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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Joseph Cappello IV,

Plaintiff,

v.

CBS News Corp., Dave Savini,

Defendants.

Case No: 2023-L
2023L012896

Ad Damnum: \$1,000,000 + costs + interest

COMPLAINT

NOW COMES, Plaintiff Joseph Cappello, pro se, and complains as follows against Defendants CBS News, Dave Savini. Plaintiff upon personal information as to each of his activities, and on information and belief as to the activities of others and alleges as follows:

INTRODUCTION

1. This is a civil action for defamation per se brought by Plaintiff John Cappello against Defendants CBS Corporation and related entities for the publication and dissemination of false statements accusing Plaintiff of professional misconduct, excessive force, and violations of protocol.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff, Joseph Cappello IV (“Cappello” or “Plaintiff”), has been a Chicago Police Officer since 2014. Cappello had approximately three years of experience at the time of the incident.

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Cappello had outstanding records receiving numerous awards and commendations. At all times relevant, Cappello had no prior discipline.

3. Cappello's good reputation is an essential component of his profession.
4. Plaintiff is not, and has never been a public figure, nor has he voluntarily injected himself into matters of public concern to influence the outcome of a controversy.
5. Defendant CBS is a Delaware corporation, with its principal place of business located at 51 West 52nd Street, New York, New York 10019.
6. CBS represents on its website that it "is a mass media company that creates and distributes industry-leading content across a variety of platforms to audiences around the world." About CBS Corporation, <http://www.cbscorporation.com/about-cbs/>
7. CBS "has businesses with origins that date back to the dawn of the broadcasting age as well as new ventures that operate on the leading edge of media." *Id.* CBS claims that it "owns the most-watched television network in the United States and one of the world's largest libraries of entertainment content, making its brand—the Eye—one of the most recognized in business." *Id.* The company's "operations span virtually every field of media and entertainment, including cable, publishing, radio, local TV, film, and interactive and socially responsible media." *Id.* Through one of its subsidiaries, CBS owns and operates a television station in Chicago, Illinois WBBM.
8. In calendar year 2015, CBS reported gross revenues of almost \$14 Billion (\$13,886,000,000) and net earnings of nearly \$1.5 Billion (\$1,413,000,000).
9. WBBM-TV is a local television station in Chicago, Illinois, United States, serving as the Chicago market's CBS network outlet. WBBM is owned and operated by the Defendant CBS' News and Stations division.

10. Upon information and belief, Defendant Dave Savini (“Savini”) is a resident of Illinois and is employed by CBS-WBBM as an investigative reporter.
11. Jurisdiction is proper in this Court pursuant to 735 ILCS § 5/2-101 and because this Court has jurisdiction over all Counts under Article 6, Section 9, of the Illinois Constitution as a matter of general jurisdiction over justiciable issues.
12. The venue is proper in this Court because Defendants purposefully directed their unlawful activities toward Cook County, knew or should have reasonably known that these activities would cause harm in Cook County, and did in fact harm Plaintiff in Cook County through their activities. *735 ILCS § 5/2-209(a)(2)*.

A. PART ONE: BACKGROUND

13. On November 7, 2017, Plaintiff and three other officers worked in a tactical unit within the 11th District.
14. Based on information received from a John Doe (“Doe”), someone arrested the previous day, Cappello and another officer learned about a large quantity of narcotics and other illegal items at an apartment at 3557 South Damen Avenue purportedly on the second floor.
15. The people Doe indicated possessed the drugs were known drug dealers.
16. Cappello searched public records, but he was unable to tie the drug dealers to the Damen Avenue address.
17. Doe confirmed photos of the front and back of the Damen Avenue building were in fact the location he had told them about.
18. With Doe’s sworn testimony a search warrant was obtained.
19. As Cappello and the other officers tried to enter the premises, a woman on the second floor leaned out a window and saw them.

20. Capello and the other officers yelled “Police, Search Warrant” and ran up the stairs to the second floor.
21. Another officer, Guzman breached the door of the residence, and the other officers entered announcing they had a search warrant.
22. A male present was handcuffed for officer safety. A female and two children were placed on a couch (“Mendez”) family.
23. Shortly after entering the apartment, the officers realized that they were mistaken, and no drugs were present.
24. The female in the apartment told them the person they were seeking lived on the third floor, not the second.
25. The officers were unable to proceed to the third floor to search since the warrant only covered the second floor.

B. DEFENDANTS’ PUBLISH NUMEROUS ARTICLES AND FILM UNWARRANTED

26. The incidents above led to the Mendez family filing a federal lawsuit *Mendez v. City of Chicago*, Case No. 18-cv-05560, Dkt. No. 125 (Fourth Amended Compl.) (N.D. Ill. Sept. 26, 2019). This lawsuit is still pending.
27. Sometime in 2019, someone associated or employed by Defendants obtained a copy of Plaintiff’s videotaped deposition.
28. On belief, this video deposition was only provided to limited parties that were part of the federal lawsuit including: Mendez family attorney, Defendants, and the employees of the company that recorded Cappello’s video deposition.
29. On further belief, none of the Defendants were parties to the Mendez federal lawsuit and would not otherwise been privy to Cappello’s video deposition.

- 30.** On belief, Defendants published Cappello’s video deposition across its various video and written news outlets, social media accounts, its commercials from 2019 to present.
- 31.** As such, this action arises out of various news articles related to the incident at the Mendez residence including all of the news articles located on Defendant CBS’ website: <https://www.cbsnews.com/chicago/feature/unwarranted/> and the film *Unwarranted*, a broadcast by CBS Corporation (“CBS”) on its WBBM affiliate station, on CBS’ Youtube Channel, and its Vimeo Channel.
- 32.** Because CBS represented and promoted *Unwarranted* as a fact-based film, viewers expected a presentation of factual information about real people, places, and events that was truthful.
- 33.** CBS represented and promoted that the Chicago Police Department had a checkered past of wrong raids—and represented that Plaintiff was one of the perpetrators of such “botched raids.”
- 34.** Defendants accuse Cappello of failing to follow departmental protocol, improperly pointing a gun at children, and being guilty of misconduct and excessive force. None of these statements were based on truthful or accurate facts.
- 35.** Instead, the Defendants’ accusations were based on a compilation of lies, half-truths, manufactured information, and/or the intentional omission and avoidance of truthful information about the facts leading up to the Mendez raid and COPA’s investigation thereafter.
- 36.** Defendants’ accusations were negligently published and was published with actual knowledge of falsity and/or a reckless disregard of the truth.
- 37.** Defendants’ statements create the impression that Cappello does not know the Chicago Police Department’s Standard Operating Procedures, that he failed to adhere to CPD’s SOP’s, that he botched the raid, and that he pointed an assault rifle at children.

38. All of Defendants' statements impute that Cappello committed excessive force and are defamatory per se.
39. All of Defendants' statements impute that Cappello is unable to perform or lacks his employment duties as a police officer and are defamatory per se.
40. All of Defendants' statements about Cappello outlined above impute that he lacks ability and otherwise prejudices him in his profession of Police Officer and are defamatory per se.
41. Defendants' statements caused Plaintiff to deal with emotional distress, damaged his reputation, and caused him to be subjected to a delayed internal investigation by COPA.

C. DEFENDANTS' MARKETING OF THE DOCUMENTARY

42. Upon information and belief, CBS maintains in-house broadcast standards.
43. CBS allowed its investigators to expend significant time and resources "uncovering a pattern of officers getting warrants, with bad addresses, signed off on by their superiors, prosecutors and judges. Even before these two bad raids, there was another one."
44. CBS' states that this "2017 incident propelled CBS 2's years-long investigation into a troubling pattern of bad raids by the Chicago Police. Since first reporting on the raid in 2018, CBS 2 has uncovered dozens more residents, all Black or Latino, who were victims of similar raids, including Anjanette Young." Available December 20, 2023 at <https://www.cbsnews.com/amp/chicago/news/copa-suspensions-mendez-family-wrong-raid/>
45. Upon information and belief, Dave Savini's Investigative Reports examined and excluded members of the Mendez family, relevant portions of their testimonies, the testimonies of other officers, which created the preconceived notion that Cappello was guilty of the aforementioned misconduct.

46. CBS planned, promoted and produced these articles and the Unwarranted film to attract the largest number of viewers possible and then hook those viewers by capitalizing the anti-police rhetoric.
47. On or about December 21, 2022, Defendants published another article entitled: "5 years later, multiple Chicago cops will likely be suspended for wrong raid on innocent family." A true and correct copy is attached hereto as Exhibit A.
48. "In interviews with CBS 2, and during a deposition as part of his family's lawsuit against the city, Peter said officers pointed guns at him and Jack."
49. On belief, at least one of the children stated that Cappello and other officers never pointed a gun at them.
50. On further belief, Defendants deliberately chose to exclude this Blockbuster testimony.
51. This article also republished several of the defamatory publications via hyperlinks.
52. Defendants included statements from a law professor, Sheila Bedi, which took the position that Cappello and the other officers had no legal basis to be in the apartment and further speculates that "[she] imagine[s] that they were hoping to find something that would allow them to have some sort of justification for continuing the search."
53. There is absolutely no evidence that indicates that Cappello or the other officers "hoped to recover something in the apartment" or "sought justification for continuing the search." This statement is defamatory per se and casts Cappello in a false light.
54. Further, Defendants provided no legal scholars that would present a different view that the officers were mistaken and committed no misconduct because each officer was a patrol officer, the search warrant was signed off on by their supervisor, an Assistant Cook County State's Attorney, and a Judge.

55. The December 21, 2022 article republished numerous hyperlink to previous false and injurious stories previously published by Defendants.
56. Bedi said that can traumatize a child. She said children should not have guns pointed at them. "When a police officer points a gun at somebody, it is a use of force," said Bedi. Available: <https://www.cbsnews.com/chicago/news/chicago-police-raids-wrong-homes-cbs-2-investigators/?ftag=CNM-00-10aab4i>
57. Provided a hyperlink to a previous story: <https://www.cbsnews.com/chicago/news/chicago-police-officers-questioned-on-video-for-lawsuit-about-raiding-wrong-home/?ftag=CNM-00-10aab4i>
58. For the first time, Chicago Police officers are being heard on video talking about why they raided the home of an innocent family. The officers were caught on body camera busting through door sand continuing their search – even when they knew they were in the wrong place. CBS 2 Investigator Dave Savini has spent more than a year exposing a pattern of wrong raids that have left parents and children traumatized.
59. “Chicago Police Officer Joe Cappello had a search warrant to raid a drug offender's home, but he didn't make sure he was hitting the right place.”
60. “Cappello and a team of officers with handguns and an assault rifle raided the home of an innocent family - the Mendez family.”
61. Our year-long investigation found officers repeatedly failing to investigate informant tips, busting into homes of innocent families, and treating them badly.
62. Defendants represented and promoted that [add] presented factual information revealing [add].
63. On belief, prior to publishing articles and Unwarranted film containing the numerous injurious inaccuracies against Cappello IV, Defendants had actual knowledge that Cappello did not point

a gun at one of the Guzman children or they published the accusation that accusation that Cappello pointed a gun at one of the Guzman children with a reckless disregard for the truth.

64. Defendants made their false accusation against Cappello IV with malice, in that Defendants predetermined the result of their publications but nevertheless portrayed their articles and Unwarranted film as a “years-long” investigation.
65. On further belief, Defendants failed to meaningfully examine and recklessly dismissed explanations other than the conclusion that Cappello and the other officers were responsible for misconduct and excessive force.
66. On or about July 2023, an arbitrator overturned COPA’s recommendation to suspend Cappello.
67. Despite the arbitrator’s reversal, Defendants have not published a subsequent article, video, or retraction.

COUNT 1 – DEFAMATION PER SE

68. The Defendants, without any lawful justification or excuse, broadcasted Plaintiff’s videotaped deposition, a private and privileged communication, across various media platforms including but not limited to CBS’ official website, social media accounts, and affiliated video channels, thereby breaching the confidentiality of the deposition.
69. Defendants acted outside the scope of any privilege and with gross negligence by failing to verify the veracity of the information contained in Plaintiff’s deposition before publishing it, especially given the sensitive nature of the subject matter and the potential impact on Plaintiff’s reputation and career.
70. By representing the film "Unwarranted" as a fact-based documentary, Defendants misled the public into believing that the false accusations made against Plaintiff were indeed factual, thereby compounding the damage to Plaintiff’s professional and personal reputation.

71. Defendants' specific accusations that Plaintiff failed to follow departmental protocol, improperly pointed a gun at children, and was guilty of misconduct and excessive force were made with a reckless disregard for the truth, as they were based on unverified, biased, and selectively edited content.
72. Defendants' defamatory statements were not insulated by any fair report privilege, as they were not fair, true, or impartial accounts of any official proceeding, nor were they necessary or for the public benefit.
73. Defendants' defamatory publications were accessible to millions of viewers and readers, thus magnifying the harm to Plaintiff's reputation on a national and potentially international scale.
74. The Defendants' defamatory statements have directly resulted in Plaintiff facing unwarranted scrutiny, a delayed internal investigation by COPA, and have placed Plaintiff's career and well-being in jeopardy.
75. Plaintiff has suffered specific harm as a result of Defendants' defamation, including but not limited to, humiliation, mental anguish, and emotional distress, as well as economic damages due to the impairment of his reputation and standing in the community.
76. Defendants' conduct was willful, wanton, and malicious, warranting an award of punitive damages.
77. On or about mid to late 2019, Plaintiff's videotaped deposition was taken in connection with the federal lawsuit *Mendez v. City of Chicago*, Case No. 18-cv-05560.
78. Plaintiff's deposition was confidential and limited to parties involved in the lawsuit.
79. Defendants obtained and published Plaintiff's deposition without consent.
80. Defendants published false and defamatory statements about Plaintiff in the film "Unwarranted" and related news articles as stated above.

81. Defendants' statements were made with actual knowledge of their falsity or with reckless disregard for the truth.
82. Defendants' statements were defamatory per se as they imputed criminal conduct, lack of professional ability, and misconduct in Plaintiff's profession.
83. As a direct and proximate result of Defendants' publications, Plaintiff has suffered harm, including emotional distress and damage to his reputation.

WHEREFORE, Plaintiff John Cappello respectfully requests that the Court:

- a. For compensatory damages in a sum that will fully and fairly compensate him for the injuries and damages sustained, in an amount to be proven at trial.
- b. For an order requiring Defendants to remove all defamatory content from any and all media platforms and to publish a retraction and apology
- c. For pre-judgment and post-judgment interest at the maximum rate allowed by law.
- d. For costs of this suit and attorney's fees pursuant to applicable law.
- e. For such other and further relief as the Court deems just and appropriate.

COUNT 2 – FALSE LIGHT

84. Plaintiff restates, realleges, and incorporates by references all other Paragraphs of this Complaint as if fully restated herein.
85. Defendants published content about Plaintiff that suggested inaccuracies, creating a narrative that Plaintiff was a perpetrator of botched police raids and that he engaged in misconduct and excessive force, none of which reflects the true character and conduct of Plaintiff.

- 86.** The narrative portrayed by Defendants was a distortion of the facts surrounding the Mendez residence incident and the ensuing COPA investigation, which omitted critical context and evidence exonerating Plaintiff, thus placing Plaintiff in a false light.
- 87.** The false and inaccurate portrayal and characterizations were broadcasted repeatedly across various media outlets, including Defendant CBS' website, social media platforms, and other commercial advertising spaces, ensuring widespread dissemination of the defamatory portrayal.
- 88.** The false light in which Plaintiff was cast would be highly offensive and embarrassing to any reasonable person in Plaintiff's position, holding a role of public trust and authority as a police officer.
- 89.** Defendants' actions in publishing these falsehoods were so reckless as to demonstrate a willful disregard for the harmful consequences that such publicity would have on Plaintiff's life and career.
- 90.** As a direct consequence of Defendants' publications, Plaintiff has been subjected to public scorn, ridicule, and has suffered professionally, personally, and financially.

WHEREFORE, the foregoing reasons, Plaintiff, Joseph Cappello IV seeks entry of judgment in his favor and against Defendants, and all available relief against in his favor and against Defendants, including the appropriate presumed, compensatory, consequential, and special damages, and costs in an amount of \$1,000,000 as shall be found in favor of Plaintiff and for all such other relief to which he is entitled, and the Court deems just and proper.

COUNT 3 – TORTIOUS INTERFERENCE WITH CONTRACT

- 91.** Plaintiff restates, realleges, and incorporates by references all other Paragraphs of this Complaint as if fully restated herein.

92. Plaintiff had a contract of employment with the Chicago Police Department that provided for job security, benefits, and a reputation consistent with the honorable service of a police officer.
93. Defendants, through their actions, intentionally interfered with Plaintiff's employment relationship by inappropriately stating that he deserved to be suspended or otherwise disciplined, which jeopardized Plaintiff's standing with his employer, subjected him to an unwarranted internal investigation, and placed his career progression and stability at risk.
94. Defendants' publication of the false narratives and defamatory content was done with the knowledge that it would be injurious to Plaintiff's employment and with the intention or the foreseeable effect of causing harm to Plaintiff's contractual relationships.
95. The interference by Defendants was not only intentional but also without justification, as it was based on misinformation and a reckless disregard for the truth, going beyond the bounds of decency and professional conduct expected from reputable news media entities.
96. As a result of Defendants' interference, Plaintiff has been subjected to an internal investigation by his employer, has faced potential disciplinary action, and has suffered from emotional and psychological distress, as well as damage to his professional reputation and career prospects.

WHEREFORE, the foregoing reasons, Plaintiff, Joseph Cappello IV seeks entry of judgment in his favor and against Defendants, and all available relief against in his favor and against Defendants, including the appropriate presumed, compensatory, consequential, and special damages, and costs in an amount of \$1,000,000 as shall be found in favor of Plaintiff and for all such other relief to which he is entitled, and the Court deems just and proper.

97. PLAINTIFF DEMANDS A JURY TRIAL ON ALL COUNTS SO TRIABLE

Respectfully submitted,

Joseph Cappello IV, pro se

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Case No: 2023-L **2023L012896**

Ad Damnum: \$1,000,000 + costs + interest

ILLINOIS SUPREME COURT RULE 222 AFFIDAVIT OF DAMAGES

NOW COMES, Joseph Cappello IV, Affiant, and avers as follows under oath in support of the damages in the Second Amended Complaint in the above-captioned matter.

1. Under penalties as provided by law, and pursuant to Illinois Supreme Court Rule 222, the undersigned Affiant, Cass T. Casper, hereby certifies that the damages sought in the above-captioned cause, *Joseph Cappello IV v. CBS News et al.* are in excess of \$50,000.

1. Further Affiant sayeth not.

/s/ Joseph Cappello IV