wastebasket that had been previously bagged. Exhibit 12 is a true and accurate copy of the
12 handwritten note that was found in the guest room occupied by Kelly Boyd. Obviously, the
13 handwritten note shows that Mr./Ms. Boyd was planning to expose himself/herself to the bed
14 bugs at our hotel. He/she knew it would take at least 24 hours for the bites to show, and that if
15 he/she scratched the bites, the sores would worsen. The notation for the camera crew to be there
16 in the morning is the smoking gun. It shows that this was a staged event. Why else would
17 he/she make a notation for the camera crew to be there in the morning?
18

19 When I saw the note, I remembered Mr./Ms. Quick's comment and suggestion that I call
20 him/her. I called Mr./Ms. Quick on the 19th. He/she informed me that he/she had been a
21 producer for the KFIB-TV news, but had been fired because he/she took issue with Kelly Boyd's
22 unethical reporting. Mr./Ms. Quick then told me that before he/she left KFIB-TV, he/she had
23 been working with Boyd to produce the story on hotel bed bug infestation. I learned that Boyd
24 had struck out with hotel after hotel in finding bed bugs and the story was going to be canned by
25 the station. Boyd could not even locate any victims with bites. He/She was desperate. I also
26 learned that Kelly Boyd had been given a vial of live bed bugs from a source for the story. Right
27 then and there, I knew that Mr./Ms. Boyd planted the bed bugs in the hotel room at Le Condé
28 Inn. Mr./Ms. Quick has agreed voluntarily to come forward to testify in this case. But, at the
29 time, he/she requested that I maintain the confidentiality of his/her identity as the source of my
30 information because he/she was terrified that Boyd would make sure that he/she would never get
31 a job in the industry again. I respected his/her wish. I subsequently hired Mr./Ms. Quick to
32 produce an advertising piece for the hotel. It's not a big job, but I thought since he/she helped Le
33 Condé in its time of trouble, I would help him/her out. Besides, he/she does excellent work, and
34 as a freelance producer, it is a cost savings for a project I had planned to do anyway.
35

36 Later that Saturday, I contacted a local newspaper reporter and gave them the "real story"
37 how Kelly Boyd planted the bed bugs in the room and fabricated the bed bug infestation at Le
38 Condé. The story appeared in the newspaper on Sunday, July 20th. Front page news. Finally,
39 Boyd got a taste of his/her own poison. Exhibit 7 is a true and accurate copy of the news article,
40 and accurately reports what I said to the reporter.
41

42 I did not disclose the news article to any person or entity, other than to employees of Le
43 Condé Inn or BIG. I was unaware at the time that Mr./Ms. Boyd was interviewing for a position
44 at GBC.
45

1 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
2 belief and knowledge.

3 Terry Garnier .

1 I had learned my lesson that whether the news is manipulated doesn't seem to matter to the
2 networks; all they seem to care about is if the news has flashy appeal to the viewers.
3

4 As the producer at KFIB-TV, I transformed what was often a poorly-timed hodgepodge
5 of unrelated news stories and segments into streamlined and cohesive shows with an artfully
6 written continuity that flowed gracefully between hard news blocks, newsmaker interviews, and
7 feature segments -- consistently timed perfectly down to the second. Everyday, I shaped the
8 news show by stacking -- ordering, arranging, and timing of the entire show, performing much of
9 the writing, line producing, and all of the copy editing. As a producer, I wrote and coordinated
10 feature-length videotaped packages, culling the tape and supervising the videotape editor in the
11 final cutting of the packages. It was also my responsibility to oversee the screening of all
12 videotape and graphics for editorial content and quality control. I've written, edited, and
13 produced an estimated 3,500 television news broadcasts over the past 14 years -- working with
14 enormous volumes of material under extremely tight deadlines, consistently turning out award-
15 winning material.
16

17 I was also instrumental in the decision to hire Kelly Boyd as a news reporter for KFIB-
18 TV, and later in the decision to promote him/her to the anchor of the *Evening News*. I hired
19 Kelly and had been at KFIB-TV ten more years than Kelly, so imagine my surprise when I was
20 the one fired when a dispute arose between us over news content.
21

22 I have no doubt in my mind that Kelly Boyd fabricated the bed bug infestation at Le
23 Condé Inn. It would not be the first time that Kelly crossed the ethical line. Some may call me a
24 purist, but I strongly believe that you cannot manipulate the news. As a reporter, you can't direct
25 the person you're filming or interviewing to do something or say something other than what
26 naturally occurs. Sure, as a producer, we're not going to air every second of the interview or
27 film. There are time constraints and you have to make it interesting. Kelly went beyond routine
28 editing. For example, Kelly once reported on a story of the rise of homeless people, especially
29 affecting children. The news report was significant as it was, but Kelly wanted to make it even
30 more dramatic. So, he/she directed a homeless seven-year-old child to take a donut out of a
31 nearby trash container and take a bite. Kelly had placed the broken donut on top of the trash,
32 with the child's knowledge, moments before filming the child. I exercised my right as producer
33 to delete that portion of the story before it aired. If it had occurred in real life -- and it could
34 easily have occurred on another day or at another time -- but in this instance, it was staged.
35 Under my watch, we're not going to create something that didn't happen then and there.
36

37 Kelly is highly competitive, and has the attitude of the "ends justify the means." There
38 was one instance when Kelly told a source he/she loved them just to get information. Even in a
39 simple golf game, Kelly doesn't play on the up and up. I've played golf with Kelly on prior
40 occasions. Kelly is one of those golfers that if you're not looking, he/she will pick up the ball or
41 nudge it with a foot to put it in a more favorable position to hit. This lawsuit is just another
42 example. Kelly fabricates a story and then manipulates the situation so it appears like he/she is
43 the victim of defamation.
44

45 By mid-2008, as Kelly gained celebrity status and the arrogance that accompanies it,
46 Kelly and I were constantly at odds because of Kelly's brazen disregard for factual reporting. I

1 want the news to be real. Kelly did not hesitate to manipulate the facts for a good story. Kelly
2 knew how to pull in the audiences. Kelly portrayed himself/herself as a victim's advocate,
3 someone who was "for the people." From the time that Kelly was hired in 2004 through mid-
4 2008, KFIB-TV's ratings and market share in the Phoenix market had increased by 4 times. For
5 such a short time frame, the quadruple increase of market share is a huge leap in this industry,
6 and particularly for this market. Kelly's claim to fame was his/her special investigative exposés
7 that aired on Thursday nights called "*No Apologies*." No person or industry was spared if it
8 made a good story for Kelly.

9
10 With the increase in market share, Kelly thought he/she was above reproach. Kelly had
11 planned to air another manipulated story on "*No Apologies*" in June 2008. Kelly had filmed the
12 story on June 17th. The story centered on a mother's angst after learning that her daughter had
13 been misidentified as a victim in an automobile accident, only to learn later that the daughter had
14 not made the fateful trip with friends but had gone camping in the wilderness for a week instead.
15 The story was good. Powerful. Emotional. But Kelly couldn't leave well enough alone. After
16 shooting the interview, Kelly decided to film his/her reaction to the mother's heartfelt story. So,
17 back at the studio, Kelly mustered up a tear streaming from his/her eye, filmed it, and edited it to
18 the tape of the interview with the mother as if the tear had occurred simultaneously with the
19 interview. On June 18, I expressed my concern to Kelly that he/she had crossed the ethics line. I
20 told Kelly I was cutting the clip of the faked tear.

21
22 On June 25th, a day before the story was to be aired, I learned that Kelly had reinserted
23 the clip of the faked tear. I told the production crew that I had the final call as the producer, and
24 the faked tear would not be part of the story. Kelly went over my head and complained to the
25 KFIB-TV General Manager, Daryl Licht. I overheard Kelly telling Daryl that I was out-dated
26 with old-fashioned ideas about news reporting. Daryl called me to his office to sort out the
27 dispute. To keep Kelly happy, Daryl suggested that I let this one go. Daryl reminded me that
28 Kelly had been good for the station's ratings and market share. I couldn't compromise on ethics.
29 I started shouting at Licht with righteous indignation. I'm not one to hide behind superficial
30 niceties. I gave him an ultimatum. I said I would not be part of producing Kelly's "*No*
31 *Apologies*" segments in the future if I didn't have full editorial control and if the fake tear was
32 left in the story. I was fired that day – insubordination they said – and the story, fake teardrop
33 and all, aired the next day, June 26th, on the "*No Apologies*" segment. The story later received
34 some journalism and media awards, even though it was faked.

35
36 Before I was fired, I had been working with Kelly to produce a story on bed bug
37 infestations in hotels. I thought the story had some real promise at the time. I had heard about
38 some New York hotels that had problems with bed bugs, but the story had not been broken either
39 nationally or locally. I thought it would be a coup for KFIB-TV to be the first to break the story.
40 Kelly had been working on the story for weeks. Besides the theatrics and sensationalism, two
41 strengths that catapulted Kelly's success were (1) Kelly's tireless devotion to get a story, and (2)
42 Kelly's dedication to researching the topic backwards and forwards. By the time the bed bug
43 story aired, Kelly probably knew more about bed bugs than any expert.

44
45 In early June, Kelly started with interviewing a physician, Casey Bennett, to learn about
46 the clinical manifestations of bed bug bites, the effects, and treatment. KFIB-TV, per my

1 authorization, advanced \$3000 to retain Dr. Bennett as our medical expert for the story. Kelly
2 attempted to find victims of bed bugs through Dr. Bennett as well. On June 10, 2010, Kelly
3 interviewed on film an exterminator, learning more about bed bugs hiding spots, telltale signs of
4 bed bugs, and what procedures should be in place for a hotel to prevent bed bug infestation.
5 Then, Kelly began his/her quest to find bed bugs in a local hotel or motel. Acting undercover,
6 KFIB-TV would check into a hotel and carefully look for bed bugs. I usually was the person
7 who went to the front desk to check into the motel because, as the show's producer, I was not a
8 face that would be recognized by the general public. Kelly had scouted out the places in
9 advance, and selected all the cheap, seedy motels. He/She was convinced that bed bugs would
10 be readily found. We checked into the first motel on June 14th, and found nothing. We checked
11 into three or four rooms on June 15th and June 16th. Nothing again. Kelly didn't give up. On
12 June 21st and again on the 22nd, we booked five rooms each day in cheap hotels, and likewise
13 struck out. After three weeks on the story, Kelly had no victims of bed bug bites and no
14 evidence of bed bug infestation at any hotels or motels. Kelly was frustrated. I recall Kelly said,
15 "maybe I should just plant some bugs. We know they exist." I assumed he/she was just joking.
16 Before I was fired, Daryl had communicated to Kelly and me that he was going to can the story
17 if something didn't materialize soon. KFIB-TV had invested money to get a story that was going
18 nowhere. When Kelly heard the possibility that the story might be canned, he/she was desperate.
19 Kelly didn't like to be defeated.

20
21 On June 23rd, Kelly interviewed and filmed a dog trainer, who specifically trains dogs to
22 find bed bugs in hotels, motels and lodges. I learned that dogs are pretty efficient and proficient
23 at finding bed bugs. They can search an entire hotel with 100 rooms in a couple of hours.
24 However, they can only detect live bed bugs, so they cannot locate evidence of past infestations.
25 Kelly tried to get the dog trainer to tell us a hotel or motel where the dog had detected live bed
26 bugs, but the trainer didn't want to lose business because of the lack of confidentiality. The dog
27 trainer demonstrated for us how the dogs are trained to find bed bugs. She had several sealed
28 test tubes of live bed bugs. She simply released the bed bugs on the mattress for a dog to locate.
29 I was surprised the bugs were still alive in the enclosed tubes, but I learned that bed bugs could
30 survive in the test tubes or anywhere, except high heat, for 6 months to year without feeding. I
31 saw the dog trainer hand a test tube of several live bed bugs to Kelly. I presumed she gave it to
32 Kelly to keep for his/her research.

33
34 I was at Le Condé Inn for the Roberts-Keeley wedding reception the weekend of July 11-
35 13. I had been a co-worker of the groom and wouldn't have missed the wedding and reception
36 for the world. At the time of the wedding reception, I had moved to Florida to live with my
37 parents because I was out of a job, out of money, and needed to get away. The wedding
38 reception was on Saturday, July 12th, but since I was traveling, I arrived a day early. I was
39 hoping Kelly would be too busy with his/her celebrity status to make the wedding and reception,
40 but I saw him/her show up. We avoided each other at the reception.

41
42 Around 8:30 a.m. on July 13th, as I was loading up my luggage in my car in Le Condé's
43 parking lot, I saw one of the cameramen that I had worked with at KFIB-TV scurrying to retrieve
44 camera equipment from his van. He told me that Kelly had finally got his/her bed bug story,
45 only he/she was the victim. He said Kelly had numerous bites and the mattress was completely
46 infested with bed bugs. I knew then that Kelly, like he/she had done before, fabricated a story.

1 Kelly must have planted the bed bugs from the tube he/she received from the dog trainer.
2 He/She needed the story to materialize before Daryl canned it. I've heard Kelly say on more
3 than one occasion, "Desperate times call for desperate measures." I followed the cameraman,
4 and watched the commotion. I even saw Kelly nailing the hotel manager, who was profusely
5 apologetic and in a state of disbelief. I gave the hotel manager my name and telephone number
6 and told him/her to call me for the real story because I had learned with Kelly that things aren't
7 always as they seem.

8

9 My stay at Le Condé was nothing short of luxurious. The housekeeping was impeccable.
10 It would pass any white glove test. I cannot believe that a hotel with such high quality standards
11 would have a bed bug infestation problem.

12

13 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
14 belief and knowledge.

15

Taylor Quick_____.

1 **STATEMENT OF SIDNEY BROCK**

2 My name is Sidney Brock. I own and operate DDT Pest Control located in Scottsdale,
3 Arizona. I regularly participate in national seminars focusing on insects, their behavior, biology
4 and control, and I consult with other pest control companies on a variety of pest issues in both
5 commercial and residential settings. In 2006, I was recognized as one of the top 40 professionals
6 in the pest control industry under the age of 40 years old.

7 Bed bugs were once all but eradicated in the United States with broad-spectrum
8 pesticides such as DDT, which killed a wide variety of bug types. Concerns about health and the
9 environment led to many of these pesticides being removed from the market. Bed bug
10 infestations have increased in the U.S. because of immigration and travel from other countries,
11 and restricting stronger pesticides. Today, pest control methods are more focused. Pesticides are
12 designed to kill a particular species (like cockroaches). Bed bugs, are not specifically being
13 targeted, and therefore are slipping through the cracks - literally. The bugs also have developed
14 a resistance to other pesticides.

15 While bed bugs are often found when sanitation conditions are poor, bed bugs can also
16 live and thrive in clean environments. Crowded living quarters facilitate the spread of bed bugs.
17 Bed bugs travel surprisingly well, and are quite comfortable stowing away in luggage and even
18 clothing. The bugs are increasingly found hiding in beds, upholstered furniture and behind
19 baseboards in urban hotels in America. Since they tend to stow away and travel with humans,
20 any place that sees a number of world travelers is susceptible. Pilots, wealthy people, and
21 business travelers can bring bed bugs along unwittingly. Hotels are easy targets for bed bug
22 infestations because bed bugs can arrive on the clothing or in the suitcases of guests from
23 infested homes or other hotels harboring the pests. Once established, bed bugs can then move
24 throughout a building by crawling or hitch-hiking on items used during travel such as suitcases,
25 outerwear and other belongings.

26 Most people with any knowledge of bed bugs know that if you stay in any hotel, the first
27 thing you should do is check for bed bugs. It's something that can be easily and quickly done by
28 lifting up the bed linens and checking the crevices of the mattress for bugs or stains. Even if you
29 don't see any signs of bed bugs in your hotel, you should be careful not to allow any bugs the
30 opportunity to hitch a ride home with you. Don't put your clothes on the carpet or on upholstered
31 chairs. Likewise, keep your suitcase off the floor and the bed. Use a metal suitcase rack, if one
32 is available.

33 Bed bugs can live in tiny cracks in furniture as well as on textiles and upholstered
34 furniture. They tend to be most common in areas where people sleep and generally concentrate
35 in beds, including mattresses, box springs, and bed frames. Being very flat, they are able to find
36 a number of places in which to hide. Typical hiding places include beneath loose flooring,
37 behind loose wallpaper, inside box springs, in mattresses, and in upholstered furniture. One
38 common hiding place in hotel rooms is behind bed headboards that are fastened to the wall and
39 another is behind moldings just above the floor.

1 There is only one species of bed bug in Arizona, *Cimex lectularius*. This species is a pest
2 of humans worldwide, including the entire U.S., and has over 50 common names, among them
3 “mahogany flat,” “redcoat,” “wall louse,” and “bed louse.” Bed bugs typically are active at night
4 and hide during the daytime. Thus bed bugs living with humans typically feed at night while a
5 person sleeps, but they also will feed during the day in dark structures such as infested theaters
6 with upholstered seats. Male and female adults usually feed every 3-4 days and become
7 engorged with blood in about 10-15 minutes.
8

9 Early detection is key to preventing an infestation. In March 2008, Terry Garnier of Le
10 Condé Inn hired DDT Pest Control to perform regular inspections at the hotel for bed bugs the
11 first of each month, and to train its employees in the detection of bed bug infestations. I
12 conducted three two-hour training sessions for the Le Condé employees – an initial training in
13 March, a refresher training with Q & A in April, and then a make-up session in May for any
14 person who did not make the other two sessions.
15

16 My training of the hotel staff emphasized the importance of taking time to look around.
17 Bed bugs are large enough to see. I instruct the staff to look particularly under the mattress and
18 in the seams, in and around the bed frame, and along any cracks or peeling paint in the wall or
19 picture frames. I also emphasize it is important to check for bed bugs in the cracks of any
20 wooden furniture, particularly antiques. You can also spot droppings from bed bugs, which may
21 be tinged with blood. While fecal stains and skin casts suggest that bed bugs have been present,
22 these do not confirm that the infestation is still active. Observing the bed bugs themselves is
23 definitive confirmation that an area is infested. To aid in the hotel staff’s identification of
24 evidence of bed bug infestation, I used a PowerPoint presentation with various pictures showing
25 evidence of bed bug infestations, including the presence of actual bugs, their light-brown skins
26 (which shed during metamorphosis into adulthood), egg cases, dark spots of excrement and
27 blood spots or stains. The employees are instructed that when looking for an infestation, they
28 should use a flashlight and be sure to carefully and systematically check the following areas:
29 bedding (sheets, blankets, duvets, pillowcases), along mattress seams, under the gauze covering
30 of box springs (where fabric is stapled to the wooden frame), upholstered furniture, behind wall
31 mounted objects and bed headboards, inside cracks and crevices of furniture (and underneath
32 furniture), cracks in wood molding, and under the edge of wall to wall carpeting.
33

34 When I returned for the refresher course training in April 2008, I observed the staff
35 performing the inspections as I had instructed them in the previous training session. I conducted
36 the training again in May 2008 for a handful of hotel staff members who had not received the
37 prior training. Based upon my observations, I was of the opinion that through my training, the
38 housekeeping staff was sufficiently knowledgeable in identification of bed bug infestations. I
39 observed the housekeeping staff systematically and thoroughly checking the rooms for bed bugs
40 as they had been trained. I was impressed with the level of dedication of the employees. They
41 took pride in their jobs and the hotel. They appeared to want to keep the hotel’s reputation at the
42 highest level and were willing to take on these extra tasks to that end. I also reviewed the
43 protocol that Le Condé had provided to its employees. Exhibit 9 is a true and accurate copy of
44 Le Condé’s Protocol of Bed Bug Prevention. In my opinion, the protocol establishes a
45 reasonable bed bug infestation detection control, provided the employees routinely follow the
46 protocol.

1
2 During the training exercise, the bed bug infestation inspection took approximately 4 to 5
3 minutes per room. During the Q & A session in the staff training, a few of the employees asked
4 if I would speak to the hotel manager to hire more staff and reduce the room quota so that they
5 would have sufficient time to perform the bed bug inspections. I was surprised to learn they had
6 a 20-room quota and only had 20 minutes per room for performing the traditional housekeeping
7 tasks in addition to the bed bug inspections. Most hotels that I provide similar training have 12-
8 14 room quotas and at least 30 minutes per room for cleaning and inspections. It isn't my job, of
9 course, to manage the hotel, and I thought it was inappropriate for me to go to the manager to ask
10 him/her, on behalf of the staff, to hire more staff and reduce the room quota. So, I didn't
11 mention the staff's concerns to the manager. However, I did express some concern to the
12 Manager of Le Condé that the inspections would take 4-5 minutes and a 20-minute timeframe to
13 clean and inspect the room was not ideal. Of course, I realize that some of that time can be
14 overlapped with other housekeeping duties, such as pulling the dirty linens from the mattresses.
15 Still, I thought it was a tight schedule. I was satisfied, however, with Mr./Ms. Garnier's
16 explanation that the recent hotel renovation had eliminated or reduced time for dusting and
17 cleaning the bathroom floors and surfaces.
18

19 Mr./Ms. Garnier called me on the morning of July 13, 2008 and reported that Le Condé
20 had a bed bug infestation. I arrived at the hotel around 10 am. I first inspected the hotel room
21 where the infestation had been reported. I confirmed evidence of the presence of bed bugs by
22 examining the mattress and observing the fecal stains. Exhibit 5 is a true and accurate
23 photograph of the mattress in the Le Condé hotel room containing bed bug fecal stains. I then
24 observed the actual presence of live bed bugs. Exhibits 3 and 4 are true and accurate
25 photographs of bed bugs located in the Le Condé hotel room. In continuing my examination, I
26 noted that the mattress showed a significant number of bed bugs. However, oddly enough, the
27 bed bugs present were all adults. There were no nymphs or eggs. I wasn't sure what to make of
28 that finding. Without the presence of nymphs or eggs, that told me that the adult bed bugs had
29 not been residing in the room or mattress for any significant period of time. I could understand
30 the lack of finding of no nymphs or eggs if there were only a few adults present. If only a few
31 were present, the logical conclusion would be that some guest had recently transported the bugs
32 to the room on their clothing or luggage. However, the mattress had numerous bed bugs. The
33 other odd finding is that with so many bed bugs present in the room, I can't imagine any
34 housekeeper performing even a cursory inspection missing the signs, unless they completely
35 neglected their duties. Furthermore, again with so many bed bugs present, I would have
36 expected other guests occupying that room to complain of bites. Finally, after I inspected all
37 other guests' rooms in the entire hotel, I found no other rooms with any evidence of bed bug
38 infestation. With the amount of infestation that was present, I would have expected to find at
39 least rooms on the same floor with bed bugs as they can attach to clothing and luggage and easily
40 travel to other areas in the hotel. Nothing about this infestation was typical.
41

42 In my opinion, I believe that a significant number of adult bed bugs were intentionally
43 placed in that hotel room during the weekend of July 11-13th. I didn't raise these suspicions at
44 the time of my inspection, or even for several days, until I saw the newspaper article when
45 Mr./Ms. Garnier accused Kelly Boyd of planting the bugs. I had been racking my brain trying to
46 figure out why there was an unusually high number of adults, no nymphs, no eggs, and no other

1 bites or infestations in the hotel. I was beginning to think these were mutant bed bugs that
2 reproduced without going through normal larvae stages. Intentionally planting the bugs was the
3 only logical explanation under the circumstances. I'm not saying Kelly Boyd planted them there,
4 but I believe someone did. I'll admit that my reputation and business are on the line if I missed a
5 significant infestation like this when I performed my monthly inspection the first week of July,
6 but that still doesn't change the fact that the infestation in that hotel room was not typical in any
7 way.

8
9 So, after completing my inspection of all hotel rooms and common areas, and being
10 satisfied that there were no other infestations, I proceeded to have all furnishings, linens,
11 mattresses, and wall hangings bagged to prevent any further spread of the bugs. Then, I
12 proceeded to eradicate the little beasts. Insect repellents are not effective against bed bugs. I use
13 a combination approach of heat and pesticides. Some pest control companies only use chemicals
14 because it costs less. Others just use heat because there are not harmful chemicals present in the
15 air, and chemical treatments usually have to be repeated two to three times within 30 days. The
16 National Pest Control Association, however, recommends using a combination of heat and
17 chemicals. So, first I used a deep cleaning pesticide and scrubbed the infested surfaces with a
18 stiff brush to remove eggs, then dismantled bed frames and furniture, filled cracks in floors,
19 walls, and moldings, and used a powerful vacuum on cracks and crevices. Then I used blasts of
20 heat, hot enough to warm an Easter ham. Bedbugs can't survive above 113 degrees. I poked
21 flexible black tubing, 18 inches in diameter, through the windows of the room, blowing hot air
22 from my trailer below, where I have an industrial-size furnace. I also used half a dozen
23 industrial-size fans scattered on the floor circulating the heat like a convection oven. I kept the
24 temperature toasty for several hours inside the hotel room.

25
26 I billed Le Condé \$50,000 for the inspection and extermination. Previously I had billed
27 Le Condé \$5000 for each training session, and my monthly inspections are typically \$1000 per
28 month unless the hotel enters into a one-year contract, then the cost reduces to \$850 per month.
29 Le Condé executed the one-year contract for my services. Although the cost of bed bug
30 prevention and extermination is expensive, the overall financial loss caused by these pests can be
31 an immeasurable amount. I believe Le Condé values my services as Mr./Ms. Garnier has
32 referred me to other hotels locally and throughout the state through his/her associations in
33 GPHLA. Referrals are the key to any successful service business.

34
35 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
36 belief and knowledge.

37 *Sidney Brock*
38

EXHIBITS

EXHIBIT 1

Do you have bed bug bites?

**Did you stay at a hotel or
motel recently?**

**If you answered yes to both questions,
I would like to interview YOU!**

**Unclean and unsafe practices in the hotel industry are
widespread.**

**Hotels have cut housekeeping staff allowing infestation of
bed bugs.**

**Do not let hotels allow you to be a meal ticket (literally) to
their bigger profits.**

Make the hotels clean up their act!

I can help by exposing these practices, but I need YOU!

**Call me, day or night:
Kelly Boyd, KFIB-TV
News Anchor and Investigative Reporter
602-232-4611**



EXHIBIT 2



EXHIBIT 3



EXHIBIT 4



Exhibit 5

EXHIBIT 6

Partial Transcript of Bed Bugs Live!

In most hotels, housekeepers must clean 15 or more rooms per day. Hotel housekeepers must rush to meet their daily quota. In recent years, hotels have increased both the pace and the amount of work performed by housekeepers. Most hotels have recently introduced new room amenities without reducing the number of rooms assigned to housekeepers each day. Luxury beds with heavier mattresses and linens, triple-sheeting, duvets and extra pillows are increasingly common. Other add-ons like coffee pots and large hard-to-clean mirrors make room cleaning more difficult and time-consuming. Many hotel housekeepers report that the hotels are understaffed and they face time pressure to maintain a quality guest experience. Martha White, a housekeeper at Infinity Hotel says, "There is so much to do on the new bed that we have to rush constantly. "Years ago we usually did 12 and 14 rooms. Now the company has added more rooms, 15 and 16. They brought on heavy duvets, more amenities in the room, more towels. Our workload is more time-consuming."

In recent years, the workload that hotel companies demand housekeepers perform has increased significantly. Chronic understaffing, coupled with the addition of time-consuming amenities have placed guests at risk of bed bug bites. That's right . . . bed bugs are prevalent in the United States once again due to the elimination of DDT and the increase in travel from other countries. The nasty bugs hide in the mattress in your hotel room, and while you're sleeping with visions of sugar plums dancing in your head, they're attacking you. Twenty-four hours later, sometimes after you've checked out of the hotel unless you've stayed two nights, you find yourself in excruciating pain from where the bed bug slurped some blood out of you.

I can relate this story firsthand to you, folks, because I am a victim of inadequate inspection of a hotel room where the bed bugs were overlooked and allowed to dine on me through the night. Look at my bites. Imagine my pain. I am on 4 different prescription medications to alleviate the pain and infection. I want to protect you from suffering the way I'm suffering with these bites.

In this day and age, no one should have to suffer bed bug bites. If a hotel simply implements reasonable steps for the prevention of bed bug infestation, they can detect the bed bugs before they take a bite out of you. But with hotels decreasing staff and increasing the work required of housekeeping staff, the staff just doesn't have time to look for the bed bugs. It's more about the hotel keeping their room quotas than it is about your safety and health.

Even in a prestigious, luxury hotel, like Le Condé Inn, housekeeping staff are overworked and rushed, and bed bugs infestations occur. That's where I was attacked by bed bugs in the night. Watch this clip of the mattress infested with bed bugs and their excrement in my hotel room at Le Condé Inn. I was a guest at the hotel the weekend of July 11th. I woke up Sunday morning in horrible pain and bites all over me. Hotels, like Le Condé Inn, are putting their profits above your health and safety. It's simply a matter of poor quality assurance and negligence for failing to have adequate safeguards, which are impossible to maintain if your staff is understaffed so that they cannot check for bed bugs adequately. We gave Le Condé's hotel manager a chance to defend the hotel's inability to detect the bed bugs that attacked me in swarms. All Terry Garnier had to say was "I'm sorry for exposing you to bed bugs and causing any suffering." Hey, but Garnier offered me a week's stay at the hotel "for my trouble!" No thanks . . . your bed bugs are your suckers, not me!

EXHIBIT 7

KFIB-TV ANCHOR BOYD ACCUSED OF FABRICATING HOTEL BED BUGS STORY

Le Condé Inn Hotel Manager Terry Garnier on Friday accused KFIB-TV Anchor Kelly Boyd of planting bed bugs at the Le Condé Inn to fabricate a story for an exposé on hotel bed bugs for the KFIB-TV “Breaking News Investigations” segment that aired on Thursday. Garnier said, “I’m outraged that Kelly Boyd and KFIB-TV would stoop to such unethical conduct to make up a story and damage the fine, long-standing reputation of Le Condé Inn. There is no basis to KFIB-TV’s story.”

According to Garnier, Le Condé Inn follows the hotel industry protocol for ensuring the hotel’s cleanliness and to minimize bed bug infestation. “We’re meticulous. We’ve never had any problems in the past, and we certainly don’t have any problems currently either,” Garnier said. No bed bugs were discovered after a full inspection of Le Condé on Sunday except the one room occupied by Kelly Boyd over the weekend.

“Don’t you think that’s odd?” asked Garnier. Bed bugs typically spread rapidly in hotels due to movement of guests within the hotel and the bugs attaching to luggage or clothing. Bed bugs are rarely confined to one room.

Garnier claimed, based upon a reliable inside source, Kelly Boyd’s bed bug exposé was going to be canned by the station because no evidence of bed bugs had been uncovered after weeks of investigation. Garnier claims that Boyd resorted to planting the bed bugs out of desperation. Le Condé was a target for the ruse, according to Garnier, because the hotel and Boyd had a recent dispute over a bill from the July 4th weekend. Garnier claims that, according to the inside source, Kelly Boyd frequently crosses the line in ethical news reporting. Garnier said, “Kelly Boyd doesn’t care about the facts, it’s all about drama and shock value.” Kelly Boyd was unable to be reached for comment.

EXHIBIT 8

CURRICULUM VITAE CASEY BENNETT, M.D.

Education:

Undergraduate: Purdue University, BS in Entomology, 1994
Medical School: Indiana University, MD, 1998
Residency: Dermatology, Indiana University, 2002

Licensure and Certification:

Medical Licenses, Indiana and Arizona
Certified, American Board of Dermatology, 2002

Past Academic Appointments:

Clinical Instructor; St. Theresa Hospital Center,
Department of Family Practice, Beech Grove, IN
Clinical Instructor, Indiana University, School of Medicine
Department of Dermatology, Indianapolis, IN

Current and Past Hospital Appointments:

Wishard Memorial Hospital, Indianapolis, IN
Methodist Hospital, Indianapolis, IN
St. Francis Hospitals, Beech Grove, IN
Community Health Network, Indianapolis, IN
Hendricks Regional Health, Danville, IN
Paradise Valley Hospital, Phoenix, AZ
John C. Lincoln Hospital, Phoenix, AZ
Scottsdale Memorial Hospital, Scottsdale, AZ

Employment History:

Skin Clinic Institute of Paradise Valley, Phoenix, AZ 2006-present
The Dermatology Center of Indiana, PC, Plainfield, Indiana 2002-2006

Professional Affiliations:

American Medical Association
American Society for Dermatologic Surgery
Indiana Dermatological Society
Indiana State Medical Association
Arizona Medical Association
International Society of Tropical Dermatology
Society of Investigative Dermatology

Publications:

Insect and arachnid stings, bites, infestations, and repellents. *Pediatr. Ann* 2006.
Insect bites and infestations. *Textbook of Dermatology*, 21st edition. McGraw-Hill 2009.
What's New in Dermatology Therapy: Tricks of the Trade. *Journal of Dermatology*. March 23, 2010.
Editor, Bed Bug Chapter in *The Handbook of Investigative Dermatology 10th Edition (2010)*.

Honors and Recognitions:

Featured as an expert on NBC Dateline, CBS's The Early Show, NBC's Today Show and a repeat guest on National Public Radio (NPR)
Dermatology Foundation Research Award Recipient, 2006
Outstanding Medical Student by the Dept. of Dermatology, 2002

EXHIBIT 9

BED BUG INSPECTION PROTOCOL

IDENTIFY A BED BUG INFESTATION BEFORE GUESTS DO

- Inspect rooms upon vacancy and when a guest complains about bed bugs.
- Look for living or dead bed bugs, small bloodstains from crushed insects, or dark spots from droppings on:
 - linens,
 - mattress and its seams,
 - bed springs,
 - behind the headboard,
 - seams of upholstered furniture,
 - between floor boards.
- Pay special attention to cracks and spaces.
- Vacuum thoroughly.
- Discard the used vacuum bag in a sealed plastic bag before using the vacuum in another room.
- Repair cracks in plaster and loose wallpaper.
- Seal cracks around baseboards completely with caulking material.

WHEN A GUEST COMPLAINS ABOUT BED BUGS OR BITES:

- Immediately offer a new room to the guest.
- Reassure the guest that bed bugs are not known to spread disease.
- Thoroughly inspect the guest's luggage and clothing, as well as the infested hotel room and the new room to which the guest was moved.
- If a room is infested, all machine-washable bedding, curtains, rugs, towels, and bathrobes should be cleaned separately in the hottest water and dried on the hottest recommended cycle.
- Scrub mattress seams with a stiff brush to dislodge bed bugs and their eggs.
- Offer to launder the guest's clothes.
- Bring in a licensed pest control professional for a complete inspection and treatment of the room.
- Don't use the infested room until a pest control professional certifies it free of bed bugs.
- Place infested mattresses or box springs in zippered plastic covers and store them for at least one year before using them again.
- Securely bag all discarded materials to prevent further infestation.
- Reinspect the room periodically to ensure that bed bugs are gone.

EXHIBIT 10

HOUSEKEEPER TASK LIST

Bedroom Tasks:

- ✓ Remove all room service items from room
- ✓ Strip beds of all sheets, blankets, duvets
- ✓ Place bottom sheet on each bed and tuck 8 times
- ✓ Place top sheets and blanket on each bed and tuck 8 times
- ✓ Spread duvet on bed
- ✓ Remove 8 pillowcases per bed and stuff pillows into fresh cases
- ✓ Dust all nightstands and desk
- ✓ Restock and arrange pens, papers and room service menus on desk
- ✓ Dust armoire, including behind the TV
- ✓ Clean TV screen
- ✓ Retrieve TV remote and rearrange TV channel guide
- ✓ Pick up trash and empty bedroom's wastebasket
- ✓ Wash and dry ice bucket and rearrange on counter
- ✓ Collect, wash and dry dirty glasses
- ✓ Dust Vents
- ✓ Put away all ironing boards, luggage racks, and all other equipment
- ✓ Vacuum all floors

Bathroom Tasks:

- ✓ Pick up soiled towels and place on cart
- ✓ Replace soiled towels
- ✓ Clean and disinfect toilet bowl
- ✓ Wipe down top and side of toilet
- ✓ Restock Toilet paper
- ✓ Wipe down counter tops
- ✓ Clean sinks and polish faucets
- ✓ Replace and arrange toiletries
- ✓ Clean bathroom mirror
- ✓ Wash and dry coffeepot and cups and rearrange on counter
- ✓ Scrub inside of bathtub
- ✓ Replace shower curtain
- ✓ Clean bath and shower walls
- ✓ Pick up trash and empty bathroom waste basket
- ✓ Mop floor
- ✓ Dust vents

EXHIBIT 11

**LE CONDÉ INN
REVENUE COMPARISON
THIRD & FOURTH QUARTERS
2006 – 2008**

Quarter	2006	2007	2008
Third	\$3,223,338.89	\$3,332,541.77	\$2,105,112.42
Fourth	\$3,561,442.60	\$3,454,246.21	\$2,338,337.68

EXHIBIT12

*LE CONDÉ INN
7503 EAST MAIN STREET
SCOTTSDALE, ARIZONA 85251
www.lecondeinn.com*

24 hours – bites

scratching worsens problems

use antihistamines and steroids – later

camera crew – a.m.