

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
NORTHERN DIVISION  
AT COVINGTON**

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| <b>NICHOLAS SANDMANN, by and<br/>through his parents and natural<br/>guardians, TED SANDMANN and<br/>JULIE SANDMANN,</b> | : | <b>CASE NO.</b>                   |
|  | : |                                   |
|  | : | <b>JUDGE</b>                      |
|  | : |                                   |
| <b>Plaintiffs,</b>   | : | <b>PLAINTIFF’S COMPLAINT WITH</b> |
|  | : | <b>JURY DEMAND</b>                |
|  | : |                                   |
| <b>v.</b>  | : |                                   |
|  | : |                                   |
| <b>CABLE NEWS NETWORK, INC.,</b>   | : |                                   |
|  | : |                                   |
| <b>Defendant.</b>  | : |                                   |
|  | : |                                   |
|  | : |                                   |

**NOW COMES** Nicholas Sandmann (“Nicholas”), by and through his parents and natural guardians, Ted Sandmann and Julie Sandmann, and by and through counsel, and states his Complaint for Defamation against Cable News Network, Inc. (“CNN”) as follows:

**INTRODUCTION**

1. In 1980, Ted Turner defied skeptics and successfully founded CNN, the first 24-hour cable and satellite news channel.
2. For several years thereafter, CNN branded itself worldwide as “the most trusted name in news.”
3. CNN is now owned by Turner Broadcasting System, Inc., an American media conglomerate that is a division of Warner Media, LLC.
4. Warner Media, LLC is an American multinational mass media and entertainment conglomerate owned by AT&T, Inc. and headquartered in New York City.

5. AT&T, Inc. is an American multinational conglomerate holding company headquartered in Dallas, Texas.

6. According to its 2018 Form 10-K filing and Annual Report, AT&T, Inc.'s 2018 operating revenue was \$170.756 Billion and its net income was \$19.953 Billion.

7. According to Time Warner Inc. n/k/a Warner Media, LLC's 2017 Form 10-K filing, CNN reached 91.4 million domestic households and more than 350 million households outside of the United States as of December 31, 2017.

8. In 2017, suffering from a public perception that it had deteriorated from being recognized as a source of hard news to being considered a mere echo chamber for manipulated and politicized commentary and "fake news," CNN launched a new branding campaign, "Facts First," which is pinned to the top of its Twitter social media page.

9. From at least as early as the November 2016 election of Donald J. Trump as the 45th President of the United States, CNN has maintained a well-known and easily documented biased agenda against President Trump and established a history of impugning individuals perceived to be supporters of the President.

10. Prior to January 2018, President Trump publicly and repeatedly branded CNN as the poster child of "fake news."

11. Between January 19 and January 25, 2019, CNN brought down the full force of its corporate power, influence, and wealth on Nicholas by falsely attacking, vilifying, and bullying him despite the fact that he was a minor child.

12. Contrary to its "Facts First" public relations ploy, CNN ignored the facts and put its anti-Trump agenda first in waging a 7-day media campaign of false, vicious attacks against Nicholas, a young boy who was guilty of little more than wearing a souvenir Make

America Great Again cap while on a high school field trip to the National Mall in Washington, D.C. to attend the January 18 March for Life.

13. CNN's vicious attack on Nicholas included at least four (4) defamatory television broadcasts and nine (9) defamatory online articles falsely accusing Nicholas and his Covington Catholic High School ("CovCath") classmates of, among other things, engaging in racist conduct by instigating a threatening confrontation with several African American men ("the Black Hebrew Israelites") and subsequently instigating a threatening confrontation with Native Americans who were in the midst of prayer following the Indigenous Peoples March at the National Mall.

14. More specifically, CNN falsely asserted that Nicholas and his CovCath classmates were in a "racis[t]" "mob mentality" and "looked like they were going to lynch" the Black Hebrew Israelites who were merely "preaching about the Bible nearby" "because they didn't like the color of their skin" and "their religious views," and that Nicholas and his classmates then "surrounded" one of the Native Americans, 64-year old Nathan Phillips, creating "a really dangerous situation" during which Nicholas "blocked [Phillips'] escape" when Phillips tried "to leave" the mob, causing Phillips to "fear for his safety and the safety of those with him," while Nicholas and his classmates "harassed and taunted" him.

15. In short, the false and defamatory gist of CNN's collective reporting conveyed to its viewers and readers that Nicholas was the face of an unruly hate mob of hundreds of white racist high school students who physically assaulted, harassed, and taunted two different minority groups engaged in peaceful demonstrations, preaching, song, and prayer.

16. The CNN accusations are totally and unequivocally false and CNN would have known them to be untrue had it undertaken any reasonable efforts to verify their accuracy before publication of its false and defamatory accusations.

17. In fact, it was Nicholas and his CovCath classmates who were bullied, attacked, and confronted with racist and homophobic slurs and threats of violence by the Black Hebrew Israelites, a recognized hate group, before being unexpectedly and unexplainedly confronted by Phillip, an activist, who proceeded to target Nicholas while chanting and beating a drum inches from his face and being flanked by activist companions filming the event (“the January 18 incident”).

18. During the January 18 incident, Phillips, a stranger to Nicholas, approached from afar and intentionally confronted the CovCath student before specifically targeting Nicholas for a confrontation, placing himself directly in front of Nicholas.

19. At the time of the confrontation by Phillips, Nicholas and the CovCath students were assembled at the steps of the Lincoln Memorial waiting to meet the buses for their return trip home to Northern Kentucky.

20. Nicholas never moved when Phillips approached him, standing quietly and respectfully for several minutes while Phillips continued to bang his drum and sing in his face.

21. Nicholas merely acquiesced in Phillips’ chosen course of conduct.

22. Following the January 18 incident, Phillips became a “mainstream media darling,” engaging in a publicity tour during which he manufactured out of whole cloth varying and conflicting descriptions of the events prior to, during, and after the January 18 incident in a superficial attempt to garner public sympathy and advance his own political agenda.

23. In certain of his interviews, Phillips had tears in his eyes as he lied and said that Nicholas and the CovCath students were shouting, “Build that wall, build that wall.”

24. CNN was one of several media outlets that ignored Phillips’ obvious bias and provided Phillips a worldwide platform to spread his lies without any effort whatsoever to verify the accuracy of the inflammatory accusations Phillips was making against children.

25. With respect to the January 18 incident, CNN was more than an echo chamber for partisan political views – CNN was a worldwide megaphone for an unmoderated and uninformed social media mob which had begun viciously attacking and physically threatening Nicholas in the hours preceding CNN’s initial reporting.

26. CNN rushed to take advantage of the viral social media mob to further its anti-Trump agenda and increase the billion-dollar bottom lines of its conglomerate corporate owners by generating eyeballs, clicks, and resulting advertising revenue from its sensationalized broadcasts and online reporting.

27. According to media reports, CNN’s average primetime viewership in January 2019 was its second highest in the network’s history.

28. CNN elevated false, heinous accusations of racist conduct against Nicholas from social media to its worldwide news platform without adhering to well-established journalistic standards and ethics, including its failure to take the required steps to ensure accuracy, fairness, completeness, fact-checking, neutrality, and heightened sensitivity when dealing with a minor.

29. Exposing the shallowness of its “Facts First” public relations branding ploy, CNN got the “Facts Last” as it repeatedly, recklessly, and willfully violated basic, fundamental standards of journalistic integrity.

30. CNN's agenda-driven fiction about Nicholas and the January 18 incident was not only false and defamatory, it created an extremely dangerous situation by knowingly triggering the outrage of its audience and unleashing that outrage on Nicholas and his CovCath classmates with its patently false accusations that Nicholas and the other students engaged in acts of racism and bigotry.

31. CNN political analyst Bakari Sellers openly called for physical violence on Twitter, fueling that outrage of a social media mob of bullies.

32. In an obvious reference to Nicholas, Sellers tweeted at 7:09 a.m. on January 19: "He is a deplorable. Some ppl can also be punched in the face."

33. Rather than publicly rebuke Sellers, CNN endorsed Sellers' misconduct within a few short hours by commencing its 7-day agenda-driven campaign to assassinate Nicholas' character and reputation with inflammatory accusations of racist misconduct.

34. Nicholas was an easy target for CNN to advance its anti-Trump agenda because he was a 16-year old white, Catholic student who was wearing a MAGA cap purchased earlier in the day as a souvenir.

35. In addition to its substantial broadcast television and online audience, CNN republished many of its false and defamatory broadcasts and articles to its over 41 million Twitter followers.

36. In order to fully compensate Nicholas for the reputational harm, emotional distress, and mental anguish caused by CNN's false attacks, this action seeks compensatory damages in excess of Seventy-Five Million Dollars (\$75,000,000.00).

37. In order to punish and to deter CNN from ever again engaging in false, reckless, malicious, and agenda-driven attacks against children in violation of well-

recognized journalistic standards and ethics, this action seeks punitive damages in excess of Two Hundred Million Dollars (\$200,000,000.00).

## **DETAILED FACTUAL BACKGROUND**

### **THE JANUARY 18 INCIDENT**

38. On January 18, 2019, Nicholas attended the March for Life on a school trip chaperoned by sixteen (16) adults, nine (9) of whom were faculty members at CovCath.

39. Nicholas and his classmates were instructed to meet at the steps of the Lincoln Memorial at the National Mall by 5:00 p.m. to catch their buses for the return trip to Kentucky.

40. Nicholas was wearing a red MAGA cap that he had purchased that day as a souvenir.

41. While at the National Mall, a small group of adult men who describe themselves as Black Hebrew Israelites – a recognized hate group – began verbally assaulting and taunting Nicholas and his CovCath classmates with threats of physical violence and vitriolic statements, calling the students “incest babies,” “dirty ass crackers,” and “future school shooters.”

42. One of Nicholas’ classmates requested and received permission from a school chaperone to engage in CovCath school sports cheers in an effort to ignore and drown out the hate speech being hurled at them by the Black Hebrew Israelites.

43. During a school cheer, Phillips and his activist companions – all of whom had been participating in the Indigenous Peoples March at the National Mall that day – instigated a confrontation with Nicholas and his CovCath classmates.

44. Rather than focusing their attention on the Black Hebrew Israelites, who had been relentlessly insulting both the teenagers for almost an hour and the Native

Americans attending the Indigenous Peoples March before that, Phillips and his activist companions deliberately targeted the CovCath students from a distance while beating drums, singing, dancing, and carrying cameras to hopefully capture a viral video moment of the confrontation.

45. When Phillips first approached them, many of the CovCath students “felt like he was coming into their group to join in with the students’ cheers.”

46. Phillips intentionally walked up to the crowd of CovCath students.

47. Immediately behind and around Phillips were several of his own companions and Nicholas and the CovCath students did not move toward Phillips or otherwise actively approach or surround him.

48. Nicholas and the students acquiesced in Phillips’ election to confront their group and beat his drum within inches of Nicholas’ face.

49. Once within their group, Phillips freely moved about, briefly walking up to certain students within the group, which included many children who were not CovCath students.

50. Phillips then walked directly to where Nicholas was standing on the steps so that he could confront Nicholas and get within inches of his face.

51. Phillips was attired in Native American garb and was a complete stranger to Nicholas.

52. While staring and glaring at Nicholas, Phillips continued to beat his drum and sing loudly within inches of Nicholas’ face for several minutes.

53. Contrary to Phillips’ lies republished by CNN in his post-January 18 media interviews that he was trying to move to the top of the steps of the Lincoln Memorial,



Phillips approached the students from a distance and walked past clear pathways leading to the Lincoln Memorial.

54. When Phillips made his incursion into the crowd of students and directly confronted Nicholas, Phillips never made any attempt to move past, around, or away from Nicholas even though he could have done so at any time.

55. Prior to being directly confronted by Phillips, Nicholas had not noticed Phillips at the National Mall.

56. Nicholas was startled and confused by the actions of Phillips in singling him out and confronting him.

57. During the confrontation instigated by Phillips, Nicholas stood still as he was concerned that turning away from Phillips might be considered a sign of disrespect.

58. While he stood there with Phillips beating a drum near his face and singing loudly, Nicholas remained silent and did not utter a single word to Phillips.

59. Nicholas did not make any gestures by hand or otherwise toward Phillips.

60. Nicholas made only one gesture while being confronted by Phillips – he quietly signaled a classmate to refrain from responding to profanity-laced insults being directed at the student by one of Phillips' companions.

61. At all times, Nicholas acted respectfully, responsibly, appropriately, and in a manner consistent with the values instilled upon him by his family and his faith.

62. The confrontation ended when Nicholas and his fellow CovCath students were instructed to board the buses to return home.

63. Indeed, when Nicholas walked away quietly to board the bus, Phillips turned away from the Lincoln Memorial and outwardly celebrated his perceived “win”

over Nicholas and his CovCath classmates, with his companion shouting “I got him, man, I got him! ... We won grandpa, we fucking won grandpa!”

64. During the entirety of the January 18 incident, Nicholas:

- (a) did not instigate a confrontation of any kind;
- (b) did not surround Phillips or the Black Hebrew Israelites;
- (c) did not target, confront, or assault Phillips or the Black Hebrew Israelites;
- (d) did not move from where he was standing when Phillips approached him;
- (e) did not block Phillips’ path or egress;
- (f) did not taunt, mock, or harass Phillips or anyone else present;
- (g) did not utter a single word toward Phillips;
- (h) did not engage in chanting, jeering, or clapping with or at Phillips;
- (i) did not taunt or hurl any political chant or racial slur at anyone, including Phillips, any other Native American, or the Black Hebrew Israelites; and
- (j) did not engage in any conduct whatsoever that could even remotely be described or characterized as racist.

65. Between January 19 and January 25, CNN utterly disregarded the truth and falsely accused Nicholas of, among other things, “surrounding” Phillips, getting “right in [Phillips’] face,” and “block[ing]” Phillips’ “path” and “escape” from a “really dangerous” “mob” “wanting . . . to just rip [Phillips] apart” and chanting “build that wall” and “Trump2020,” as he and his classmates otherwise “harass[ed],” “taunted,” and “mock[ed]” Phillips — which were described as acts of “hate and racism.”

### **ONLINE VIDEOS OF THE JANUARY 18 INCIDENT**

66. On the evening of January 18, 2019, at 7:33 p.m., Kaya Taitano, a participant in the Indigenous Peoples March, posted online a selectively edited 59 second video depicting only a small portion of the interaction between Nicholas and Phillips, and later that night, she posted a 3 minute 44 second video (collectively, the “Taitano Videos”).

67. The Taitano Videos did not show, among other things:

- (a) the Black Hebrew Israelites’ misconduct and homophobic, racist slurs directed at the CovCath students;
- (b) that Phillips had approached the students and inserted himself into their area before confronting Nicholas;
- (c) that the students were already engaged in school cheers at the time Phillips approached;
- (d) Nicholas engaging in any misconduct, including harassing, mocking, or taunting anyone;
- (e) Nicholas making any gesture of any kind except to, at times, awkwardly smile;
- (f) Nicholas uttering any words to Phillips or his companions;
- (g) Nicholas moving into Phillips’ path;
- (h) Nicholas blocking Phillips’ escape; or
- (i) Nicholas physically or verbally threatening Phillips in any manner.

68. At 11:13 p.m. on January 18, 2019, @2020fight, a fake Twitter account with a following of approximately 41,000, tweeted a 1 minute 1 second clip from the Taitano Videos with the comment, “This MAGA loser gleefully bothering a Native American protestor at the Indigenous Peoples March” (the “2020fight Video”).

69. The 2020fight Video, alone, is reported as having been viewed at least 2,500,000 million times, retweeted 14,000 times, and liked 27,000 times before the account was suspended by Twitter no later than January 21.

70. Screenshots available online of the 2020fight Video show it was viewed at least 10.6 million times.

71. According to CNN's own media report, the @2020fight account was created in December 2016, tweeted an average of 130 times a day, and was suspicious for its high follower count, unusually high rate of tweets, highly polarized and yet inconsistent political messaging, and the use of someone else's image in the profile photo.

72. Any reasonable, objective, and unbiased journalist would have readily known that the 2020fight Video was little more than a snapshot of the January 18 incident and that accurate and fair reporting on it required investigation into the events which occurred before and after those depicted in the short video clip posted on Twitter.

73. With no investigation whatsoever into the @2020fight account or the full events in context, CNN rushed to actively, negligently, and recklessly participate in the 2020fight Video going viral on social media when on January 19 at 8:52 a.m. PST, CNN's reporter Sara Sidner, using her @sarasidnerCNN Twitter account, posted a tweet that reposted the 2020fight Video. A true and correct copy of Sidner's tweet is attached hereto as *Exhibit A*.

74. Sidner actively contributed to CNN's reporting on the January 18 incident, including by conducting an interview of Phillips mere hours after her retweet.

75. Prior to Sidner's tweet, CNN analyst Sellers had already piled on during the social media frenzy by first retweeting the 2020fight Video and then advocating for violence against Nicholas by tweeting at 7:09 a.m. as follows: "He is a deplorable. Some

ppl [sic] can also be punched in the face.” A true and correct copy of Sellers’ tweets are attached hereto as *Exhibit B*.

76. Despite Sellers’ public advocacy of violence against Nicholas, a minor child, Sellers remains an analyst for CNN and was on its air as late as February 1, 2019, disparaging Nicholas and his CovCath classmates.

77. Sidner likewise continues to be a CNN on-air personality.

78. An accurate video as to what occurred on January 18, 2019, was available online on January 19, 2019, when Shar Yaqataz Banyamyan, one of the Black Hebrew Israelites who was present for the encounter between Phillips and Nicholas, posted a 1 hour and 46-minute video on Facebook (the “Banyamyan Video”).<sup>1</sup>

79. A plethora of relevant video was also available online but ignored by CNN and the social media mob as CNN continued its false reporting over its “wire” and promoted the republication of the false accusations by news outlets across the country and the world.

80. From online video and fair use of media broadcasts, Nicholas’ counsel produced a fourteen-minute video distilling what occurred on January 18, entitled “Nicholas Sandmann: The Truth in 15 Minutes” (the “Sandmann Video”), available at <https://www.youtube.com/watch?v=lSkpPaiUF8s> (last visited March 11, 2019).

81. The Banyamyan and Sandmann Videos accurately set forth the truth of the January 18 incident.

82. The Banyamyan and Sandmann Videos demonstrate that this incident was intentionally instigated by the Black Hebrew Israelites and Phillips, and that Nicholas was

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<sup>1</sup> See [https://www.youtube.com/watch?v=t3EC1\\_gcr34&feature=youtu.be&t=523](https://www.youtube.com/watch?v=t3EC1_gcr34&feature=youtu.be&t=523) (last visited March 11, 2019).

targeted by professional activists whose false accusations neatly fit the mainstream media's and social media's anti-Trump agenda.

83. The Banyamyan and Sandmann Videos demonstrate that Nicholas did not engage in any of the misconduct described by CNN.

#### **NICHOLAS' STATEMENT AND NBC INTERVIEW**

84. On the afternoon of January 20, in an attempt to stem the threats of physical violence being made against him, his family, and his CovCath classmates, Nicholas made public a statement in which he provided a detailed and accurate factual description of the January 18 incident. A copy of Nicholas' January 20 statement is attached hereto as *Exhibit C*.

85. On January 23, in a further attempt to stem the threats of physical violence being made against him, his family, and his CovCath classmates, Nicholas agreed to an interview by Savannah Guthrie on the NBC *Today* show in which he reiterated his detailed and accurate factual description of his encounter with Phillips despite accusatory, "victim shaming" questions by Guthrie.

#### **AN INVESTIGATION REVEALS THE TRUTH**

86. CNN did not conduct a proper investigation before publishing its false and defamatory statements of and concerning Nicholas.

87. Pressured by the agendas of certain individuals, a false and defamatory statement of and concerning Nicholas was also published by the Diocese of Covington on January 19 before a proper investigation had been conducted by the Diocese.

88. If CNN has bothered to speak to the Diocese of Covington, it would have learned that the statement was issued without any investigation by the Diocese.

89. Subsequently, the Diocese of Covington retained through its counsel a third-party investigative firm, Greater Cincinnati Investigation, Inc. (“GCI”), to investigate and determine the facts of the January 18 incident.

90. On February 11, 2019, GCI issued its Final Investigative Report (the “GCI Report”), a true and correct copy of which is attached hereto as *Exhibit D*.

91. On February 11, 2019, Diocese Bishop Foys released the GCI Report and said in a letter to the Covington Catholic parents that the GCI Report exonerated the students and demonstrated that the students did not instigate the incident at the Lincoln Memorial. A true and correct copy of said letter is attached hereto as *Exhibit E*.

92. The GCI Report is entirely consistent with all video evidence as well as statements issued by Nicholas and other CovCath students and chaperones.

93. According to the GCI Report, four (4) licensed investigators spent approximately 240 man hours investigating the incident, interviewed 43 students and 13 chaperones, reviewed approximately 50 hours of Internet activity, and attempted to interview Phillips, who failed to respond to phone calls, emails, or investigators who waited outside his home for 6 hours and left a note asking him to contact them.

94. The GCI Report made the following key findings:

(a) Nicholas’ January 20 statement accurately reflects the January 18 incident.

(b) There was “no evidence that students responded [to the Black Hebrew Israelites] with any offensive or racist statements of their own.”

(c) The students asked their chaperones if they could perform school cheers to drown out the Black Hebrew Israelites’ invective, and upon receiving

approval, they performed the same cheers that are commonly performed at football or basketball games.

(d) There was “no evidence that the students performed a ‘Build the Wall’ chant.”

(e) Phillips approached the Covington Catholic students.

(f) There was “no evidence of offensive or racist statements by students to Mr. Phillips or members of his group.”

(g) The majority, if not all, of the MAGA hats being worn by students were purchased before, during, or after the March for Life.

(h) In previous years, some students had purchased ‘Hope’ hats in support of President Obama.

(i) “Mr. Phillips’ public interviews contain some inconsistencies. . . .”

#### **PHILLIPS’ INCONSISTENT AND FALSE CLAIMS**

95. Phillips is known to have given at least seven interviews to mainstream media, including CNN, *The Washington Post*, *The Associated Press*, *Detroit Free Press*, *MSNBC*, *Democracy Now*, and *CBS*.

96. The accusations of Phillips and his companions, as published by CNN and the others identified above, are remarkably inconsistent with each other and the video evidence.

97. According to *The Washington Post*, Phillips stated that the students “suddenly swarmed around him as he and other activists were wrapping up the march.”

98. According to *The Associated Press*, Phillips stated that “he felt compelled to get between two groups with his ceremonial drum to defuse a confrontation.”



99. According to CNN, Phillips stated he “had *put myself* in a really dangerous situation,” but that he was “surrounded” by Nicholas and his classmates.

100. According to *The Washington Post*, Phillips said he was trying to “exit out of this situation and finish my song at the Lincoln Memorial.”

101. Again, according to *The Washington Post*, “Phillips said he was trying to reach the top of the memorial, where friends were standing.”

102. According to *Democracy Now!*, Phillips stated that “I wasn’t focusing on anybody except taking the youth out of there, the Indigenous youth that was with me, out of that situation, and that’s when Mr. Sandmann stood in front of me and blocked my path.”

103. According to CNN on one occasion, Phillips was not focused on reaching the Lincoln Memorial:

I needed an out. I needed to escape. I needed to get away. I needed to retreat somehow, but the only way I could retreat at that moment, is what I see, is just to go forward, and when I started going forward and that mass of groups of people started separating and moving aside to allow me to move out of the way or to proceed, this young fellow put himself in front of me and wouldn't move.

104. But according to CNN on another occasion, “Phillips said the students surrounded him and Sandmann blocked his path to the Lincoln Memorial steps.”

105. Despite Phillips’ public claims that the students yelled “build that wall,” “go back to Africa,” and “go back to the reservation,” no video evidence exists substantiating this accusation.

106. Despite Phillips’ claims that the students left because they were “running from the police,” the video evidence and statements of witnesses demonstrate that the

students left to catch their buses and Phillips then turned away from the top of the stairs and celebrated his perceived “win” with his companions.

107. Although Phillips has previously claimed to have served in Vietnam, it is now evident that though Phillips was in the Marines, he was never deployed overseas.

108. Even a cursory review of Phillips past would have raised serious concerns among objective journalists as to his reliability and credibility as a source for describing the January 18 incident and would have revealed that Phillips was a liar and an activist with an agenda.

### **THE CNN COVERAGE**

109. CNN rushed to be among the first members of the broadcast and online mainstream media to assassinate Nicholas’ character and reputation, airing its false and defamatory interview with Phillips on January 19.

110. CNN also posted its first article about the January 18 incident on January 19.

111. To the extent the January 18 incident was newsworthy at all, it was not “hot news” or “breaking news.”

112. CNN did not investigate the January 18 incident prior to publishing its false and defamatory accusations and any efforts it might now claim to be investigative in nature were woefully inadequate and unreasonably deficient when weighed against journalistic standards, particularly standards governing reporting on minors.

113. One of the reporters on the story first retweeted the 2020fight video just hours before interviewing Phillips.

114. In the intervening time, CNN apparently managed to track down and interview Phillips, write and publish a written story, edit the filmed interview, and prepare for a live broadcast.

115. CNN rushed to interview Phillips because his lies about Nicholas, a student wearing a MAGA cap, neatly fit CNN's anti-Trump agenda.

116. As CNN belatedly acknowledged, the social media mob was "the latest example of social media's glaring problem: snap judgments, without full context, spread by people who themselves could be trying to deceive or sway opinions."

117. But CNN refused to acknowledge the obvious: its coverage of the January 18 incident was riddled with the same glaring problems of uniformed, biased social media snap judgments without context by people who are trying to influence others because CNN relied on social media accusations and extended them far beyond them in describing the incident without performing its journalistic and ethical duties to conduct a reasonable investigation and treat children with heightened sensitivity.

118. One of CNN's on-air reporters, S.E. Cupp, who also rushed to judgment in her CNN broadcast on January 19 (bearing the caption "Shameful Act [-] Viral Video Captures Teens Mocking Native American Veteran") lamented two days later:

Hey guys. Seeing all the additional videos now, and I 100% regret reacting too quickly to the Covington story. I wish I'd had the fuller picture before weighing in, and I'm truly sorry.

A true and correct copy of the Cupp tweet is attached hereto as *Exhibit F*.

119. This admission came on Cupp's personal Twitter account (@secupp) and has never been posted on her CNN Twitter (@UnfilteredSE) or on any of CNN's own media channels.

120. CNN has belatedly conceded that “[m]ost commentators have cited Sandman's standoff with a Native American veteran at the Lincoln Memorial as a parable about rushed judgment” in which “people were quick to heap scorn on the Kentucky teenager without knowing all the facts.”

121. This is a parable in which CNN was a main culprit but yet it never to the date of the filing of this Complaint issued a formal retraction, correction or an apology to Nicholas.

### **PARTIES, JURISDICTION, AND VENUE**

122. Nicholas Sandmann and his parents reside in Kenton County, Kentucky.

123. Nicholas is a 16-year old 11th grade student who attends CovCath, an all-male Catholic high school in Park Hills, Kentucky.

124. CNN is a foreign corporation existing under the laws of the State of Delaware with its principal place of business being located at One CNN Center, Atlanta, Georgia 30303. CNN may be served by delivery of a copy of the summons and complaint to its duly-appointed registered agent, the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

125. There exists complete diversity of citizenship between Plaintiffs and CNN.

126. The amount in controversy greatly exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interests, costs, and attorneys' fees, as required to sustain subject-matter jurisdiction in this Court.

127. This Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a).

128. CNN is the nation's first cable news network and remains a fixture of cable news – both nationally and internationally.

129. CNN transacts business in the State of Kentucky, including through the distribution of its content through cable television and the Internet, and CNN committed the tortious acts identified herein in the State of Kentucky.

130. CNN published the broadcasts and online articles identified herein in the State of Kentucky.

131. CNN has intentionally sought and obtained benefits from their tortious acts in the State of Kentucky.

132. CNN directed its conduct at Nicholas, a citizen of Kentucky.

133. Nicholas suffered substantial reputational and emotional harm in this District.

134. There is a reasonable and direct nexus between CNN's tortious conduct in Kentucky and the harm suffered by Nicholas in Kentucky and beyond.

135. CNN is subject to the jurisdiction of this Court pursuant to KRS 454.210.

136. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because the CNN is subject to personal jurisdiction in this District and/or a substantial part of the events giving rise to this claim occurred in this District, including publication and injury.

#### **CAUSE OF ACTION FOR DEFAMATION**

137. Nicholas reasserts and incorporates by reference paragraphs 1 through 136 of this Complaint as if fully restated herein.

138. CNN published to third parties without privilege no less than four (4) false and defamatory television broadcasts, nine (9) false and defamatory Internet articles, and four (4) false and defamatory tweets of and concerning Nicholas.

139. On January 19, 2019, CNN aired its first false and defamatory broadcast, which it also posted online, subtitled "NATIVE AMERICAN WAR VET: 'THIS YOUNG

FELLA PUT HIMSELF IN FRONT OF ME AND WOULD NOT MOVE” (the “First Broadcast”).

140. The First Broadcast was mirrored by others and can be viewed by the Court at [https://www.youtube.com/watch?v=ZY1GfvJWeGY&has\\_verified=1](https://www.youtube.com/watch?v=ZY1GfvJWeGY&has_verified=1) (last visited March 4, 2019).

141. The First Broadcast features Nicholas prominently by publication of the Taitano Videos and emphasizing his alleged involvement as “a young man [that] got right in his [Phillips’] face.”

142. The First Broadcast published selected portions of a taped interview of Phillips.

143. The First Broadcast communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

144. The First Broadcast communicated the false and defamatory gist that Nicholas assaulted Phillips.

145. The First Broadcast communicated the false and defamatory gist that Nicholas engaged in racist taunts.

146. The First Broadcast communicated the false and defamatory gist that Nicholas’ behavior violated the fundamental standards of his religious community.

147. The First Broadcast communicated the false and defamatory gist that Nicholas’ behavior violated the policies of his school such that he should be expelled.

148. In its First Broadcast, CNN published or republished the following false and defamatory statements:

(a) The subtitle “HEARTBREAKING VIRAL VIDEO ... Viral video appears to show teens harassing Nathan Phillips in DC”

(b) The subtitle “HEARTBREAKING VIRAL VIDEO ... ‘I’M A VIETNAM VETERAN AND I KNOW THAT MENTALITY OF ‘THERE’S ENOUGH OF US, WE CAN DO THIS’”

(c) The subtitle “NATIVE AMERICAN WAR VET: ‘THIS YOUNG FELLA PUT HIMSELF IN FRONT OF ME AND WOULD NOT MOVE’”

(d) “We are hearing from a Native American elder and Vietnam War veteran speaking to CNN after a disturbing viral video shows a group of teens harassing and mocking him in the nation’s capital.”

(e) “Nathan Phillips was beating his drum and singing an American Indian protest song . . . when he saw a clash erupting between a group of teenaged students and four African American young men preaching about the bible and oppression . . . .”

(f) “When I was there and I was standing there and I seen that group of people in front of me and I seen the angry faces and all of that I realized I had put myself in a really dangerous situation, you know, it was like here is a group of people who were angry at somebody else and I put myself in front of that and all of a sudden I am the one who all that anger and all that wanting to have the freedom to just rip me apart, you know, that was scary. I’m a Vietnam times veteran and I know that mentality of ‘there’s enough of us, we can do this.’”

(g) “Then Phillips describes the tense moments now being replayed over and over again online when a young man got right in his face, watch.”

(h) “When I started going forward and that massive groups of people started separating and separating and moving aside to allow me to move out of the way, or to proceed, this young fella put himself in front of me and wouldn’t

move. And, so I couldn't – if I took another step, I would be putting my person into his presence, into his space, and I would have touched him, and that would have been the thing that the group of people would have needed to spring on me.”

(i) “We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church's teachings on the dignity and respect of the human person. The matter is being investigated and we will take appropriate action, up to and including expulsion ...”

149. On January 19, 2019, CNN aired its second false and defamatory broadcast, which it also posted online, subtitled “SHAMEFUL ACT [-] VIRAL VIDEO CAPTURES TEENS MOCKING NATIVE AMERICAN VETERAN” (the “Second Broadcast”).

150. The Second Broadcast can be viewed by the Court at <https://twitter.com/unfilteredse/status/1086789656207810561?lang=en> (last visited March 4, 2019).

151. The Second Broadcast features Nicholas prominently by publication of the Taitano Videos and otherwise emphasizing his alleged involvement by focusing on a still photograph taken from the Taitano Videos, which was rendered in black and white, except for the three MAGA caps, which were displayed in glaring red.

152. The Second Broadcast communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and the Black Hebrew Israelites and otherwise engaged in racist conduct.



153. The Second Broadcast communicated the false and defamatory gist that Nicholas assaulted Phillips.

154. The Second Broadcast communicated the false and defamatory gist that Nicholas engaged in racist taunts.

155. The Second Broadcast communicated the false and defamatory gist that Nicholas' behavior violated the fundamental standards of his religious community.

156. The Second Broadcast communicated the false and defamatory gist that Nicholas' behavior violated the policies of his school such that he should be expelled.

157. In its Second Broadcast, CNN published or republished the following false and defamatory statements:

(a) The subtitle “SHAMEFUL ACT [-] VIRAL VIDEO CAPTURES TEENS MOCKING NATIVE AMERICAN VETERAN.”

(b) “You’ve probably seen it by now, the viral video sweeping the Internet of a mob of MAGA hat wearing high school students surrounding a Native American chanting and drumming in the nation’s capital at the Indigenous Peoples March.”

(c) “He and others were harassed and taunted by students from Covington Catholic High School, a private all boys school in Kentucky . . . .”

(d) “The Communications Director with the Roman Catholic Diocese of Covington released a brief statement today, saying in part ‘We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general... The matter is being investigated and we will take the appropriate action, up to and including expulsion.’”

(e) “Well those are some tough words, and clearly these boys are not getting a good education, because it makes little sense to angrily chant ‘build the wall’ to a population with literally zero illegal immigrants, who were here long before we were.”

(f) “Nathan Phillips has told CNN that these kids originally started shouting at a group of African-Americans and he walked between them trying to break up the shouting match that followed. What did you think when you saw these kids starting to circle Nathan Phillips?”

(g) “As an attorney I felt that this qualified as a legal definition of assault. They were causing an apprehension, an objective fear of offensive contact or harm.”

(h) What you mentioned, they originally started by taunting a group of African-Americans, they moved over to Nathan Phillips and your group.”

158. On January 19, 2019, CNN published online its first false and defamatory article entitled “Teens in Make America Great Again hats taunted a Native American elder at the Lincoln Memorial” (the “First Article”). A true and correct copy of the First Article is attached hereto as *Exhibit G*.

159. The First Article referenced the viral Taitano Videos prominently featuring Nicholas, and emphasized Nicholas’ alleged involvement, including by referring to him as “a smiling young man in a red Make America Great Again hat standing directly in front of [Phillips].”

160. The First Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and the Black Hebrew Israelites and otherwise engaged in racist conduct.

161. The First Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

162. The First Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

163. The First Article communicated the false and defamatory gist that Nicholas' behavior violated the fundamental standards of his religious community.

164. The First Article communicated the false and defamatory gist that Nicholas' behavior violated the policies of his school such that he should be expelled.

165. In its First Article, the CNN published or republished the following false and defamatory statements:

(a) The headline "Teens in Make America Great Again hats taunted a Native American elder at the Lincoln Memorial"

(b) "A crowd of teenagers surrounded a Native American elder and other activists and mocked them after Friday's Indigenous Peoples March at the Lincoln Memorial."

(c) "'I did not feel safe in that circle,' said Kaya Taitano, a student at the University of the District of Columbia who participated in the march and shot the videos."

(d) "She [Taitano] told CNN that the teens were chanting things like 'Build the wall' and 'Trump 2020.'"

(e) "Taitano said the whole incident started when the teens and four young African-Americans, who'd been preaching about the Bible nearby, started yelling and calling each other names."

(f) “Phillips walked through the crowd, and Taitano said things were starting to calm down until he got to the grinning boy seen in the video. ‘This one kid just refused to move and he just got in Nathan’s face,’ she said.” Other boys circled around, she said. “They just surrounded him and they were mocking him and mocking the chant . . . .”

(g) “‘I was scared, I was worried for my young friends. I don’t want to cause harm to anyone,’ Phillips told CNN’s Sara Sidner. ‘I don’t like the word ‘hate.’ I don’t like even saying it, but it was hate unbridled. It was like a storm.’”

(h) “‘What the young man was doing was blocking my escape. I wanted to leave. I was thinking, ‘How do I get myself out of this? I want to get away from it,’ Phillips said.”

(i) “‘We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church’s teachings on the dignity and respect of the human person. The matter is being investigated and we will take appropriate action, up to and including expulsion . . . .”

(j) “Phillips also appeared upset in a video Taitano posted after the confrontation. He wiped away tears as he talked about the chants of ‘build that wall.’”

166. On January 20, 2019, CNN published online its second false and defamatory article entitled “Native American man confronted by teens speaks out” (the

“Second Article”). A true and correct copy of the Second Article is attached hereto as *Exhibit H*.

167. The Second Article referenced the First Broadcast, which displays and discusses the viral Taitano Videos prominently featuring Nicholas.

168. The Second Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

169. The Second Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

170. The Second Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

171. The Second Article communicated the false and defamatory gists communicated by the First Broadcast.

172. In its Second Article, CNN published or republished the following false and defamatory statements:

(a) The headline “Native American man confronted by teens speaks out.”

(b) “Nathan Phillips, a Native American elder with the Omaha tribe, shares how he felt after he was mocked by a crowd of teenagers wearing ‘Make America Great Again’ hats during the Indigenous Peoples March in Washington.”

(c) The republication of certain of the false statements in the First Broadcast set forth above, including the following:

i. The subtitle “HEARTBREAKING VIRAL VIDEO ... Viral video appears to show teens harassing Nathan Phillips in DC”

ii. The subtitle “HEARTBREAKING VIRAL VIDEO ... ‘I’M A VIETNAM VETERAN AND I KNOW THAT MENTALITY OF ‘THERE’S ENOUGH OF US, WE CAN DO THIS’”

iii. The subtitle “‘NATIVE AMERICAN WAR VET: ‘THIS YOUNG FELLA PUT HIMSELF IN FRONT OF ME AND WOULD NOT MOVE’”

iv. “When I was there and I was standing there and I seen that group of people in front of me and I seen the angry faces and all of that I realized I had put myself in a really dangerous situation, you know, it was like here is a group of people who were angry at somebody else and I put myself in front of that and all of a sudden I am the one who all that anger and all that wanting to have the freedom to just rip me apart, you know, that was scary. I’m a Vietnam times veteran and I know that mentality of ‘there’s enough of us, we can do this.’”

v. “Then Phillips describes the tense moments now being replayed over and over again online when a young man got right in his face, watch.”

vi. “When I started going forward and that massive groups of people started separating and separating and moving aside to allow me to move out of the way, or to proceed, this young feller put himself in front of me and wouldn’t move. And, so I couldn’t – if I took another step, I would be putting my person into his presence, into his space, and I would have touched him, and that would have been the thing that the group of people would have needed to spring on me.”

vii. “We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church’s teachings on the dignity and respect of the human person. The matter is being investigated and we will take appropriate action, up to and including expulsion . . .”

173. The above portion of the First Broadcast is hereinafter referred to as the “Republished First Broadcast.” The Court may view the Republished First Broadcast at <https://www.CNN.com/videos/us/2019/01/20/native-american-nathan-phillips-maga-teens-video-sot-nr-vpx.CNN> (last visited March 5, 2019).

174. In addition to the nine articles expressly sued upon herein, CNN also republished online the Republished First Broadcast on at least four (4) occasions as follows:

(a) January 22, 2019, article entitled “Trump takes students’ side in racially charged DC protest controversy,” available at <https://www.CNN.com/2019/01/22/politics/donald-trump-covington-students/index.html>;

(b) January 22, 2019, article entitled “Native American elder and Covington Catholic teen both say they are willing to talk,” available at <https://www.CNN.com/2019/01/22/us/covington-catholic-high-school-threats/index.html>;

(c) January 22, 2019, article entitled “DC Protest weekend was a national Rorschach test,” available at <https://www.CNN.com/2019/>

[01/22/opinions/washington-dc-marches-national-divisions-maltby/index.html](https://www.opinionjournal.org/01/22/opinions/washington-dc-marches-national-divisions-maltby/index.html); and

(d) January 23, 2019, article entitled “Catholic student in viral video says he respects Native American elder, but he doesn’t owe an apology” available at <https://www.CNN.com/2019/01/23/us/nick-sandmann-interview-maga-teens-covington-catholic/index.html>.

175. On January 20, 2019, CNN aired its third false and defamatory broadcast, subtitled “VIRAL VIDEO [-] MAGA HAT TEENS TAUNT NATIVE AMERICAN AT INDIGENOUS PEOPLES MARCH” (the “Third Broadcast”).

176. The Third Broadcast features Nicholas prominently by publication of the Taitano Videos and otherwise emphasized his role in the January 18 incident.

177. The Third Broadcast communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

178. The Third Broadcast communicated the false and defamatory gist that Nicholas assaulted Phillips.

179. The Third Broadcast communicated the false and defamatory gist that Nicholas engaged in racist harassment.

180. The Third Broadcast communicated the false and defamatory gist that Nicholas’ behavior violated the fundamental standards of his religious community.

181. In its Third Broadcast, CNN published or republished the following false and defamatory statements:

(a) The subtitle “VIRAL VIDEO [-] MAGA HAT TEENS TAUNT NATIVE AMERICAN AT INDIGENOUS PEOPLES MARCH.”



(b) “A Native American elder and Vietnam war veteran is speaking to CNN after a disturbing viral video shows this group of teenagers harassing and mocking him.”

(c) “When I was there and I was standing there and I seen that group of people in front of me and I seen the angry faces and all of that I realized I had put myself in a really dangerous situation, you know, it was like here is a group of people who were angry at somebody else and I put myself in front of that and all of a sudden I am the one who all that anger and all that wanting to have the freedom to just rip me apart, you know, that was scary. I’m a Vietnam times veteran and I know that mentality of ‘there’s enough of us, we can do this.’”

(d) “He [Phillips] said the young man got right in his face.”

(e) “When I started going forward and that massive groups of people started separating and separating and moving aside to allow me to move out of the way, or to proceed, this young feller put himself in front of me and wouldn’t move. And, so I couldn’t – if I took another step, I would be putting my person into his presence, into his space, and I would have touched him, and that would have been the thing that the group of people would have needed to spring on me.”

(f) “The Roman Diocese has condemned those teens’ actions.”

182. On January 21, 2019, CNN published online its third false and defamatory article entitled “Native American elder Nathan Phillips, in his own words” (the “Third Article”). A true and correct copy of the Third Article is attached hereto as *Exhibit I*.

183. The Third Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas' alleged involvement as being the "young fellow [who] put himself in front of [Phillips] and wouldn't move."

184. The Third Article republishes CNN's interview of Phillips but notes that it was "lightly edited for flow and content."

185. The Third Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and the Black Hebrew Israelites and otherwise engaged in racist conduct.

186. The Third Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

187. The Third Article communicated the false and defamatory gist that Nicholas assaulted Phillips and the Black Hebrew Israelites.

188. The Third Article communicated the false and defamatory gists communicated by the First Broadcast.

189. In its Third Article, CNN published or republished the following false and defamatory statements:

(a) The republication of the false statements in the Republished First Broadcast set forth above.

(b) "Phillips described what he felt was hatred coming from the young people in the crowd, who are pupils at Covington Catholic School in Kentucky ...."

(c) CNN question:<sup>2</sup> “Tell us what happened, what transpired between you and the young people who were all standing around you? How did you end up surrounded by this group of young people with the MAGA hats on?” Phillips Answer: “... it escalated into an ugly situation that I found myself in the middle of. Yeah, I found myself in the middle of it, sort of woke up to it.”

(d) CNN question: “What did it feel like that you were witnessing?” Phillips Answer: “Oh, what I was witnessing was just hate? Racism? Well, hate. What I’m saying is that when these folks came there, these other folks were saying their piece, and these others they got offended with it because they were both just expressing their own views. And if it’s racism, that’s what it was because the folks that were having their moment there, they were saying things that I don’t know if I agreed with them or not, but some of it was educational, and it was truth, and it was history about religious views and ideologies, but these other folks, the young students, they couldn’t see it. They had one point of view, it seemed, and that was their point of view was the only point of view that was worthwhile.”

(e) CNN question: “Were you trying to calm the situation down basically when you saw kind of things seemed to spiral out of control?” Phillips Answer: “I think so. I think that was the push, that we need to use the drum, use our prayer and bring a balance, bring a calming to the situation.... It looked like these young men were going to attack these guys. They were going to hurt them. They were going to hurt them because they didn’t like the color of their

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<sup>2</sup> CNN’s questions are provided for appropriate context.

skin. They didn't like their religious views. They were just here in front of the Lincoln – Lincoln is not my hero, but at the same time, there was this understanding that he brought the (Emancipation Proclamation) or freed the slaves, and here are American youth who are ready to, look like, lynch these guys. To be honest, they looked like they were going to lynch them. They were in this mob mentality.... To allow such hate and racism ...”

(f) CNN question: “Let me ask you about what happened to you. These boys in the middle of this group and you find yourself surrounded. How did that happen and what did that feel like as a person standing there face to face with a young man who seems to be staring at you or glaring at you? How would you describe that moment?” Phillips Answer: “When I was there and I was standing there and I seen that group of people in front of me and I seen the angry faces and all of that, I realized I had put myself in a really dangerous situation. Here's a group of people who were angry at somebody else and I put myself in front of that, and all of a sudden, I'm the one who[] all that anger and all that wanting to have the freedom to just rip me apart, that was scary. And I'm a Vietnam [times]<sup>3</sup> veteran and I know that mentality of ‘There's enough of us. We can do this.’”

(g) CNN question: “The young man that was standing in front of you, what was he doing and what was he trying to do as you were playing the drum. Were you fearful? Were you trying to leave?” Phillips Answer: “... I had realized where I'm at and what I was doing, and I realized there was other people with

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<sup>3</sup> CNN's Third Article purports to be a script of the Phillips interview shown in the First Broadcast but omits “times” in between “Vietnam” and “veteran.”

me and I didn't want them to get hurt because there was 100-plus of these young men who were well-fed and healthy and strong and ready to do harm to somebody. And they just wanted that point of 'This is it' and spring. If this young man thought that he was [at] that point and what I was trying to do, I realized where I was at. I needed an out. I needed to escape. I needed to get away. I needed to retreat somehow, but the only way I could retreat at that moment, is what I see, is just to go forward, and when I started going forward and that mass of groups of people started separating and moving aside to allow me to move out of the way or to proceed, this young fellow put himself in front of me and wouldn't move. If I took another step, I would be putting my person into his presence, into his space and I would've touched him and that would've been the thing that the group of people would've needed to spring on me. Because if I would've reached out with my drum or with my hands and touched him, that would've given them – I did that. I struck out, and that's not what I was doing. The song I was singing, the reason for it, was to bring unity and to bring love and compassion back into our minds and our beings as men and as protector of what is right...."

(h) CNN question: "Does it feel like hatred toward you because the kids will say, 'Oh we were just chanting our school chants and this person came in between us as we were chanting our school chants and we were not being hateful.' What did it feel like to you?" Phillips Answer: "I'm sorry. I don't mean to laugh. Well, yes, I do, I guess. I heard that rhetoric before and it's just one of those things, it's got to be like water off a duck's back. Time for lies to

not be accepted anymore. I don't accept their 'I'm just chanting a school chant.'"

(i) CNN question: "Was there fear? ... What did it feel like in that scenario for you as you were standing there sort of surrounded and the chants were going on and the young man was standing sort of in your face?" Phillips Answer: "When they said, 'Let's go hit the drum, let's go sing, let's reclaim our space here' because this was the Indigenous Peoples March rally, and when these two groups came together and started that and I was witnessing as it escalated from just two small groups, then the other one just went back and got more people, went back and got more people, went back and got more people until there were over 100 people, maybe 200 young men there facing down what, four individuals? Why did they need 200 people there other than it's hate and racism? They had their target. They had their prey."

(j) CNN question: "Were they being hateful, just bottom line? Did you feel hate from this group of people? Did it feel like they were being aggressive?" Phillips Answer: "I do believe that's all I could feel, and I don't like feeling it."

(k) CNN question: "One of the things they said is we weren't protesting against Native Americans. We were there for the March for Life and we were just chanting – and this is kind of putting the blame on you – and that this person came into our space and we were just getting all hyped up. Do you buy that?" Phillips Answer: "Not in the least."

(l) CNN question: "What really happened?" Phillips Answer: "They were there looking for trouble, looking for something...."

(m) CNN question: “You dispute what they’re trying to push off, which is basically, ‘We were just chanting our school chants and this person came into our space and we were just being happy-go-lucky kids.’” Phillips Answer: “No, not happy go lucky. If they was happy go lucky, we would’ve been laughing and enjoying each other’s presence and company because that’s the kind of thing I like to do. I like to meet people. . . . But what was happening there, there was nothing happy go lucky about it. It was just, ‘Build the wall’ and some of the things that I heard but can’t really say I exactly heard that because it was way over there, and they could say, ‘Oh nobody said that. It wasn’t us who said that.’ So it’s one of those he-said, she-said, things and what I’m saying is that they were being very aggressive and they were very ready to hurt somebody. They just needed a reason. . . .”

190. On January 21, 2019, CNN aired its fourth false and defamatory broadcast, which it also posted online, subtitled “STUDENT AT CENTER OF CONTROVERSIAL VIRAL FACE-OFF SPEAKS OUT” (the “Fourth Broadcast,” with the First, Second, and Third Broadcasts, the “Broadcasts”). The Court may view the Fourth Broadcast at <https://www.CNN.com/videos/politics/2019/01/23/covington-students-white-house-viral-video-today-show-sidner-sot-ebf-vpx.CNN> (last visited March 5, 2019).

191. In addition to the nine articles expressly sued upon herein, CNN also republished online the Fourth Broadcast on at least five (5) occasions as follows:

(a) January 21, 2019, article entitled “Chaperones on Kentucky high school trip defend students,” available at <https://www.CNN.com/2019/01/21/us/chaperones-kentucky-high-school/index.html>;

(b) January 22, 2019, article entitled “Trump takes students’ side in racially charged DC protest controversy,” available at <https://www.CNN.com/2019/01/22/politics/donald-trump-covington-students/index.html>;

(c) January 22, 2019, article entitled “Native American elder and Covington Catholic teen both say they are willing to talk,” available at <https://www.CNN.com/2019/01/22/us/covington-catholic-high-school-threats/index.html>;

(d) January 22, 2019, article entitled “White House expresses support for Covington Catholic students,” available at <https://www.CNN.com/2019/01/22/politics/white-house-covington-students/index.html>; and

(e) January 23, 2019, article entitled “5 things to know for January 23: Shutdown, teachers’ strikes, transgender military ban,” available at <https://www.CNN.com/2019/01/23/us/five-things-january-23-trnd/index.html>.

192. The Fourth Broadcast features Nicholas prominently by publication of the Taitano Videos and discussing Nicholas’ statement about the January 18 incident.

193. The Fourth Broadcast communicated the false and defamatory gist that Nicholas intentionally lied about the January 18 incident.

194. In its Fourth Broadcast, CNN published or republished the following false and defamatory statements:

(a) “I do wanna read to you what the Native American gentleman said. He said look, I’ve read the statement from Nick Sandmann, he said he stared at



me for a long time and he didn't apologize and he believes there are intentional falsehoods in his testimony."

(b) "I have read the statement from Nick Sandmann, the student who stared at me for a long time. He did not apologize, and I believe there are intentional falsehoods in his testimony."

195. On January 21, 2019, CNN published online its fourth false and defamatory article entitled "A new video shows a different side of the encounter between a Native American elder and teens in MAGA hats" (the "Fourth Article"). A true and correct copy of the Fourth Article is attached hereto as *Exhibit J*.

196. The Fourth Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas' alleged involvement, including by placing a photo of Nicholas at the top of the article.

197. The Fourth Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

198. The Fourth Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

199. The Fourth Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

200. The Fourth Article communicated the false and defamatory gists communicated by the Fourth Broadcast.

201. In its Fourth Article, CNN published or republished the following false and defamatory statements:

(a) The republication of the false statements in the Fourth Broadcast set forth above, including that Nicholas' version of events contains "intentional falsehoods."

(b) "A video that shows white high school students in Make America Great Again hats and shirts mocking a Native American elder shocked the country, leading to widespread denunciations of the teens' behavior."

(c) "Phillips has said the teen [Sandmann] blocked his escape."

(d) "Kaya Taitano, who shot the viral video, said the teens were chanting 'Build the wall' and 'Trump2020.'"

(e) "The situation was starting to grow calm until Sandmann got in Phillips' face, Taitano said. Phillips kept chanting and beating his drum as other boys circled around, 'mocking him and mocking the chant,' Taitano said."

(f) "Phillips said the teen blocked his path as he tried to keep moving. 'I was scared,' Phillips told CNN's Sara Sidner. 'I don't like the word 'hate.' I don't like even saying it, but it was hate unbridled. . . ."

202. On January 23, 2019, CNN published online its fifth false and defamatory article entitled "America mocks and dehumanizes natives at every turn" (the "Fifth Article"). A true and correct copy of the Fifth Article is attached hereto as *Exhibit K*.

203. The Fifth Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas' role in the January 18 incident.

204. The Fifth Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

205. The Fifth Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

206. The Fifth Article communicated the false and defamatory gists of the First Broadcast.

207. In its Fifth Article, CNN published or republished the following false and defamatory statements:

(a) The republication of the false statements in the Republished First Broadcast set forth above.

(b) The sub-headline “Native American confronted by teens speaks out”

(c) “Let’s be absolutely clear about something here: Whatever else may have been said about it or our country’s reactions to it, the racist disrespect of Nathan Phillips, a Native American elder, by Nick Sandmann and his MAGA-hat clad classmates of Covington Catholic High School at the Lincoln Memorial is nothing new.”

(d) “Indeed, the very form of anti-native ridicule and disrespect of personhood and culture caught on multiple videos that day predates Donald J. Trump and his base by centuries.”

(e) “Just business as usual in America, which is why when Sandmann was filmed smirking at Phillips as his raucous peers whooped and jeered in the background I wasn’t surprised at all.”

(f) “It also didn’t shock me when the all-boys Catholic school crew went so far as to shout ‘build the wall’ at a Native American, according to Phillips’ account of the event.”

(g) “And the irony isn’t lost on me that white kids – descendants of Europe, presumably – would shout ‘build the wall’ at a man whose ancestry on this soil is tens of thousands of years old.”

(h) “And that is the only difference here: Sandmann intentionally mocked a native elder for the entertainment of his friends, got caught, and still won’t apologize.”

208. On January 23, 2019, CNN published online its sixth false and defamatory article entitled “Teen in confrontation with Native American Elder says he was trying to defuse the situation” (the “Sixth Article”). A true and correct copy of the Sixth Article is attached hereto as *Exhibit L*.

209. The Sixth Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas’ role in the January 18 incident.

210. The Sixth Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

211. The Sixth Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

212. The Sixth Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

213. The Sixth Article communicated the false and defamatory gist that Nicholas’ behavior violated the fundamental standards of his religious community.

214. The Sixth Article communicated the false and defamatory gist that Nicholas’ behavior violated the policies of his school such that he should be expelled.

215. The Sixth Article communicated the false and defamatory gists of the Fourth Broadcast.

216. In its Sixth Article, CNN published or republished the following false and defamatory statements:

(a) The republication of the false statements in the Fourth Broadcast set forth above, including that Nicholas' version of events contains "intentional falsehoods."

(b) "A crowd of teenagers surrounded a Native American elder and other activists and appeared to mock them after Friday's Indigenous Peoples March at the Lincoln Memorial."

(c) "Nathan Phillips, an elder with the Omaha Tribe, said the confrontation felt like 'hate unbridled.' In the moment, he said he was scared for his safety and the safety of those with him."

(d) "Kaya Taitano, a student at the University of the District of Columbia, participated in the Indigenous Peoples March earlier in the day. She said the teens were chanting things like 'Build the wall' and 'Trump2020.' ... 'I did not feel safe in that circle,' she said."

(e) "... Taitano said things were starting to calm down until he got to the grinning boy seen in the video. 'This one kid just refused to move and he just got in Nathan's face,' she said. Other boys circled around, she said. 'They just surrounded him and they were mocking him and mocking the chant.'"

(f) "I was scared, I was worried for my young friends. I don't want to cause harm to anyone,' Phillips told CNN's Sara Sidner. 'I don't like the word 'hate.' I don't even like saying it, but it was hate unbridled. . . ."

(g) "What the young man was doing was blocking my escape. I wanted to leave. I was thinking, 'How do I get myself out of this? I want to get away from it,' Phillips said."

(h) “We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church’s teachings on the dignity and respect of the human person. The matter is being investigated and we will take appropriate action, up to and including expulsion. . . .”

(i) Video of Phillips saying “I heard them saying, ‘Build that wall, build that wall.’”

217. On January 23, 2019, CNN published online its seventh false and defamatory article entitled “Viral video sparks outrage” (the “Seventh Article”). A true and correct copy of the Seventh Article is attached hereto as *Exhibit M*.

218. The Seventh Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas’ role in the January 18 incident.

219. The Seventh Article communicated the false and defamatory gist of the Fourth Broadcast.

220. In its Seventh Article, CNN published or republished the false statements in the Fourth Broadcast set forth above, including that Nicholas’ version of events contains “intentional falsehoods.”

221. On January 24, 2019, CNN published online its eighth false and defamatory article entitled “Native American elder from viral staredown [sic] says teen’s response is coached, insincere” (the “Eighth Article”). A true and correct copy of the Eighth Article is attached hereto as *Exhibit N*.

222. The Eighth Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas' role in the January 18 incident.

223. The Eighth Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

224. The Eighth Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

225. The Eighth Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

226. The Eighth Article communicated the false and defamatory gists of the First and Fourth Broadcast.

227. In its Eighth Article, CNN published or republished the following false and defamatory statements:

(a) The republication of the false statements in the Republished First Broadcast set forth above.

(b) The republication of the false statements in the Fourth Broadcast set forth above, including that Nicholas' version of events contains "intentional falsehoods."

(c) "Omaha Nation elder Nathan Phillips says he thinks Nick Sandmann, the Catholic school teen with whom he faced off last week in Washington, is skirting accountability and needs to apologize for his actions."

(d) "Phillips said the students surrounded him, and Sandmann blocked his path to the Lincoln Memorial steps. He heard some students chant, 'Build the wall,' he said."

(e) “When I put myself in prayer and used that drum to reach God, that mass of young men surrounded me and the folks that were with me,’ he said.”

(f) Asked if he should have walked away, Phillips said he tried but couldn’t. ‘I was blocked,’ he said.”

228. On January 25, 2019, CNN published online its ninth false and defamatory article entitled “Kentucky Catholic diocese apologizes for condemning students in viral video with Native American elder” (the “Ninth Article”). A true and correct copy of the Ninth Article is attached hereto as *Exhibit O*.

229. The Ninth Article referenced the viral Taitano Videos prominently featuring Nicholas and emphasized Nicholas’ role in the January 18 incident.

230. The Ninth Article communicated the false and defamatory gist that Nicholas instigated a confrontation with Phillips and otherwise engaged in racist conduct.

231. The Ninth Article communicated the false and defamatory gist that Nicholas engaged in racist taunts.

232. The Ninth Article communicated the false and defamatory gist that Nicholas assaulted Phillips.

233. The Ninth Article communicated the false and defamatory gists of the First Broadcast.

234. The Ninth Article communicated the false and defamatory gists of the Fourth Broadcast.

235. In its Ninth Article, CNN published or republished the following false and defamatory statements.

(a) The republication of the false statements in the Republished First Broadcast set forth above.



(b) The republication of the false statements in the Fourth Broadcast set forth above, including that Nicholas' version of events contains "intentional falsehoods."

(c) "Phillips, on the other hand, told CNN this week he felt hatred coming from the young people in the crowd. When asked about Nick standing in front of him, Phillips told CNN he was trying to retreat and the only way he could do so was to go forward. 'When I started going forward and that mass of groups of people started separating and moving aside to allow me to move out of the way or to proceed, this young fellow put himself in front of me and wouldn't move,' Phillips said."

(d) "[Phillips] felt like he was being mocked . . . ."

236. The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Articles are collectively referred to herein as the "Articles."

237. On January 19, 2019, CNN also posted on its Twitter page for its show S.E. Cupp Unfiltered and published to approximately 14,000 followers its Second Broadcast ("First Tweet") with the following false and defamatory caption: "Teens in MAGA gear mock a Native American Vietnam vet, and @secupp wishes she could tell them there's no place for this in our society. 'Unfortunately, that's wrong. Adults model this very behavior all the time – on social media and on the street. And it's awful.'" A true and correct copy of the First Tweet is attached hereto as *Exhibit P*.

238. In addition to the false and defamatory gists of the Second Broadcast, the First Tweet also independently communicated the false and defamatory gists that Nicholas engaged in racist conduct and racist taunts.

239. On January 19, 2019, CNN also posted on its Twitter page and published to approximately 41 million followers its First Article (“Second Tweet”) with the following false and defamatory caption: “Video shows a crowd of teenagers wearing ‘Make America Great Again’ hats taunting a Native American elder after Friday’s Indigenous Peoples March at the Lincoln Memorial [cnn.it/2FM8De6](https://www.cnn.com/2019/01/19/politics/indigenous-peoples-march/index.html).” A true and correct copy of the Second Tweet is attached hereto as *Exhibit Q*.

240. On January 20, 2019, CNN also posted on its Twitter page and published to approximately 41 million followers its Sixth Article (“Third Tweet”) with the following false and defamatory caption: “Video shows a crowd of teenagers wearing ‘Make America Great Again’ hats taunting a Native American elder after Friday’s Indigenous Peoples March at the Lincoln Memorial [https://CNN.it/2FRKitZ](https://www.cnn.com/2019/01/20/politics/indigenous-peoples-march/index.html).” A true and correct copy of the Third Tweet is attached hereto as *Exhibit R*.

241. In addition to the false and defamatory gists of the First Article, the Second Tweet also independently communicated the false and defamatory gist that Nicholas engaged in racist conduct and racist taunts.

242. On January 21, 2019, CNN also posted on its Twitter page and published to approximately 41 million followers its Third Article (“Fourth Tweet”), thereby communicating the false and defamatory gists of the Third Article. A true and correct copy of the Fourth Tweet is attached hereto as *Exhibit S*.

243. These four tweets are collectively referred to herein as the “Tweets.”

244. The Tweets, Broadcasts, and Articles are collectively referred to herein as the “False and Defamatory Accusations.”

245. As the natural and foreseeable consequence of its actions, CNN knew and intended that its False and Defamatory Accusations would be republished by others, including media outlets and others on social media.

#### **NICHOLAS IS A PRIVATE FIGURE**

246. Nicholas is a private figure for the purposes of this defamation action, having lived his entire life outside of the public eye.

247. Prior to the January 18 incident, Nicholas had no notoriety of any kind in the community at large.

248. Nicholas did not engage the public's attention to resolve any public issue that could impact the community at large.

249. Nicholas made no public appearances prior to the false accusations against him.

250. Nicholas has not inserted himself into the forefront of any public issue.

251. Nicholas' limited public statements after the accusations against him were reasonable, proportionate, and in direct response to the false accusations against him and do not render Nicholas a limited purpose public figure.

#### **CNN PUBLISHED NEGLIGENTLY AND MALICIOUSLY**

252. CNN published its False and Defamatory Accusations negligently and with actual knowledge of falsity or a reckless disregard for the truth.

253. As one of the world's leading news outlets, CNN knew but ignored the importance of verifying damaging and, in this case, incendiary accusations against a minor child prior to publication.

254. Instead, CNN recklessly rushed to publish its False and Defamatory Accusations in order to advance its own political agenda against President Trump.

255. In doing so, CNN lifted the incident from social media and placed it in the mainstream media, giving its False and Defamatory Accusations credibility and permanence.

256. CNN negligently published its False and Defamatory Accusations by departing from the reasonable standard of care employed by journalists, including those standards articulated by the Society of Professional Journalists' Code of Ethics.

257. CNN's collective conduct demonstrates a purposeful avoidance of the truth and the publication of the False and Defamatory Accusations with actual knowledge of falsity following its review of the complete video evidence and Nicholas' statement no later than January 20.

258. CNN negligently and recklessly published its False and Defamatory Accusations by failing to conduct a reasonable investigation prior to publication.

259. CNN's duty to investigate is heightened where, as here, the January 18 incident was not breaking news and involved a minor child.

260. CNN negligently and recklessly published its False and Defamatory Accusations by relying on unreliable and biased sources with questionable credibility.

261. CNN negligently and recklessly published its False and Defamatory Accusations by failing to conduct a reasonable investigation, including by relying on unreliable sources for its publications.

262. Indeed, CNN only interviewed Phillips and another participant in the Indigenous People March, both of whom had biased pre-dispositions.

263. Phillips is wholly unreliable and lacks credibility as shown in part by his false claim to have served in Vietnam while a member of the military, his status as a professional activist with a known bias against President Trump and his supporters, his

documented history of making similar false accusations, his use of the January 18 incident to promote his own political and personal agenda, the contradictions in his story established in his interviews, and the video evidence that totally refutes his story.

264. CNN had obvious reasons to doubt the veracity of its purported firsthand sources such as Phillips and Taitano, including because they are manifestly biased and because the short video evidence on which CNN relied did not show Nicholas or the students uttering the chants or slurs they were accused of making or blocking Phillips' egress.

265. CNN published its False and Defamatory Accusations in reliance upon those it knew to have political and personal biases, including Deb Haaland who is a politician with a demonstrable bias against President Trump.

266. CNN consciously elected to ignore this contrary information in favor of its pre-conceived false narrative against President Trump and his supporters.

267. CNN negligently and recklessly failed to consult publicly available information demonstrating its False and Defamatory Accusations to be false, including, without limitation, other video evidence available online demonstrating that Phillips specifically approached the students and specifically confronted Nicholas, and that Nicholas did not engage in surrounding, mocking, taunting, blocking, or otherwise physically intimidating Phillips or anyone else present.

268. Not only was CNN aware that the snippets of video it reviewed did not support its False and Defamatory Accusations, but CNN was also aware that the video it reviewed was woefully incomplete but published its accusations against Nicholas nonetheless without any further investigation.

269. In fact, upon information and belief, prior to publishing any of its False and Defamatory Accusations, CNN knew that the Black Hebrew Israelites had hurled slurs and taunts at the students, who responded with school cheers, and that Phillips had confronted Nicholas and his classmates. But CNN wholly omitted and otherwise contradicted this information.

270. CNN continued to publish its False and Defamatory Accusations with actual knowledge of falsity, having reviewed video evidence and statements of Nicholas Sandmann contradicting its False and Defamatory Accusations.

271. CNN negligently and recklessly failed to seek information from other obvious sources who were present at the January 18 incident and would have demonstrated its False and Defamatory Accusations to be false, including Nicholas, and upon information and belief, his classmates, and/or the chaperones (who were only consulted for stories beginning on January 21).

272. CNN negligently and recklessly published its False and Defamatory Accusations despite internal inconsistencies in Phillips' statements, as well as material differences in his statements to other outlets published January 19 and 20.

273. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing to use heightened sensitivity when dealing with juveniles.

274. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing to verify each before publication.

275. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing

to take special care not to misrepresent or oversimplify its coverage, and by failing to provide any appropriate context to its False and Defamatory Accusations.

276. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing to avoid stereotyping.

277. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing to examine the way in which its own biases and agenda shaped its false reporting.

278. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by failing to treat Nicholas as a human being deserving of respect.

279. CNN negligently and recklessly published its False and Defamatory Accusations in derogation of accepted principles of journalistic ethics, including by wrongfully placing the anti-Trump, anti-Catholic, and anti-pro-life agenda over the harm its False and Defamatory Accusations caused to Nicholas.

280. Upon information and belief, at the time of its initial reporting of and concerning Nicholas, CNN did not know Nicholas' age and did not make any reasonable attempt to ascertain it despite the general knowledge that Nicholas was a high school student and thus a minor.

281. Nicholas' counsel propounded written demand for retraction of the False and Defamatory Accusations upon CNN on February 16, 2019 and supplemented that demand for retraction on February 19, 2019.

282. CNN's actual malice is further evidenced by its failure to retract its False and Defamatory Accusations.

283. CNN published its False and Defamatory Accusations with common law malice, including because it intended to harm Nicholas because he was a Catholic boy wearing a MAGA hat, and consciously ignored the threats of harm that it knew would inevitably ensue, in favor of its political agenda.

284. CNN published its False and Defamatory Accusations with common law malice, demonstrated by its failure to retract its False and Defamatory Accusations despite the harm and danger it knew would be inflicted upon Nicholas.

285. CNN published its False and Defamatory Accusations with common law malice, including because it callously ignored the consequences of its actions upon a minor child.

286. CNN's common law malice is further evidenced by its failure to reprimand Bakari Sellers for his cyber-assault of Nicholas on Twitter.

### **DAMAGES**

287. The publication of the False and Defamatory Accusations directly and proximately caused substantial and permanent damage to Nicholas.

288. The False and Defamatory Accusations were republished by third-parties and members of the mainstream and social media mob, which was reasonably foreseeable.

289. The False and Defamatory Accusations against Nicholas are defamatory per se, as they are libelous on their face without resort to additional facts, and as clearly demonstrated here, Nicholas was subjected to public hatred, contempt, scorn, obloquy, and shame.

290. As a direct and proximate result of the False and Defamatory Accusations, Nicholas suffered permanent harm to his reputation.



291. As a direct and proximate result of the False and Defamatory Accusations Nicholas suffered severe emotional and mental distress.

292. As a direct and proximate result of the False and Defamatory Accusations Nicholas is forced to live his life in a constant state of concern over his safety and the safety of his family.

293. CNN published its False and Defamatory Accusations with actual malice and common law malice, thereby entitling Nicholas to an award of punitive damages.

294. CNN's conduct was outrageous and willful, demonstrating that entire want of care that raises a conscious indifference to consequences.

295. Nicholas is entitled to an award of punitive damages to punish CNN and to deter it from repeating such egregiously unlawful misconduct in the future.

**WHEREFORE**, Nicholas respectfully prays:

(a) That judgment be entered against CNN for substantial compensatory damages in an amount not less than Seventy-Five Million Dollars (\$75,000,000.00);

(b) That judgment be entered against CNN for punitive damages in an amount not less than Two Hundred Million Dollars (\$200,000,000.00);

(c) That Nicholas recover his reasonable attorneys' fees and expenses from CNN;

(d) That all costs of this action be taxed to CNN; and

(e) That the Court grant all such other and further relief that the Court deems just and proper, including equitable relief.

Respectfully submitted this 12th day of March, 2019.

**L. LIN WOOD, P.C.**

/s/ L. Lin Wood

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## **EXHIBIT A**

## **EXHIBIT A**



**Sara Sidner** ✓

@sarasidnerCNN

Follow



Young white men surround Native American elders and mock them at Indigenous rally in DC. America we need to talk. Because this is not who we are is it?

[twitter.com/lulu\\_says2/sta ...](https://twitter.com/lulu_says2/sta...)

This Tweet is unavailable.

8:52 AM - 19 Jan 2019 from [Los Angeles, CA](#)

34 Retweets 79 Likes



120



34



79



**Lulu Says**  
@lulu\_says2

Follow

Replying to @2020fight:

It's even worse when you see the full mob effect.



1:16 AM - 19 Jan 2019

12,950 Retweets 28,887 Likes



4.5K 13K 29K

**Lulu Says** @lulu\_says2 · 13h

Replying to @lulu\_says2 @2020fight:

I dgaf if they are minors. They need to be identified. What school are they from? Who was chaperoning them? This is one of the most horrific displays of ignorance racism & disrespect. My god. I feel sick.



1.5K 7.8K 23K

**Lulu Says** @lulu\_says2 · 12h

I found the young lady who took video. This was written by her friend. She's turned her IG comments off She's strong but tired 2. She wants us 2 spread awareness but not words/threats of violence. She wants the kids 2 apologize. She's wise & kind. It's 3am. I'll b back later 🙏🙏

## **EXHIBIT B**

## **EXHIBIT B**

1/27/2019

Bakari Sellers on Twitter: "He is a deplorable. Some ppl can also be punched in the face...."

**Bakari Sellers** ✓

@Bakari\_Sellers

Follow



He is a deplorable. Some ppl can also be punched in the face.

[twitter.com/2020fight/stat ...](https://twitter.com/2020fight/stat...)

This Tweet is unavailable.

7:09 AM - 19 Jan 2019

372 Retweets 2,067 Likes



**livetospin** @1tocycle · 10h



Replying to @Bakari\_Sellers

They attend Covington Catholic School, 859-491-2247, School Principle - ROBERT ROWE



13



73

130



**Karl the Orff** @OrffThe · 10h



@supermikeclines these kids need to be sent to another school. The teachers should be dismissed.



4



2

13



**TexasHillCountry** @TxHillCountry6 · 9h



The teachers didn't raise these kids. Naive to think they behave this way in their classrooms. This Lord of the Flies behavior has its roots in their homes. Their primary role model sits in the Oval Office.



2



1

8

[1 more reply](#)



**How's my driving?** @Brad\_Stonesifer · 10h



Replying to @Bakari\_Sellers

Can a forehead be considered a drum in such situations?



1



47

## **EXHIBIT C**

## **EXHIBIT C**



Jake Tapper on Twitter: "Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Mem...



Statement of Nick Sandmann, Covington Catholic High School Junior, Regarding Incident at the Lincoln Memorial

I am providing this factual account of what happened on Friday afternoon at the Lincoln Memorial to correct misinformation and outright lies being spread about my family and me.

I am the student in the video who was confronted by the Native American protestor. I arrived at the Lincoln Memorial at 4:30 p.m. I was told to be there by 5:30 p.m., when our busses were due to leave Washington for the trip back to Kentucky. We had been attending the March for Life rally, and then had split up into small groups to do sightseeing.

When we arrived, we noticed four African American protestors who were also on the steps of the Lincoln Memorial. I am not sure what they were protesting, and I did not interact with them. I did hear them direct derogatory insults at our school group.

The protestors said hateful things. They called us "racists," "bigots," "white crackers," "faggots," and "incest kids." They also taunted an African American student from my school by telling him that we would "harvest his organs." I have no idea what that insult means, but it was startling to hear.

Because we were being loudly attacked and taunted in public, a student in our group asked one of our teacher chaperones for permission to begin our school spirit chants to counter the hateful things that were being shouted at our group. The chants are commonly used at sporting events. They are all positive in nature and sound like what you would hear at any high school. Our chaperone gave us permission to use our school chants. We would not have done that without obtaining permission from the adults in charge of our group.

At no time did I hear any student chant anything other than the school spirit chants. I did not witness or hear any students chant "build that wall" or anything hateful or racist at any time. Assertions to the contrary are simply false. Our chants were loud because we wanted to drown out the hateful comments that were being shouted at us by the protestors.

After a few minutes of chanting, the Native American protestors, who I hadn't previously noticed, approached our group. The Native American protestors had drums and were accompanied by at least one person with a camera.

The protestor everyone has seen in the video began playing his drum as he waded into the crowd, which parted for him. I did not see anyone try to block his path. He locked eyes with me and approached me, coming within inches of my face. He played his drum the entire time he was in my face.

I never interacted with this protestor. I did not speak to him. I did not make any hand gestures or other aggressive moves. To be honest, I was startled and confused as to why he had approached me. We had already been yelled at by another group of protestors, and when the second group approached I was worried that a situation was getting out of control where adults were attempting to provoke teenagers.

I believed that by remaining motionless and calm, I was helping to diffuse the situation. I realized everyone had cameras and that perhaps a group of adults was trying to provoke a group of teenagers into a larger conflict. I said a silent prayer that the situation would not get out of hand.

Jake Tapper @jaketapper · Jan 20

Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Memorial:

9.7K

9.4K

22K



Jake Tapper on Twitter: "Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Mem...



During the period of the drumming, a member of the protestor's entourage began yelling at a fellow student that we "stole our land" and that we should "go back to Europe." I heard one of my fellow students begin to respond. I motioned to my classmate and tried to get him to stop engaging with the protestor, as I was still in the mindset that we needed to calm down tensions.

I never felt like I was blocking the Native American protestor. He did not make any attempt to go around me. It was clear to me that he had singled me out for a confrontation, although I am not sure why.

The engagement ended when one of our teachers told me the busses had arrived and it was time to go. I obeyed my teacher and simply walked to the busses. At that moment, I thought I had diffused the situation by remaining calm, and I was thankful nothing physical had occurred.

I never understood why either of the two groups of protestors were engaging with us, or exactly what they were protesting at the Lincoln Memorial. We were simply there to meet a bus, not become central players in a media spectacle. This is the first time in my life I've ever encountered any sort of public protest, let alone this kind of confrontation or demonstration.

I was not intentionally making faces at the protestor. I did smile at one point because I wanted him to know that I was not going to become angry, intimidated or be provoked into a larger confrontation. I am a faithful Christian and practicing Catholic, and I always try to live up to the ideals my faith teaches me – to remain respectful of others, and to take no action that would lead to conflict or violence.

I harbor no ill will for this person. I respect this person's right to protest and engage in free speech activities, and I support his chanting on the steps of the Lincoln Memorial any day of the week. I believe he should re-think his tactics of invading the personal space of others, but that is his choice to make.

I am being called every name in the book, including a racist, and I will not stand for this mob-like character assassination of my family's name. My parents were not on the trip, and I strive to represent my family in a respectful way in all public settings.

I have received physical and death threats via social media, as well as hateful insults. One person threatened to harm me at school, and one person claims to live in my neighborhood. My parents are receiving death and professional threats because of the social media mob that has formed over this issue.

I love my school, my teachers and my classmates. I work hard to achieve good grades and to participate in several extracurricular activities. I am mortified that so many people have come to believe something that did not happen – that students from my school were chanting or acting in a racist fashion toward African Americans or Native Americans. I did not do that, do not have hateful feelings in my heart, and did not witness any of my classmates doing that.

I cannot speak for everyone, only for myself. But I can tell you my experience with Covington Catholic is that students are respectful of all races and cultures. We also support everyone's right to free speech. I am not going to comment on the words or account of Mr. Phillips, as I don't know him and would not presume to know what is in his heart or mind. Nor am I going to comment further on the other protestors, as I don't know their hearts or minds, either.

Jake Tapper 🌐 @jaketapper · Jan 20

Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Memorial:

💬 9.7K

↻ 9.4K

22K



Jake Tapper on Twitter: "Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Mem...



I have read that Mr. Phillips is a veteran of the United States Marines. I thank him for his service and am grateful to anyone who puts on the uniform to defend our nation. If anyone has earned the right to speak freely, it is a U.S. Marine veteran.

I can only speak for myself and what I observed and felt at the time. But I would caution everyone passing judgement based on a few seconds of video to watch the longer video clips that are on the internet, as they show a much different story than is being portrayed by people with agendas.


I provided this account of events to the Diocese of Covington so they may know exactly what happened, and I stand ready and willing to cooperate with any investigation they are conducting.


###

*This is the only statement that has been made by the Sandmann family. Any comments attributed to any member of the family that is not contained in this document are fabricated. The family will not be answering individual media inquiries.*

Jake Tapper  @jaketapper · Jan 20

Just in: Statement of Nick Sandmann, Covington Catholic High School junior, about the event at the Lincoln Memorial:

 9.7K

 9.4K

22K



## **EXHIBIT D**

## **EXHIBIT D**

**Greater Cincinnati Investigation, Inc.  
718 Valley Square Drive  
Taylor Mill, KY 41015**

**Final Investigative Report**

**February 11, 2019**

On Tuesday, January 22, 2019, Greater Cincinnati Investigation (GCI) was retained by Dressman, Benzinger, Lavelle (DBL LAW) on behalf of the Covington Diocese and Covington Catholic High School to investigate the incident on Friday, January 18, 2019, at the Lincoln Memorial involving students at Covington Catholic High School, The Black Hebrew Israelites and the Native Americans who were part of an Indigenous People March.

**Scope of Investigation**

The scope of the investigation was to interview and take statements from Covington Catholic students and their chaperones who were in attendance, to identify, locate and interview 3<sup>rd</sup> party witnesses who were present, to review and monitor social media posts and news articles, and to attempt to locate and review any additional video that might be available.

Since January 22, we have devoted approximately 240 man hours in the investigation to date, involving four (4) licensed investigators.

Students attending the trip were asked to voluntarily give their statements regarding the events of January 18. We separately interviewed 43 students. Parents were invited to attend the interviews with their sons, and parents did so in approximately one-third of the interviews.

There were sixteen (16) adult chaperones on the trip. We spoke with all nine (9) faculty chaperones and four (4) parent chaperones.

We reviewed approximately fifty (50) hours of internet activity, including but not limited to all major news networks, YouTube, Vimeo, social media accounts on Facebook, Instagram, Twitter.

We attempted to obtain surveillance video from the Lincoln Memorial. We have reached out to the National Park Service by phone and e-mail. To date our efforts have been unsuccessful.

We were able to locate a social media account that goes by @trevonallworthy aka King Trevon. King Trevon has posted several videos from the Lincoln Memorial. We have reached out to King Trevon on two (2) different social media sites and to date he has not responded back. His videos are confirmatory to our findings.

Attempts were made through legal counsel to take Nick Sandmann's in-person statement. We were asked to consider his written statement of January 20, 2019.

We have attempted to reach out to Mr. Phillips by phone and by e-mail, informing him that we desired to interview him in person and that we were prepared to meet him in Michigan or any location he might prefer. We also sent Mr. Phillips' daughter an e-mail as they both appear to be involved in the Native Youth Alliance and have shared their e-mail addresses after the event to



thank everyone for reaching out and supporting them. We never received a response to our inquiries. In addition, our investigators travelled to Ypsilanti, Michigan to seek a personal interview. We are confident that we visited Mr. Phillips' residence. He was not present over a six-hour period and we left a note asking him to contact us. We have not received a response.

### Key Findings

#### *Students*

- The students traveled from Park Hills, KY to Washington DC to attend the March for Life. Some of the students stressed that they attended because of their faith, some stated it was to get service hours, and some stated it was to get out of school and spend time with their friends.
- The students arrived at the Lincoln Memorial at different times. The students who arrived earlier encountered the Black Hebrew Israelites, who clearly addressed offensive statements to the students. We see no evidence that students responded with any offensive or racist statements of their own.
- Some of the students asked the chaperones if they could do their school cheers to help drown out the Black Hebrew Israelites. In years past students have performed school cheers at the Lincoln Memorial. Video evidence supports a finding that the Black Hebrew Israelites were laughing along with the students during the "sumo" cheer. The cheers performed at the Lincoln Memorial are commonly performed at football or basketball games.
- We found no evidence that the students performed a "Build the Wall" chant.
- After the interaction with the Black Hebrew Israelites, Mr. Phillips approached the students. Most of the students state that they felt like he was coming into their group to join in with the students' cheers. None of the students felt threatened by Mr. Phillips and many stated they were "confused."
- We found no evidence of offensive or racist statements by students to Mr. Phillips or members of his group. Some students performed a "tomahawk chop" to the beat of Mr. Phillips' drumming and some joined in Mr. Phillips' chant.
- As the interaction between Nick Sandmann and Mr. Phillips ended, most of the students reported that they again turned their attention back to the Black Hebrew Israelites. Chaperones moved students to the buses shortly thereafter.
- Some students stated that one of the chaperones reminded the students that, if they engaged in a verbal exchange with the Black Hebrew Israelites, they would receive detention when returning to school. Video evidence shows that this happened approximately five minutes before the students can be seen heading to the buses.

- As the students began leaving the area, one student was stopped by a uniformed police officer for running. It was reported that the officer advised this student he should not be running at the Lincoln Memorial. We saw no uniformed police presence at the Lincoln Memorial while students were there.

#### *Chaperones*

- Several of the chaperones arrived with their groups of students after the fact, as they attended the last viewing of the changing of the guard at Arlington Cemetery at 5:00 p.m. Nine (9) chaperones report being present at the Lincoln Memorial when the main interactions took place. Video confirms at least five (5) chaperones were present.
- Video confirms that toward the end of the interactions between Nick Sandmann and Mr. Phillips, at least two (2) chaperones can be seen telling the students that the buses are arriving. At this time, most of the students' attention was directed to the Black Hebrew Israelites. Also at this time a chaperone can be observed telling the students to "back it up," moving them back from the Black Hebrew Israelites. This happened approximately 4-5 minutes before the students headed to the buses.
- The chaperones who were at the Lincoln Memorial and who witnessed the interaction between the students and Black Hebrew Israelites stated that the Black Hebrew Israelites were saying offensive things to anyone that walked by and not just the students. During this time the chaperones never felt like the students were in any danger.
- The chaperones present during the interaction with Mr. Phillips state that they did not feel the students were threatened by Mr. Phillips or his group.
- After Mr. Phillips exited the area, the students' attention turned back to the Black Hebrew Israelites. Shortly thereafter, the chaperones decided to tell the students the buses were present even though at that point they had not arrived. Students were not instructed to "move to the buses" until after the interactions with the Black Hebrew Israelites and Mr. Phillips.

#### *Make America Great Again Hats (MAGA Hats)*

- Students and chaperones stated that few, if any, students were wearing MAGA hats when they left Covington Catholic to head to Washington DC. Most students purchased the hats before, during or after the March for Life.
- In years past, some chaperones reported that some students had purchased "Hope" hats in support of President Obama.
- We found no evidence of a school policy prohibiting political apparel on school-sponsored trips.

*Investigation into the Comment "It's Not Rape If You Enjoy It"*

- An individual can be heard making a comment that "it's not rape if you enjoy it" while the students were at the Lincoln Memorial.
- Our investigation concludes that the individual who made the comment was not a student at Covington Catholic. In addition, viewing longer videos of this comment reveals that a person in the crowd states, "He does not go to CovCath" almost immediately after the comment was made.

*7 Second Video*

- There was a 7 second video posted on Twitter by @roflinds that shows a group of boys making comments to two females as they walk by.
- We cannot confirm that the students in the video are students at Covington Catholic. It is also not totally clear what was said in the video.

*Nick Sandmann*

- Mr. Sandmann's January 20, 2019, statement appears to accurately reflect the facts surrounding the interaction between the students and the Black Hebrew Israelites.
- Regarding the interaction with Mr. Phillips, Mr. Sandmann reports that he was concerned a situation was getting out of control. He states that he was attempting to defuse the situation.

*Mr. Phillips*

- Mr. Phillips' public interviews contain some inconsistencies, and we have not been able to resolve them or verify his comments due to our inability to contact him.

Conclusion

- The statements we obtained from students and chaperones are remarkably consistent. And, the statements are consistent with the videos we reviewed. As with any investigation, new evidence could come to light in the future. We are professionally satisfied that, at this time, it is proper to close the investigation and issue this final report.

Greater Cincinnati Investigation, Inc.

By: 

Chad Moran, Investigator



## **EXHIBIT E**

## **EXHIBIT E**



## DIOCESE OF COVINGTON

Office of the Bishop

1125 Madison Avenue, Covington KY 41011-3115

Phone: (859) 392-1512 • Fax: (859) 392-1508

11 February 2019

My dear Covington Catholic High School Parents,

I am pleased to inform you that my hope and expectation expressed in my letter to you of 25 January that the results of our inquiry into the events of 18 January at the Lincoln Memorial in Washington, D.C. would “exonerate our students so that they can move forward with their lives” has been realized. Our inquiry, conducted by a third party firm that has no connection with Covington Catholic High School or the Diocese of Covington, has demonstrated that our students did not instigate the incident that occurred at the Lincoln Memorial.

In these past several weeks since the original video went viral two well-worn and oft-used adages have come to mind: *Seeing is believing* and *Perception is reality*. The immediate world-wide reaction to the initial video led almost everyone to believe that our students had initiated the incident and the perception of those few minutes of video became reality.

In truth, taking everything into account, our students were placed in a situation that was at once bizarre and even threatening. Their reaction to the situation was, given the circumstances, expected and one might even say laudatory. These students had come to Washington, D.C. to support life. They marched peacefully with hundreds of thousands of others – young and old and in-between – to further the cause of life. These young high school students could never have expected what they experienced on the steps of the Lincoln Memorial while waiting for the busses to take them home. Their stance there was surely a pro-life stance. I commend them.

I thank our students and their parents for their patience while the inquiry we ordered was completed. The final investigative report is available at [www.covdio.org](http://www.covdio.org). Once again I affirm my complete trust and confidence in our Principal of Covington Catholic, Mr. Robert Rowe. Under his guidance these past 11 years great strides have been made at CovCath in every area from curriculum to Catholic identity. He joins me in the sentiments expressed in this letter. I also affirm my confidence in our CovCath students. As for the future, we trust in God and in the spirit of CovCath, a spirit that will not die!

Yours devotedly in the Lord,

Most Reverend Roger J. Foys, D.D.  
Bishop of Covington

## **EXHIBIT F**

## **EXHIBIT F**

2/27/2019

S.E. Cupp on Twitter: "Hey guys. Seeing all the additional videos now, and I 100% regret reacting too quickly to the Covington story. I wis..."

**S.E. Cupp** ✓

@secupp

Follow



Hey guys. Seeing all the additional videos now, and I 100% regret reacting too quickly to the Covington story. I wish I'd had the fuller picture before weighing in, and I'm truly sorry.

7:26 AM - 21 Jan 2019

7,543 Retweets 38,783 Likes



19K



7.5K

39K



Tweet your reply

**Yossi Gestetner** ✓ @YossiGestetner · Jan 21

Replying to @secupp

Your apology moments ago is more than 40 hours after additional video was available. Where were you until now? I was offline 25 hours for Shabbos till Sat Eve after 6:00 pm and the first time I saw this incident (@Cernovich's feed) I already knew the accurate story. 40 hours ago!



140



709

5.0K

**Yossi Gestetner** ✓ @YossiGestetner · Jan 21

Hi @secupp. If you regret it 100% maybe delete ur tweets/RTs promoting your take and ask CNN to remove the segment from the web. Those tweet were hours after many people tweeted the accurate videos. Maybe expand your info intake. Your current doze had you wrong for 40 hours!

S.E. Cupp Retweeted

**Porter Anderson** ✓

@Porter\_Anderson

**S.E. Cupp** ✓ @secupp

Kent Holden · KentHolden5  
Replying to @UnfilteredSE @secupp and 8 others  
Great show tonight SE. Nice to see Congressman Himes has a level head and loved your piece on the High School boys taunting the Omaha Elder. Keep up the good work and balanced views.

**S.E. Cupp** ✓

@ChaselronFves Thank you for

## **EXHIBIT G**

## **EXHIBIT G**

U.S.+

U.S. Edition+

# Teens in Make America Great Again hats taunted a Native American elder at the Lincoln Memorial

By [David Williams](#), CNN

Updated 8:37 PM ET, Sat January 19, 2019

Nathan Phillips, an Omaha tribe elder,

**(CNN)** A crowd of teenagers surrounded a Native American elder and other activists and mocked them after Friday's Indigenous Peoples March at the Lincoln Memorial.

Videos of the confrontation show a smiling young man in a red Make America Great Again hat standing directly in front of the man, who was playing a drum and chanting. Other kids could be seen laughing, jumping around and making fun of the chants.

"I did not feel safe in that circle," said Kaya Taitano, a student at the University of the District of Columbia who participated in the march and shot the videos.

She told CNN that the teens were chanting things like "Build the wall" and "Trump 2020."

[View this post on Instagram](#)

The amount of disrespect.... TO THIS DAY. #SMH #ipmdc19 #ipmdc #indigenousunited #indigenouspeoplesmarch #indigenouspeoplesmarch2019

Taitano said the whole incident started when the teens and four young African-Americans, who'd been preaching about the Bible nearby, started yelling and calling each other names.

It got pretty intense, Taitano said, so Nathan Phillips, an elder with the Omaha tribe, started playing his drum and chanting what she was told was a healing prayer, to help defuse the situation.

Phillips walked through the crowd, and Taitano said things were starting to calm down until he got to the grinning boy seen in the video.



"This one kid just refused to move and he just got in Nathan's face," she said.

Other boys circled around, she said. "They just surrounded him and they were mocking him and mocking the chant. We really didn't know what was going to happen there."

Phillips is a Vietnam veteran who says he served between 1972 and 1976. He is a former director of the Native Youth Alliance and holds an annual ceremony honoring Native American veterans in Arlington National Cemetery.

[View this post on Instagram](#)

I am not done yet. This is AMERICA. #indigenouspeople #indigenouspeoplesmarch #indigenouspeoplesmovement #indigenouspeoplesmovement2019 #indigenouspeopleunite #ipmdc #ipmdc2019

A post shared by KCgu 🌿🌿 (@ka\_ya11) on Jan 19, 2019 at 12:22am PST

"I was scared, I was worried for my young friends. I don't want to cause harm to anyone," Philips told CNN's Sara Sidner. "I don't like the word 'hate.' I don't like even saying it, but it was hate unbridled. It was like a storm."

The crowd kept growing as Phillips and the boy stood face to face, but Phillips kept on chanting and playing his drum.

"What the young man was doing was blocking my escape. I wanted to leave. I was thinking, 'How do I get myself out of this? I want to get away from it,'" Phillips said.

Taitano said the standoff continued until a chaperone came and led the teens away for a photograph.

Some of the boys could be seen wearing hoodies and jackets with the name of Covington Catholic High School, an all-boys' school in Northern Kentucky.

The school's website said a group of students had planned to attend Friday's March for Life rally in Washington.

The school is part of the Roman Catholic Diocese of Covington, and [in a statement given to CNN affiliate WLWT](#), spokeswoman Laura Keener said the diocese would investigate the incident and take appropriate action.

"We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church's teachings on the dignity and respect of the human person.

"The matter is being investigated and we will take appropriate action, up to and including expulsion. We know this incident also has tainted the entire witness of the March for Life and express our most sincere apologies to all those who attended the March and all those who support the pro-life movement."

CNN has reached out to the school and diocese for comment.

Taitano, who is from Guam, said she was raised to treat her elders with respect so it hurt to see them treat Phillips so badly.

Phillips also appeared upset in a video Taitano posted after the confrontation. He wiped away tears as he talked about the chants of "build that wall."

[View this post on Instagram](#)

#ipmdc #ipmdc19 #indigenousunited #indigenouspeoplesmarch #indigenouspeoplesmarch2019

A post shared by KCgu 🌿🌿 (@ka\_ya11) on Jan 18, 2019 at 4:42pm PST

"I wish I could see that energy of the young mass of young men to, you know, put that energy into, you know, making this country really, really great by helping those who are hungry, you know," Philips said.

*CNN's Sara Sidner, Amanda Watts and Deanna Hackney contributed to this report.*



## **EXHIBIT H**

## **EXHIBIT H**

3/5/2019

Native American man confronted by teens speaks out

US +

Live TV

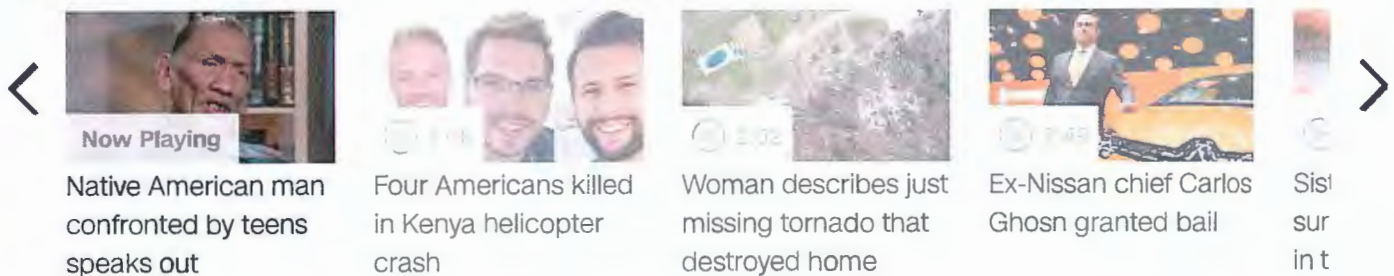


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CC ⚙️ □

## Native American man confronted by teens speaks out

Nathan Phillips, a Native American elder with the Omaha tribe, shares how he felt after he was mocked by a crowd of teenagers wearing "Make America Great Again" hats during the Indigenous Peoples March in Washington. [Source: CNN](#)



Now Playing

Native American man confronted by teens speaks out

Four Americans killed in Kenya helicopter crash

Woman describes just missing tornado that destroyed home

Ex-Nissan chief Carlos Ghosn granted bail

Sister in t

PAID CONTENT

# **EXHIBIT I**

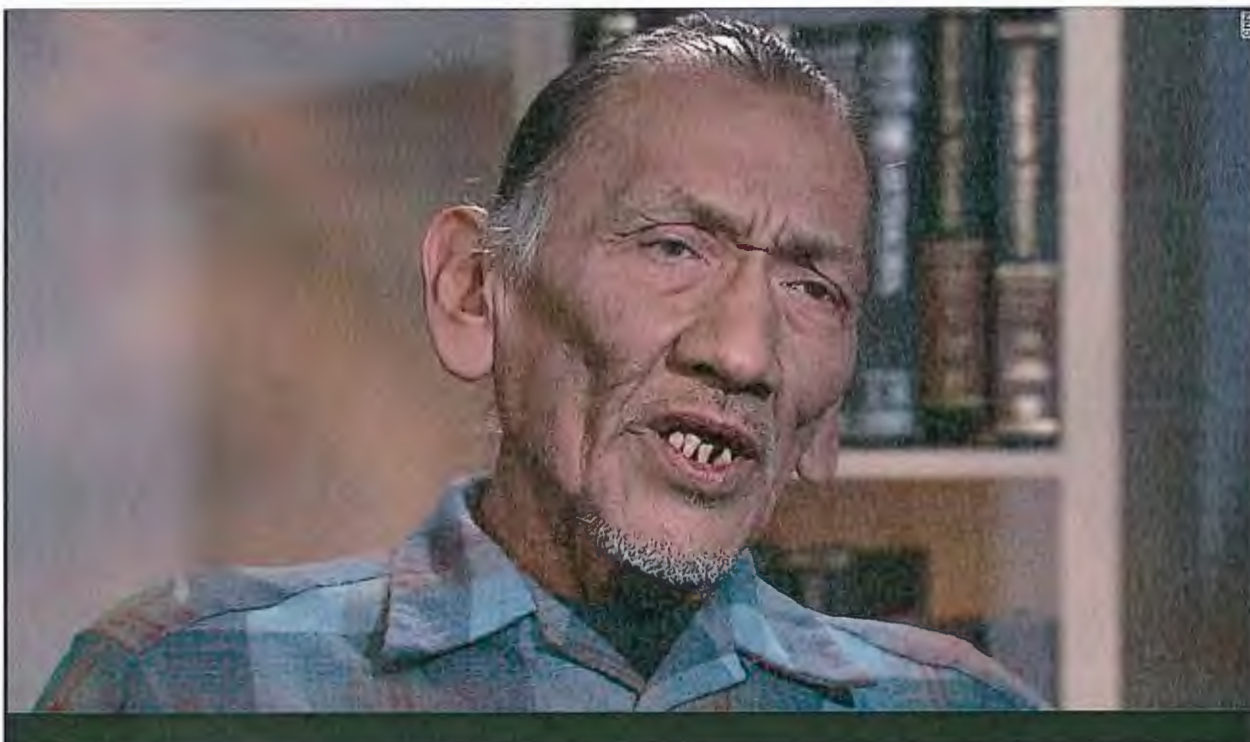
# **EXHIBIT I**

U.S. Edition+

## Native American elder Nathan Phillips, in his own words

By [Sara Sidner](#), CNN

Updated 1:43 PM ET, Mon January 21, 2019



**(CNN)** Native American elder Nathan Phillips, who has made headlines everywhere after a video showed him in a face-off with a Catholic school student in front of the Lincoln Memorial, spoke at length with CNN the day after the incident.

Phillips described what he felt was hatred coming from the young people in the crowd, who are pupils at Covington Catholic School in Kentucky and who had traveled to the nation's capital to attend the March for Life rally, also held Friday.

The interview was conducted Saturday after the video went viral. Since the interview, the diocese in charge of the school has denounced the students' actions, a lawmaker has defended them and the boy in the video, Nick Sandmann, [has denied characterizations of his and his classmates' behavior](#) and said he was simply standing in front of Phillips to let him know he wouldn't be baited into an altercation.

A new video shows a different side of the encounter between a Native American elder and teens in MAGA hats

Also, several new videos have surfaced, including one showing the students engaging in a "Tomahawk chop," mocking the Native Americans, and another showing a group of Hebrew Israelites [hurling slurs and epithets at the teenagers](#) both before Phillips arrived on the scene and after he left.

Here is the transcript of Phillips' interview, which has been lightly edited for flow and content:

**CNN:** Tell us what happened, what transpired between you and the young people who were all standing around you? How did you end up surrounded by this group of young people with the MAGA hats on?

**Phillips:** There was a disturbance there on the Lincoln Monument grounds. We were finishing up with Indigenous Peoples March and rally and there were some folks there that were expressing their (First Amendment) rights there, freedom of speech. ... Then there was this young group of young students that came there and were offended by their speech, and it escalated into an ugly situation that I found myself in the middle of. Yeah, I found myself in the middle of it, sort of woke up to it.

**CNN:** You just sort of decided to try and stop this or at least have an impact on it, calm the waters. Is that right?

**Phillips:** Yes, that's the impression that everybody has, and I guess that's what I was doing. I didn't realize that's what I was doing. When I started taking those steps and using the drum, it was just spur of the moment. I don't like to say it that way, but it was just, "What do you do? What do you do now?" Here's a moment where something that's really ugly in our society, in America, something that's just come to a boiling point, as they say. Does that make sense?

**CNN:** Sure. So you're sort of in between these two groups, yes?

**Phillips:** Yes.

**CNN:** What happened? What is it like standing there?





Viral video sparks outrage 03:39

**Phillips:** When my young friend that came up there said, "Let's hit the drum" because there's a point there where it just got to really a crescendo, I think they say it sometimes, but it was like the thunder, the storm was coming.

**CNN:** What did it feel like that you were witnessing?

**Phillips:** Oh, what I was witnessing was just hate? Racism? Well, hate. What I'm saying is that when these folks came there, these other folks were saying their piece, and these others they got offended with it because they were both just expressing their own views. And if it's racism, that's what it was because the folks that were having their moment there, they were saying things that I don't know if I agreed with them or not, but some of it was educational, and it was truth, and it was history about religious views and ideologies, but these other folks, the young students, they couldn't see it. They had one point of view, it seemed, and that was that their point of view was the only point of view that was worthwhile. And that's now what I was feeling.

**CNN:** Were you trying to calm the situation down basically when you saw kind of things seemed to spiral out of control?

**Phillips:** I think so. I think that was the push, that we need to use the drum, use our prayer and bring a balance, bring a calming to the situation. I didn't assume that I had any kind of power to do that, but at the same time, I didn't feel that I could just stand there anymore and not do something. It looked like these young men were going to attack these guys. They were going to hurt them. They were going to hurt them because they didn't like the color of their skin. They didn't like their religious views. They were just here in front of the Lincoln -- Lincoln is not my hero, but at the same time, there was this understanding that he brought the (Emancipation Proclamation) or freed the slaves, and here are American youth who are ready to, look like, lynch these guys. To be honest, they looked like they were going to lynch them. They were in this mob mentality. Where were their parents? Because they were obvious a student group. Where were their--

**CNN:** Chaperones?

**Phillips:** Yeah, chaperones. Where were they? What were they doing? Why did they allow them to come to such a boiling point? To allow such hate and racism, just to be -- just to be, and not teach them that this is wrong. America foundations, freedoms, the reason white people came to this country is for freedom of religion, freedom of speech. Not to allow these men to have their freedom to say what they felt was hurting them as a people, as a religion. I was listening to what they were saying. I was there for a different purpose.

**CNN:** Let me ask you about what happened to you. These boys in the middle of this group and you find yourself surrounded. How did that happen and what did that feel like as a person standing there face to face with a young man who seems to be staring at you or glaring at you? How would you describe that moment?

**Phillips:** When I was there and I was standing there and I seen that group of people in front of me and I seen the angry faces and all of that, I realized I had put myself in a really dangerous situation. Here's a group of people who were angry at somebody else and I put myself in front of that, and all of a sudden, I'm the one whose all that anger and all that wanting to have the freedom to just rip me apart, that was scary. And I'm a Vietnam veteran and I know that mentality of "There's enough of us. We can do this."

**CNN:** The young man that was standing in front of you, what was he doing and what was he trying to do as you were playing the drum. Were you fearful? Were you trying to leave?



Video shows teens mocking Native American 02:56

**Phillips:** That was exactly the thing is that I was there. I seen the mass of people. I had realized where I'm at and what I was doing, and I realized there was other people with me and I didn't want them to get hurt because there was 100-plus of these young men who were well-fed and healthy and strong and ready to do harm to somebody. And they just wanted that point of "This is it" and spring. If this young man thought that he was that point and what I was trying to do, I realized where I was at. I needed an out. I needed to escape. I needed to get away. I needed to retreat somehow, but the only way I could retreat at that moment, is what I see, is just to go forward, and when I started going forward and that mass of groups of people started separating and moving aside to allow me to move out of the way



or to proceed, this young fellow put himself in front of me and wouldn't move. If I took another step, I would be putting my person into his presence, into his space and I would've touched him and that would've been the thing that the group of people would've needed to spring on me. Because if I would've reached out with my drum or with my hands and touched him, that would've given them -- I did that. I struck out, and that's not what I was doing. The song I was singing, the reason for it, was to bring unity and to bring love and compassion back into our minds and our beings as men and as protector of what is right. I was raised away from my family. I was put in foster care and so I didn't have a traditional indigenous upbringing. I was brought up just like these young guys were brought up. Well, maybe I wasn't Catholic school, but I was public school. And when I went back home to my reservation and I ask questions -- "Do you have an Indian name? Do you know where I could get some moccasins?" ... I wanted to know, and that cousin of mine that was sitting there, standing there and I was asking him these questions. He says, Go home, white boy." That hurt.

**CNN:** You told me you don't like the word hate. ... Why is that?

**Phillips:** I don't like to say the word hate. I don't like to have it in my heart, around me. It's just not a thing I want to carry with me. I did hate at one time. I hated people, places and things. I hated myself and it's just not a --

**CNN:** Does it feel like hatred toward you because the kids will say, "Oh we were just chanting our school chants and this person came in between us as we were chanting our school chants and we were not being hateful." What did it feel like to you?

**Phillips:** I'm sorry. I don't mean to laugh. Well, yes, I do, I guess. I heard that rhetoric before and it's just one of those things, it's got to be like water off a duck's back. Time for lies to be not accepted anymore. I don't accept their "I'm just chanting a school chant."

**CNN:** Was there fear? ... What did it feel like in that scenario for you as you were standing there sort of surrounded and the chants were going on and the young man was standing sort of in your face?

**Phillips:** When they said, "Let's go hit the drum, let's go sing, let's reclaim our space here" because this was the Indigenous Peoples March rally, and when these two groups came together and started that and I was witnessing as it escalated from just two small groups, then the other one just went back and got more people, went back and got more people, went back and got more people until there were over 100 people, maybe 200 young men there facing down what? Four individuals? Why did they need 200 people there other than it's hate and racism? They had their target. They had their prey. And so I wish somebody would've been able to stand in front of the 7th Cavalry and my relatives at Wounded Knee. I wish somebody would've stood there and said, "No, you can't do this."

**CNN:** We were talking about the issue between these two groups, the one was the black Israelites and the other was these mostly Caucasian young men. You were standing there and they were standing around you chanting. ... How did you feel? What did you feel that they were sort of doing to you or what are your feelings? Their response has been we were just chanting our school chants and we weren't jeering or we weren't making fun of anybody. We were just standing around and he just happened to be in the middle of our group, is sort of the way they're saying this went. How did you feel about it?



**Phillips:** I felt like I denied them their prey. I felt like I denied them their prey and so they were going to take it out on me.

**CNN:** Were they being hateful, just bottom line? Did you feel hate from this group of people? Did it feel like they were being aggressive?

**Phillips:** I do believe that's all I could feel, and I don't like feeling it. ... Fear, not for myself but for the next generations, fear where this country's going, fear for those youths, fear for their future, fear for their souls, their spirit, what they're going to do to this country.

**CNN:** One of the things they said is we weren't protesting against Native Americans. We were there for the March for Life and we were just chanting -- and this is kind of putting the blame on you -- and that this person came into our space and we were just getting all hyped up. Do you buy that?

**Phillips:** Not in the least.

**CNN:** What really happened?

**Phillips:** They were there looking for trouble, looking for something. Everybody knows the right to life and (pro-choice), it's been like this and they're hateful to each other. And it's because I'm a veteran -- I'm a Vietnam veteran -- that these two groups even have the right in this country to have protests, to have conflicting opinions. If they were doing that, they should've done that there and then when they come into public, that wasn't the place for that. That was a public forum where we was at. We were still under the protection of our permit for the indigenous peoples rally.

**CNN:** You dispute what they're trying to push off, which is basically, "We were just chanting our school chants and this person came into our space and we were just being happy-go-lucky kids."

**Phillips:** No, not happy go lucky. If they was happy go lucky, we would've been laughing and enjoying each other's presence and company because that's the kind of thing I like to do. I like to meet people. I like to find out where they're from, what they're up to, in a good way. But what was happening there, there was nothing happy go lucky about it. It was just, "Build the wall" and some of the things that I heard but can't really say I exactly heard that because it was way over there, and they could say, "Oh, nobody said that. It wasn't us who said that." So it's one of those he-said, she-said, things and what I'm saying is that they were very aggressive and they were very ready to hurt somebody. They just needed a reason. Whether I was the one who defused it or not, I wouldn't have been able to do it with out my relatives that were with me at the time. My other brother that was singing and the (inaudible) that was standing with me at that time. There were sons of us that were indigenous, we stood together.

**CNN:** Do you have one last thing to say, one message to these students that you would like to give to them? ... Also, thinking of them as sort of high school student, they're young. How would you sort of impart to them what it felt like to you and what you'd like them to know about your experience with them?

**Phillips:** Yeah, I will pray for them. That's what the whole part was was a prayer. The use of the drum, the song, that was a prayer. What I said to them at the end was, "Relatives!" and I got their attention and I said, "Make America great." They said, "How?" What they

were doing wasn't making America great. ... the whole idea, the spirit of America, that wasn't it. That wasn't American spirit there that they were putting out there.

*CNN's Elliott C. McLaughlin contributed to this report.*

## **EXHIBIT J**

## **EXHIBIT J**

U.S. +

U.S. Edition+

## A new video shows a different side of the encounter between a Native American elder and teens in MAGA hats

By [Emanuella Grinberg](#), CNN

Updated 2:29 AM ET, Mon January 21, 2019



Viral video sparks outrage 05:03

**(CNN)** A [video](#) that shows white high school students in Make America Great Again hats and shirts mocking a Native American elder shocked the country, leading to widespread denunciations of the teens' behavior.

It was a moment in a bigger story that is still unfolding.

A [new video](#) that surfaced Sunday shows what happened before and after the encounter Friday in front of the Lincoln Memorial in Washington.

In the new video, another group taunts the students from Covington Catholic High School in Kentucky with disparaging and vulgar language. The group of black men, who identify as members of the Hebrew Israelites, also shout racist slurs at participants of the Indigenous Peoples Rally and other passersby.

The new video adds context to an encounter viewed by many as the latest sign of bigotry infecting the country. Screenshots of a smirking teen staring down Omaha tribe elder Nathan Phillips spread through the internet, sparking widespread outrage.

But a teen who says he was involved in the encounter said the students' actions have been wrongly interpreted as racist. In a [statement](#), Nick Sandmann said the students decided to raise their voices to drown out the Hebrew Israelites' inflammatory comments -- not to intimidate or mock Phillips. Phillips has said the teen blocked his escape.

But neither Sandmann's statement or the video will be the last word on the controversy. Here's what the video shows:

### The Hebrew Israelites begin by disparaging the students

The new video was shot by a member of the adult group.

The men identify as members of the Hebrew Israelites, a movement that believes some black Americans are the descendants of an ancient Israelite tribe.

A man in a long black coat does most of the talking and shouting, occasionally banging a walking stick on the concrete for emphasis. Another man dressed in black holds a poster with the names of the 12 tribes of Israel in one column and another described as the corresponding "slave names" of different racial identities.

### Teen in confrontation with Native American elder says he was trying to defuse the situation

Another man with an Afro and a Star of David necklace hanging around his neck occasionally recites scripture while the person filming occasionally adds his own commentary.

The video opens with a tense encounter involving the men and a woman who challenges their beliefs and calls for peace.

"Peace to what land?" one of the men responds. "How you gonna have peace to this land ... when you got this madman in the White House?"

The camera pans past the group, catching the first glimpse of the teenagers, at least one wearing a red Make America Great Again hat.

"Then you got those pompous bastards over there wearing Make America Great Again hats," one voice says. "Why you not angry at them?"

### Then, they disparage indigenous people and African Americans

The woman leaves, and the crowd thins out. Filming continues as the men read aloud scripture and engage in conversations with those who stop to talk.



Drumming becomes audible in the video and rallygoers appear in the background, clapping hands to form a circle. After the drumming subsides, the men turn their focus to the indigenous community.

"Y'all taking about peace, peace, peace -- there ain't gonna be no peace," the lead speaker shouts.

"When has America been great for our people? When has the America ever been great for the North American Indians?" the main speaker shouts. "America ain't never been great. It only been great for you damn peckerwoods."

Then, the camera turns to students watching a few feet away.

The man calls them out for wearing MAGA hats to a rally for indigenous communities. He rails against a teen he perceives to be a black student for associating with his "oppressor." He also calls out Indigenous Peoples March attendees for associating with white people.

### A Native American elder tries to intervene

The students were in Washington to participate in the March for Life rally earlier in the day. The Lincoln Memorial was their meeting point following an afternoon of sightseeing so they could board buses back to Kentucky, according to Sandmann.

As the crowd of students grows, some of the men criticize their "racist" MAGA hats. They call them "crackers" and "incest children." The video captures some students walking away.

Almost an hour into the video, the students begin amassing in large numbers on the steps behind the men. As the men continue shouting, the video captures students chanting back.

"A student in our group asked one of our teacher chaperones for permission to begin our school spirit chants to counter the hateful things that were being shouted at our group," Sandmann said in his statement. "The chants are commonly used at sporting events. They are all positive in nature and sound like what you would hear at any high school," he said.

A student jumps in front of the group, rips his shirt off and leads the group in a chant and dance. He retreats and the students bounce up and down as they continue to chant, attracting onlookers.

Soon enough, the sound of a drum builds offscreen. Phillips, surrounded by several people with drums and cameras, enters the frame. The video captures Phillips as he walks into the crowd of bobbing teens.

"He came to the rescue," a voice is heard on the video.

People follow him, blocking the camera from what happens next.

Kaya Taitano, who shot the viral video, said the teens were chanting "Build the wall" and "Trump 2020." Those chants were not audible in videos reviewed by CNN.

The situation was starting to grow calm until Sandmann got in Phillips' face, Taitano said. Phillips kept chanting and beating his drum as other boys circled around, "mocking him and mocking the chant," Taitano said.

Phillips said the teen blocked his path as he tried to keep moving.

"I was scared," Phillips told CNN's Sara Sidner. "I don't like the word 'hate.' I don't like even saying it, but it was hate unbridled. It was like a storm."

Sandmann denied that he blocked Phillips' path and insisted that Phillips was the one who "locked eyes" with him. He also denied that anyone said "build that wall" or anything hateful.

"I was not intentionally making faces at the protestor. I did smile at one point because I wanted him to know that I was not going to become angry, intimidated or be provoked into a larger confrontation," Sandmann said in his statement.

Then, the Hebrew Israelites return their focus to the students

The men continue talking on the video as Phillips disappears from the shot. They describe the students' hats and behavior as a "mockery" and call them "future school shooters."

The comments draw the students back to the group. Some respond with boos and gather around the men.

"How you gonna tell somebody to go shoot up a school -- that's like really rude," says a voice from the young crowd.

The men accuse them of reaping the benefits of slave labor. The men repeatedly use the n-word to refer to the black teens in the group, prompting cries from group. The men ask the students if the water they're drinking "tastes like incest" and call the students "young Klansmen."

The teens listen for a few minutes longer, accusing the men of being racist and booing when the main speaker uses the word "faggots" when talking about equal rights.

Then, the students get a signal from off camera to leave. They cheer and wave, chanting "let's go home" as they run off.

The video continues for another 20 minutes as the men turn their focus to a prayer circle that formed while they were talking to the students. The lead speaker shouts denunciations of the Catholic church, calling its members "child molesters" and quotes scripture.

Finally, as the last light of the sun disappears, the men decide to leave after taking stock of the day.

"This was off the chain," a voice says.

## **EXHIBIT K**

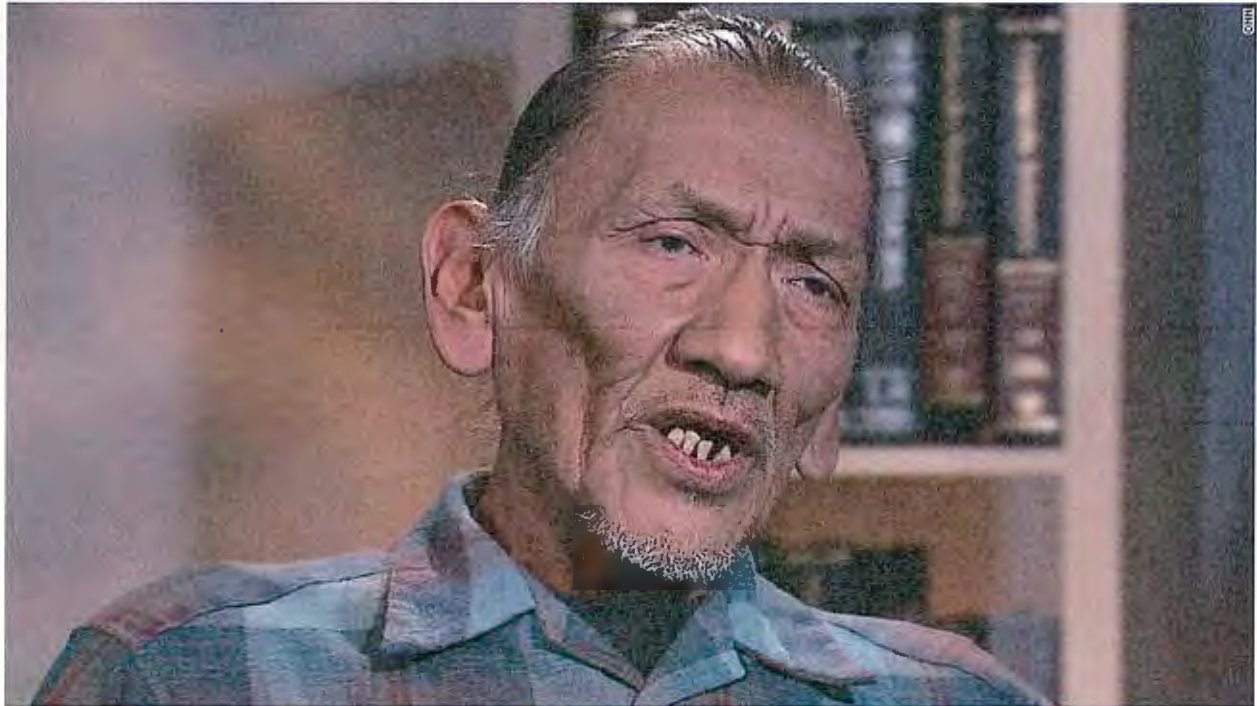
## **EXHIBIT K**



# Opinion+ America mocks and dehumanizes natives at every turn Live TV

By Simon Moya-Smith

🕒 Updated 7:54 PM ET, Wed January 23, 2019



Native American man confronted by teens speaks out 03:18

**Editor's Note:** Simon Moya-Smith is an Oglala Lakota and Chicano journalist. He is the author of the forthcoming book, "Your Spirit Animal is a Jackass." The views expressed in this commentary are solely those of the author. View more [opinion](#) articles on CNN.

**(CNN)** — Let's be absolutely clear about something here: Whatever else may have been said about it or our country's reactions to it, the racist disrespect of Nathan Phillips, a Native American elder, by Nick Sandmann and his MAGA-hat clad classmates of Covington Catholic High School at the Lincoln Memorial is nothing new. In fact, it's quite the common thing. In this increasingly depraved society, that kind of behavior is often encouraged or excused as just good ol' American fun.

Think about it: If you'd like to see more of the same rancid mockery -- tomahawk-chopping, chanting, war-whooping, cultural appropriation, dummy drumming -- all you have to do is attend a Cleveland Indians game or an Atlanta Braves game or a Kansas City Chiefs game or a Chicago Blackhawks game or, of course, a Washington NFL team game.



Seriously, were it not for the mass of MAGA hats, D.C. onlookers to Friday's incident could



Simon Moya-Smith

reasonably have assumed they happened upon some spontaneous Washington NFL team pep rally, whipped out a grill, fired up burgers and brats and joined in the nastiness.

Indeed, the very form of anti-native ridicule and disrespect of personhood and culture caught on multiple videos that day predates Donald J. Trump and his base by centuries.

Understand that here in the United States, racism against and disrespect of natives is embedded in the American psyche early in life, and it begins with things like holidays to Indian killers, Hollywood

Westerns of Indians being killed, and fanatic sports culture where on any given Sunday in autumn a headline in Dallas reads, "Cowboys Scalp Redskins."

America mocks and dehumanizes natives at every turn; we are either outright erased, shut out of the conversation, or made into evil "savages" out to terrorize white society -- that's until November rolls around. Then parents and teachers dress up the kiddos in faux native garb; they paint their faces in "war paint," and don them with synthetic feathers and paper headbands for some cheap Thanksgiving production.



**Related Article:** March For Life teen's confrontation with Native American reveals an ugly divide

Nothing new to see here, folks. Just business as usual in America, which is why when Sandmann was filmed smirking at Phillips as his raucous peers whooped and jeered in the background I wasn't surprised at all. I was disgusted and enraged as usual, but surprised? Not in the least. These are learned behaviors, and nothing about the controversy about how Americans, especially those in the media, [responded to the incident changes](#) that one bit.

It also didn't shock me when the all-boys Catholic school crew went so far as to shout "build the wall" at a Native American, according to Phillips' account of the event. It just goes to show you that MAGA isn't merely about immigration, it's about skin pigmentation.

And the irony isn't lost on me that white kids -- descendants of Europe, presumably -- would shout "build the wall" at a man whose ancestry on this soil is tens of thousands of years old.

Still, it's quickly becoming clear that the MAGA hat threatens to become the white, pointy hood of our generation, and the beastly bellow "build the wall!" is slowly beginning to replace "white power!" as the preferred phrase of the bigoted and hateful, and they're obviously passing on the putrid ideologies to their children and paying PR firms to spin situations caught on camera.



On Wednesday, the "Today" show [aired an interview](#) between Savannah Guthrie and Sandmann in which the student at the center of the conflict said his "position" is that he "wasn't





**Related Article:** Our reptile brains were triggered by MAGA hat video

disrespectful" to Phillips, a revered veteran and citizen of the Omaha Nation. He further stated that he doesn't feel an apology is warranted.

Of course he doesn't feel an apology is warranted. Trump, Sandmann's fan who came to his defense in a tweet, won't ever apologize to natives for weaponizing the name of Pocahontas when he goes after Elizabeth Warren's neck, so we can hardly expect a member of his base in training to apologize for their vile and vulgar behavior.

This interview is all part of damage control on the part of Sandmann, his PR team and the Catholic Church itself. They're working diligently to paint Phillips as the aggressor when all the elder says he was doing was trying to defuse a situation between the MAGA kids and the Black Israelites who were yelling obscenities at them, which are two entirely different subjects altogether.



**Related Article:** MAGA hats don't belong on a Catholic school trip

Still, during the interview with Guthrie and Sandmann I couldn't help but wonder: Where's your hat, kid? Why not wear it now? At the Lincoln Memorial he allegedly was holding his ground, but clearly he wasn't willing to go so far as to wear his MAGA hat on a national morning show.

By abandoning the hat, he was clearly trying to play the "sweet kid" card, but footage does not lie. He will be remembered as the white boy with the Brett Kavanaugh-like smirk who will never be able to tomahawk chop at an Atlanta Braves game without being filmed.

won't apologize. But what he did happens far more often than most people in the United States are willing to admit, like on opening day in Cleveland when Indians fans in redface and chicken-feather headdresses lambaste natives and allies with war whoops and comments like "go back to the reservation" as they protest the mascot Chief Wahoo and the name of the ball club.

And that is the only difference here: Sandmann intentionally mocked a native elder for the entertainment of his friends, got caught, and still

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Had Sandmann and the other kids mistreated Phillips sans the MAGA hats at the Lincoln Memorial, most folks would have never known the incident took place. It would've lived on #NativeTwitter, where we fight against this kind of hate and mockery and racism every day.

Baseball's Opening Day is just a few months away now. So stay put. This will happen again -- in different kinds of hats but with the same kind of bigotry and hate that Phillips experienced in D.C. Mark my words, because to treat natives this way is as American as baseball itself.

## **EXHIBIT L**

## **EXHIBIT L**

# Teen in confrontation with Native American elder says he was trying to defuse the situation

By **David Williams** and **Emanuella Grinberg**, CNN

🕒 Updated 5:10 PM ET, Wed January 23, 2019

**Editor's Note:** This article and headline have been updated several times since its first publication to add additional reporting regarding witness accounts, statements and other details.

**(CNN)** — A crowd of teenagers surrounded a Native American elder and other activists and appeared to mock them after Friday's Indigenous Peoples March at the Lincoln Memorial.

Videos of the confrontation show a smiling young man in a red Make America Great Again hat standing directly in front of the man, who was playing a drum and chanting. Other kids could be seen laughing, jumping around and seemingly making fun of the chants.

Nathan Phillips, an elder with the Omaha tribe, said the confrontation felt like "hate unbridled." In the moment, he said he was scared for his safety and the safety of those with him.

The behavior of the students from Covington Catholic High School -- an all-boys' school in Northern Kentucky -- triggered widespread condemnation from lawmakers and celebrities as well as the school district, the mayor of the neighboring town and Covington's Roman Catholic Diocese.

CNN's [Jake Tapper](#) obtained a statement on Sunday from Nick Sandmann, a junior at Covington Catholic High School, who said he is the student in the video. Sandmann said he was trying to defuse a tense situation and denied insinuations that anyone in the crowd was acting out of racism or hatred.

"I was not intentionally making faces at the protester. I did smile at one point because I wanted him to know that I was not going to become angry, intimidated or be provoked into a larger confrontation. I am a faithful Christian and practicing Catholic, and I always try to live up to the ideals my faith teaches me -- to remain respectful of others, and to take no action that would lead to conflict or violence."

He cautioned against rushing to judgment based on the short time captured on the videos and encouraged people to watch longer clips available online, "as they show a much different story than is being portrayed by people with agendas," he said.

"I am mortified that so many people have come to believe something that did not happen -- that students from my school were chanting or acting in a racist fashion toward African-Americans or Native Americans. I did not do that, do not have hateful feelings in my heart, and did not witness any of my classmates doing that."

The person who shot the videos described the atmosphere as tense.

Kaya Taitano, a student at the University of the District of Columbia, participated in the Indigenous Peoples March earlier in the day. She said the teens were chanting things like "Build the wall" and "Trump 2020." Those chants were not audible in videos reviewed by CNN.

"I did not feel safe in that circle," she said.



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The amount of disrespect.... TO THIS DAY.  
#SMH #ipmdc19 #ipmdc #indigenousunited  
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Taitano said the whole incident started when the teens and four young African-Americans, who'd been preaching about the Bible nearby, started yelling and calling each other names.

Another video shot before the encounter shows men who identify as members of the Hebrew Israelites taunting the students and other passersby with racist slurs.

It got pretty intense, Taitano said, so Phillips started playing his drum and chanting what she was told was a healing prayer, to help defuse the situation.

Phillips walked through the crowd, and Taitano said things were starting to calm down until he got to the grinning boy seen in the video.

"This one kid just refused to move and he just got in Nathan's face," she said.

Other boys circled around, she said. "They just surrounded him and they were mocking him and mocking the chant. We really didn't know what was going to happen there."

Phillips served in the US Marine Corps Reserve from 1972 to 1976, according to his service record obtained by CNN. He told CNN that he was a "Vietnam-era" veteran. The USMC says he was never deployed during his service.

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I am not done yet. This is AMERICA.  
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"I was scared, I was worried for my young friends. I don't want to cause harm to anyone," Phillips told CNN's Sara Sidner. "I don't like the word 'hate.' I don't like even saying it, but it was hate unbridled. It was like a storm."

The crowd kept growing as Phillips and the boy stood face to face, but Phillips kept on chanting and playing his drum.

"What the young man was doing was blocking my escape. I wanted to leave. I was thinking, 'How do I get myself out of this? I want to get away from it,'" Phillips said.

But Sandmann said it was clear to him that Phillips had singled him out for a confrontation, although he was not sure why.

He said the incident began when a group identifying themselves as the Hebrew Israelites began to shout disparaging and vulgar comments at his group. He said the students began using school spirit chants -- with permission from teachers -- in response to the taunts.

He denied that anyone in the group said "build the wall" or used hateful or racist language toward Phillips.

"Our chants were loud because we wanted to drown out the hateful comments that were being shouted at us by the protesters," he said.

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"The protester everyone has seen in the video began playing his drum as he waded into the crowd, which parted for him. I did not see anyone try to block his path. He locked eyes with me and approached me, coming within inches of my face. He played his drum the entire time he was in my face," Sandmann said.

"I never interacted with this protester. I did not speak to him. I did not make any hand gestures or other aggressive moves. To be honest, I was startled and confused as to why he had approached me. We had already been yelled at by another group of protesters, and when the second group approached I was worried that a situation was getting out of control where adults were attempting to provoke teenagers."

Taitano said the standoff continued until a chaperone came and led the teens away for a photograph.

The school's website said a group of students had planned to attend Friday's March for Life rally in Washington.

The school is part of the Roman Catholic Diocese of Covington, and [in a statement given to CNN affiliate WLWT](#), spokeswoman Laura Keener said the diocese would investigate the incident and take appropriate action.

"We condemn the actions of the Covington Catholic High School students towards Nathan Phillips specifically, and Native Americans in general, Jan. 18, after the March for Life, in Washington, D.C. We extend our deepest apologies to Mr. Phillips. This behavior is opposed to the Church's teachings on the dignity and respect of the human person.

"The matter is being investigated and we will take appropriate action, up to and including expulsion. We know this incident also has tainted the entire witness of the March for Life and express our most sincere apologies to all those who attended the March and all those who support the pro-life movement."

CNN has reached out to the school and diocese for comment.

Taitano, who is from Guam, said she was raised to treat her elders with respect so it hurt to see them treat Phillips so badly.

Phillips also appeared upset in a video Taitano posted after the confrontation. He wiped away tears as he talked about the students' actions.



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"I wish I could see that energy of the young mass of young men to, you know, put that energy into, you know, making this country really, really great by helping those who are hungry, you know," Phillips said.

*Correction: This article has been updated to remove wording that Phillips is a Vietnam veteran. He did serve in the military during the Vietnam War, but according to his service records, he was not deployed to Vietnam.*

*CNN's Sara Sidner, Hollie Silverman, Amanda Watts and Deanna Hackney contributed to this report.*

## **EXHIBIT M**

## **EXHIBIT M**



## Viral video sparks outrage

A viral video of a standoff between a Native American elder and Catholic school teens at the Lincoln Memorial has sparked outrage; but as with any viral video, there is more to the story than what you see online. CNN's Sara Sidner reports. [Source: CNN](#)



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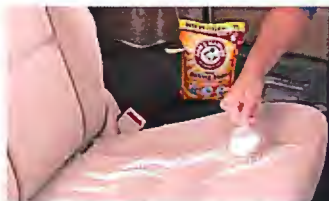


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## **EXHIBIT N**

## **EXHIBIT N**



## Native American elder from viral staredown says teen's response is coached, insincere



By **Elliott C. McLaughlin**, CNN

🕒 Updated 10:04 AM ET, Thu January 24, 2019

**(CNN)** — Omaha Nation elder Nathan Phillips says he thinks Nick Sandmann, the Catholic school teen with whom he faced off last week in Washington, is skirting accountability and needs to apologize for his actions.

Phillips, 64, spoke to the "Today" show the day after Sandmann, who is represented by a public relations firm, told the program that he respected Phillips but that [he didn't feel he owed anyone an apology](#).

After listening to 30 or 40 seconds of Sandmann's lengthy interview, Phillips decided he didn't need to hear anymore, he said. He was upset someone told him to watch it, he said.

"Coached and written up for him, insincerity, lack of responsibility -- those are the words I came up with," he said, "but then I went to go pray about it and I woke up with this forgiving heart, so I forgive him."

### [Trump defends students' side in protest controversy](#)

Phillips said he believes Sandmann's statements were crafted by the public relations firm and that the young man needs to apologize to a lot of people, with Phillips being "way down the list," he said.

"Because of the tomahawk chop, the mocking, those things," Phillips said. "There's a lot of times he could have walked away."

## Phillips felt moved into 'that whirlwind,' he says

[Videos from the incident](#) show a small group of Hebrew Israelites taunting and hurling homophobic and bigoted slurs at the students from Kentucky's Covington Catholic High School before Phillips and other native Americans waded into the crowd. Playing his drum, Phillips eventually finds himself face to face with Sandmann, and they lock eyes as Phillips continues to play his drum.

### [Twitter account stokes controversy](#)

Phillips said the students surrounded him, and Sandmann blocked his path to the Lincoln Memorial steps. He heard some students chant, "Build the wall," he said.

Though CNN has seen video in which the students engage in the tomahawk chop taunt, no video viewed by CNN shows the kids chanting, "Build the wall." Live TV

#### Video shows different side of controversial viral video 03:57

For his part, the 16-year-old told "Today" on Wednesday that, in hindsight, he wishes he and his classmates would've left the Lincoln Memorial area, where they were awaiting buses to take them back to Kentucky, when the Hebrew Israelites began berating them. He also expressed regret that neither he nor Phillips walked away once they came face to face.

The teen also said he felt Phillips was trying to intimidate him by playing the drum so close to his face, but Phillips said the drum was meant to ease tensions.

"When I put myself in prayer and used that drum to reach God, that mass of young men surrounded me and the folks that were with me," he said. "It wasn't that I felt like I could stop anything or do anything, but I felt like I was spiritually moved into that center, into that center of that whirlwind."

Asked if he should have walked away, Phillips said he tried to but couldn't.

"I was blocked," he said.

'That forgiveness even goes to those chaperones'

Phillips and other Native Americans had taken part in last week's Indigenous Peoples March, while the Covington Catholic students had participated in the March for Life before splitting up for sightseeing and meeting back up at the Lincoln Memorial.

Before Wednesday's interview, Phillips offered to travel to Park Hills, Kentucky, the Cincinnati suburb where Covington Catholic is located, to talk about the importance of respecting diverse cultures, according to a statement from the Lakota People's Law Project.

### Student in middle of viral video controversy speaks out 02:29

Phillips, the Indigenous Peoples March and the Lakota group are trying to set up meetings with the students, members of the community and church officials, the statement said. Sandmann indicated to "Today" he's open to speaking to Phillips.

"Even though I'm angry, I still have that forgiveness in my heart for those students," Phillips told the morning show. "That forgiveness even goes to those chaperones and those teachers who should have just said, 'You students, this isn't the place.' "

Still, he'd like to see Sandmann respond with "some sincerity, some sense of responsibility for his actions."

### Op-ed: American dehumanizes Native Americans at every turn

Asked Wednesday if he felt he owed anyone an apology, Sandmann said, "As far as standing there, I had every right to do so. My position is that I was not disrespectful to Mr. Phillips. I respect him. I'd like to talk to him. In hindsight, I wish we could've walked away and avoided the whole thing, but I can't say that I'm sorry for listening to (Phillips) and standing there."

Sandmann denied blocking Phillips' path and defended his classmates, saying racism isn't tolerated at Covington Catholic. His peers were engaging in school spirit chants and are being mischaracterized as bigots, he said. As for criticism that he was smirking, Sandmann also refuted the assertion.

### **Viral video sparks outrage 03:16**

"I wasn't smirking," he said, "but people assume that's what I have (done), and they've gone from there to titling me and labeling me as a racist person, someone that's disrespectful to adults. ... They've had to assume so many things to get there without consulting anyone that can give them the opposite story."

Covington Catholic remained closed until Wednesday morning when it reopened amid threats directed toward the school and its students.

### **Priest: MAGA hats have no place on school trip**

At least four Park Hills police cruisers were posted at the entrance and exit of the school Wednesday. A police officer or security guard on the main road directed a steady stream of cars into the parking lot and student drop-off area.

Phillips told "Today" that he didn't initially experience any threats, but once the high school students reported being threatened, threats began coming his way, too.

## **EXHIBIT O**

## **EXHIBIT O**



## US + Kentucky Catholic diocese apologizes for condemning students in viral video with Native American elder

Live TV



By **Amir Vera**, CNN

🕒 Updated 9:46 PM ET, Fri January 25, 2019



### Viral video sparks outrage 03:16

**(CNN)** — A Catholic diocese in Kentucky said Friday it was "bullied and pressured" into making a premature statement about a viral video showing a confrontation between a Native American elder and a Catholic school student, according to a letter the diocese's bishop wrote to parents.

The Rev. Roger J. Foys said in the letter that the leadership of the Diocese of Covington was "being pressured from all sides to make a statement" about the video clip.

"We are sorry that this situation has caused such disruption in the lives of so many," Foys wrote. "We apologize to anyone who has been offended in any way of our statements which were made with good will based on the information we had. We should not have allowed ourselves to be bullied and pressured into making a statement prematurely, and we take full responsibility for it."

Foys wrote he especially wanted to apologize to Covington Catholic High School student [Nick Sandmann](#) -- the teen featured prominently in the video -- his family and all the Covington families affected by the video.

"Nicholas unfortunately has become the face of these allegations based on video clips. This is not fair. It is not just," Foys wrote.

Live TV



### Student in middle of viral video controversy speaks out 02:29

The original January 19 statement said the diocese condemned the actions of the Covington students for the January 18 incident with [Omaha Nation elder Nathan Phillips](#) in Washington. The church also issued an apology to Phillips.

After more videos surfaced showing other vantage points, "the very same people who had put tremendous pressure on us to condemn the actions of the students now wanted a retraction from anyone who had previously issued a statement critical of them," Foys' Friday letter says. "All of this based again on a video."

Foys also wrote that Covington students and their families received death threats. The school was closed Tuesday, but reopened Wednesday morning, according to a letter from the high school to parents obtained by CNN affiliate WCPO.

The diocese is now awaiting the results of the investigation into the incident.

"It is my hope and expectation that the results will exonerate our students so that they can move forward with their lives," Foys wrote.

## One video, two stories



The video of the confrontation surfaced January 18. It showed students from the all-boys Covington Catholic High School wearing "Make America Great Again" hats surrounding Phillips as he stood face to face with Nick, playing a drum and chanting.

The students were in Washington for the school's annual trip to the March for Life rally.



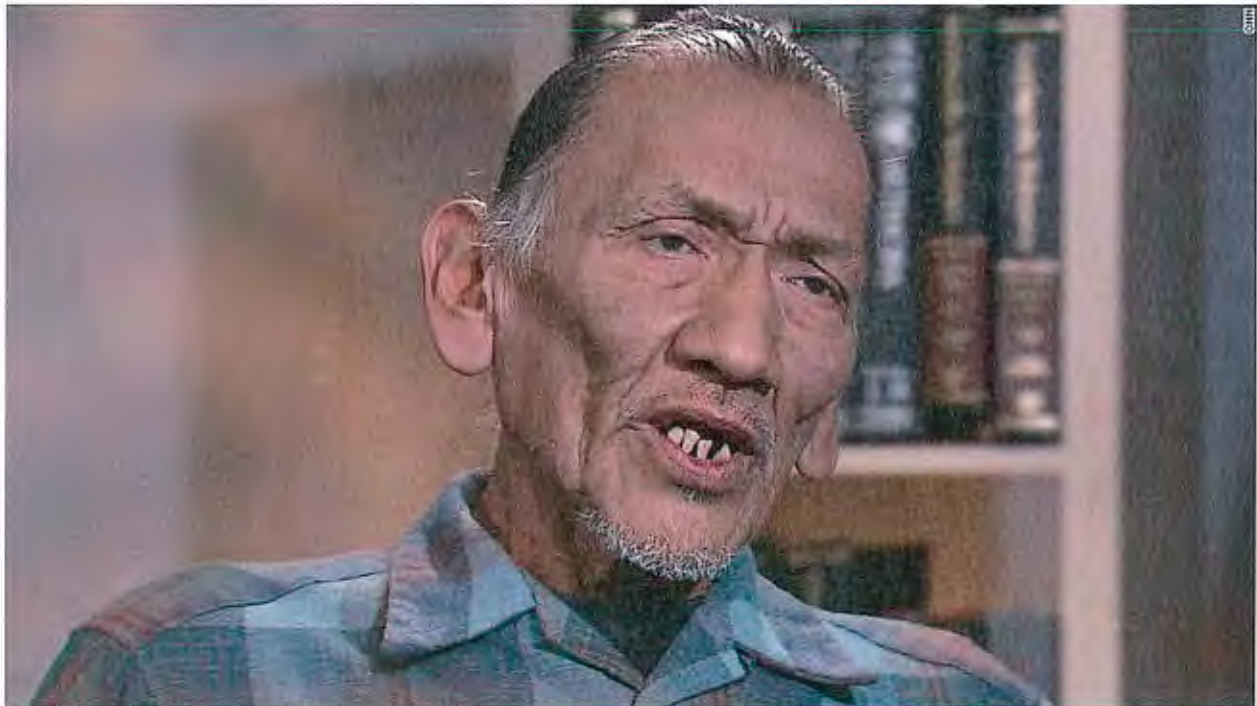
A second video surfaced Sunday showing another group, who identify themselves as members of the Hebrew Israelites, taunting students with disparaging and vulgar language, before the encounter with the Native American.

Covington Catholic parents told CNN affiliate WKRC the students did not incite violence and were calm as taunts were hurled at them. One parent said he tried to intervene to defuse the situation.

**Related Article:** In four days, three viral videos showed us there's always more to the story

Speaking out for the first time, on the "Today" show Wednesday, Nick said he doesn't owe anyone an apology, but he respects Phillips and would be willing to engage in dialogue with him. Nick also said neither he nor any of his classmates are racist and they've been mischaracterized based on

videos of the scene that unfolded in front of the Lincoln Memorial last week.



Native American man confronted by teens speaks out 03:18

Phillips, on the other hand, told CNN this week he felt hatred coming from the young people in the crowd. When asked about Nick standing in front of him, Phillips told CNN he was trying to retreat and the only way he could do so was to go forward.

"When I started going forward and that mass of groups of people started separating and moving aside to allow me to move out of the way or to proceed, this young fellow put himself in front of me and wouldn't move," Phillips said.

Phillips is offering to travel to Covington Catholic High School to talk about the importance of respecting diverse cultures, according to a statement from the Lakota People's Law Project.

*CNN's Janet DiGiacomo contributed to this report.*

## **EXHIBIT P**

## **EXHIBIT P**

2/19/2019

SE Cupp Unfiltered on Twitter: "Teens in MAGA gear mock a Native American Vietnam vet, and @secupp wishes she could tell them ther..."

**SE Cupp Unfiltered** ✓

@UnfilteredSE

Follow



Teens in MAGA gear mock a Native American Vietnam vet, and @secupp wishes she could tell them there's no place for this in our society. "Unfortunately, that's wrong. Adults model this very behavior all the time—on social media and on the street. And it's awful."



S.E. Cupp Unfiltered: Sat, 6-7 p.m. ET on CNN

4:57 PM - 19 Jan 2019

1,044 Retweets 3,911 Likes



4.2K



1.0K

3.9K



Tweet your reply



Tracy I @big7x7 · Jan 20

Replying to @UnfilteredSE @secupp

Apologize you got it all wrong.



2



5

203



## **EXHIBIT Q**

## **EXHIBIT Q**





**CNN**   
@CNN

Following



Video shows a crowd of teenagers wearing 'Make America Great Again' hats taunting a Native American elder after Friday's Indigenous Peoples March at the Lincoln Memorial [cnn.it/2FM8De6](https://cnn.it/2FM8De6)



5:32 PM - 19 Jan 2019

875 Retweets 1,818 Likes



2.4K



875

1.8K



Tweet your reply



**CNN** @CNN · Jan 20



A student in the video says he was trying to defuse a tense situation, and denied insinuations that anyone in the crowd was acting out of racism or hatred [cnn.it/2Dnbysa](https://cnn.it/2Dnbysa)



593



110

401



## **EXHIBIT R**

## **EXHIBIT R**





**CNN** ✓  
@CNN

Follow

Video shows a crowd of teenagers wearing 'Make America Great Again' hats taunting a Native American elder after Friday's Indigenous Peoples March at the Lincoln Memorial [cnn.it/2FRKItZ](https://cnn.it/2FRKItZ)



12:26 PM - 20 Jan 2019

382 Retweets 943 Likes



6.7K 382 943



Tweet your reply



**CNN** ✓ @CNN · Jan 20

A student in the video says he was trying to defuse a tense situation, and denied insinuations that anyone in the crowd was acting out of racism or hatred [cnn.it/2FO0jKS](https://cnn.it/2FO0jKS)

251 69 260



**CNN** ✓ @CNN · Jan 20

Student seen on video in a confrontation with a Native American man at the Lincoln Memorial says that longer videos paint a different picture of what happened [cnn.it/2DoNDZ6](https://cnn.it/2DoNDZ6)

526 84 295



**clayton harrison** @claytonharrison · Jan 20

Replying to @CNN

really sad to see @CNN doubling down on this after ample time to gather the truth

## **EXHIBIT S**

## **EXHIBIT S**

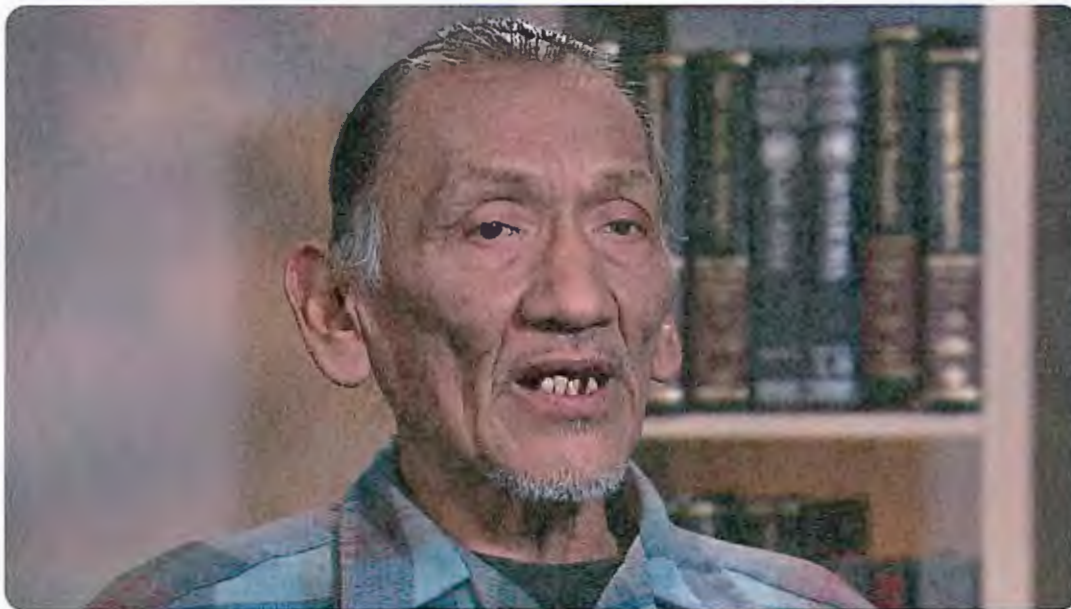


**CNN**   
@CNN

Following



Here is the transcript of CNN's interview with Native American elder Nathan Phillips, who made headlines everywhere after a video showed him in a face-off with a Catholic school student in front of the Lincoln Memorial [cnn.it/2DoksW7](http://cnn.it/2DoksW7)



11:55 AM - 21 Jan 2019

119 Retweets 377 Likes



383



119

377



Tweet your reply



**Ern @NCVoIMD** · Jan 21


Replying to @CNN

Duke lacrosse, catholic teens... more fake news at Pravada North America. Days

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky 

Nicholas Sandmann, by and through his parents and  
natural guardians, Ted Sandmann and Julie  
Sandmann

*Plaintiff(s)*

v.

Cable News Network, Inc.

*Defendant(s)*

Civil Action No.

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Cable News Network, Inc.  
c/o Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, Delaware 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Todd V. McMurtry, Esq.  
Kyle M. Winslow, Esq.  
Hemmer DeFrank Wessels, PLLC  
250 Grandview Drive, Suite 500  
Ft. Mitchell, Kentucky 41017

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

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:

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS** Nicholas Sandmann, by and through his parents and natural guardians, Ted Sandmann and Julie Sandmann

**(b)** County of Residence of First Listed Plaintiff Kenton

(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Todd V. McMurtry, Esq. and Kyle M. Winslow, Esq.  
 Hemmer DeFrank Wessels, PLLC, 250 Grandview Drive, Suite 500, Ftt.  
 Mitchell, Kentucky 41017

**DEFENDANTS**

Cable News Network, Inc.  
 One CNN Center, Atlanta, Georgia 30303

County of Residence of First Listed Defendant Fulton

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT  | TORTS   | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |
|---|---|--|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input checked="" type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education  | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement      | <b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609  |   |
|   |   | <b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act   |   |   |
|   |   | <b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions  |   |   |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 28 USC 1332

Brief description of cause:  
 Defamation

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
 275,000,000.00

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/12/2019

SIGNATURE OF ATTORNEY OF RECORD

Todd V. McMurtry

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.