

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
SARAH PALIN,	:	No. 17 Civ. 4853
	:	
Plaintiff,	:	
	:	
	:	Hon. Jed S. Rakoff
	:	
-against-	:	
	:	
	:	ECF Case
	:	
THE NEW YORK TIMES COMPANY,	:	
	:	
	:	
Defendant.	:	
	:	
-----	X	

**SUPPLEMENTAL DECLARATION OF JAY WARD BROWN, ESQ.
IN FURTHER SUPPORT OF DEFENDANT'S
MOTION TO DISMISS THE COMPLAINT**

Under penalty of perjury, I, Jay Ward Brown, hereby declare as follows:

1. I am a partner in the firm Levine Sullivan Koch & Schulz, LLP, and am counsel of record for defendant in the above-captioned matter. I submit this supplemental declaration in further support of defendant's motion to dismiss the complaint to place before the Court certain documents of which it may take judicial notice. The facts stated below are true of my own personal knowledge and, if called to testify, I could and would testify competently thereto.

2. Attached hereto as Exhibit A are true and correct copies of Plaintiff's two Notices of Serving Subpoenas to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action, and an example of one of the corresponding subpoenas, to Jesse Wegman, as served on defendant in this action. I have not included copies of all of the 23 subpoenas referenced in the Notices in order not to burden the Court with duplicative materials.

3. Attached hereto as Exhibit B is a true and correct copy of the article “On the Media: With the Tucson shooting, impatient pundits can’t wait till all the facts are in,” written by James Rainey and published in The Los Angeles Times on January 11, 2011. The article is also available at <http://articles.latimes.com/print/2011/jan/11/entertainment/la-et-onthedia-20110111> (last visited July 23, 2017).

4. Attached hereto as Exhibit C is a true and correct copy of the article “As portrait of Jared Loughner sharpens, ‘vitriol’ blame fades,” written by Patrik Jonsson and published in The Christian Science Monitor on January 12, 2011. The article is also available at <https://www.csmonitor.com/USA/Politics/2011/0112/As-portrait-of-Jared-Loughner-sharpens-vitriol-blame-fades> (last visited July 23, 2017).

5. Attached as Exhibit D is a true and correct copy of the article “At a D.C. pizzeria, the dangers of fake news just got all too real,” written by Petula Dvorak and published in The Washington Post on December 5, 2016. The article is also available at https://www.washingtonpost.com/local/at-a-dc-pizzeria-the-dangers-of-fake-news-just-got-all-too-real/2016/12/05/b8ae43b8-baf4-11e6-94ac-3d324840106c_story.html?utm_term=.83cd315c5c17 (last visited July 23, 2017).

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct.

DATED: July 26, 2017

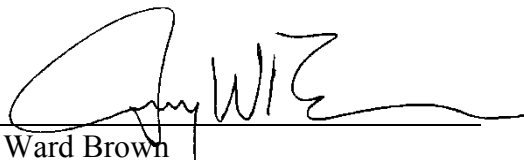

Jay Ward Brown

Exhibit A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SARAH PALIN, an individual,

Plaintiff,

– against –

THE NEW YORK TIMES COMPANY,
a New York corporation,

Defendant.

Case No.:17cv4853 (JSR)(DCF)

**PLAINTIFF, SARAH PALIN'S NOTICE OF SERVING SUBPOENAS
TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR
TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**


PLEASE TAKE NOTICE that Plaintiff, Sarah Palin, by counsel and pursuant to Rule 45 of the Federal Rules of Civil Procedure, hereby serves a copy of the attached Subpoenas Duces Tecum to produce documents, information or objects, or permit inspection of premises to:

1. James Bennet
The New York Times Company
620 Eighth Avenue
New York, NY 10018
2. Robert B. Semple, Jr.
The New York Times Company
620 Eighth Avenue
New York, NY 10018
3. Linda Cohn
The New York Times Company
620 Eighth Avenue
New York, NY 10018
4. Nick Fox
The New York Times Company
620 Eighth Avenue
New York, NY 10018

5. Vikas Bajaj
The New York Times Company
620 Eighth Avenue
New York, NY 10018
6. Francis X. Clines
The New York Times Company
620 Eighth Avenue
New York, NY 10018
7. Lawrence Downes
The New York Times Company
620 Eighth Avenue
New York, NY 10018
8. Carol Giacomo
The New York Times Company
620 Eighth Avenue
New York, NY 10018
9. Mira Kamdar
The New York Times Company
620 Eighth Avenue
New York, NY 10018
10. Serge Schmemmann
The New York Times Company
620 Eighth Avenue
New York, NY 10018
11. Brent Staples
The New York Times Company
620 Eighth Avenue
New York, NY 10018
12. Teresa Tritch
The New York Times Company
620 Eighth Avenue
New York, NY 10018
13. Jesse Wegman
The New York Times Company
620 Eighth Avenue
New York, NY 10018

14. Elizabeth Williamson
The New York Times Company
620 Eighth Avenue
New York, NY 10018

DATED: July 14, 2017.



Kenneth G. Turkel (admitted *pro hac vice*)

Email: kturkel@bajocuva.com

Shane B. Vogt (admitted *pro hac vice*)

Email: svogt@bajocuva.com

BAJO | CUVA | COHEN | TURKEL

100 North Tampa Street, Suite 1900

Tampa, Florida 33602

Telephone: (813) 443-2199

Facsimile: (813) 443-2193

S. Preston Ricardo

E-mail: pricardo@golenbock.com

GOLENBOCK EISEMAN ASSOR BELL

& PESKOE LLP

711 Third Avenue

New York, NY 10017

Telephone: (212) 907-7300

Facsimile: (212) 754-0330

Attorneys for Plaintiff Sarah Palin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2017, I caused the foregoing PLAINTIFF'S NOTICE OF SERVING SUBPOENAS TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN CIVIL ACTION to be served via e-mail and First Class Mail to the following counsel of record:

David A. Schulz
E-mail: dschulz@lskslaw.com
Jay Ward Brown
E-mail: jbrown@lskslaw.com
Levine Sullivan Koch & Schulz, LLP
321 W. 44th Street, Suite 1000
New York, NY 10036
Attorneys for The New York Times Company

Lee Levine
E-mail: llevine@lskslaw.com
Levine Sullivan Koch & Schulz, LLP
1899 L Street, NW, Suite 200
Washington, DC 20036
Attorneys for The New York Times Company

Thomas S. Leatherbury
E-mail: tleatherbury@velaw.com
Vinson & Elkins L.L.P.
2001 Ross Avenue, Suite 3700
Dallas, TX 75201-2975
Attorneys for The New York Times Company



Attorney

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SARAH PALIN, an individual,

Plaintiff,

– against –

THE NEW YORK TIMES COMPANY,
a New York corporation,

Defendant.

Case No.:17cv4853 (JSR)(DCF)

**PLAINTIFF, SARAH PALIN'S NOTICE OF SERVING SUBPOENAS
TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR
TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

PLEASE TAKE NOTICE that Plaintiff, Sarah Palin, by counsel and pursuant to Rule 45 of the Federal Rules of Civil Procedure, hereby serves a copy of the attached Subpoenas Duces Tecum to produce documents, information or objects, or permit inspection of premises to:

1. Charles M. Blow
The New York Times Company
620 Eighth Avenue
New York, NY 10018
2. Bret Stephens
The New York Times Company
620 Eighth Avenue
New York, NY 10018
3. Alexander Burns
The New York Times Company
620 Eighth Avenue
New York, NY 10018
4. Jo Becker
The New York Times Company
620 Eighth Avenue
New York, NY 10018

5. Serge F. Kovaleski
The New York Times Company
620 Eighth Avenue
New York, NY 10018
6. Michael Luo
The New York Times Company
620 Eighth Avenue
New York, NY 10018
7. Dan Barry
The New York Times Company
620 Eighth Avenue
New York, NY 10018
8. Liz Spayd
The New York Times Company
620 Eighth Avenue
New York, NY 10018
9. Ross Douthat
The New York Times Company
620 Eighth Avenue
New York, NY 10018

DATED: July , 2017.


Kenneth G. Turkel (admitted *pro hac vice*)
Email: kturkel@bajocuva.com
Shane B. Vogt (admitted *pro hac vice*)
Email: svogt@bajocuva.com
BAJO | CUVA | COHEN | TURKEL
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Telephone: (813) 443-2199
Facsimile: (813) 443-2193

S. Preston Ricardo
E-mail: pricardo@golenbock.com
GOLENBOCK EISEMAN ASSOR BELL
& PESKOE LLP
711 Third Avenue
New York, NY 10017
Telephone: (212) 907-7300
Facsimile: (212) 754-0330

Attorneys for Plaintiff Sarah Palin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2017, I caused the foregoing PLAINTIFF'S NOTICE OF SERVING SUBPOENAS TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN CIVIL ACTION to be served via e-mail and First Class Mail to the following counsel of record:

David A. Schulz
E-mail: dschulz@lskslaw.com
Jay Ward Brown
E-mail: jbrown@lskslaw.com
Levine Sullivan Koch & Schulz, LLP
321 W. 44th Street, Suite 1000
New York, NY 10036
Attorneys for The New York Times Company

Lee Levine
E-mail: llevine@lskslaw.com
Levine Sullivan Koch & Schulz, LLP
1899 L Street, NW, Suite 200
Washington, DC 20036
Attorneys for The New York Times Company

Thomas S. Leatherbury
E-mail: tleatherbury@velaw.com
Vinson & Elkins L.L.P.
2001 Ross Avenue, Suite 3700
Dallas, TX 75201-2975
Attorneys for The New York Times Company



Attorney

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

SARAH PALIN, an individual,)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 17CV4853 (JSR)
THE NEW YORK TIMES COMPANY,)	
a New York corporation,)	
<i>Defendant</i>)	

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: JESSE WEGMAN, The New York Times Company, 620 Eighth Avenue, New York, NY 10018

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment "A"

Place: Golenbock Eiseman Assor Bell & Peskoe 711 Third Avenue (44th + 45th) New York, NY 10017	Date and Time: 08/11/2017 10:00 am
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☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/14/2017

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) SARAH PALIN, who issues or requests this subpoena, are:

Kenneth G. Turkel & Shane Vogt, Bajo | Cuva | Cohen | Turkel, 100 N. Tampa St., Suite 1900, Tampa, FL 33602
(813) 868-6650

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 17CV4853 (JSR)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**ATTACHMENT "A" TO SUBPOENA DUCES TECUM
ISSUED TO JESSE WEGMAN**

INSTRUCTIONS

The following instructions apply to each and every document request ("Requests") set forth below:

1. These Requests apply to all documents and things, including without limitation emails, internal messages and text messages, in your possession, custody or control, regardless of whether such documents or things are held by you or your agents, representatives, attorneys or any other person, and whether such documents are in hardcopy or electronic form, and regardless of where such documents or things are located.

2. Where any copy of any document, the production of which is requested, is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

3. All documents that respond, in whole or in part, to any of these Requests shall be produced in their entirety, without abbreviation or redaction, including all attachments and enclosures.

4. These Requests call for the production of all responsive documents whether maintained in paper form or on magnetic recording tape, microfilm, computer data base, camera, hard drive, mobile device, or other storage means, including, but not limited to, emails, internal messages and text messages, and whether or not responsive emails, internal messages and text messages are located in personal email accounts or business email accounts.

5. Electronically stored information ("ESI") should be produced in the following format:

Single Page TIFFs
Document level text files (text-searchable)
Native Files
.DAT with standard Concordance delimiters (should contain the path to native files and text files)
.OPT image load file (should contain the page count and volume path)

Such ESI includes, but is not limited to, electronic mail and messages, documents created with word processing software such as Microsoft Word, pictures, audio and video recordings, and documents in Portable Document Format ("PDF").

6. Documents should be produced as they are kept in the usual course of business or organized and labeled to correspond with the categories in these Requests. In producing documents, all documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by inclusion of binders, files, subfiles, or by use of dividers, tabs or any other method, shall be left so segregated or separated.

7. If no documents exist that are responsive to a particular request, please so state in writing. In the event such file(s) or document(s) has (have) been removed for the purpose of this action or for some other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

8. If any document or any portion of any document requested herein is withheld from production, describe the factual basis for withholding the document or portion thereof. Assertions of privilege (including work product) must comply with and provide the information required under Local Civil Rule 26.2(a) and (b) and such other information as may be required to permit the Court to adjudicate the validity of your withholding the document.

9. If a portion of an otherwise responsive document contains information subject to a claim of privilege, those portions of the document subject to the claim of privilege shall be deleted or redacted from the document, the deleted or redacted portions shall be clearly marked as such, and the rest of the document shall be produced.

10. More than one particular request may call for production of the same document. The presence of such duplication is not to be interpreted to narrow or limit, in any manner, the normal interpretation placed on each individual request.

11. The use of the singular form of any word shall be construed to include the plural and vice versa.

12. As used herein the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall include each of the other genders.

13. When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and the names of the documents being produced.

14. If any document responsive to this Subpoena is no longer in your possession, please indicate: when you last possessed, examined, or saw such documents; where you last possessed, examined, or saw such documents; where to the best of your knowledge, such documents are currently located; and if any such documents were destroyed, when, where, by whom, in what manner, and the reason for their destruction.

DEFINITIONS

The following terms, whether plural or singular, shall have the meanings set forth below wherever used in the following list of documents to be produced:

A. "COMMUNICATION" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

B. “DOCUMENT” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

C. “IDENTIFY” (with respect to persons). When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

D. “IDENTIFY” (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).

E. “PARTIES.” The terms “plaintiff” and “defendant” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

F. “PERSON” is defined as any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

G. “CONCERNING” means relating to, referring to, describing, evidencing or constituting.

H. “PLAINTIFF” means plaintiff Sarah Palin.

I. “THE TIMES” means defendant The New York Times Company and its attorneys, agents, staff, writers, editors, columnists, representatives, directors, officers, employees, and any other person acting or purporting to act on its behalf.

J. The “ARTICLE” means the June 14, 2017 online version and the June 15, 2017 print version of the column “*America’s Lethal Politics*.”

K. “LOUGHNER’S SHOOTING” means Jared Loughner’s January 8, 2011 shooting at a political event in Tucson, Arizona, in which United States Congresswoman Gabrielle Giffords was wounded and six people were killed.

L. FIRST CORRECTION means THE TIMES’ June 15, 2017 correction to the ARTICLE, including all edits and revisions thereto and the following statement:

Correction: June 15, 2017

An earlier version of this editorial incorrectly stated that a link existed between political incitement and the 2011 shooting of Representative Gabby Giffords. In fact, no such link was established.

M. "SECOND CORRECTION" means THE TIMES' June 16, 2017 correction to the ARTICLE, including all edits and revisions thereto and the following statement:

Correction: June 16, 2017

An editorial on Thursday about the shooting of Representative Steve Scalise incorrectly stated that a link existed between political rhetoric and the 2011 shooting of Representative Gabby Giffords. In fact, no such link was established. The editorial also incorrectly described a map distributed by a political action committee before that shooting. It depicted electoral districts, not individual Democratic lawmakers, beneath stylized cross hairs.

N. EDITORIAL BOARD means the Editorial Board of THE TIMES as of June 14, 2017.

O. PERSONAL DEVICES means any of your personal computers, tablets, smart phones e-mail accounts, storage devices, flash drives, hard drives, cloud-based storage, servers or similar electronic media.

DOCUMENTS TO BE PRODUCED

1. All of your COMMUNICATIONS from January 8, 2011 to the present CONCERNING Sarah Palin, including but not limited to those stored on any of your PERSONAL DEVICES.
2. All of your Tweets, posts, blogs, comments or similar statements on any of your social media accounts, social media platforms and/or PERSONAL DEVICES, from January 8, 2011 to the present, CONCERNING Sarah Palin.
3. All research, investigative materials, articles, stories, blogs, posts or similar DOCUMENTS you compiled or saved CONCERNING LOUGHNER'S SHOOTING.
4. All of your DOCUMENTS and COMMUNICATIONS, including without limitation, text messages, internal messages, instant messages and e-mails on your PERSONAL DEVICES, CONCERNING any animosity, hatred, ill-will, mockery, intent to harm,

hostility, dislike, malice or similar negative feelings or sentiments expressed by you or anyone on the EDITORIAL BOARD or in THE TIMES' Editorial Department CONCERNING Sarah Palin or her political activities.

5. All articles, stories, columns, posts, blogs, postings, comments or similar on-line or printed publications which you authored between January 8, 2011 and the present CONCERNING Sarah Palin.
6. All articles, stories, columns, posts, blogs, postings, comments or similar on-line or printed publications you authored CONCERNING any link or connection between Sarah Palin and LOUGHNER'S SHOOTING.
7. All articles, stories, columns, posts, blogs, postings, comments or similar on-line or printed publications which you authored CONCERNING any link or connection between a targeted map of electoral districts circulated by Sarah Palin's political action committee and LOUGHNER'S SHOOTING.
8. All of your DOCUMENTS and COMMUNICATIONS, including without limitation, Tweets, social media posts, instant or text messages, blogs, comments or similar statements on any of your social media accounts, social media platforms and/or PERSONAL DEVICES, CONCERNING the ARTICLE, FIRST CORRECTION and SECOND CORRECTION.
9. All of your DOCUMENTS and COMMUNICATIONS, including without limitation, Tweets, social media posts, instant or text messages, blogs, comments or similar statements on any of your social media accounts, social media platforms and/or PERSONAL DEVICES, CONCERNING any link between Sarah Palin and LOUGHNER'S SHOOTING.
10. All of your DOCUMENTS and COMMUNICATIONS, including without limitation, Tweets, social media posts, instant or text messages, blogs, comments or similar statements on any of your social media accounts, social media platforms and/or PERSONAL DEVICES, CONCERNING any link between a map of targeted electoral districts circulated by Sarah Palin's political action committee and LOUGHNER'S SHOOTING.
11. All drafts of the ARTICLE, and any part of it.
12. All handwritten, typed or electronic revisions, comments, edits, or questions made on, to or about any draft of the ARTICLE.
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Exhibit B

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On the Media: With the Tucson shooting, impatient pundits can't wait till all the facts are in

On the right and left, commentators are weighing in on the accused shooter's political beliefs.

January 11, 2011 | James Rainey

U.S. Rep. Gabrielle Giffords and 19 other shooting victims scarcely had been scooped up from a bloodstained shopping center parking lot Saturday when the struggle to politicize, or de-politicize, the mass shooting swept the media.

The skirmishing reached full tilt Monday in the hothouses of radio, cable TV and the Internet, along battle lines that should surprise no one. Conservative talkers argued that politics played absolutely no role in motivating a troubled young gunman. Liberals asserted that vitriolic anti-government rhetoric in the media *had* to have been part of the trigger.

Speculation often overwhelmed real reporting. The cacophony mostly drowned out an admonition that many shouted into the whirlwind: We don't know everything yet. It's too early to know. Only later, if ever, will we get a better sense of the disparate sparks that inflamed what police say was a homicidal rage in Jared Lee Loughner.

With those cautions stated up front, though, it's reasonable to suggest that in this case, overheated, anger-spewing, clownish talk show hosts didn't kill these innocent people. A lone, overheated, deranged young misfit killed these people. What part his muddled political views played, if any, remains to be seen.

Reporting has begun on the state of mental health service in Arizona and the rest of the country. My colleague Steve Lopez is writing about the need for improved services for those with sick minds. That seems like the single most important lesson that could come out of this tragedy.

This is not to say that the country couldn't stand a discussion about overblown, sometimes inciteful, political speech or to give a free pass to anger-spewing, clownish talk show hosts. Their names might not show up in Loughner's journal or Internet postings. But who's to say media provocateurs and their attack-dog rhetoric won't get inside the head of the next crazy loner? Why even take a chance?

The calculated answer, unfortunately, is that anger sells. Anger draws a crowd. Anger can be a money-maker, particularly in a time of economic suffering, when a lot of people are casting about for someone to blame for their miserable lot.

So some media talkers may lower the heat for a day or two. But don't expect the temperate talk to last for long. The intemperance business just has too many fans.

To anyone listening closely the last few days, the distance between what we know about Loughner and what some media pundits would have us believe could not be more striking.

We know that officials at Pima Community College moved to kick Loughner, 22, out of school because he repeatedly disrupted class. An algebra instructor and fellow students found him creepy, even menacing. The U.S. military wouldn't accept Loughner, reportedly because he failed a psychological evaluation. That all seems to point strongly to some psychological disability.

But did any political chatter have an important influence on a fragile mind?

Loughner's My Space page featured a reading list filled with classic books and also "The Communist Manifesto" and "Mein Kampf." A government memo reported a "possible" link between Loughner and the anti-government, anti-immigration, anti-Semitic group American Renaissance. (Rep. Giffords is the first Jewish House member from Arizona.) His Internet postings indicated a loathing of U.S. currency and the Federal Reserve, favorite targets of the political right.

Yet one friend said on Twitter postings that Loughner's political sympathies tended to the left. The Washington Post reported he did not vote in the recent midterm election and belonged to no political party — hardly signs of a virulent tea party activist.

One of his closest friends, Bryce Tierney, told Mother Jones magazine he could not make sense of the alleged shooter's twisted philosophy, other than a distinct dislike of the government and of Rep. Giffords. (Loughner's anger toward the congresswoman may have begun at a constituent meeting in 2007. He asked what was reportedly an incoherent question. She answered in Spanish.)

From that hideous stew of tidbits and mixed inputs, media figures gleaned markedly different conclusions.

On KABC-AM 790 in Los Angeles, host Larry Elder spent part of Monday morning scoffing at the notion that political motivations could have driven Loughner. He called that inherently "incredible" and went on to cite a litany of instances when liberals had used aggressive imagery. (One example was CNN commentator Roland Martin's advice to President Obama to "channel your inner Al Capone and go gangsta against your foes.")

On Fox News, meanwhile, anchor Megyn Kelly looked incredulous at the idea that something more than mental illness might have spurred the carnage. She asked, already seeming to have reached her own conclusion, if sometimes a lunatic is "simply a lunatic."

From across the political divide at MSNBC, Keith Olbermann over the weekend used his "Special Comment" to blame unspecified "politicians and commentators who have brought us to this time of domestic terrorism." He went on to suggest Sarah Palin (with her campaign map with its gun sight-style

targets over the districts of Giffords and other Democrats — a graphic Palin's representatives have now, lamely, tried to disown), Glenn Beck and Bill O'Reilly among those who encouraged those with "death fantasies and the dreams of blood lust."

Even at the New York Times, where political feature writer Matt Bai insisted it had been impossible to separate "any real political philosophy" from "voices in his head," Bai then couldn't help but join the speculation. "But it's hard not to think," he wrote, that Loughner "was at least partly influenced by a debate that often seems to conflate philosophical disagreement with some kind of political Armageddon."

Who knows which of these comments might come back to make the pundits look foolish after more of the facts are in.

It's hard to resist the temptation to take the shadow reports and half-inferences and let our imaginations run away. Viewing the facts coldly and dispassionately takes an act of intelligence and some willpower. Then we have to admit we don't really know what triggered the bloodshed. And that a final answer may never come.

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Exhibit C

The CHRISTIAN SCIENCE MONITOR

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As portrait of Jared Loughner sharpens, 'vitriol' blame fades

The suggestion that the shooting of Rep. Gabrielle Giffords Saturday might have been influenced by political 'vitriol' seems less likely as more becomes known about suspect Jared Loughner.

By Patrik Jonsson, Staff writer | JANUARY 12, 2011

The wave of national soul-searching about the level of political vitriol and how it might have played a part in Saturday's shootings in Tucson, Ariz., now appears to be ebbing.

Following the shooting, which left six people dead and apparently targeted Rep. Gabrielle Giffords (D) of Arizona, Pima County Sheriff Clarence Dupnik suggested that "vitriol ... about tearing down the government" might have played a part. Rep. Robert Brady (D) of Pennsylvania has followed that lead, promising a bill that would outlaw threatening language against lawmakers.



Neighbors check out the media set up at the Loughner home in Tucson, Ariz., Tuesday. Jared Loughner is the alleged gunman in the shooting of Rep. Gabrielle Giffords and others on Saturday, leaving six dead and more injured. (Ross D. Franklin/AP)

But emerging information about primary suspect Jared Loughner suggests that he was motivated not by a climate of hate but rather by his own troubled mind and a personal vendetta against Congresswoman Giffords, who was injured in the attack. The investigation has not concluded, and more information could come to light. But for now, a majority of Americans are dismissing the notion that the shooter was set off by a Sarah Palin political map, tea party anger, or talk about "second amendment remedies."

A CBS poll Tuesday showed 57 percent of Americans don't believe political rancor played any role in the attack, with a plurality of Democrats, Republicans, and Independents agreeing.

Indeed, one piece of evidence collected so far is a 2007 letter from Giffords's office to Mr. Loughner, thanking him for attending a meet-and-greet event. On it is scrawled a death threat to Giffords. In 2007, Sarah Palin was a little-known Alaska governor and the tea party movement did not exist.

At this point, then, the left's initial eagerness to link the shooting to political anger on the right could backfire, says Charles Franklin, a pollster and political scientist at the University of Wisconsin in Madison.

"It was the immediate connection from the left of this shooting to political rhetoric from the right that polarized this, and here we have a case where there's a rush to blame Palin [and other conservatives] with no direct connection to her at all,"

he says. "And the more we learn about this guy, it seems there isn't any political motivation in a broader sense."

To be sure, Sheriff Dupnik put the issue on the national plate with his comments, and given that that the shooting appears to be a political assassination attempt in a politically rancorous border district, the debate on political tone was, in many ways, inevitable.

But critics point out that the nation largely refrained from linking Maj. Nidal Malik Hassan – the suspect in the 2009 Fort Hood shootings – with terrorism.

In Loughner's case, no reported evidence so far suggests any connection to the ideology or ideologues of the right. A Loughner friend, Zach Osler, told ABC's "Good Morning America" on Wednesday that Loughner "did not watch TV. He disliked the news. He didn't listen to political radio. He didn't take sides. He wasn't on the left. He wasn't on the right."

That doesn't mean the issue of political rancor is unimportant, and some commentators are simply using this moment to argue that – regardless of the facts of the current case – political anger can have outsized effects on troubled minds.

"Among elite circles there is a sharp debate going on about [connections to campaign rhetoric]," says Mr. Franklin. "So we're seeing some people who deny that political rhetoric had any connection to the shooting, but who nonetheless are speaking out about the question of civility and the level of rhetoric, and they're coming from both the left and the right."

In a commentary today, the Rev. Jesse Jackson drew a comparison between Alabama Gov. George Wallace's heated rhetoric around race relations and its role in fueling the bombing of a Birmingham church that killed four young black girls in 1963.

"There is no evidence that Jared Loughner ... was a member of a right-wing hate group," Mr. Jackson writes. "He was clearly a young man whose mind was unraveling. But it is exactly the mentally unstable who are most likely to be influenced by an atmosphere filled with hate and murderous rhetoric."

Sarah Palin made the boldest pushback yet in a video released Wednesday. "Acts of monstrous criminality stand on their own. They begin and end with the criminals who commit them, not collectively with all the citizens of a state," Ms. Palin said.

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Exhibit D

The Washington Post**Local**

At a D.C. pizzeria, the dangers of fake news just got all too real

**By Petula Dvorak** Columnist December 5, 2016

The fake news stuff we've been talking about?

That all just got real.

An entire D.C. neighborhood was on lockdown Sunday because some dope with a gun believed a fake news story that wildly and wrongly linked a neighborhood pizzeria to a child sex ring.

You could conclude that Edgar Maddison Welch, the 28-year-old man from North Carolina who allegedly walked into the Comet Ping Pong restaurant carrying an assault rifle, pointed it at an employee and then fired one or more shots, may be a singular nut job.

He told police that he had come to the restaurant to “self-investigate” a false election-related conspiracy theory that linked Hillary Clinton to the child sex ring.

But he wasn't the only dope who was roped into this.

A week before the presidential election, the son of retired Lt. Gen. Michael Flynn — the man President-elect Donald Trump has chosen as his national security adviser — shared the Comet Ping Pong conspiracy story.

Thousands of others shared it, too.

Days later, the retired general himself tweeted a hashtag referring to another fake news story that accused Clinton's campaign chairman, John Podesta, of satanic rituals using bodily fluids.

That there, the satanic ritual stuff, is straight out of the grocery checkout line.

Remember when Americans used to laugh at the crazy-bad supermarket tabloid stories about “Bat Boy!” or “Titanic Survivors Alive!” or “Alien Bible Found! They worship Oprah!”?

What was different back then?

Why didn’t a desperado come storming toward the White House gates with his gun after the story about George W. Bush meeting with aliens hit the stands?

Because most people knew the source of the news — the National Enquirer, News of the World, etc. — wasn’t remotely serious, as lacking in nutrition as the candy bars the tabloids were displayed alongside.

But in today’s social-media universe, there’s a flood of stories from fake news sites that look legit. And stories that sound as ludicrous as alien love triangles don’t get a laugh; they get shared by our leaders, generating violent threats, dangerous reactions and, in the worst cases, bloodshed.

In an era when we have more access to more information than ever before, we’ve also become more willing to believe the crazy — and share it with others.

What happened at Comet Ping Pong isn’t the first time we’ve seen real consequences of the doctored-news phenomenon.

A year ago, a “gotcha” video — created by folks who lied, schemed and plotted to get a doctor to talk about the graphic details of her work while secretly being recorded — was pinging in the head of Robert Lewis Dear Jr. when he stormed a Planned Parenthood clinic in Colorado.

Dear used the phrase “no more baby parts” after he allegedly killed three people — a police officer, an Iraq War veteran and a mother of two — and injured nine others in that shooting rampage.

Grandstanding congressmen fed him the “baby parts” line after they watched that heavily edited video of a Planned Parenthood executive talking about the donation of tissue from aborted fetuses. (They must’ve forgotten that fetal tissue has been used in important medical research since the 1930s and helped produce vaccines for polio, measles and mumps.)

The video was created under false pretenses and never would have met the standards of a legitimate news organization.

That faux investigation ended in hours of congressional hearings, a budget crisis for Planned Parenthood in many states and the deaths of those three people in Colorado.

Five years ago, it wasn't fake news but an equally careless use of words that helped incite an equally terrible burst of violence.

Supporters of former Alaska governor Sarah Palin put out a map with crosshairs targeting the districts of 20 House Democrats and urging folks: "Don't Retreat, Instead — RELOAD!"

Then-Rep. Gabrielle Giffords (D-Ariz.) was on that map and criticized it as soon as it was posted online and her office was vandalized.

"We're on Sarah Palin's targeted list, but the thing is that the way she has it depicted has the crosshairs of a gun sight over our district," Giffords told MSNBC at the time. "When people do that, they've got to realize there's consequences to that action."

On Jan. 8, 2011, the consequences were chilling: Jared Loughner showed up with a gun outside a Tucson supermarket where Giffords was greeting constituents and killed six people and injured 20 more, including Giffords.

Still, as the funerals were being held and Giffords was in intensive care, Palin's supporters insisted that crosshairs were never a reference to guns.

Words matter.

That kind of disregard for common sense and responsibility has kudzued into what we have today — educated leaders willing to believe conspiracy theories about child sex rings and satanic rituals thanks to nothing more than a slick-looking online story.

Get a grip, America.

The owner of Comet Ping Pong had endured weeks of death threats. Phone calls, messages, stalkers, employees being harassed.

They've all complained about the relentless attacks. Then they faced a real attack, which has left a business and a neighborhood deeply shaken.

“Let me state unequivocally: these stories are completely and entirely false, and there is no basis in fact to any of them,” owner James Alefantis wrote on his Comet Ping Pong Facebook page Sunday night.

There is no FBI investigation, no New York Police Department takedown. None of that.

“What happened today demonstrates that promoting false and reckless conspiracy theories comes with consequences,” Alefantis wrote. “I hope that those involved in fanning these flames will take a moment to contemplate what happened here today, and stop promoting these falsehoods right away.”

Those who run our social-media companies and Internet search engines need to find a way to help a gullible country differentiate between fake news and real news. Let’s make America believe in facts again.

Twitter: @petulad

Read more Petula Dvorak:

Winning the championship was ‘breathtaking.’ So is paying for it.

How seriously do D.C. police take rape allegations? A Georgetown party raises doubts.

In liberal D.C., the arrival of Donald Trump is triggering an identity crisis

The janitor felt invisible to Georgetown students — until one changed his life

Petula is a columnist for The Washington Post's local team who writes about homeless shelters, gun control, high heels, high school choirs, the politics of parenting, jails, abortion clinics, mayors, modern families, strip clubs and gas prices, among other things. 🐦 Follow @petulad