

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA DIVISION)**

BARBARA LOE ARTHUR
(AKA BARBARA LOE FISHER),

Plaintiff,

v.

PAUL A. OFFIT, M.D., et al.,

Defendants.

)))))))))))
Case No.
1:09-cv-01398-CMH-TRJ

PLAINTIFF’S OPPOSITION TO MOTION TO DISMISS

Plaintiff Barbara Loe Arthur, a/k/a Barbara Loe Fisher (“Fisher”), by counsel and pursuant to Local Civil Rule 7 and Federal Rule of Civil Procedure 6, hereby opposes the Defendants’ respective Motions to Dismiss filed January 22, 2010. *See* Dkt. No. 9 (Offit Mot. to Dism.); Dkt. No. 13 (CNP/Wallace Mot.). Because the Defendants’ claims for relief do not differ, Plaintiff responds to both in a combined opposition. For the following reasons, the Defendants’ motions should be denied.

INTRODUCTION

In Defendant Condé Nast’s November 2009 *Wired* magazine, in an article by Defendant Amy Wallace also posted on *Wired.com*, Dr. Paul A. Offit is portrayed as a scientist governed by rationalism, objectivity, and logic whose assertions flow from meticulous evidence. *See* Amy Wallace, “An Epidemic of Fear: One man’s battle against the anti-vaccine movement,” *Wired* (Nov. 2009) (Exhibit A). This scion of science is said to be victimized by a “pseudo-scientific” (Exh. A at 5), anti-vaccine movement of “snake oil sales[men]” (Exh. A at 6) that seeks his

destruction (Exh. A at 3), “challenge[s] . . . traditional science” (Exh. A at 3) and “pump[s] up bad science to create a ‘debate’ where there should be none” (Exh. A at 3). Wallace defines Offit as “an award-winning 58-year-old scientist” (Exh. A at 3) who “supports [his] assertion[s] with meticulous evidence” (Exh. A at 3) and who, “from an early age . . . embraced the logic and elegance of the scientific method” (Exh. A at 9). Wallace describes Offit as one who “avoid[s] making hasty inferences, even when they appear to make perfect sense” (Exh. A at 3). Dr. Offit enhances the point, making it clear that he does not speak as a “vaccine advocate” but as a “science advocate,” thus distinguishing himself as one who proceeds from fact and logic: “‘People describe me as a vaccine advocate’ . . . ‘I see myself as a science advocate’” (Exh. A at 3). Dispassionate, objective, and scientific, he is described as a man whose language is the scientific method: “You formulate a hypothesis, you establish burdens of proof, you subject your hypothesis to rigorous testing” (Exh. A at 9). In short, the description of Offit is one of dispassionate logic, rationalism, and fact. Wallace reinforces Offit’s self-description, writing: “There will always be more illogic and confusion than *science* can fend off” (Exh. A at 11). “What I loved about science was its reason,” Wallace quotes Offit as saying, “[y]ou have data.” *Id.* (describing Offit’s “mild-mannered mein”). The article’s bias for Offit depends on this essential dichotomy: pitting Offit’s objectivity and assertions based on meticulous evidence against a movement led by deceivers who proceed from emotion. It portrays Fisher as “indisputably the movement’s brain” (Exh. A at 8) (meaning, the intellect behind a campaign of pseudo-science, fostering debate where there should be none). The description of Fisher, like that of Offit, is false. Fisher is not opposed to vaccination but, rather, seeks to make it safer and subject to informed patient consent. *See* Affidavit of Barbara Loe Fisher (Exhibit B), at ¶ 4. It

is within this overall context that Offit is quoted as saying “flatly” that Plaintiff Fisher is a liar: “‘She lies,’ he says flatly.”

Contrary to Defendants’ characterization, this is not a case about conflictive opinion on vaccination. The law of defamation condemns false facts that impugn the honesty, character, and integrity of a person, not opinion. Context is everything. *See Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 18-19 (1990). The central issue here is whether Dr. Offit’s statement that Fisher is a liar is in context a mere statement of hyperbole, incredible on its face, or a statement of objective fact—that Dr. Offit means what he says. Defined as one whose assertions are based on meticulous evidence, who is literally a scientist, who proceeds from fact and reason, there can be no doubt that in context his statement “said flatly” that “she lies” is reasonably understood to be literal. It is not about the intellectual debate surrounding vaccination, it is personal, it is stated as truth and it is terribly false.

Others are already republishing the statement not as hyperbole but as objective fact. *See* Exhibit D (public internet responses to article). This case then turns on the validity of the statement, “‘she lies,’ he said flatly,” because its falsity defames.

The First Amendment limits liability for “pure opinion,” but where the reader perceives speech to be predicated on objectively verifiable facts, the opinion doctrine does not apply. The reader’s net impression of the language controls. In that context, the Supreme Court has said calling someone a “liar” is actionable, *even* if couched in opinion. *See Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990). The opinion doctrine applies only when the speaker’s words in

context were plainly non-literal: as in an obvious exaggeration or parody. The opinion doctrine is not as broad as the defendants claim it to be.¹

In Barbara Loe Fisher's field, credibility and reputation are everything. She cannot be an effective public health advocate without confidence that she is a person of integrity. Only if she is viewed as honest in her communication and dealings with others will others trust her with contributions to the non-profit organization she co-founded and leads, the National Vaccine Information Center; trust her for service on government and private panels evaluating the benefits and risks of vaccines and vaccine policies; trust her as a spokesperson for the view that it is not vaccination *per se* but mandatory vaccination without voluntary informed consent which can endanger health and lives. If she is a "liar," she is a pariah, unworthy of any professional association, a person to be shunned by people of good repute.

Read in isolation, the word "lie" means intentional deceit.² The article provides no context to disabuse the reader of that literal meaning: that Ms. Fisher lies. The article does not reveal the statement to be meant as opinion, to be "loose, figurative or hyperbolic language," as Defendants would have it. *See* Offit Mot. to Dism. at 3. It is on its face fact spoken by an objective scientist. The statement "'she lies,' he said flatly," follows a series of misstatements and false facts about Fisher that demonize her as the "brains" behind a pseudo-scientific (i.e., false science) movement of charlatans, "snake-oil salesmen." In other words, even without the penultimate conclusion that "she lies," the article portrays her as the intellect behind a movement of deceit.

¹ In fact, writing for the *Appalachian Journal of Law* in 2006, defendants' counsel astutely observed that "the opinion doctrine exhibits few signs of vitality in the courts of the Commonwealth [of Virginia]." *See* John B. O'Keefe, 5 *APPALACHIAN J.L.* 35, 38 (2006).

² *See* "Lie," *MERRIAM-WEBSTER ONLINE DICTIONARY* (2010) (Jan. 26, 2010) (to "lie" is to "make an untrue statement with intent to deceive"), *at*, <http://www.merriam-webster.com/dictionary/lie>.

Because Wallace depicts Offit as a rational scientist, readers who do not know him personally must perceive his language to be rational, supported by facts.³ Moreover, because the article lionizes Offit in an unabashed tribute void of balanced criticism, the statement from this “towering giant” of “science” that “she lies” is in context condemnatory. The Supreme Court has determined the statement “she lies” actionable when conveyed in this kind of context because it is subject to disproof. Because the Defendants’ statements are objectively verifiable, Fisher has presented a viable claim and the defendants’ motion to dismiss should be denied.

In addition, this Court has personal jurisdiction over Defendant Wallace. Wallace’s article caused injury to Fisher in her place of residence, Virginia, and Wallace has on no fewer than 12 occasions placed her articles in national publications distributed in every state, including Virginia. The injury she caused in Virginia and her repeated journalistic interaction with the state and its residents support this Court’s exercise of jurisdiction under the Virginia long-arm statute and the Due Process Clause of the Fourteenth Amendment. Wallace substantially reached into Virginia during her research and continues to disseminate the *Wired* article in Virginia. Although labeled by the defendants as unaffiliated with CNP, Wallace was a paid CNP employee, worked alongside CNP in editing and promoting the November 2009 *Wired* article, and published articles in other CNP brand publications also distributed throughout Virginia. Indeed, she republishes the *Wired* article continuously in Virginia via her personal website, and

³ The online commentary exhibits readers’ reactions, most of which have adopted the “liar” moniker for Fisher not as hyperbole but as fact. *See, e.g.*, “Anti-vaccination liar sues” (<http://www.ratbags.com/rsoles/comment/nvic.htm>); “He calls her a liar, fails to tell us what bad vaccine info she is passing on” (<http://adventuresinautism.blogspot.com/2010/01/barbara-loe-fisher-sues-paul-offit-amy.html>); “Wallace grudgingly acknowledges Barbara Loe Fisher as ‘the movement’s brain’ and a ‘skilled debate’ (sic) against ‘well informed scientists,’ but then goes on to call her a liar” (http://open.salon.com/blog/chantal_laurent/2009/10/26/h1n1_cdc_msm_obama_are_so_scared_for_us) (Attached as Exhibit D).

she interacts with Virginia residents through her online social networking sites and CNP's web pages at *Wired.com*. Wallace effectively stands in the shoes of *Wired Magazine* for purposes of personal jurisdiction, and she satisfies the long-arm statute through the injury here and her continuous journalistic contacts with Virginia.

ARGUMENT

A. Plaintiff Has Stated a Claim Because “‘She Lies,’ he said flatly” Is in Context One of Fact, not Opinion

1. Dismissal under Rule 12(b)(6) is proper only when the Court is certain the Plaintiff can prove no facts giving rise to an actionable claim.

The standard for dismissal under Federal Rule of Civil Procedure 12(b)(6) is difficult to satisfy. A complaint should not be dismissed for failure to state a claim “unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *O’Ryan v. Dehler Nfrg. Co., Inc.*, 99 F.Supp. 2d 714, 718 (E.D.Va. 2000); *Gibson v. Boy Scouts of America*, 360 F.Supp. 2d 776 (E.D.Va. 2005). “Motions to dismiss for failure to state a claim are granted sparingly and with caution in order to make certain that plaintiff is not improperly denied a right to have his claim adjudicated . . .” *Agora, Inc. v. Axxess, Inc.*, 90 F.Supp. 2d 697, 699 (D.Md. 2000) (quoting 5A Charles A. Wright & Arthur R. Miller, FED. PRACTICE & PROCEDURE, Civil 2d § 1349 at 192-93 (1990)). When considering a Rule 12(b)(6) motion, the Court “construe[s] the complaint in the light most favorable to the plaintiff, read[s] the complaint as a whole, and take[s] the facts asserted therein as true.” *Skillstorm, Inc. v. Electronic Data Systems, LLC*, --- F.Supp. 2d ---, 2009 WL 3316358, *3 (E.D.Va. 2009) (citing *Mylan Lab., Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993)).

To state a claim, the plaintiff needs to assert “(1) publication of (2) an actionable statement with (3) the requisite intent.” *Choi v. Kyu Chul Lee*, 312 Fed. Appx. 551, 552 (4th Cir. 2009). The Defendants argue not that the statement “she lies” is literally true (the truth defense) but that Dr. Offit did not mean what he said, that the context reveals his words to be entirely fictive and hyperbolic, admitting of no possibility that “‘she lies,’ he said flatly” has literal meaning. *See* CNP/Wallace Mot. to Dism. at 2-3. Defendants thus take the extraordinary position that a person whom they describe as an objective scientist whose assertions flow from meticulous evidence is “reasonably” understood to have spoken in jest, fictively, non-literally when he said “flatly” that Fisher lies. Defendants’ read of the statement is derived without a contextual anchor. There is no content in the article that characterizes Offit as non-literal, as a person prone to exaggeration, as a liar himself, or as a person who speaks illogically, nonsensically, or in hyperbolic terms. Accordingly, the Defendants’ Rule 12(b)(6) motion should be denied.

2. A statement is actionable under Virginia law if, in context with the article as a whole, the reader could reasonably believe the speaker possessed underlying facts capable of being proven true or false.

Milkovich is the authoritative decision on the opinion doctrine. *See Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990). In *Milkovich*, the Supreme Court determined that “[i]t would be destructive of the law of libel . . . [to] escape liability for accusations of defamatory conduct simply by using, explicitly or implicitly, the words ‘I think.’” *Id.* at 19 (internal quotations omitted). In an article, the defendant described Milkovich as a liar. *Id.* at 4-5. The defendant stated: “If you get in a jam, lie your way out;” “If you’re successful enough . . . you stand an excellent chance of making the lie stand up;” “Anyone who attended the meet . . . knows in his heart that Milkovich and Scott lied at the hearing.” *Id.* at 4-5. Although containing elements of

opinion not present here, the Supreme Court held the statements actionable because opinions “may often imply an assertion of objective fact.” *Id.* at 18-19. The Court explained that:

If a speaker says, “In my opinion John Jones is a liar,” he implies a knowledge of facts which lead to the conclusion that Jones told an untruth. *Even if the speaker states the facts upon which he bases his opinion*, if those facts are either incorrect or incomplete, or if his assessment of them is erroneous, the statement may still imply a false assertion of fact.

Id. at 18-19 (emphasis added). The Court explained that it is incumbent upon journalists to disclose the statement to be non-factual. *Id.* (explaining that “[s]imply couching such statements in terms of opinion does not dispel [factual] implications; and the statement, ‘In my opinion Jones is a liar,’ can cause as much damage to reputation as the statement, ‘Jones is a liar’”). “Society has a pervasive and strong interest in preventing and redressing attacks upon reputation.” *Id.* (quoting *Rosenblatt v. Baer*, 383 U.S. 75, 86 (1966)).

The *Milkovich* Court distinguished actionable statements from non-actionable ones based on whether “a reasonable fact-finder could conclude that the statements in [context] imply an assertion [of facts].” *Id.* at 21. Under *Milkovich*, non-actionable opinion exists only where the article content “negates the impression” that the writer meant the literal meaning of the language used. *See id.* at 17. The context must *negate* the impression. Here, the Defendants do not reveal the statement to be non-literal.

The Fourth Circuit has adopted *Milkovich*. *See, e.g., Snyder v. Phelps*, 580 F.3d 206, 219 (4th Cir. 2009). In *Snyder*, the Court explained that “[i]n light of *Milkovich*, ... we are obliged to assess how an objective, reasonable reader would understand a challenged statement by focusing on the *plain language of the statement and the context and general tenor of its message.*” *Id.* (emphasis added); *see also Biospherics, Inc. v. Forbes, Inc.*, 151 F.3d 180, 184 (4th Cir. 1998); *Tronfeld v. Nationwide Mut. Ins. Co.*, 272 Va. 709 (2006); *Choi v. Kyu Chul Lee*, 312 Fed. Appx.

551 (4th Cir. 2009); *Fuste v. Riverside Healthcare Ass’n, Inc.*, 265 Va. 127 (2003); *Ziglar v. Media Six, Inc.*, 61 Va. Cir. 173 (2003).

Under *Milkovich* and Virginia precedent, two kinds of opinions are protected: (1) statements using subjective language, such as “ignorant” or “incompetent,” because the literal definition is entirely based on the speaker’s perspective and (2) statements that are so exaggerated, absurd, “loose, figurative, or hyperbolic” that the reader would not reasonably believe the speaker intended their literal meaning. *See Milkovich*, 497 U.S. at 20-21. In this case, the defendants’ statements fall into neither category.

3. Precedent cited by the Defendants supports Fisher’s claim.

The Defendants liberally discuss a “trio of Fourth Circuit rulings” said to establish that their challenged statements are non-actionable opinion. *See* CNP/Wallace Mot. to Dism. at 12-14; *Faltas v. State Newspaper*, 928 F.Supp. 637 (D.S.C. 1996); *Schnare v. Ziessow*, 104 Fed. Appx. 847 (4th Cir. 2004) (unpublished); *Lapkoff v. Wilks*, 969 F.2d 78 (4th Cir. 1992). The cases fail to stand for that proposition but do bolster Fisher’s claim by confirming that *Milkovich* compels denial of motions to dismiss on facts such as those present here.

In *Faltas*, 928 F.Supp. 637, 639 (D.S.C. 1996),⁴ the Defendant wrote a “meta-analysis of homosexual behavior” that provoked the following criticism:

On May 12, Marie Faltas in her op/ed piece amazed us with her spurious and twisted logic. When she stated that gay men are likely to have taken estrogen, *she offered no statistics to back up her claim and showed us how much she will lie to suit her agenda.* The study that she espoused as the truth—the study that claims that only 1 percent of the population is gay—did not have a representative

⁴ A federal district court sitting in diversity is obliged to apply state substantive law. *See, e.g., Structural Concrete Products, LLC v. Clarendon America Ins. Co.*, 244 F.R.D. 317, 322 (E.D.Va. 2007) (the “Court is bound to apply state substantive law and federal procedural law”). Because the *Faltas* case arose in the South Carolina district courts, the Court would have applied South Carolina defamation law, not Virginia common law as required in this case.

population or a scientifically correct questioning method. *Dr. Faltas views her status as a physician as an opportunity to present lies as truth.*

Id. at 641. The Defendant's comments were deemed non-actionable opinion because the context tied the word "lies" to a view that science void of statistical support is deceptive. *Id.* at 648. In the article, the Defendant professed no independent knowledge of Dr. Faltas "beyond what she garnered from her published article." *Id.* The statement in context was not a general indictment of Dr. Faltas's character. *Id.* The Defendant disclosed specific facts concerning the basis for the lie, to wit, the plaintiff's scientific evaluation lacked statistics to back it. *Id.* at 649.⁵ Thus, the Defendant's comment "challenged the validity of plaintiff's statistical analysis . . ." *Id.* Given the lack of history between the parties, a reasonable reader in the *Faltas* case would understand the "lies" statement a dysphemism for criticism, not a representation that Faltas was in fact a liar.

By contrast, the *Wired* article indicates that Offit and Fisher know one another. Exh. A at 8; Compl. ¶ 12 ("Offit and Fisher have met personally on several occasions"). The references to Fisher preceding the statement, "'She lies,' he said flatly," do not discuss Fisher's views so much as they describe Fisher as one who is the "brains" behind a movement of deceivers. The article paints Fisher as one of Offit's main adversaries. *Id.* Offit states that "I'm in this for the same

⁵ The disclosure of relevant facts is significant in the "opinion" analysis. *See, e.g., Agora v. Axxess, Inc.*, 90 F.Supp. 2d 697, 704 (D.Md. 2000); *see also Schnare*, 104 Fed. Appx. At 852 (holding that, "in those instances when Ziessow accuses Schnare of specific misstatement, he discloses the factual basis for his disagreement"). "When the bases for the ... conclusion are fully disclosed, no reasonable reader would consider the term anything but the opinion of the author drawn from the circumstances related." *Id.* (quoting *Biospherics, Inc.*, 151 F.3d at 185; *see also Moldea v. New York Times Co.*, 15 F.3d 1137, 1144-45 (D.C. Cir. 1994) ("[b]ecause the reader understands that such supported opinions represent the writer's interpretation of the facts presented, and because the reader is free to draw his or her own conclusions based upon those facts, this type of statement is not actionable in defamation"). In the present case, the defendants never disclosed the specific facts supporting Offit's statement "she lies." *Cf.* Online Reader Commentary: "[Offit] calls her a liar, but fails to tell us what bad vaccine info she is passing on", *at*, <http://adventuresinautism.blogspot.com/2010/01/barbara-loe-fisher-sues-paul-offit-amy.html> (last visited January 29, 2010) (Exhibit D).

reason she is” (implying knowledge of Fisher’s motives) and “when it comes to mandating vaccinations, Offit says, Fisher is right about him,” focusing on interpersonal knowledge of each other’s character, not a critique aimed at a specific construction of a scientific article or fact). Exh. A at 9. Unlike in *Faltas*, where the defendant’s statement was clearly a critique of Faltas’s scientific analysis, Offit’s statement “she lies” has no limiting language to cabin its meaning; the reader is led to believe Offit literal when he said “‘She lies,’ he said flatly.”⁶

Schnare v. Ziessow, 104 Fed. Appx. 847 (4th Cir. 2004) is also inapposite. The defendant’s article there in issue included quotations to Bible passages and stilted, scornful language, along with effusive representations of falsehood which, in context, appeared plainly the product of an addled mind, exaggerated and unobjective. *Id.* at 849-50. The *Schnare* Court found no reasonable reader would construe the language in context as a serious assertion that Schnare committed perjury rather than a diatribe of invective revealing general dislike for Schnare *Id.* at 851. No reasonable reader would understand the litany of insults and inflammatory language assembled together supported by fact rather than indicative of a general dislike of the person. By contrast, in the present case, the speaker is not depicted as one who exaggerates for effect, speaks in an uncalculated or unscientific manner, or otherwise utters statements he does not profess as literal truths. *See supra*, at 2-4. Rather, he is depicted as the opposite of a buffoon, as a scientist who “supports his assertions with meticulous evidence” and “avoid[s] making hasty inferences, even when they appear to make perfect sense.” Exh. A at 3.

⁶ Defendants’ reliance on the phrase “Kaflooe theories” is unavailing. Were that the only statement, there would be no cause of action. The reference to “Kaflooe theories” is not tied to any fact related specifically to Fisher. There is no wording in the sentence “‘She lies,’ he said flatly,” that ties it to a specific scientific representation; it is in context a general observation of character not a description of science. Likewise the statement that he “just want[s] to scream” is unavailing because the article does not tie that statement to “she lies” such that a reasonable reader would conclude that the statement of mendacity is not meant to be taken literally.

Wallace describes Offit not as a hot head but as one having a “generally mild-mannered mien,” as deliberate and scientific. *Id.* at 9. Unlike the defendant in *Schnare*, “loose” or “hyperbolic” language is not characteristic of the Offit depicted by Wallace in *Wired*, rather the Offit she depicts is a consummate man of reason, evidenced assertion, deliberation—a scientist beyond peradventure of doubt.

Lapkoff has no factual analogues to the present case. In *Lapkoff*, the defendant stated when referring to a coworker that he “wouldn’t trust him any farther than he could throw him.” *Lapkoff*, 969 F.2d at 80. The Court disposed of that statement as non-actionable opinion because “it is a relative statement completely dependent on Wilks’ obvious bias toward Lapkoff.” *Id.* at 82. Whether one wishes to place trust in another differs fundamentally from whether one has determined that another is a liar. A person may be honest but unreliable or inept such that he or she is deemed undeserving of trust by another. A person who calls in sick with regularity may indeed be sick but he or she is nevertheless unworthy of trust to be punctual and present at work. By contrast, a lie is an intentional deceit. A lie can be proven or disproven with facts. Offit did not state that he viewed Fisher as untrustworthy; he flatly said “she lies.”

4. Courts have found similar statements actionable under Virginia law.

Statements analogous in context have been held actionable. *See Fuste v. Riverside Healthcare Ass’n, Inc.*, 265 Va. 127 (2003); *Tronfeld v. Nationwide Mut. Ins. Co.*, 272 Va. 709 (2006); *Choi v. Kyu Chul Lee*, 312 Fed. Appx. 551 (4th Cir. 2009). In *Fuste*, the plaintiffs were employed by defendants as pediatricians until a dispute resulted in both doctors terminating their employment. *Fuste*, 265 Va. at 130. After the doctors left the defendants’ employ, the defendants informed patients, agents of other hospitals, and credentialing officials that plaintiffs had “abandoned their patients” and that there were “concerns about their competence.” *Id.* The

defendants argued the language subjective opinion. Applying *Milkovich*, the Supreme Court of Virginia held the statements harbored a “provably false factual connotation.” *Id.* at 133.

In *Tronfeld*, an accident victim retained a personal injury attorney to settle his insurance claim. *Tronfeld*, 272 Va. at 711-12. The client met with the defendant insurance company without the plaintiff present hoping to settle without attorney intervention. *Id.* During that meeting, “[i]n response to ... selecting Tronfeld as his counsel,” the defendant stated “that Jay Tronfeld just takes peoples’ money” and that his clients “would receive more money for their claims if they had not hired Jay and dealt with the adjuster directly.” *Id.* Citing *Fuste*, the *Tronfeld* court found the statements actionable because they implied knowledge of objective underlying facts. *Id.* at 715.

In *Choi*, the Court found actionable the statement that plaintiff was a “thug and a gangster.” *Choi*, 312 Fed. Appx. at 552. The *Choi* Court observed that when read in conjunction with other facts contained in the article, the otherwise subjective words “thug” and “gangster” assumed concrete meaning and were actionable under Virginia law. *Id.* at 553-54.

Choi, *Tronfeld*, and *Fuste* each involved language that arises in a context where the words can be taken by a reasonable person to have literal meaning, to convey facts that can be proven false. Offit’s statement “she lies” likewise arises in the context of a professional speaker said to communicate objective statements of fact, thus leading the reader to presume that he means what he says and is not flip, prone to exaggeration, or hyperbolic. Indeed, branding an individual incompetent carries more subjectivity than calling someone a liar, yet the *Fuste* court found the claim actionable even with the subjective gloss present because it presupposed knowledge of fact that may prove defamatory. *Fuste*, 265 Va. at 133. The statement that an attorney “just takes peoples’ money” is unquestionably more loose, figurative, and filled with

hyperbole than Offit's "flat" statement that Fisher "lies," but the *Tronfeld* Court found the language actionable again because it presupposed knowledge of fact that may prove defamatory. *Tronfeld*, 272 Va. at 715; *see also Ziglar v. Media Six, Inc.*, 61 Va. Cir. 173, 2003 WL 549997, at *2 (2003) (finding actionable the statements that a prosecutor "conjured up a scheme to implicate me in this case" and "lied at the Grand Jury and to (sic) implicate me even more"). In context, the statement that Fisher "'lies,' he said flatly" impresses the reasonable mind that a serious man of science who means what he says has just condemned Fisher as one who intentionally deceives others.

5. *Viewed in context with the article as a whole, the defendants' statements are reasonably interpreted to state actual facts.*

Wallace fundamentally misrepresents Fisher in her article. From the article, Fisher appears to be "indisputably the [anti-vaccine] movement's brain." She is not. Although Wallace interviewed Fisher in Virginia for 60 to 90 minutes, exchanged email correspondence with her, and received her written and online publications, Wallace falsely represents Fisher to be the intellectual head of a movement that opposes all vaccines. Moreover, Wallace failed to mention in her article that she never actually witnessed Barbara Loe Fisher's speech at the Autism One conference; rather, after the conference she asked Barbara Loe Fisher verbally where she could obtain an audio or DVD copy of the speech. *See* Fisher Affidavit at ¶¶ 6-7.

In truth Barbara Loe Fisher is not and has never been "anti-vaccine." Fisher and the non-profit National Vaccine Information Center she co-founded have been clear since 1982 that they do not oppose vaccine research, development, availability and use; rather they support consumer education about vaccine benefits and risks and advocate for the institution of vaccine safety and informed consent protections in national vaccine policies and state vaccine laws. There is no mention of any of these facts in the *Wired* article. *See* Compl ¶¶ 10, 17. Wallace did state,

however, that Fisher mentioned Offit “frequently” in her Autism One speech; and that she called him “the leading” pro-forced vaccination proponent; and that she “cast him as a man who walks in lockstep with the pharmaceutical companies.” *Id.* at 8. In fact, Fisher mentioned the name Offit four times in her 5,700 word speech; did not call Offit “the leading” pro-forced vaccination proponent; and, while she stated that Offit participated in a “national campaign attacking vaccine exemptions and those who are defending them,” after Merck launched an aggressive lobbying campaign in 2007 to add HPV vaccine (Gardasil) to state mandatory vaccination laws, Fisher did not in her Autism One speech cast Offit as a “man who walks in lockstep with the pharmaceutical companies,” which implies he is associated with and works with more than one pharmaceutical company selling vaccines. The omission of material fact and the representation of false fact thus paint a false and misleading picture of Fisher, revealing an unprofessional, reckless, and malicious bias by Wallace.

6. *Plaintiff Fisher can prove defendants’ statements false.*

The statement “she lies” is demonstrably false. Plaintiffs will produce facts revealing that before the article Barbara Loe Fisher had a general reputation for honesty and did not communicate statements that she knew to be false. The Court will not be required to examine the credibility of scientific evidence concerning vaccinations or immunology to reach its conclusions. Rather, the issue is whether Dr. Offit possessed objective evidence that Barbara Loe Fisher knowingly lies (that she knowingly communicated false statements). The ongoing debate about vaccination is irrelevant; the issue turns on the absence of credible proof that Fisher communicates statements with a deliberate intent to deceive. Courts are long accustomed to assessing the veracity of statements that challenge the honesty, integrity, and like personal characteristics of libel victims. *See, e.g., Serian v. Penguin Group (USA), Inc.*, Slip Copy, 2009

WL 2225412, at *9 (N.D.W.Va. 2009); *Heiner v. Skagit County Emergency Medical Services Com'n*, Slip Copy, 2009 WL 2855722 (W.D.Wash. 2009); *N. Coast Cable L.P. v. Hanneman*, 648 N.E.2d 875 (Ohio App. 8 Dist. 1994); *Madison v. Frazier*, 539 F.3d 646, 656 (7th Cir. 2008).

In *Madison*, the United States Court of Appeals for the Seventh Circuit explained that the statement that one “lies” raises a clear issue of triable fact. *Madison*, 539 F.3d at 656 (7th Cir. 2008) (analyzing the challenged statement: “Real men don’t lie”). The Court explained:

In this context, referring to someone as one who “lies” has a clearly precise meaning—“to create a false or misleading impression” or “to make an untrue statement with intent to deceive.” Merriam-Webster Collegiate Dictionary (11th ed.2008) (online at [http:// www. m-w. com](http://www.m-w.com)).

Id. The Court held the statement actionable because “the context of the statement was clear.” *Id.* The statement was objectively verifiable. *Id.*

In *Serian*, the defendant called the plaintiff a “glib liar.” *Serian*, 2009 WL 2225412, at *8. The District Court for the Northern District of West Virginia ultimately determined that “the statement that Serian is a ‘glib liar’ is not false and therefore not actionable.” *Id.* (finding that plaintiff was, indeed, a “glib liar”). In *Heiner*, the defendant asserted the defense of truth after calling the local Fire Chief a “liar.” *Heiner*, 2009 WL 2855722, at *8. The Court received evidence and held that “[b]ecause the gist of the statement was true, the alleged ‘liar’ statements cannot support a defamation claim.” *Id.* Similarly, in *N. Coast Cable*, the Ohio Court of Appeals applied *Milkovich* to defamatory communications made to a radio news reporter. *N. Coast Cable*, 648 N.E. 2d at 880. The Court reiterated the *Milkovich* examples and explained that a “liar” statement is objectively verifiable: The simple statement of fact, “‘Jones is a liar’ is subject to disproof.” *Id.*

Similarly, the United States Court of Appeals for the Seventh Circuit determined that the statements “I will fight this suit until I am bankrupt before I give even a penny to this liar” and “[i]t’s all a pack of lies” were actionable statements because, in context, “it [was] not possible to say as a matter of law that Cook could prove no set of facts consistent with the amended complaint that would remove the alleged statements from the realm of protected opinion.” *Cook v. Winfrey*, 141 F.3d 322, 330 (7th Cir. 1998) (holding that whether “liar” was an allegation of fact was a factual issue not properly resolvable on a motion to dismiss).

Plaintiff Barbara Loe Fisher has thus stated a claim upon which relief can be granted, and the motion to dismiss should be denied.

B. This Court Has Personal Jurisdiction Over Amy Wallace

Defendant Amy Wallace’s defamatory publication in *Wired* inflicted injury on Fisher in Virginia where *Wired* is distributed. Compl. ¶¶ 3, 29, 31. Defendant Wallace has engaged in journalistic contacts via email to and from Fisher and via social networking sites to Virginia readers. *See* Affidavit of Jayne McElfresh ¶¶ 3-10 (Exhibit C); Fisher Affidavit at ¶¶ 5-11. Defendant Wallace has published no fewer than 12 articles in national journals distributed throughout Virginia. McElfresh Affidavit at ¶¶ 8-10. The foregoing acts give rise to personal jurisdiction in this Court.

When assessing personal jurisdiction, the Court measures the defendant’s contacts with the forum state in the aggregate. *See, e.g., Weinstein v. Todd Marine Enterprises, Inc.*, 115 F.Supp. 2d 668, 675 (E.D.Va. 2000) (forum state contacts considered in the aggregate). Thus, although one type of contact may itself be insufficient for personal jurisdiction, the fact of several contacts satisfies Due Process.

The Plaintiff bears the burden of establishing the existence of personal jurisdiction by a preponderance of the evidence but “is entitled to favorable inferences from the pleadings, affidavits, and documents submitted on the issue.” *D’Addario v. Geller*, 264 F.Supp. 2d 367, 377-78 (E.D.Va. 2003) (quoting *Reynolds Metals Co. v. FMAILI, Inc.*, 862 F.Supp. 1496, 1498 (E.D.Va. 1994)).

Defendants argue that the Virginia long-arm statute requires a two-step inquiry, to wit, that Amy Wallace’s contacts with Virginia must satisfy first the text of the long-arm statute and, second, the requirements of the Due Process Clause. *See* *CNP/Wallace Mot. to Dismiss*, at 22-23. That two-step process is unsettled within the Virginia Courts. *See Graduate Management Admission Council v. Raju*, 241 F.Supp. 2d 589, 592 n.8 (E.D.Va. 2003).⁷

The Virginia long-arm statute is intended to be coterminous with the limits of Due Process, not separate and apart from those limits. *Smith v. Husband*, 376 F.Supp. 2d 603, 608 (E.D.Va. 2005). Accordingly, “[b]ecause the Virginia long-arm statute extends the amenability of a non-resident to jurisdiction to the outer perimeter allowed by the Due Process Clause, the statutory and constitutional inquiries merge into the question of whether the individual defendants had sufficient minimum contacts with Virginia to satisfy due process.” *D’Addario*,

⁷ The *Raju* Court explained that:

Because the Virginia long-arm statute has been construed by Virginia courts to extend personal jurisdiction to the full extent permitted by the Due Process Clause, the first inquiry is often merged with the due process analysis. Yet, the statute’s subsection (4) ... appears narrower than the unqualified “transacting business” language of subsection (1), and also appears to require more substantial contacts with the state than does the Due Process clause. Thus, it is not clear whether merging the two inquiries is appropriate regardless of which subsection applies, or whether actions relying on subsection (4) require a separate statutory inquiry.

Raju, 241 F.Supp. at 592 n.8 (collecting cases).

264 F.Supp. 2d at 378; *see also English & Smith v. Metzger*, 901 F.2d 36, 28 (4th Cir. 1990) (Virginia long-arm statute is co-extensive with the full reach of the Due Process Clause); *Smith*, 376 F.Supp. 2d at 608 (collecting cases).

In *Smith*, for example, the Court held that “there exists only one issue to be determined; that is, whether Defendant’s activities in Virginia are such that in personam jurisdiction may be exercised without violating due process.” *Smith*, 376 F.Supp. 2d at 608; *see also Federal Ins. Co. v. Lake Shore, Inc.*, 886 F.2d 654, 657 n.2 (4th Cir. 1989); *Superfos Invs. Ltd. v. FirstMiss*, 774 F.Supp. 393, 397 (E.D.Va. 1991).

Defendant Wallace has had multiple interactions with Virginia that satisfy the Due Process Clause and the Virginia long-arm statute. *See, e.g., Bochan v. La Fontaine*, 68 F.Supp. 2d 692, 701-03 (E.D.Va. 1999). Wallace’s article includes a defamatory statement against Virginia resident Barbara Loe Fisher that causes reputational injury in Virginia. Wallace reached into Virginia to solicit a telephone interview with Fisher in June 2009. *See Fisher Affidavit at ¶ 5.* Wallace contacted Fisher at her home in Virginia by dialing Fisher’s Virginia area code. *Id.* Wallace interviewed Fisher in that call for between 60 and 90 minutes. *Id.* Wallace followed the telephone interview with email correspondence, including two follow-up emails involving an offer from Fisher and a request from Wallace to transfer additional information from Fisher to Wallace. *Id.* at ¶¶ 6-7. As a result of that interview and those email communications, Fisher conveyed information to Wallace who evaluated it in connection with the *Wired* article. *Id.*

In addition, Wallace reached into Virginia when she promoted her article on local Virginia news radio programming, via the National Public Radio broadcast of Melissa Block’s “In the News.” *See Affidavit of Jane McElfresh at ¶ 7.* In her NPR interview, Wallace discussed the controversy surrounding her article. She discussed feedback received from readers, possibly

including that from Virginia residents. The NPR program remains available to Virginia residents on various internet websites. *Id.* at ¶ 7. Moreover, the NPR program demonstrates that Wallace and CNP are jointly responsible for publication of the article. When describing the article's position on key topics, Wallace explained that "*We at Wired* wanted to use a profile of [Offit] as a way into a broader issue, which is vaccine panic." Wallace NPR Interview (1:12) (emphasis added).⁸ Wallace has frequently published in CNP brand publications. *See* McElfresh Affidavit at ¶ 8. She was directly employed by CNP.⁹ Wallace was aware of CNP's circulation and deliberately chose to contract with a national publication, *Wired* Magazine, where her article would be disseminated in every state, including throughout Virginia.

Wallace continues to accept, review, and respond to readers' comments on *Wired.com*'s blog site that concern her November 2009 *Wired* article. *See* McElfresh Affidavit at ¶ 6. *Wired.com*'s blog site is interactive and encourages feedback from readers without regard to their location. The blog site is available 24-hours a day to Virginia residents. Wallace has directly responded to comments supplied by readers in Virginia. *Id.* On all *Wired.com* pages where Amy Wallace maintains a presence, readers are offered subscription links to *Wired* magazine. *Id.*

Wallace has also republished the November 2009 article on her personal website.¹⁰ Wallace's personal website is available to Virginia residents 24-hours a day. She invites readers to interact with her via comments. In addition, Wallace interacts with readers via social networking internet sites, such as "Twitter," which are available to Virginia residents 24-hours a day. *Id.* at ¶ 4-5. In fact, Wallace has disseminated information concerning her November 2009

⁸ Available at: <http://www.npr.org/templates/story/story.php?storyId=114249382> (last visited January 28, 2010).

⁹ *See* <http://www.wired.com/magazine/2009/10/who-is-this-amy-wallace-anyway/>.

¹⁰ *See*: <http://www.amy-wallace.com/> (last visited January 28, 2010).

Wired article through her twitter account to Virginia residents. *Id.* “Twitter” is an online social networking program that promotes the active participation of members through direct communications and general postings targeted at “followers.” *Id.* at ¶ 4. Defendant Wallace has Twitter “followers” from Virginia. *Id.* at ¶ 5. In addition, Wallace has posted comments directly concerning her November 2009 *Wired* article through her Twitter profile. *Id.* at ¶ 4. Wallace solicits Twitter followers on her *Wired.com* blog and her personal website. *Id.* at ¶ 6. All of that interactivity is available to Virginia residents 24-hours a day. *Id.* at ¶ 6.

Wallace’s journalistic activity routinely involves her publication of articles in national publications that are distributed throughout Virginia. As explained in the attached affidavit of Private Investigator Jayne McElfresh, Wallace has at least 12 articles in national publications that have been distributed in Virginia. *See* McElfresh Affidavit at ¶¶ 8-10. She thus maintains a national journalistic presence, including repeat articles circulated throughout Virginia.

1. Jurisdiction over Defendant Amy Wallace exists in this Court under the Due Process Clause.

Controlling Supreme Court precedent held that defendants who publish a defamatory statement in a foreign jurisdiction should “anticipate being haled into court” in that foreign jurisdiction to “answer for the truth of their statements.” *See Calder v. Jones*, 465 U.S. 783, 789-90 (1984); *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 781 (1984). In *Calder*, the Court held that personal jurisdiction over an author does not offend Due Process even where the author lacks contacts with the forum state. *Calder*, 465 U.S. at 789-90. Jurisdiction was proper because the libelous story: (1) “concerned the California activities of a California resident;” (2) “impugned the professionalism of an entertainer whose television career was centered in California;” (3) “the article was drawn from California sources;” and (4) “the brunt of the harm, in terms of both of respondent’s emotional distress and the injury to her professional reputation,

was suffered in California.” *Id.* The Supreme Court thus found jurisdiction proper “based on the ‘effects’ of [defendants’] Florida conduct in California.” *Id.* The Court observed that the defamatory act was alleged to have been intentional. *Id.* Libel is an intentional tort and, thus, the defendant targets the plaintiff at the time of publication.¹¹

The *Calder* case is controlling. Like in *Calder*, Wallace published a defamatory statement that directly concerned a Virginia resident Barbara Loe Fisher, a person she knew resided in Virginia whom she contacted by phone in Virginia and with whom she engaged in email correspondence between California and Virginia. From telephone interviews and email correspondence, Wallace knew Fisher resided and worked in Virginia and, in fact, communicated to Fisher via email that she might “come to Virginia” to visit Fisher. The defamatory statements published concerning Fisher in *Wired* magazine stemmed, in part, from information Wallace obtained from her Virginia source (i.e., Fisher’s telephone interview). *See* Fisher Affidavit at ¶ 9. Moreover, the brunt of the harm is sustained by Fisher where she resides and works—both in Virginia. Fisher was targeted in the article, the sole recipient of the defamatory charge “she lies.” Wallace thus singled out Fisher, understood her article would be published in *Wired* circulated around the world and on newsstands throughout Virginia, which would harm Fisher’s reputation and the reputation of her non-profit organization, the National Vaccine Information Center, which depends on donations from residents of Virginia among other states to continue its educational, charitable work.

¹¹ Significantly, in *Calder*, the defendants could not avoid jurisdiction merely because they were authors and editors not in control of the final publication. *See Calder*, 465 U.S. at 789-90 (holding that “[p]etitioner South wrote and petitioner Calder edited an article they knew would have a potentially devastating impact upon respondent. And they knew the brunt of that injury would be felt by respondent in the State in which she lives and works”).

The combination of Wallace's contact with Fisher directly in Virginia, Wallace's knowledge that her article would have substantial effects in Virginia, Wallace's substantial and ongoing internet presence in Virginia, and Wallace's repeated journalistic presence through articles in national publications distributed in Virginia provide notice to Wallace such that she "could reasonably foresee being haled into court in this jurisdiction." *Bochan*, 68 F.Supp. 2d at 702 (citing *Calder*, 465 U.S. at 789-90); *Massey Energy Co. v. United Mine Workers*, 69 Va. Cir. 118, at *6-7 (2005) (same).

2. *Amy Wallace's acts and omissions within the State of Virginia are sufficient for jurisdiction under VA. CODE § 8.01-328.1(A)(3).*

Wallace is subject to jurisdiction of the Virginia courts because she acted tortiously within Virginia.¹² Defamation "occurs wherever the offensive material is circulated or distributed." *TELCO*, 977 F.Supp. at 407-08; *see also Keeton*, 465 U.S. at 777; *Daniels v. Georgia-Pacific Corp.*, 162 F.3d 1154 (Table), at *3 ("While a new action accrues with each republication or repetition, the person liable for the republication ... is the author or originator of the defamatory material"). The present case is analogous to the facts before the Circuit Court of Virginia for Fairfax County in *Massey Energy Co. v. United Mine Workers*, 69 Va. Cir. 118 (2005). The defendants allegedly defamed plaintiffs "via a defamatory television advertisement broadcast into West Virginia and Virginia, a defamatory press release, and subsequently published articles containing that press release." *Id.* at *1. The defendants argued that any dissemination within Virginia was unintentional. *Id.* The Court held that jurisdiction existed

¹² Plaintiffs are not limited to the specific statute set forth in their complaint. *See McNamee v. Rector and Visitors of University of Virginia*, --- F.Supp. 2d ---, 2006 WL 3053264 (W.D.Va. 2006) (FRCP 8(a) requires that "a complaint contain 'a short and plain statement of the ground upon which the court's jurisdiction depends.' But it is not necessary for the plaintiff to name the specific statute at issue"). If, however, the Court believes amendment helpful or necessary, the Plaintiff will gladly seek leave to amend for that purpose.

under Virginia’s long-arm statute which reads, in pertinent part: “A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person’s . . . causing tortious injury by an act or omission in this Commonwealth.” VA. CODE § 8.01-328.1(A)(3). The Court held, “That the advertisement was broadcast into Virginia is alone a sufficient basis of jurisdiction under the statute.” *Id.* at *6 (collecting cases). Under the Due Process analysis, the Court found that:

Defendants undoubtedly knew that the television and print advertisements would reach Virginia homes. Therefore, it was foreseeable that these defamatory messages would be published or republished within Virginia. As such, Defendants must have reasonably expected to be haled into a Virginia Court.

Id. at *6-7. The *Massey* Court explained that, under Virginia law, the personal jurisdiction analysis proceeds through a specific tripartite test: (1) “did Defendant’s ‘purposefully avail’ themselves of the privilege of conducting activities within Virginia;” (2) did the alleged “defamation arise from Defendants’ contacts with the Commonwealth;” and (3) “did Defendant’s acts, or the consequences of those acts, have a substantial enough connection with Virginia to render the exercise of jurisdiction over Defendants constitutionally reasonable.” *Id.* at *3 (emphasis added).

As in *Massey*, Wallace disseminated the print and online article with undoubted knowledge that it would reach Virginia residents. The very act of publishing, and republishing, the *Wired* article in Virginia constituted defamation. The defamation occurred within Virginia where Fisher, among others, including donor supporters of Fisher’s non-profit organization, the National Vaccine Information Center, read the defendants’ defamatory publication. Wallace also conducted an NPR interview promoting her article and posted the article on her website knowing that it would be received by Virginia residents. Unlike in *Massey*, however, Wallace knew at the time she authored the article, that it would be disseminated in Virginia. Wallace interviewed

Fisher specifically in Virginia before having her article published in Virginia. Thus, Wallace “must have foreseen the possibility that [she] would be haled into a Virginia court.” *Id.* at *7.

Under *Massey*, therefore, jurisdiction is proper over Wallace.¹³

3. *Amy Wallace has contacts with the State of Virginia sufficient for jurisdiction under VA. CODE § 8.01-328.1(A)(4).*

In the alternative, if one assumes *arguendo* that the Virginia long-arm statute imposes a stricter burden than the Due Process Clause and that Wallace’s acts or omissions occurred outside Virginia, Amy Wallace’s contacts with Virginia are nonetheless sufficient under the Virginia long-arm statute, Section 8.01-328.1(A)(4). The Virginia long-arm statute should be construed broadly because “Virginia has a legitimate interest in providing a forum for claims based on conduct causing harm within its borders.” *Rannoch, Inc. v. Rannoch Corp.*, 52 F.Supp. 2d 681, 686 n.12 (E.D.Va. 1999) (finding on the facts there no personal jurisdiction but emphasizing Virginia state interest in providing a forum for its citizens to address harms); *see also First American First, Inc. v. National Association of Bank Women*, 802 F.2d 1511, 1516 (4th Cir. 1986) (same).¹⁴ The Virginia long-arm statute provides in personam jurisdiction over a

¹³ Federal courts sitting in diversity apply state law. “Where an intermediate appellate state court rests its considered judgment upon the rule of law which it announces, that is a datum for ascertaining state law which is not to be disregarded by a federal court unless it is convinced by other persuasive data that the highest court of the state would decide otherwise.” *In re Wallace and Gale Co.*, 385 F.3d 820, 830-31; *see also C.F. Trust, Inc. v. First Flight Ltd. Partnership*, 306 F.3d 126, 137 (“when a federal court sits in diversity ... it is not free to reject a state rule merely because it has not received the sanction of the highest state court”).

¹⁴ Courts have recognized the Virginia State legislature’s broad construction of the long-arm statute in an effort to protect Virginia citizens from undue harm. *See, e.g., First American*, 80 F.2d at 1516 (explaining that “defendant should more reasonably expect to be haled into a foreign state’s court when his purposefully targeted conduct has caused harm within the state’s borders”); *Bochan*, 68 F.Supp. 2d at 702 n.30 (explaining “extraordinary reach of long-arm” constrained only by the Due Process Clause). Thus, the Virginia long-arm should be construed broadly to provide Virginia residents with recourse for injuries caused in-state. Otherwise, authors publishing defamatory content can immunize themselves from suit except for those

person when that person (1) causes tortious injury (2) in Virginia (3) by an act or omission outside of Virginia if that person engages in any other persistent course of conduct in Virginia. *See* VA. CODE § 8.01-328.1(A)(4). Should this court determine that Wallace’s acts and omissions occurred outside Virginia, Wallace has engaged in a persistent course of conduct in Virginia sufficient for jurisdiction under the long-arm statute.

Wallace initiated contact with Virginia through her interview with Fisher in June 2009. Wallace continues to maintain persistent contact with Virginia through her interactive web sites. *See ALS Scan, Inc. v. Digital Service Consultants, Inc.*, 293 F.3d 707, 713-14 (4th Cir. 2002) (interactive web sites where a user can exchange information with the host computer may constitute persistent contact); *see also Alitalia-Linee Aeree Italiane S.p.A. v. Casinoalitalia.com*, 128 F.Supp. 2d 340, 348 (E.D.Va. 2001) (jurisdiction was proper over internet gambling company because website was “interactive” and available to Virginians 24-hours a day). Wallace’s blog posts, her “Twitter” feeds, and interactions with readers through online comments renders her site actively available in real time to Virginia residents 24 hours a day. *See TELCO Communications v. An Apple A Day*, 977 F.Supp. 404, 407 (E.D. Va. 1997) (holding that website constituted persistent course of conduct “[b]ecause [defendants] conducted their advertising and soliciting over the Internet, which could be accessed by a Virginia resident 24 hours a day”).

In *Bochan*, the defendant satisfied the long-arm statute and Due Process when he made his website available to Virginians 24-hours a day. *Bochan*, 68 F.Supp. 2d at 701-02. Although no sales were obtained from Virginia, the defendant’s internet presence was interactive and, thus, sufficient. *Id.* Because the defendant did not specifically limit his internet presence to his local

initiated in their state of domicile, a result unsupported by Virginia law. *See Bochan*, 68 F.Supp. 2d at 701-03; *Massey*, 69 Va. Cir. 118, at *6.

geographical region, the *Bochan* Court found that he had persistent internet contacts under Section 8.01-328.1(A)(4). *Id.* at 702 (explaining that “sufficiently interactive” means a website “involving more than just the maintenance of a home page; it must allow browsers to interact directly with the website on some level”). In *Bochan*, the fact that defendant’s internet site led to no sales from Virginia and no actual contact from Virginia residents was immaterial; the fact that the site allowed Virginia resident interaction was enough. *Id.* Wallace’s use of internet networking applications and blog webpages is more interactive than the technology used in *Bochan*. Wallace has ongoing communications directly with Virginia residents through her Twitter account. All Virginia residents can subscribe to her feeds and leave comments with Wallace. Indeed, the opportunity for participation renders Wallace’s twitter account and blog pages highly interactive. Meanwhile, as Wallace’s internet presence in Virginia remains active, and she continues to publish information concerning her defamatory article, she knows the greatest harm caused will be felt by Virginia resident Fisher. *See First American First, Inc. v. National Ass’n of Bank Women*, 802 F.2d 1511, 1514, 1517 (4th Cir. 1986) (holding that long-arm statute extended over directed mailings into Virginia, and explaining the Court’s “conclusion accords with those of other courts that have upheld the constitutionality of state-authorized exercises of specific jurisdiction in a variety of situations involving claims of defamation by ‘single contact’ letters or telephone calls by out-of-state defendants to persons in the forum state”).

Wallace has republished the *Wired* article on her website and linked to the *Wired.com* location. “It is well settled that the author or originator of defamation is liable for republication or repetition thereof by third persons, provided it is the natural and probable consequence of his act, or he has presumptively or actually authorized or directed its republication.” *Blue Ridge*

Bank v. Veribanc, Inc., 866 F.2d 681, 689 (4th Cir. 1989). Wallace’s publication of the *Wired* article is available to Virginians 24-hours a day.

Wallace’s ongoing internet presence and interactions with readers, her specific contacts with Virginia, and her complicity with *Wired* magazine in the original publication collectively establish personal jurisdiction under the Virginia long arm statute, VA. CODE § 8.01-328.1(A)(4).

4. *In the alternative, this Court should permit jurisdictional discovery that will establish facts supporting jurisdiction.*

Should this Court determine that Plaintiffs have not proven facts sufficient for its exercise of personal jurisdiction over Defendant Wallace by a preponderance of the evidence, the Plaintiff requests limited jurisdictional discovery.¹⁵ As the federal courts have recognized, facts that would establish personal jurisdiction over the defendant “are often in the exclusive control of the defendant” and thus incapable of ascertainment except by discovery. *Hansen v. Neumueller GmbH*, 163 F.R.D. 471, 475 (D.Del. 1995) (stating that “plaintiff may be unable, without some discovery, to properly respond to a motion to dismiss”). Moreover, “[a] district court has discretion whether to hold in abeyance a decision on a motion to dismiss for lack of personal jurisdiction to enable a party to employ discovery on the jurisdictional issue.” *Id.* Courts have “broad discretion” to resolve jurisdictional discovery issues. *See Sportrust Associates Intern., Inc. v. Sports Corp.*, 304 F.Supp. 2d 789, 794 (E.D.Va. 2004). Jurisdictional discovery is appropriate when the Plaintiff’s jurisdictional allegations are specific and substantive. *See Mamo v. BP P.L.C.*, --- F.Supp. 2d ---, 2006 WL 572327, *2 (E.D.Va. 2006).

Here, if the Court finds personal jurisdiction not established predicated on the evidence now before it (evidence Plaintiff believes sufficient under the law), the plaintiff respectfully

¹⁵ On January 25, 2010, the Plaintiff sought defense counsel’s volitional consent to depose Defendant Wallace on jurisdictional matters without leave of court, which request was refused.

requests limited jurisdictional discovery to probe the matter further, enabling adduction of facts tending to prove or disprove the existence of personal jurisdiction. *See Carefirst of Md., Inc. v. Carefirst Pregnancy Ctrs., Inc.*, 334 F.3d 390, 402 (4th Cir. 2003). Plaintiff requests discovery concerning all facts germane to personal jurisdiction including, but not limited to, traffic on the defendants' various websites, including, for example, the geographic locations of all who have transmitted comments in association with those websites; all who have sent correspondence in response to Wallace's *Wired* article; the Virginia state *Wired* magazine subscriptions obtained through *Wired.com*; and Wallace's communications with CNP concerning the *Wired.com* blog, as well as any and all interactions between Wallace and Virginia sources, Virginia media, and Virginia readers.

CONCLUSION

For the foregoing reasons, Plaintiff Barbara Loe Fisher respectfully requests that this Court deny the Defendants' Motion to Dismiss.

Respectfully submitted,

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DATED: February 3, 2010

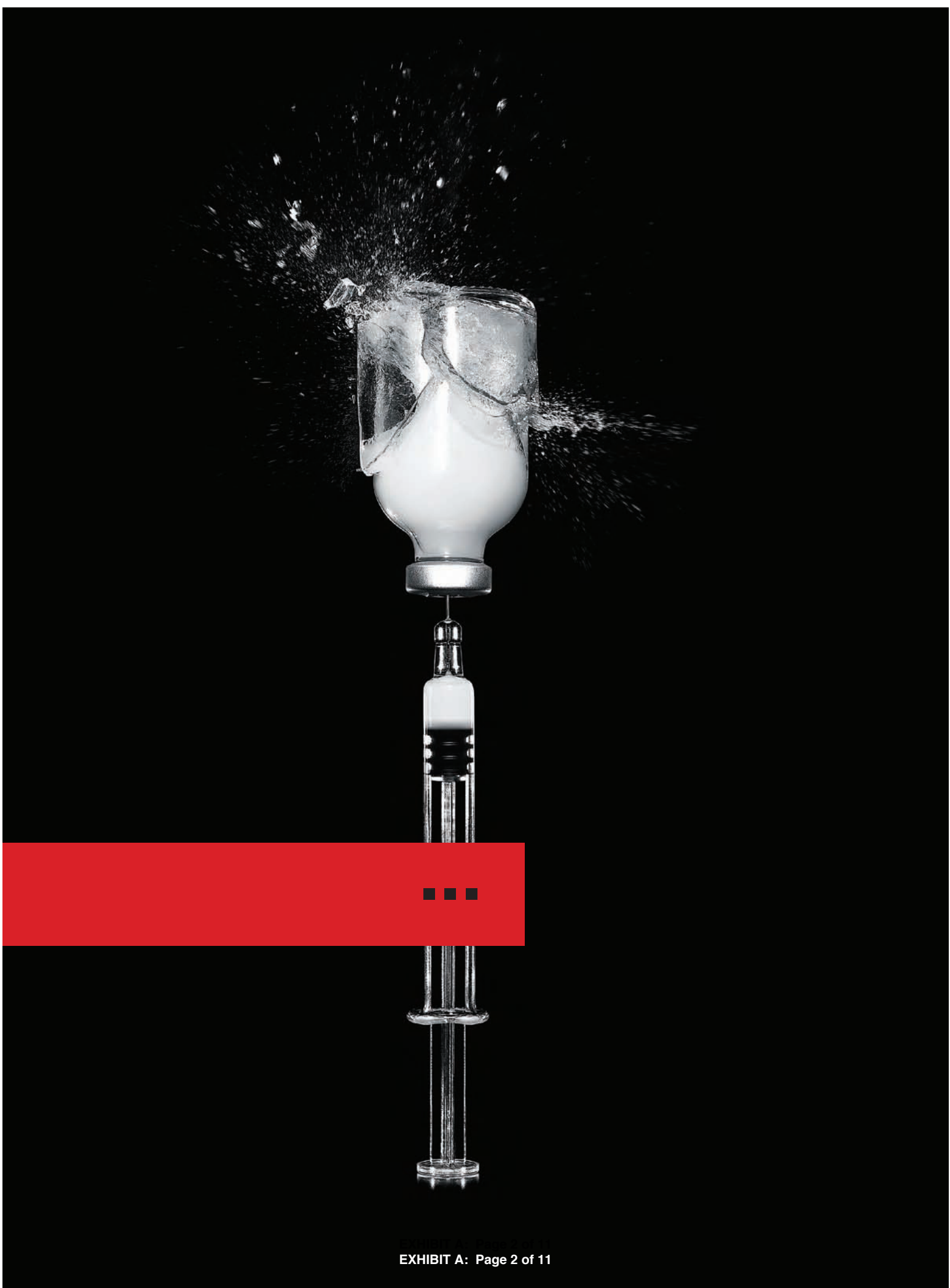
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CASE No. 1:09-cv-01398-CMH-TRJ

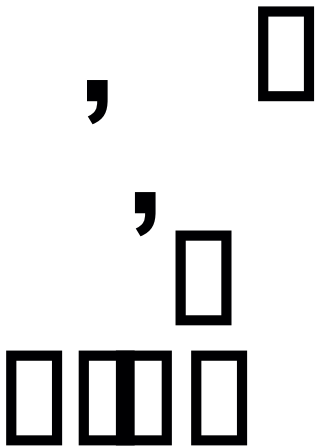
EXHIBIT A

An Epidemic of Fear

One man's battle against the anti-vaccine movement. by Amy Wallace

PHOTOGRAPH BY ANDREW ZUCKERMAN






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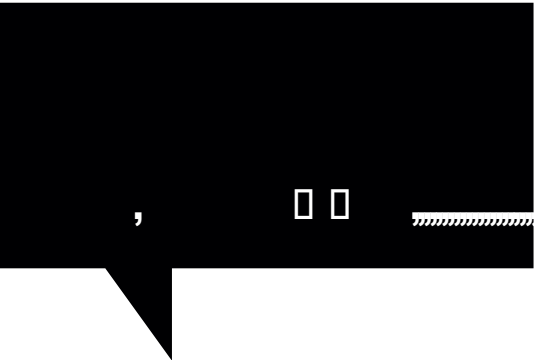
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 N 6G DA@ HB: CI H 9DC: ID: A8 I HJ8=
 K: CDB !: 7DA@VHIGI: H CHE=: 8=: H
 C DJCC6A6G 8A H 6C9 C= H 7DD@
 I=6I K688 C: H
 9DCDI 86JH 6JI HB DG6JID B B JC: 9 H
 : 6H DG6CND; I=: DI=: G8=QDC 8 8DC9
 I DCHI=6I =6K: 7: : C 7A6B : 9 DC I=: B
 !: HJEEDGHI= H6HH G I DC L I= B : I 8
 JADJH: K 9: C8: C9=: 86AHID 688DJCI
 I=DH L =DEQDB DI: 7D JHIG 6IB: CIH; DG
 6JI HB IG 6IB: CIHI=6I=: H6NHCDI DCAV
 9DC I L DG@?J I D; I: C 86JH =6GB
 H6G HJA fii =6H7: 8DB: I=: B 6 C
 I6G : I D; 6 G6HDDIHB DK: B: CI I=6I
 DEEDH HI=: HNH: B 6I 8K688 C6I DC D;
 8= A9G C 6C9 I=: A6L HI=6I G FJ G I
 8 6G=N 6C 68IG H6C9 6; DGB: G
 8: CI: GDA@L =DH HDC=6H7=: C9 6
 CDH 9 L I= 6JI HB HI=: 7: H @DL C
 A69: GD; I=: B DK: B: CI 7JIH=: HED C: 9
 7NA DCHD; L: ADG 6C Q: 9 HJEEDG: GH
 6C9 HNB E6I=: Q: GH

, = HHC I 6 G A DJH9 HEJI: A@ I=:
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 HB : C8: I=6I 8GDHH HE6GIN 8A6HH 6C9
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 ; QDB . DMMID AA 6AB 6G@I C EADNH
 L = 8= =6K: : C8DJG6 : 9 6 9 HIGJH D;
 : ME: GH I H6AD QDC 86AV 6 EGD9J8I
 D; I=: : G6D; CH6CI 8DB B JC 86I DC 6C9
 : 6HN688: HHID C; DGB 6I DC , =: 9DJ7I: GH
 6C9 9: C: GH6G : B EDL : G 9 7NI=: CI: G
 C: I DCAC: CD7D9N@DL HNDJ G CDI 6
 9D8IDG 6C9=: AE: 9 7NI=: B 6 CHG 6B
 B : 9 6 L = 8= =6H6C CI: G H C EJB E
 C JE 769 HB : C8: ID8G 6I: 6 9: 76I:
 L=: G I=: G H DJA@7: CDC:
 CI=: 8: CI: GD; I=: ; G6N H(6JA fii
 (: DEA 9: HBG7: B: 6H6 K688 C: 69KD
 86I: =: H6NH H: B NH A 6H6 HB : C8:
 69KD86I: JI CI= H76IIA 6C9 B 6@CD
 B H6@=: H6NH I H6E I8=: 9 6C9=: 6I: 9
 76IIA HB : C8: 6ADC: HC I: CDJ =
 (: DEA 6G : II C =JG , =: E6G CIL=D
 G 69HL=6I : CCN 8 6G=N H6NH6C9
 I= C@ / : AAB 6N7: H=DJ@C I : II= H
 K688 C: 6C9I=: G8= A9 : HD; ! 7 B : C
 C I H =: H6NH H=6@C = H=: 69 I H
 HJ8= 6; JC96B : CI6A 6 AVG DC DJGE6G
 I=6I L : =6K: CI 8DCK C8: 9 I=6I E6G CI
 DCH9: G C 8: G6 C E6GH; I=: - +
 K688 C6I DC G6I: H=6K: 9 QDEE: 9 HDAL
 I=6I D88JG C8: HD; HDB : 8= A9G CH9 H
 : 6H H6G 6EED68= C EG K688 C: AK AH
 ; DGI=: GH I B : : K: G C9 I=: CJB 7: G
 D; E: DEA L =D 8=DDH CDI ID K688 C6I:
 I=: G8= A9G C HD 86AA 9 E= ADHDE= 86A
 : M B EI DCH6G 6K6 A7A C 67DJ I
 H6I: H C8A9 C (: CCHNA6C 6 , : M6H
 6C9 B J8= D; I=: / : H 8DCI CJ: HID
 GH CH6I: HL=: G HJ8= DEI C DJI
 H6ADL : 9 E: G8: CI D; E6G CIH9 9
 HD A6H N: 6G JE; QDB E: G8: CI C

A man with short, graying hair is seated in a blue office chair, looking thoughtfully to his left. He is wearing a dark red, long-sleeved button-down shirt with two chest pockets and dark trousers. His hands are clasped in his lap. The background is a dark, wood-paneled bookshelf filled with books. A red text box is overlaid on the right side of the image.

"I don't think he wanted to hurt me," says pediatrician and vaccine inventor Paul Offit. "He was just excited to be close to the personification of evil."

688DC9 C IDI=: CHDB : 8DB B JCI : HA@ 6A;DC 6 H6fLJ: CI 6GC DJCIN 2JH CDG=
D; +6C 6C8 HBD CDC K688 C6I DC6I: H6G 6EECD68= C E: 6C: CI 8DJCI: GCIJ I K AN= =: C
6I: HD; CDC K688 C6I DC D; I: C 8DCG HEDC9 L I= = =: GAK AH; : 9J86I DC 6C9 L: 6A=
, =6I B 6NCDI HDJC9 A@ B J8= 7J1 6 G 8: CI HJ9N7NI=: C9 86I: HI=6I
I=: B E68I 86C 7: 9: K6H6I C , =: ;DJC9 I=6I : K C I=DI = DCAN67DJI E: 6C: CI D;
6A;DC 6 H@C9: G 6GIC: GH6G JCK688 C6I: 9 @9H DG67DJI IL 8: I=: CJB 7: G6H C
I=: NI: C9 ID7: 8AH: G 9 9 HEDEDI DC6I: AN C8G 6HC I=: GH@; 6C DJI7G 6@; HJ8=
AG : AN: 6G9 86I: 9 9 H 6H H6HB : 6HA H B JB EH 6C9 E: GJHHH L =DDE C 8DJ = , =: 8AH
I: G C B : 6CH6AB DH E: 6C: CI D; : A B : CI6CNH=DDAH6I: L 9: B 6N6AG 69N7: 6I GH@
C 6N AG 9I=: 7AGB : ;DG8AH: GH; 9 H 6H DJI7G 6@
I=CDJ =DJII=: - +HFJ6G AN6I=: ;: ID; 9: 8AC C K688 C6I DC6I: HL = A CDCECD I=: 6A= 86G
ECDK 9: G\$6 H G(: 6B 6C: CI: G EDG; 9I=6I JCK688 C6I: 9 8= AG CL : G I B : HB DG A@ANID
: I E: GJHHH 6= =AN8DCI6 DJH768I: G6A9 H 6H
I=6I 86JH HK D A CI 8DJ = C 6C9 HEDI: CI 6ANAI=6A
ID C; 6CIH CI=: JC: HJ; D; I=: DJC6A
6HDC AGCO 6C: E 9: B DA D H 6I \$6 H GH CH IJI:
;DG! : 6A= : H 6G8= G K: 6A 9 I=6I I=: CJB 7: GD;
G EDG; 9 E: GJHHH86H H2JB E: 9; CDB C
ID C 9 H 6H I=6I K688 C: HB 69: 6G
C DI=: GL DC9H HB 6@ 6 8DB : 768@ , = HHJ9N
=: AEH9 HE: ADC: D; I=: 8DB B DCAN=: A 7: A : ;H6B DC
K688 C: G ; JHC E6G CIHI=6I I=: G8= AG C 6G CDI
6I GH@DGK688 C: EG K: CI67A 9 H 6H H AGCOH5NH
JH 9 IDH5NI=6I I=: I 9: L DJA IJCL =: C 8= A
9G CH6G: 9 ID 9 : / : AA 8= AG C =6K: H6G: 9 ID
9 : fmi H5NH; GDL C C 6H=: I 8@IDf G 8: CI ; 6I6A
86H HD; B : C C I H C JCK688 C6I: 9 8= AG C C
(: CCHVAK6C 66C9 CC: HDI +DCDL K: 8=6C : 9
I ID L=: C 8= AG CH6G ID 9 : : 86JH
D7K DJHAN L: G CDI I=: G N I



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86CH : B 7 68: D; G C86C6I DC
8=6CC: AC 6C9 : M6I: GG HG
6AH , =: G 6G JCH6I H : 9 B : 9
86AC : : 9H HE G IJ6AC : : 9H 6C9
C : : 9H ; DG8DB B J C DC L I = I :
G HI D; I = : =JB 6C 8DB B J C IN
2DD@C 768@DK G =JB 6C = HDGN
=6H7 : : C I = : 6CDB 6AN
: C 6I DC6AI6@HL DG@ : 9J86
I DC 6C9 6 HD7: G9: I: 6B C6I DC ID
6KD 9 B 6@C =6HN C; : G C8: H: K C
L =: C I =: N6EE: 6GIDB 6@ E: G: 8I H CH J8= A@ C; : 8I DJH9 H 6H HI=: B
H AK: H 7: 6I: C 768@N9: 869: HD; : ffdG IDK688 C6I: I=: EDEJA68: I=: 6G
I DC6AAC : GH2JH 7: ADL I=: HJG68: L 6 I C ; DGJHIDA I 9DL C DJG J66
: ; DG HB 6AEDML 6H: 6G9 86I: 9 L I = 6 K688 C: I @A 9 6C: H B 6I: 9
B AADC E: DEA C9 2JH N 6CH6 D EDADE6G6AN: 9 B : G86CH: K: GN
N 6GL = A GJ7: AG 86JH 9 7 G = 9: ;: 8IH6C9 B : C
I6AG I666I DC C 6HB 6CN6H C: L 7DCCH
: 6FA H C; : 8I: 9 B AADC 8= AG C @AC
6CCJ6AN 6C9 6 768I: GJB 86A 9
INE: 7 86JH 9! 7 B : C C I H C B DG
I = 6C 8= AG C A 6K C B 6CNL I = E: 6B 6
C: CI 76C C 96B 6 : C; 6CI B DG 6AIN 6C9 677G
K 6I: 9 A; : HE6CH CDL G 66: 9 6H6I = 6 L DG9
ECD7AB L : G 6 GH L DG9 G 6AIN
, D96N 7: 86JH I=: ADB C GH@; 8= A = DD9
9: 6I = HDJID; H = I I H6ADAG : ANDJID; B C9
A 69 C 6 GDL C CJB 7: GD; B : G86CHIDL DGGN
67DJIL = 6I HC; 68I 6B J8= AH GGH@I=: A ff: 8IH
D; K688 C: H ; NDJGC: L 7DC : IHE: GJHHH ; DG

“ I USED TO SAY THAT THE
TIDE WOULD TURN WHEN
CHILDREN STARTED TO DIE.
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, =6C LDC@DLA 9 : H7NCDB : 6CH
6 C: L E=: CDB : CDC C G C8= B 6I=: B 6
I 8 6C 6C9 HB : CI H ! : CG (D C86G) H 9 I = 6I I =:
L AAC C: HHID: B 7 688: EH J9D HB : C8: ODJGH: 9
7: 86JH E: DEA @DL =DL 8GJ: A=: IGI = D; I: C H
6C9 L : L DC9: GL =: I=: G ANHDC HCIDI B DG 8DC
HDAC : 869: H6I: GI=: 6HDCDB : G 6GA+6 6C
G 68=: 9 6HB AGSDC8AHDC +8 : C8: ADH H GJJC9
IDEH J9D HB : C8: 7: 86JH I=: A6II: GH : B HIDDf: G
B DG 8DB ; DG G 6I B 6CND; I=: H 7: A : ; HNH
I: B H699G HHG 6A=JB 6C C : : 9HI=6I 6G CDI 7: C
B : I 7NDJGH8 : IN +6 6CL GDI: D; 8: 6C C B : G

: M6B EA I=: G H6 E: 6C: CI 8=6C8: I=6I I=: 767NL A9 : D; EJAB DC6GN=NE: G
I: CHDC DGI=: G8DB EA86I DCH, =: GH@; 9NC ; GDB I=: E: GJHHHK688 C: 7N
8DCI 6GH HEG8I 86AN CDC: MH: CI C; 68I CDHJ9N=6HAC@9 , 6(I=: I=G:
C DC: B B J C 6I DC I = 6I E DI: 8IH6 6 CH 9 E = I=: G 6 I: 16CJH 6C9 E: GJHHH
ID9: 6I = C 8= AG C D7D9N CI=: EGD K688 C: 86B E 6HH GHI = 6I K688 C: H6G
GH@; G: 7JII=: GH@6G B CJI: C8DB E6GHCIDI=: 6A: 66I K
+I A9: HE I: E=: G G K: L : 9 : K 9: C8: B 6CNE6G CIH CDG I=: B 6I = 6C9
6 DC Q 67DJIL = I=: GIDK688 C6I: / =N DGH6G: GH I=: =JB 6C 76 C = 6H6
C6IJ 6AI: C9: C8NIDE6II: CC B 6I8= ID CDG I=: DA 9 8IJ 8DCG 6I DC 9D: H
CDI B EAN86JHEI DC 6C9 HJ77DCANE: GHH C 6HHD 6I C ECOMB 6I: E=: CDB
: C6 ; IL DI = C H8D: MH I=: 76C D; I: CI: AHJH I=: NB JH 7: G 6I: 9 +DB :
E6G CIHD; 6JI H 88= AG C CDI 8: 9 I = 6I I =: G8= A H8DC9 I DC 7: 6CID 6EE: 6G

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H=DGIANG;I: G6K688 C6I DC , =: 8DC8AJHDC , =: K688C: B JHI =6K 86JH 9
 I=: 6JI HB +DJC9HG 6HDC67A : K: CI=DJ = 6HB 6CNH8: CI HH=6K: CDI: 9
 I =6HAD 7: : C @DL CI=6I 6JI HB 6C9 DI=: GC: JGDAD 86AB E6 GB : CIH
 D;I: C 7: 8DB: : K 9: CI 6I DG6GDJ9 I=: 6 : D; ID B DCI=HL = 8= 2JH
 =6EE: CHID7: I=: H6B: I B: 8= AD C G 8: K: B JA EA K688 C6I DCH DG
 G AI DC E: G=6EH JI CDI 86JHI DC 6HHJ9 : H=6K H=DL C

C9 ;NDJ C: : 9 6 C: L ;68ID 9 IDHJEEDG NDJG7: A; ;HNH: B I=6HC: K: G
 7: : C: 6H: GID C9DC: , =: CI: CC: I Df: GH6IG 6HJG IGD K: D; J C9 ff: G C
 I 6I: 9 C; DGB 6I DC 96I6 G H 6C8= HE: 8JA I DC =6A IGJI=H 6C: 89DI: H
 6C9 8DC? 8IJG 67DJI =: 6A= 6C9 B: 9 8 C: I H6AD69: B D8GI O C ;DGB:
 I=6I I: C9HIDJ9: GB C: 6JI=DGIN 8JI DJI I=: B 99AB 6C 6C9: B EDL: G
 C9 K 9J6AH C 6 L DG9 L =: G 6CND C: 86C 6II: C9 L =6I 8 6GI=N86AHI=:
 - C K: GHIND; DD A 7DC C JE DC B B JCDAD N7: ;DG : I I C NDJG
 8= AD K688 C6I: 9 H : B HA@ DD9 G HEDCH7A E6G CI C , =6C@HID I=:
 CI: CC: I : K: GND C: 86C 7: I=: GDL C B: 9 86ACK: H 6IDG
 , =: G 6G 6CI K688 C: / : 7 HI: H 68: 7DD@ GDJEH: B 6 A6A GH 6C9 AD7
 7NC DG 6C 06I DCH (DAI 8 6CH CDG I=: B DK: B: CI 6I I=: GE: GA 6C9
 JCA@ CI=: 9: 76I: HDK 68G 6I DC HB 6C9 AD76AL 6GB C : B D8GIH=6K:
 EGD: 9 2JH 6HA@AN6H : EJ7A86CHIDH=6G B HC; DGB 6I DC 6C9; J: A6CM: IN
 - + H C6IDGH D=C\$: GND; 6H68=J
 H I I H6C9 =GH D99D; DCC: 8I 8JI=6K
 7DI= 8JG; 9; 6KDGL I= 8DCH IJ: CIH 7N
 IGB E: I C I=: CDI DC I=6I K688 C: H6JH
 6JI HB C9 D7: G \$: CC: 9N G 6HB DC
 D; I=: B DH; 6B DJH : B D8GI 8; 6B AD;
 6AA6JI=DG 9 69: : EAN06L: 9

E: 8: 86AA 9 : 69AN B B J
 C IN C I =: 688JH 9 I=: DK: CCB: CI
 D; EGD: 8I C 9GJ 8DB E6C: H; CDB AI
 6I DC 7N8DC8: 6AC : K 9: C8: I=6I B : G
 8JGN CK688 C: HB 6N=6K: 86JH 9 6JI HB

CI=DJH6C9HD; @9H, =: 6GI 8A L 6HGDJC9AN9 HBG 9 I: 9
 ;DG 6B DC DI=: GI= C H DK: G H B 6I C I=: 6B DJCI D;
 B : GBJN C 8= AD=DD9 K688 C: H7NB DG I=6C ;DAD
 86JHC ID HHJ: CDI DC: 7JI 6 EGDAC : 9
 H G: HD; 8DCG 8I DCH6C9 8A6G 86I DCH JI I=6I 9 9 AI
 IA IDJCG C I=: 7: AA

, =: 7DIIDB AC: (H J9D HB : C8: EG NHDC L : AA
 CI: CI DC: 9 E: DEA L =D B DI K6I: 9 7NADK ; DGI=: G
 @9H 7: 8DB : KJAC: G67A IDDC: D; I=: L DGDH DA@: H
 EG; : HHDCH 3CI: GI=: HC6@ D A6A HB 6C

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H AA,E6G CIHL AAD6CN=C IDB 6@ I G =I ; NDJ
 9DJ7I I=6I 2JH HE: C9 6 96NDGILD 6I I=: 6CCJ6A8DC
 ;: G C8: D; I=: CDCEGD I DG 6C 06I DC JI HB C: 6
 GDJE7J A 6GDJ9 I=: 8DCK 8I DC I=6I 6JI HB H86JH 9
 7NK688 C: H I H=6G H IH6 : C9 6 L I= DI=: G69KD868N
 GDJEHA@ I=: 6I DC6A JI HB HHD8 6I DC I=: D6A
 I DC; DG+6; C9H 6C9 8 6GI=NH : C: GI DC : HBJ:

AI=: H DG 6C 06I DCH 8 I: HB A6G6C: 89DI: H 8= AD G C L =D 6EE: 6GIDH=JI 9DL C 6C9
 : M# 7 I H CHD; 6JI H 87: =6K DG B B : 9 6I: AN6; I: G7: C K688 C6I: 9 6HECD; JI HB
 C: A@ DI=: GH 6ADED CIHIDGHC 6I: HD; 6JI HB L =6I B 6CNE6G CIH86A6C: E 9: B 8
 6H: K 9: C8: I=6I K688 C: H6G ID7A6B : C6AN JI HB C: 6HH GHI=6I I=: 8DC9 I DC H
 EG K: CI67A 6C9 IG 6I67A 6C9 I=6I I HI=: IDMCH C K688 C: H6C9 I=: H=: G CJB 7: GD;
 8= AD=DD9 K688 C: H I=: G 8DB B : C9H K688 C: H C 9DH H 7NI=: 6 : D; JE
 ;CDB ; DJGK688 C: H C I=6I 8DB 7 C: ID86JH 9 H 6H C8: G 6 C H CHI K: 8= AD G C
 , =: GG=: IDG 8 D; I: C J C9: G D: HHJ 7IA H : I; H: HE: 8 6ANL =: CI=: HB : CI 8: K 9: C8:
 7: 8DB: HIDD K: GL =: AB C DC DC: ; CCI DG6C DI=: G ; I: G6AAH5N C NDJ G 6 6 CH K68
 8 C: H9D: HH6GI IDHJ C9 8C6N: K CID 6E6G CI C9 HG HDK: G68= AD H6JI HB - CI AG 8: CIA



=6K ;DJC9 CD96I6I=6I AC@HI=:

B : 6HA HB JB EHGJ7: A6 K688 C: ID
6JI HB 5HMHJ9 : H=6K ;DJC9 CDIG68:
D; 6C 6HHD8 6I DC 7: IL : : CI= B : GD
H6A 6 EG H 6K6I K: 8DC16 C C : I=NA

B : C8JGNI=6I L 6HJH 9 C K688 C: H
JCI A 6C9 6JI HB 6C9 I=G :
DI=: GHJ9 : H=6K ;DJC9 CD C9 86I DC

I=6I I= B : GDH6A86JH H: K: C HJ7IA
C: JGDAD 86AED7A B H, =: HD 86AA9
: E 9: B 8 G H 6G8=: GH6HH CI HI=:
G HJA D; B ECDK: 9 9 6 CDHHL = 8=
=6H 9: CI : 9 6H6JI H 8 B 6CN@9H

L=D DC8: B =I=6K 7: : C A7: A 9
B : CI6ANG I6G: 9 DG2JH EA6 CHDL
C; 68I I=: CDL C 7D9ND; H8: C8:
C9 86I: HI=6I I=: 6JI H 8HE: 8IGJB

L = 8= B 6NL : AIIJC DJI ID: C8DB
E6HH K 6A9 H8 I: 8DC9 I DCH B 6N
A6G : AN7: : C: I 8 C DG C C EGA
I=: DJCC6A EJ7AH=: 9 IL DHJ9

: HI=6I 6C6AN: 9 I=: : C: HD; 6AB DH
E: DEA 6C9 9: CI : 968DB B DC
: C: I 8 K6G 6CI EG H CI C 6EECDM
B 6I: AN E: G8: CI D; 6JI H 88= A9 G C

JII=6I=6HC I HDEE: 9 6HB 6CN6H
DC: C; DJG B: G86CH; CDB 7: A: K C
K688 C: H86CED HDC@9H 688DC C ID
6 HJGK: N C9DJIG 68= 7N 6HH

DDIHDG 6C 6GI DCHA@ JI HB C: H
67 G 6HDC L=N
II= HN 6GH JI HB C: 8DC;: G C8:
C = 86 D 06H=: 9 B DG I=6C DC8:

DC 6GA+6 6CH 9: 6D; I=: EDL: GD; 6C
JCHEI H : 9 B : 9 86AC: : 9 : 86JH
6 B 6HHK: G H 6G8=: fFDG =6HN I ID
G K 6AI=: EG 8 H 86JH HD; 6JI HB

EH J9D HB: C8: =6HH: EE: 9 6 G H
HK: AN CID I=: KD 9 C I=: =6AL 6NH
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H6A HE: DEA HGDK: ID 86I8= B N: N:

6H L 6A@9 E6H 6 ADC AC: D; 7DDI=H
E I8= C : K AN= C ; CDB K16B CH6C9
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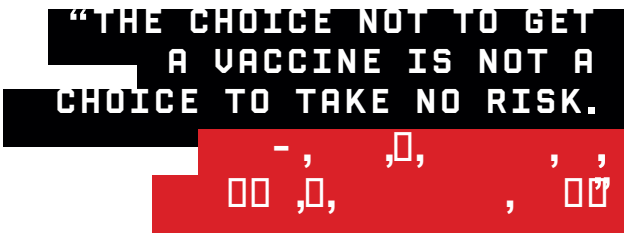
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;QDB GQDC6 L=D CIGD9J8: 9 B: ID=: G N 6GDA9 G 8DK: G 9 6JI H 8HDC 67G =I
7A: : N 9 IDL =: 69: 9 7DNL =D= I= H=: 69 DCL 6AAH F=: H 9 7: ;DG =: H 6G: 9 : II C
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I=6I E=GHC L =6I HDJC9HA@: FJ KD86I DC H2JH: CDJ =ID6ADL 9DJ7IHDICDI DCAN
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GH@N67DJI K C IDDB 6CNK688 C: HIDK: QNNDJC 8= A9G C C IDDH DGI 6I B : EED
C: CIH6G J: I=6I; DG HDB : 8= A9G CI=: 8JG CI
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B CDI 6CI K688 C: 8 6GI=NH6NH B
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699G HH6I I=: JI HB C: 8DC;: G C8: I= HN 6G
2JH 6HHF=: =69 C +=: 9G L 6 H 6C9 C
QDB DCAN8GDL 9 B 6CND; L=DB @DL =: GCDI
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G6CIH , DDB 6CNIDMCH CI=: 7D9N86JH C: JQAD 86AEGD7AB H ADD@6I OON H7DJCC:
; DG =GH HH6@ 6C9 8: A7G1N6AN G H=: HI=: 6CI K688 C: B DK B : CI HB DH EDEJAG
E I8=B 6C 6C9 EG II : H ; 68:
6G76G 2D: H=: G 7N8DCIG6H H C9 HEJI67ANI=: B DK B : CI H7G 6 C H=: G HI=:
8D; DJC9: G6C9 EG H9: CI D; I=: 6I DC6A 688 C: C; DGB 6I DC : CI: G C. : CC6 . G C 6
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A @ F @ M H 9 G I ; ; 9 G H C B H 5 H D 5 F A 5
7 9 I H 7 5 @ C A D 5 B 9 G A 5 ? 9 J 5 7 7 B 9 G C D B ;
H C D C 7 ? 9 H I ; 9 D F C H G G @ 8 7 F C I G H C f i H
. 5 7 7 B 9 G 5 : H 9 F 5 @ 5 F 9 ; J 9 B C B 7 9 C F H K 7 9
C F H F 9 9 H A 9 G B 5 @ 9 H A 9 5 6 9 H 9 G 8 F I ; G
B 9 I F C @ ; 7 5 @ F I ; G 2 D H C F . 5 ; F 5 9 J 9 B
C ; 5 B 9 C H f i H 5 H 5 @ F ; 9 B I A 6 9 F C : D 9 C D @
I @ 9 J 9 F 9 M 5 M K 9 F 9 H 9 A C B 9 M G
, 5 H G B C H H C 6 5 M J 5 7 7 B 9 G 5 F 9 B H D F C H
5 6 @ C H 5 , 9 E 7 C G H 5 @ H @ I B 8 9 F O 5 8 C @
H C A 5 ? 9 5 7 7 C F 8 B ; H C f i H 9 F ? ? 5 G C C @
5 H C H 5 @ C A C F 9 H 5 B A @ C B 8 C @ G B H 9
- A C G H C F O 5 D C D 5 : C @ A 5 F ? I D
C H 5 8 6 I H D 5 F A 5 7 9 I H 7 5 @ C A D 5 B 9 G 8 C
@ @ @ H C : J 5 7 7 B 9 G 5 H 7 C G H C H 9 8 9 J 9 @
B ; K C F @ 5 B 8 B C C A 9 7 5 C @ G ; J 9 H 9 A 5 K 5 M
9 F ? ? 7 C A A H 9 8 O A @ C B B H C
J 5 7 7 B 5 H 9 5 @ @ @ F 9 B 6 C F B B 7 5 F 5 ; I 5 : C F
H F 9 9 M 9 5 F G B 9 F ? ? G F 9 J 9 B I 9 : F C A
C H 5 , 9 E K 5 G O A @ C B 9 5 B K @ 5
6 @ 7 ? 6 I G H 9 F 8 F I ; @ 9 (N 9 F G 2 D H C F G 5
O 6 @ C B 5 M 9 5 F 6 I G B 9 C G

, C I B 8 9 F G 5 B 8 9 L 5 7 H @ M f i H 6 9 7 5 A 9 5
G 7 9 B H G H M C I A I G H C 6 5 ? ? A C F 9 H 5 B 5 @ 5
7 9 B H F M H C , 5 H K 5 G K 9 B 8 C 7 H C F G B
f i H G C A 9 H C K B C : 5 @ A C F 9 C D 9 F 5 H 9 8 C B
C B 9 C : G @ H C 7 C F 9 7 H 5 7 @ 6 : C C H F 9 E I F
B ; A H C D 9 B 8 H F 9 9 K 9 9 ? G F 9 7 C J 9 F B ; B 5
7 F C B 7 7 5 F 9 : 5 7 @ M K H C H 9 F 7 @ F 9 B
5 @ : K C A 5 8 D C @ (5 F 9 B H G K 9 F 9 5 @ K 9 8

H C J G H I G H C B 9 C I F 5 K 9 9 ? C B I B 8 5 M G
! G : 5 H 9 F 5 G F H G 5 @ C A 5 B 7 5 A 9 K 9 B 9
7 C I @ ! G A C H 9 F K C K 5 G D F 9 ; B 5 B H K H
G 6 F C H 9 F 5 B 8 C C D H 5 @ 9 8 K H 5 D D 9 B 8 7
H G K 5 G I B 5 6 @ H C J G H 5 H 5 @ 9 K 5 G M 9 5 F G
C @ H K 5 G 5 D F 9 H M @ B 9 @ M C C @ H B ; 9 L D 9 F
9 B 7 9 f i H G 5 M G I H K 5 H K 5 G 9 J 9 B K C F C @
K 5 G @ C ? B ; 5 H H 9 @ C H 9 F 7 @ F 9 B K C
K 9 F 9 I G H C F F 6 @ 7 F D D @ 8 5 B 8 8 G ; I F 9 8
6 M D C @ , 5 H A 9 A C F M 9 G 5 M G K 5 G H 9
F G H H B ; H 5 H 8 F C J 9 A H C K 5 F 8 5 7 5 F 9 9 F
B D 9 8 5 H 7 B : 9 7 H C I G 8 @ 9 5 @ G
, 9 F 9 K 5 G C C A 9 H B ; 9 @ H C C F C A
5 B 9 5 F @ 5 ; 9 f i H 9 A 6 F 5 7 9 8 H 9 @ ; 7 5 B 8
9 @ ; 5 B 7 9 C : H 9 G 7 9 B H 7 A 9 H C 8 7 9 B 7 9
A 6 I 9 8 5 7 5 C H 7 K C F @ K H 5 B C F 8 9 F H 5 H
9 : C I B 8 F 9 5 G C I F B ;

5 H @ J 9 8 5 6 C I H G 7 9 B 7 9 K 5 G H F 9 5
@ C B 1 C I 5 J 9 8 5 H 1 C I C H 5 B 8 6 5 7 ? 5 B 8 M C I
8 G 7 I G H 9 G H F 9 B ; H 5 B 8 K 9 5 ? B 9 C @ G C :
H 5 H 8 5 H 5 , 9 F 9 G I G H C C A 9 H B ; J 9 F M 7 5 @
B ; 5 6 C I H H 5 H 9 G 5 M G 1 C I : C F A I @ H 9 5
M D C H 9 G G M C I 9 G H 5 @ 6 I F 8 9 B G C : D F C C :
M C I G 6 9 7 H M C I F M D C H 9 G G H C F ; C F C I G H 9 G H
B ; 1 C I J 9 ; C H D 9 7 9 G C : 5 D 9 7 9
D I N N @ H G 6 9 5 I H : I @ 9 5 @ M

, 9 F 9 K 9 F B C 8 C 7 H C F G B H 9 f i H : 5 A
@ M 9 8 9 7 8 9 8 H C 6 9 7 C A 9 H 9 F C H B
K 9 B 9 K 5 G 5 B B H 9 F 5 H H 9 @ F 9 B G ! C G
D H 5 @ : (H C 6 I F ; 9 K H B 9 C C 9 8 H 9 @ 9 7
C B 8 9 J 9 B H H 5 H K C I @ 8 9 H D F A B 9 G 7 5 F 9 9 F
D 5 H H 9 8 9 5 H C : 5 @ H @ ; F @ F C A 5 F C H 5
J F I G B : 9 7 H C B H 9 F 9 K 5 G 5 G M H B C J 5 7
7 B 9 , 9 7 @ G A C H 9 F 5 8 6 9 9 B 8 @ 9 B H
7 5 @ B ; 9 F D 9 8 5 H F 7 5 B I G H 5 : 9 K C I F G
5 : H 9 F H 9 ; F @ : 9 J 9 F J C A H B ; 5 B 8 8 5 F
F 9 5 5 6 9 ; I B H @ 6 M H 9 H A 9 H 9 ; F @
K 5 G 5 8 A H 9 8 G 9 K 5 G H C 8 9 M 8 F 5 H 9 8 H C
5 J 9 5 B B H 5 J 9 B C I G @ 9 B C @ F H 9 8 C 7 H C F G
H F 9 8 9 J 9 F M H B ; H C F 9 M 8 F 5 H 9 F B 7 @ 8
B ; G H ? ? B ; 5 6 C B 9 A 5 F F C K B 9 9 8 @ B H C
9 F H 6 5 H C B 9 7 H : @ 8 G 9 8 9 8 C B H 9
H 5 6 @ 8 8 B H F 9 5 @ 9 H ? @ 8 7 @ F 9 B B
H 9 - B H 9 8 H 5 H 9 G f i H G 5 M G F 9 A 9 A 6 9 F
B ; C K H 9 ; F @ C A C H 9 F 5 : H 9 F 9 5 F B ; H 9
H 9 F 6 @ B 9 K G 7 5 A 9 B H C H 9 F C C A 5 B 8 9 @
9 F 8 5 I ; H 9 F G 5 B 8 , 5 H F @ A 5 ; 9 K 5 G
5 @ 5 M G B A M 9 5 8

, 9 H F 8 : C F A 5 H J 9 A C A 9 B H : C F :: H
7 5 A 9 B H 9 @ H G K 9 B 9 A 9 H 5 I F 7 9
! @ A 5 B H 9 A C G H 6 F @ 5 B H J 5 7 7 B 9 A 5 ? 9 F
C : H 9 H 7 9 B H F M ! @ A 5 B 5 B C H C F
C I G @ M C I @ C I H 9 8 ; 9 B I G K C H C @ 8 : C F
M 9 5 F G B H 9 (@ 8 9 @ 5 @ 6 G C : 9 F ? ?
B J 9 B H 9 8 J 5 7 7 B 9 G H C D F 9 J 9 B H A 9 5 G @ G
A I A D G 5 B 8 H 6 9 @ 5 B 8 @ H 9 F 7 5 A 9 I D K H
H 9 7 C A 6 B 5 H C B C : H 9 H F 9 9 H 9 ! 9

7F95H98 J577 B9G:CF 9D5HHG 5B8 ! 6
7 7?9B DCL DB9I A C7C77I G 5B8 A 9B B; C
7C77I G! 96975A 9 fHGA 9BHCF4 fHh@H9F
6975A 9! @A 5B G6 C; F5D 9F

fHh69@J9G BH 9DCK 9FC; ; CC8 GCFM
H@B; K 7 GK M 9KF H9G6CC?G J9CC
:5F! 9895F@K 5BHGC DI @D9CD@ BHCH 9
9L7 HB; A M9F 9GH 5HG7 9BHGGK F9GH@
K H 9J9FM85M! 9 K5BHGI G5@C I B89F
G5B8 H 5HJ577 B9GK CF? 6M BHFC8I 7 B; 5
K95?9B98 GH5 B C: 5 D5FH7I @F J FI G BHC
H 9 6C8M 5 CH5 B CC K95? H 5H H75BBCH
A 5?9 I GG ?? ! 9 K5BHGI GHC F9J9@B H G
A F57@C: BC7I @HCB K 7 75I @GCI F
A A I B9 G M9DA GHC DFC8I 79 5BH6C8 9G
5B8 89J9@D A 9A CFM79@ H 5HA CI BH
5 89:9B@ : K 9 @H9F 9B7CI BH9F5 @9 J9F
G CBC: H 5HJ FI G

HG95GMHC@9K M fHh9@G D97 5@F 89
K 9B 5:H9F M95FGC: F9@5F7 5B8 H9CH
B; 95B8 HKC 7C@5; I 9G F98 @F? 5B8
H5B@M @F B C B98 H 9F5B?GC: H 9J57
7 B9 BJ9BHCFG B 96FI 5FM CH5, 9E
K5G5DDFCJ98:CF B7@G CB BH 9- J577
B5HCBG7 98I @, 9 J577 B9:CFCH5J FI G
K 7 957 M95F? @56CI H 7 @
8F9B B DCCF7CI BIF 9G5B8 56CI H 7 @
8F9B B H 9- DFC656@M G5J9G I B8F98G
C: @9G5 85M

I HB79H5 B7 F7@G CH5, 9E GBC; F5B8
577CA D@G A 9BH B@H58 H G Cff9F98 5G
3L 6 H BH 975@5; 5 BGH fHh DFCJ B;
G FF9899A 56@6 5G5B8 G7CFHI DH8
DC BHC: J 9K - G B; H G F95GCB B; C:
7CI F@ 5HCB 5B8 F7? KCI @69I BF9
@6@CB; 9B9H7G6975I @H 9 C69@F N@
K BB9FG 58 5 J9GH8 B@H9GH B; 9B9H7
F9@5F7 I H89CD H@H 9 @; 7 H 95F; I
A 9BH 5G 58 GCA 9 CI 779GG CBG 89FH 9
G 8J GCFM CA A H99 CB A A I B N5
HCB (F57H79G K 7 F9J 9K GB9K J577 B9G
5B8 58A B GH5HCB G7 98I @G 57? BH 9
@H G5B8 95F@M G fHhK5G5 A 9A 69F
C: H 9D5B9@5@B; K H 9LD9FHG B B:97HCI G
8 @5@G J FC@, MA 7FC6 C@; M5B8 A A I
BC@, M CK H 9 D9FCB D5B9@GA 589I D
A C@H@C: CH5@9D 89A C@; CH5B8 DI 6@
95@ Cff 7 5@
, 5HGBCH6M577 89BH 77CF8 B; HC G7
9B79 CI FB5@GH 7 59@D97H9F 5I H CFC:
H 9 B9K 6CC?

* H 97CB
HFCJ9FCMCI FFCI B8 B; J577 B9 @5:9HM 5G

A 589 @7? C: 9LD9FHG@5 F9EI F9A 9BHK 9B
7 CCG B; A 9A 69FGC: DFCA B9BH58J GCFM
D5B9@CB H 9 GCI 9 HGG C7? B; D97
H9F G5MG 9 @9 B 5 7CI BHFMK 9F9 HG
57H 5@5 89IF A 9BHHC 695B 9LD9FH56CI H
GCA 9H B; 9B 9LD9FH@ G8 A B G 98
HC CI 7 5B 9LH@BH FF5HC B5@HM5B8 :95F
75B FI B 5A C?

! 9B79H 9895H H F95HC5; 5 BGH 5I @fHh
I FH2 B89FA 5B F H 9 C@HC: 2 B89FA 5B
2 J9 CB I HGA B9 58 C5B8 H 998 HCF
C: 5 6@; 75@8 H 9 I HGA @ F979BH@M
K FCH@CB@9H 5H HKCI @ 69B 79 : fHh
K5G8958

8 A 9H2 B89FA 5B 5H I HGA B9 ! 9 8
; J9B G75F8 HC A 95GK 9 GHCC8 CI HG 89
H 9 9GHB ! 5F9 H5@B; 56CI H G5I HG
H7@CB 9@9 B 5 J9FMHCL 7K CF@ 9 8
HC@A 9 DI fHh; CB 5 7; 5F9H@
HK5G 5F8 HC5F; I 9K H H 5H

fHh 5GC775
G CB5@MA 9H5 J577 B9 9 8C9CB H@9 B
K 9B 9 K5GCH@5 A 9A 69FC: H 9
G58J GCFM7CA A H99 H 9 I G 58A B
GH5HCB K5G@66MB; :CF5 DFC; F5A HC; J9
H 9 GA 5@DCL J577 B9 HC@BGC: H CI @5B8G
C: A 9F 75BG 95FC: 6 CH@FFC GA K5G
F5A D5BH 5B8 9J9FMCB9 JCH@8 B :5JCF
9J9FMCB99L79DH fHh, 9F95CCB ! 9:95F98
D9CD@KCI @8 9 B8 9 8 B H?99DEI 9H
56CI H G F9@9FJ5HCBG A 5? B; 5DD95F
5B79GCB * 5B8 , *

, 9DFC6@A K H H 9 J577 B9 9 @5 8 G
H 5H CB9 B9J9FMA @CB D9CD@K C; 9HG H
8 9G CF9CJ9F 9 @5 8 6975I @GA 5@DCL
GJ G6@K 9B HGJ 7HA G5F9 7CBH5; CI G
H GA 5F?98 6MCD9B GCF9G CI H5F95?G :
H 9F9J9FJK 9F95BM 7CI @69EI 7?@7CB
H5 B98 5B8 H 9F9K CI @69D@BHMC: HA 9HC
69; B J577 B5HCBGH 9B DF9J9BHJ9J57
7 B9 9 @5 8 K5G5; F95H9FF G? H 5B H 9
F G? C: GA 5@DCL

F G? HGH 9 895 H 5H: I 9@H 95BH
J577 B9 A CJ9A 9BH H 5HD5F9BHGG CI @69
5@K 98 HC@DHC I H6975I @H GH 9 FF; HHC
9J5@5H9 F G? :CFH 9 FCK B7 @F9B HG5@C
H 9 895 H 5H B89F@GH 9 GJ577 B5HCB
G7 98I @ H 5HH 9 F G? HC DI 6@ 95@ G
HCC; F95HC5@K B8 J 8I 5@CB96MCB9 HC
A 5?9 897 G CBGH 5HK @A D57HH 9 F7CA
A I B H9G , 97CB79DHC: 9F8 A A I B HMG
?9M 9F9 H C@GH 5H B 8 @5@G D5G@8
: FCA D9FCB HC D9FCB H GA CF9 8 fHh 7I @
HC A 5 BH5 B 5 7 5 B C: B:97HCB K 9B @F; 9
BI A 69FGC: 5 DCDI @HCB 5F9 A A I B 9

G? G5@CH 9A CHJ5HB; 895 B fHhG
@9 , G G5 A 5B 5:HF5@K C CDH@8 HC; J9
GCK B HKC 7 @F9B BCK H9B5; 9FG H 9
OI J577 B969:CF9 HK 5GF97CA A 9B898 :CF
H 9 F5; 9; FCI D M 975I @H 9 F G? C:
5FA : G7 @F9B; CHG7? K5GHCC; F95H
fHh @99J9FMCB99@ K @B C5BMH B; HC
DFCH@7H G7 @F9B B8 9 K5BHG A 9F
75BGHC 69:I @D8I 75H@8 56CI HF G? 5B8 BCH
CC8K B?98 BHC H B? B; H 5H8FCDD B;
J577 B9G?99DGH 9 F7 @F9B @5:9 , 9
7 C 79BCHC; 9H5 J577 B9 G 5 7 C 79HC
H5?9 BCF G? 9 @5MG HG I GH5 7 C 79HC
H5?95 # F G? 5B8 K 9 B998 HC 69 69H
H9F56CI H@5MB; ! 9F9GK 5HH 5H8 ff9F9BH
F G? @C?G@9 MB; C: ! 6 A 9B B; HG G5
CFF 6@ I; @K 5MHC 8 9

9HB; H 9A 95G@G GBCK5@ BH 9D5F?
9 H 9F BHC CFMCI CFH C@K C7CA 9B95F
MCI B 5 M95F C@ B8 5B5; F@CH
B:97H@8 CB5 HF DHC I 7 5F9GH CA 5B 5 B
H 9F9H FB0; H CA 9 G 9K5G7CB; 9G@8
7CI; B; 5B8:9J9FG 6I H 58 BC F5G , 9
B9LH85MK H CI HF95@NB; G 9 K5G7CBH5
; CI G G 9 K9BHHC 5 7 I F7 ; 5H 9F B; C:
D9CD@ 9K5GH 9F9 I GH5:9K CI FG
: H 9 D9CD@DF9@9BH 56CI H 58
9 H 9F699B J577 B5H@8 CF 58 89J9@D98 5
B5H F5@A I B HM, K CD9CD@ BH 5H; FCI D
58 J577 B5HCB :5 @F9 5B8; CHA 95G@G
, FHMHC D9CD@K C 58 BCH699B J57
7 B5H@8 5B8 H 9F9:CF9 58 BC F9G GH5F79 HC
A 95G@G5@C; CHG7? 8 H 9; F@B7CI B
H9F957 C: H 9@D9CD@:579 HC :579 B 9F
6F9: J GHCH 9D 7B 7 C @MCI 5J9HC
8CHC; 9HH 9 A 95G@G GHC B 56 HH 9 5 F
@D579 C: 5 7CBH5; CI GD9FCB K H B HKC
CI FG C: H 9A 69 B; H 9F9

, 9:F; H@B B; AD@5HCBGC: H G? B8
C: 5B978CH@K 9F9 @GH5H@8 6M5 CH 8M
DI 6@G 98 B * *
2CC? B; 5H 75@GC: A 95G@G B
H 9 9H 9F@B8G H 9 GH 8M:CI B8 H 5HH 9
F G? C: 7CBH57HB; H 98 @5@K 5G@K 9F :
MCI K 9F9 7CA D@H@M BJ577 B5H@8 5B8 @
B; B5; @U577 B5H@8 7CA A I B HMH 5B
: MCI K 9F9 7CA D@H@M BJ577 B5H@8 5B8 @
B; B5F9@HJ9@M BJ577 B5H@8 7CA A I B HM
M 975I @H J577 B9G8CB H5@5MGH5?9
5H8C9GH 5HA 95B 1CI 75B HA B A N@
MCI F B8 J 8I 5@G I B@G MCI F 9F8 MCI F
: F9B8G5B8 B9; 6CFG 5@C 6I MB
(9F79 J98 F G? CI F 7 5B; B; F9@HCB
G DHC H5B8 CI F B7F95GB; BHC@F5B79C:
H 5HH 97FI LC: J577 B9G@5:9HM7CB79FBG
BCHC A 9BHCB F9@H@8 :95FGC: D9GH7 89G
; 9B9H75@A C8 98:CC8 5B8 7@B B; 5

FCB \$51 : A 5B 5 A 98 75 @BH FCDC@; CH5H
 - 5B F5B7 G7C C6@FJ9GH 5HCI F7CB79DH
 C: F G? 5G9JC@98 : FCA 5B 9LH@FB5 @H F95H
 H 5HGC I HC: CI F7CBHC@H B? G5HGH75@
 DFC656 @MVC: 5 D@B9 7F5G HC GCA 9H B;
 H 5H75B 69 A 5B5; 98 5B8 7CBHC@8 : K 9
 I GHA 5?9 H 9 F; H897 G CBG 95H@CG: 5H
 5B8 MCI @@J9 @B; 9F A DFCJ98 8 5; BCGH7
 H@GG 5 7 5B; 9 B 7CB@A 9F5K 5F9B9G 5B
 5; B; C7 9H@B9H@FA B98 HC@5M@MCI H : I @
 5@5J97CBHF 6I H@8 HC H 9; FCK B; D9F79D
 HCB H 5HF G? C: 895H @@9G 577 89BH G
 CI F@GDCBG 6 @MHC F98I 79CF9@A B5H@ B
 H 9 C@CF89F F G? A 5B5; 9A 9BHK 5G B H 9
 5B8GC: MCI F8C7HCF CF C8 - B89FH 9
 B9K 8 @D9B@G@HCB HG5@D HC MCI 5H
 5F9H 9C88GH 5H@MCI F7 @K @@95I HGH7
 HG@MCI F C6 HC A 5B5; 9H 9A GC; 9HH 99HC
 H 9 B@FB9H 5B8 : 5GH
 , 9H A 9FC@ @9657@9L579F65H@8 H G
 H@B89B7MD5FH7I @F@K 9B H 9 A 9F 75B
 7589A MC: (98 5H 7G5B8 H 9(I 6@! 95@
 9FJ 79 @G 98 5DCCF@K CF898 @5H@A 9BH B
 H 5H@5 8 7I F@9BH@J9@C: H A 9FC@ @
 K @BCH I FH7 @F9B 6I HF98I 7 B; H C@
 @J9@K @A 5?9 G5: 9J577 B9G9J9B G5: 9F B
 CH 9FK CF8G H 9F9 GBC G7 9BH 79J 89B79
 K 5H@C9J9F 6I H@MCI B9J9F? BCK
 9B G7 9B7975A 9CI H5B8 G5 8 - C
 H 9F9 A 5M695 F G? H 9 G5; 9K 5G5 @958M
 @H \$51 : A 5B @5M@ B@H@; H 5HA 5BMD5F
 9BH@: 9@ HK 5G F@GDCBG 6@ HC 5J9
 8CI 6HG HK 5G(5B8CF5 G6CL
 , 9 F9G @ GH 5HG7 9B79 A I GHGCA 9
 CK DFCJ9 5 B9; 5HJ9 H 5HJ577 B9G8CB H
 75I @5I HGA K 7 GBCH CK G7 9B79
 HMD 75@M@K CF? G 38K 5F8 9BB9F BJ9BH@8
 J577 B5HCB B K H GGA 5@CL BC7I
 @HCB4 HK CI @69 M@5FG69: CF9 G7 9B79
 G7 5G HK 5G I B89FG@C8, - H 9J577 B9
 KCF? 98 5B8 HK CI @69 9J9B @B; 9F69: CF9
 H 9GD97 775I @C: GA 5@CL 7CI @69 GB
 ; @8 CI H - BH @H 9 75I @C: 5I HGA G8 G
 7CJ9F98 G7 9BH@G@75B 9CF56@ CB@H 5H
 J577 B9G5F9 G5: 9 5B8 H 5HH F9G C@ 5G
 5@958M699B A 9H
 , 9; CJ9FBA 9BH GGH@CBG 89F B; :I B8
 B; A CF9 F9@5F7 HF 5@HC @C? : CF 5 7CB
 B97HCB 69HK 99B J577 B9G5B8 5I HGA , C
 \$51 : A 5B H 9F9 G@CA 9 I GH 75HCB: CFH G
 ; J9B H 5H HA 5M69 H 9CB@K 5M@C 588F9GG
 9J9F@CB9 G8CI 6HG I HH 9H A 9FC@ @5B 7
 G ; ; 9G@H 5H : 6I B; @8 G7 7 HF 5@7CI @
 A 5?9 5 658 GH 5HCB KCF@ , C G7 9BH@G@

@9 fih: I FH 9FGH 8 9G5F95@C5 K5GH C:
 DF97 CI G G7 9BH 7 F@CCI F79G BCH@A 9B
 HCB H5LD5M@FG A CB9M, 9M@5?9 : I B8 B;
 5K5M@CA A CF9DF9G@B; A 5H@FG B7@8 B;
 H 9 @5F7 : CF 5I HGA GF95@5I @
 @ fihK 5G5G? 98 HC 9@DI H
 HC; 9H 9F5 F9: 9F9B79 H@LHC B J577 B9G D9
 7 75@M G7C@5; I 9GK 5BH@8 A H@K F H@
 5 7 5D@FH 5H5@G@G@8 H 9 75D57 HMC: H 9
 I A 5B A A I B9@M@A HK 5G5 MDCH 9H
 75@L9F7 @ 5HK 5GH 9A 5L A I A BI A
 69FC: J577 B9GH 5H5 D@FCCB 7CI @ 5B8 @
 , 9DC BHK 5GHC 5FA 8C7@FCGK H B: CFA 5
 HCB H 5H7CI @ F95GCI F9 D5F9BH@ fih@C@H
 CI H@C 89H@FA B9 HK C: 57H@CF CK A 5BM
 79@K 7 A 5?9 5BH6C8 9G 5 D@FCCB 5G
 B 5 A @@DFC: 6@C8 5B8 CK A 5BM8 :
 : 9F9BH@D HCD9G H 9 D5FHC: 5 657H@F I A CF
 J FI GH 5H GF97C; B N@8 6MH 9 A A I B9@M@
 H@A H 9F9 5F9 B5 J577 B9 , 9B 975A 9I D
 K H 5 FCI ; 9CHA 5H 5 D@FCCB 7CI @ 5B
 8@ J577 B9G CFI DHC J57
 7 B9G5HCB79 I F99BH@H 9A C@HJ577 B9G
 7 @F9B F979 J9 5H5B@M@C9 HA 9 G J9
 ! 95@CDI 6@ 98 G B8 B; G B
 CCB H 9 BI A 69FK 5G5H57 98 HC fih@9
 5G75F@H@H@F , 9 BI A 69FA 5?9G
 A 9 GCI B8 @95 A 58A 5B 975I @H 5HG H 9
 A 5; 9 G CHG@H? B; CI HC: MCI HG
 5B5K : I @A 5; 9 fih@5M@ 5BMD9CD@
 B7@8 B; D9CD@K C5F9 CBA M@G 89 5J9
 7FH7 N@8 A 9: CFH 5H I H K5GB5 J9 BH 5H
 5FH7@ K 5G69 B; 5G? 98 H 9 EI 9GHC B 5B8
 H 5H H 9 5B@K 9FHC H 9 EI 9GHC B
 H@ 9 5CB H57? 98 CF ! 9: 99@H 5HG7
 9BH@G@ 5J9 H@K CF? 5F89F5HK BB B; CJ9F
 H 9 DI 6@ HGCI F@GDCBG 6 @M@C G5B8
 I D: CF; CC8 G7 9B79 , CI; HGBCHK 5H
 K 9 F9H5 B98 HC 8C 9G5M@ 58A H@B; H 5H
 GCB9F9; F9H56CI H *
 GH 5H H8 8B H C@G7 9BH@G@577CI BH
 56@: CF@H@B; : 95FC: 7F H7 GA F9B89FH 9A
 A I H@ 9HCI HH 9F9 , 9F9 GBC J9BI 9 HCC
 GA 5@ G@CA 9CB9 CB79 G5 8 HK CI @69 5
 J9F@M@I 9HCF9@H B8998 : H 9CB@6 F8GH 5H
 G5B; K 9F9 H C@H 5HG5B; 69GH
 C fih? 99DGG B; B; @B H 95: F5 8 C:
 H C@K C K G A 5FA A B@H 5H
 6F5J9 9G5M@ : F95 @H CI; HA M@9
 K 5G5HF G? CFA M7 @F9B G @9GK 9F9 5H
 F G? K CI @B H8C H CH: CF 5 @7CB8
 5M69 957? BCK @8; 9G 9 G B 89B 5@
 25H@F 5G? GK : 9H 9 G5A 9 EI 9GHC B
 9B H7CA 9GHC 9F I G5B8 GK 9@F9
 CBB 9 fih G 9F79@DF@H J9 D98 5
 HF 7 5B K H 5 H F J B; ; FCI DDF57H79 G 9

CH @A 5?9GHA 9HCA CB HCFH 96@; C@D 9F9
 ! 9F I G5B8 F9: I @GHC F958 H 9 5H57? G
 9K 5BH@G@69 @J9H 5H: MCI ?99D MCI F
 B; 9FCB H 9 DI @ 5G 9 DI HG H MCI 75B
 ?99D MCI F @J98 CB9G@5: 9
 H @G 9K CFF 9G BH 9 85M B8 A M@9@
 G H@B; 5H 9F8 B B; FCCA H56@ 9J9FM@CBH
 D5; 9 BH 9 B5HCB: 95H F9G5B 5FH7@56CI H
 9CF; 9, @BF H 9 56CFHCB 8C7HCF; I BB98
 8CK B5H G7 I F7 B 7 H5 \$5B@G 9B
 9F I G5B8 @5J9GH 9 FCCA CBB 96FB; G
 I DH 9? @B; H I D@HGA 9 G 9 G5M@ @C?
 B; 5K 5M 8 8B H@J9B H@ @A H 5H I H H
 56@C@H@M@ D@HGA 9
 ! 9F I G5B8 A 95BK @ GH @ @G9J9FM
 A CFB B; 5H 5A 5B8 958GHC GGA 5@H8M
 CH 8MB5 @5F9 698 FCCA 3J9F@A CFB B; 9
 @D9B8G5 7CI D@C: CI FGK CF? B; CB K 5H
 K @@9 GGLH 6CC? 5 GCFM@: H 95BH
 J577 B9 A CJ9A 9BH fih; 9HG9L7 H@8 K 9B
 9 H5@G56CI H H
 B H 79BH FM3B; @B8 9 9LD@ BG
 9BB9F GGA 5@CL J577 B9 K 5G? BCK B HC 69
 9F97HJ9 I H89CD H@H 9 CA DI @CFM 577
 B5HCB 7HC: A 5BMD9CD @GH @9: I @8
 HC H5?9 H 5B8 H CI @5B8G8 98 I BB979@G5F
 @M , 5HK 5GH 96 FH C: H 95BH J577 B9
 A CJ9A 9BH 9 G5M@ 588 B; H 5HH 9B 5G
 BCK H C@5HH 9: CF9: FCBH K 9F9; F95H5H
 A 5GGA 5F? 9HB; HK 5G5 DF BHCF 9BH@8
 CC7 9HM, 9MK 9F9; F95HD5A D @H9FG B8
 6MH 9 G H 9M 58 8F J9B A A I B N5HCB
 F5H@G8CK B HC H 9 D9F79BH@F5B; 9
 A A 98 5H@M@GA 5@CL HCC? Cff 5; 5 B B
 3B; @B8 5B8 5@G ? @B; B
 F9@B8 5B8 7CH@B8 6M7CBH5GH 8 8B H
 5J9 5BM5BH J577 B9 A CJ9A 9BH5B8 58
 J9FM ; A A I B N5HCB F5H@G5B8 J9FM@H@
 B7 89B79 C: GA 5@CL 8 @5@ 5B8 895H
 9 G5M@ H5? B; 5 6F95H 1 CI 8 @9 H@H B?
 K 9 K CI @ @5FB
 fihK 5BH@G 96CC? HC 697 B9A 5H7 J G I
 5@M@F J9HB; ! 9 69 @J9G : 9FJ9BH@H 5H :
 9 75B CC? D9CD@K H 5; CC8 H I H : I @
 GCFM@A 5M69 H 9MK @56CCF6 G CD9: I @
 A 9G@5; 9 , 9 I A 5B F579 5G: 5798 8CK B
 H G? B8 C: 8CI 6H69: CF9
 ! G65H@G B 5H@5GHC B9 F9CD97H DFC6
 56@5 @GB; CB9 , 9F9K @ @5M@69 A CF9
 @; 75B8 7CB: I GCB H 5B G7 9B79 75B : 9B8
 Cff fihG 895 GHC BC7I @H D9CD @CB9 6M
 CB9 I BH @H 9 J FI GC: : 95F : BCHI @DF5@8
 5H @5GH F97989G
 //
 AMY WALLACE 975 @K MA 5P ; A 5 @CA
 ,) 3GEI F9 , 9 9K
 1 CF? 9F WIRED

PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS
CASE No. 1:09-cv-01398-CMH-TRJ

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA DIVISION)

BARBARA LOE ARTHUR
(AKA BARBARA LOE FISHER),

Plaintiff,

v.

PAUL A. OFFIT, M.D., et al.,

Defendants.

Case No.
1:09-cv-01398-CMH-TRJ

DECLARATION OF BARBARA LOE ARTHUR

I, Barbara Loe Arthur, a/k/a Barbara Loe Fisher, declare under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I am the Plaintiff in the above-captioned case.

2. I am the cofounder and currently president of the National Vaccine Information Center (“NVIC”).

3. I am a resident of Vienna, Virginia, located in Fairfax County. I have resided in Fairfax County, Virginia for the past six years.

4. For the past 28 years, I have been a consumer health advocate, writer, speaker, and media resource for information about vaccine safety, public health policy and mandatory vaccination laws. I do not seek to prohibit the development or availability of vaccines or advise against vaccine use but encourage all to become fully informed about the benefits and risks of vaccines and consult one or more trusted health care professionals before making an educated vaccination or health decision. For the past three decades, I have been a pro-education, pro-

informed consent consumer advocate working to improve the safety of vaccines and public health policies and help health care consumers gain access to comprehensive information about the benefits and risks of vaccines. I advocate for the legal right for all to make informed, voluntary health care decisions, including vaccination decisions. I have authored books and articles. I am the co-author of the 1985 book *DPT: A Shot in the Dark*, which was included as a reference in the Institute of Medicine's 1991 report on *Adverse Effects of Pertussis and Rubella Vaccines*; author of the *Consumer's Guide to Childhood Vaccines* (1997); and author of *Vaccines, Autism & Chronic Inflammation: The New Epidemic* (2008). I have served on a number of governmental vaccine advisory and other committees focusing on vaccination. I was appointed to the position of, and served as a consumer representative on, the National Vaccine Advisory Committee (1988-1991); the Institute of Medicine Vaccine Safety Forum (1995-1998); the FDA's Vaccines & Related Biological Products Advisory Committee (1999-2002); the CDC's Vaccine Policy Analysis Collaborative (2002-2005); the CDC's Blue Ribbon Panel on Vaccine Safety (2005); and the National Vaccine Advisory Committee's Vaccine Safety Writing Group (2009). I anchor with references important information I research, write and publish in the NVIC Vaccine E-newsletter, on www.NVIC.org and in articles and written public statements I make on health and vaccination. I am frequently asked to speak on vaccination and health, mandatory vaccination and the ethical principle of informed consent.

5. On or about June 15, 2009, Amy Wallace contacted me at my home in Virginia. Ms. Wallace initiated the call. My home phone number requires a Virginia area code. Ms. Wallace sought to acquire information for her forthcoming article in *Wired Magazine*.

6. To the best of my recollection, Ms. Wallace's telephone interview with me lasted between 60 and 90 minutes. Ms. Wallace requested permission to record the conversation and I

agreed. Ms. Wallace asked me how I began advocating in the field of vaccines. To the best of my recollection, she asked me questions about my personal experience and my perspective on vaccine science and policies and I explained my belief in the need for better vaccine science which includes investigation into the biological mechanisms for vaccine injury and death, including identification of genetic and biological high risk factors which make some individuals at higher risk than others for suffering vaccine reactions; the need for higher standards for proof of safety and efficacy of new vaccines prior to licensure; a move away from one-size-fits-all vaccine policies and protection of the informed consent ethic in decision making about vaccination.

7. Following my conversation with Ms. Wallace and in furtherance of it, I forwarded her two transcripts from my recent speeches. The first was an April 11, 2008 speech delivered before the National Vaccine Advisory Committee Vaccine Safety Working Group in Washington, D.C. The second was a June 2009 speech delivered at the “Promoting Health Lifestyles Meeting; The Value of Vaccines in Protecting Public Health.” Based on my conversation with Ms. Wallace, I also agreed to send her a copy of my 2008 book entitled, “Vaccines, Autism & Chronic Inflammation: The New Epidemic.”

8. During the course of her telephone conversation with me, Ms. Wallace told me that she had not personally attended my speech at the Autism One conference in May 2009. Ms. Wallace asked me about where she could find a copy of a tape of my Autism One speech. I told her I didn’t know how the speech was recorded and directed her to the conference coordinators of the Autism One conference which is held annually in Chicago, Illinois.

9. Because Ms. Wallace had not seen me speak, I was surprised to read the Wallace November 2009 *Wired* article wherein she described my speech at the Autism One conference as

if she had witnessed it in person. Ms. Wallace's article stated: "At the Autism One conference, Fisher took the podium with characteristic flair. As she often does, Fisher began the story of her son Chris, who she believes was damaged by vaccines at the age of two and a half." Exh. A at 8 (emphasis added). The two speech transcripts I provided Ms. Wallace both began with my son's story. Because Ms. Wallace told me that she had not seen me speak, I believe she must have derived information concerning my past speeches from my correspondence.

10. On June 15, 2009, Amy Wallace emailed me and provided her mailing address to permit me to send her additional information by mail. A copy of that email is attached. See Attachment 1.

11. On June 17, 2009, Amy Wallace emailed me again as a follow-up to our earlier correspondence. In her email she discussed her upcoming deadlines and the need to file her story before the FDA held an advisory meeting. Ms. Wallace expressed her intention to visit me in Virginia. At all times, Ms. Wallace seemed to be aware that I resided in Virginia. A copy of the June 17, 2009 email is attached. See Attachment 1.

Executed on: February 3, 2010


Barbara Loe Arthur/Barbara Loe Fisher

From: Barbara Loe Fisher [mailto:barbloee@aol.com]
Sent: Monday, November 23, 2009 11:15 AM
To: Chris Niederhauser
Subject: Amy Wallace emails

On Jun 17, 2009, at 3:57 PM, Amy Wallace wrote:

Barbara,

Thanks for all this, and for all your time earlier this week. I talked to my editor and he wants me to file the story before the FDA advisory meeting (though it will still be being edited when that occurs, so there will be time to update). So it looks as if I'll be headed to the CDC meeting in Atlanta June 25-6. Will keep you posted as to when/if I can get to Virginia to see you.

I agree with you about being twenty-something (as opposed to more than twice 20-something). Ah, but we wouldn't be where we are if not for having been where we were....

More soon,

Amy Wallace

On Tue, Jun 16, 2009 at 2:21 PM, Barbara Loe Fisher <barbloee@aol.com> wrote:

Hi Amy,

Google revealed that you are NOT Irving Wallace's daughter and that your career as a journalist is a very distinguished one. I enjoyed our conversation and look forward to another. I do hope we get a chance to meet at some point.

We only spoke briefly about the Philadelphia Magazine article but

I am curious if you were as impressed with the talent of observant young Jason as I was when I read his article for the first time. Many parents did not like what he wrote but I thought it was a rather brilliant, sometimes hilarious analysis. He clearly appreciated shades of grey and resisted the black and white approach. Ah, to be twenty-something and that smart with your whole life ahead of you!

Attached is the statement I made this week at the meeting in San Juan of the National Black Caucus and National Hispanic Caucus of State Legislators. Also a statement to NVAC on April 11, 2008.

I'll have the office mail you a copy of my 2008 book.

best,
Barbara

On Jun 15, 2009, at 5:29 PM, Amy Wallace wrote:

Hi Barbara,

As promised, here are my coordinates:

Amy Wallace
6665 Emmet Terrace
Los Angeles, CA 90068

323 851 0991
amywallace323@gmail.com

Thanks for all your time today, and I'll be back in touch shortly.

Amy

PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS
CASE No. 1:09-cv-01398-CMH-TRJ

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA DIVISION)

_____))
BARBARA LOE ARTHUR)
(AKA BARBARA LOE FISHER),)

Plaintiff,)

v.)

PAUL A. OFFIT, M.D., et al.,)

Defendants.)
_____)

Case No.
1:09-cv-01398-CMH-TRJ

DECLARATION OF JAYNE MCELFRISH

I, Jayne McElfresh, do hereby declare the following is true and correct to the best of my knowledge, information, and belief:

1. I am a Licensed Private Investigator and the owner of JMC Investigations, LLC. I am licensed in Arizona, California, and Utah. I have been licensed as a private investigator since 1985. I have been retained as a licensed private investigator in the above-captioned case. The information stated below is based on my experience and personal knowledge of facts within the public record.

2. Defendant Wallace is one of the journalists identified on the News Literacy Project's ("NLP's") website. See http://www.thenewsliteracyproject.org/journalists/amy_wallace/. The NLP is a non-profit organization located in Bethesda, MD. The project mission is to create "partnerships between active and retired journalists and social studies, history and English teachers as well as after-school media clubs." *Id.* The project makes journalists available to teachers in every state, including Virginia, who can elect to have journalists appear in

twitter account, her readers directly communicate with Wallace. *Id.* Wallace is available to all Virginians with a Twitter account. Twitter profiles are free and require a valid email to activate.

5. Some of Wallace's followers are identified by location. Amy Wallace has at least three followers that identify themselves as located in Virginia. *See* <http://twitter.com/msamywallace> (listing Denny Shimkoski, Chantilly, VA; FamiliesFightingFlu, Arlington, VA; and Anthony R. Williams, Norfolk, VA).

6. Wallace interacts with readers through the Wired.com blog webpage. *See* <http://www.wired.com/magazine/2009/10/readers-respond-part4/>. Wallace has claimed on her online posts to have received comments from nearly 500 people concerning her November 2009 Wired article. *Id.* Wallace has authored five blogs on Wired.com concerning the November 2009 Wired article. *See* www.wired.com/magazine/tag/vaccine/. Wallace links to her Twitter account in her Wired.com blog posts. Wired.com provides an avenue for readers to comment and interact directly with Amy Wallace through the blog comment process. *Id.*

7. Defendant Wallace was interviewed on *All Things Considered* by its host Melissa Block on October 28, 2009. *See* <http://tinyurl.com/yhfce24>. A transcript of the interview is available to Virginia residents via the NPR website 24-hours a day. *Id.* Wallace's NPR interview in which she discusses and promotes her November 2009 Wired article is available in full audio 24-hours a day. *See* <http://tiny.cc/P0bxxo>. The NPR program, *All Things Considered*, is carried by WVTF Public Radio broadcasting from Roanoke, VA throughout Virginia. *See* <http://www.wvtf.org/about/index.php> (broadcasting to: Roanoke, Lynchburg, Charlottesville, Waynesboro, Staunton, Harrisonburg, Lovingston, Lexington, Orange, Marion, Wytheville, Galax, Abington, Bristol, Big Stone Gap, Clintwood, St. Paul, Wise, Norton, and Pound). Defendant Wallace has promoted her NPR appearance to Virginia followers on Twitter. *See*

<http://twitter.com/msamywallace> (stating “I just was interviewed by NPR’s ‘All Thing’s Considered.’ Tune in later today.”). Wallace has further promoted to followers that “[her] interview yesterday on NPR apparently sparked a lot of listener response. @abelpharmboy is reporting it generated ‘the most.’”

8. Defendant Amy Wallace has published frequently in Condé Nast national brand publications, including GQ, Vanity Fair, Wired, Details and Portfolio (now defunct). Wallace has authored the following publications for sale in Virginia through Condé Nast brands:

- a. *Details* Magazine: “Pee-Wee Herman Rides Again” (November 2009). *Details* Magazine is available for purchase at, *inter alia*, Borders Books in Winchester, VA. *Details* Magazine is available online to Virginia residents 24-hours a day on Amy Wallace’s own website at: <http://www.amy-wallace.com/category/details>.
- b. *Elle* Magazine: “Heel, Cesar!” (February 2010). *Elle* Magazine is available for purchase at, *inter alia*, Borders Books in Glen Allen, VA. *Elle* Magazine is published online and made available to Virginia residents 24 hours a day at: http://www.hfmus.com/hfmus/media_kits/fashion_beauty_design/elle/about_us.
- c. *Esquire* Magazine: “The Other Baron Cohen: A Narrated Biography” (July 2009); “Vigo Mortensen” (March 2006); and “Jerry Lewis” (January 2006). *Esquire* Magazine is available for purchase at, *inter alia*, Borders Books in Glen Allen, VA. *Esquire* Magazine is published online and made available to Virginia residents 24-hours per day at: https://subscribe.hearstmags.com/subscribe/splits/esquire/esq_sub_nav_link.
- d. *GQ* Magazine: “The Rise and Fall of the Cincinnati Boner King” (October 2009). *GQ* Magazine is available for purchase at, *inter alia*, Borders Books in Virginia

Beach, VA. GQ Magazine is published online and made available to Virginia residents 24-hours a day at:

https://magazine.gq.com/ecom/subscribe.jsp?oppId=4200045&tgt=/atg/registry/RepositoryTargeters/GQM/GQM_global_headerCallout&placementId=4200248&logOppId=true&placementGroupId=500012.

e. A listing of Borders Bookstores in Virginia is attached as Attachment 1.

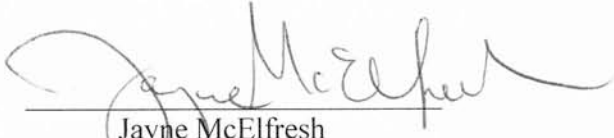
9. Defendant Wallace has published extensively in other publications that are widely distributed in Virginia. Those publications include:

a. *Los Angeles Magazine*: “Viggo Mortensen: Actor, Poet, Publisher, Man” (December 2009); “One Angry Betty” (November 2009); “Patricia Clarkson and Benicio Del Toro” (February 1, 2004); “Kathy Bates” (March 1, 2003); “Robert Newman” (March 1, 2003); “Jodie Foster” (March 1, 2002); “Stacked Like Me” (January 1, 2002); “Owen and Luke Wilson and Wes Anderson” (December 1, 2001); “Hollywood’s Information Man” (September 1, 2001); and “THE ACTOR’S LIFE: Joan Allen and Ed Harris” (March 1, 2001). *Los Angeles Magazine* is sold at, *inter alia*, Borders Books in Pentagon City, Virginia. *Los Angeles Magazine* is offered online and available to Virginia residents 24-hours a day at Amy Wallace’s own website at: <http://www.amy-wallace.com/category/los-angeles-magazine>.

Defendant Wallace has published six articles for *More Magazine* beginning in 2006. See http://www.more.com/search?search_term=amy+wallace. Defendant Wallace last published in *More Magazine* on January 20, 2010. *Id.* *More Magazine*’s Publisher’s statement www.meredith.com/mediakit/more/pdfs/MORE_Pub_Statement_Dec_08.pdf

indicates it had a total paid and verified circulation for the state of Virginia of 36,253 copies, including 28,135 paid subscriptions in 2008.

Executed on: February 3, 2010



Jayne McElfresh



store and event locator

all stores within VA

order

listed in alphabetical

		Store Type	Amenities
Baileys Crossroads 703.998.0404	5871 Crossroads Center Way Baileys Crossroads, VA 22041	Borders	Free Wi-Fi Access Powered by Verizon.
Chantilly-Dulles Airport 703.661.1930	Washington Dulles International Airport Chantilly, VA 22021	Borders Airport	
Chantilly-Dulles Airport 703.661.6195	Washington Dulles International Airport Chantilly, VA 22021	Borders Airport	
Dulles - Town Center 703.421.2267	21100 Dulles Town Circle Dulles, VA 20166	Borders Express	
Fairfax 703.359.8420	11054 Lee Hwy. Fairfax, VA 22030	Borders	Free Wi-Fi Access Powered by Verizon.
Fairfax - Fair Oaks Mall 703.591.8985	11713 Lee Jackson Hwy. Fairfax, VA 22033	Borders Express	
Fredericksburg 540.785.6171	1220 Carl D. Silver Parkway Fredericksburg, VA 22401	Borders	Free Wi-Fi Access Powered by Verizon.
Manassas 703.368.9824	11270 Bulloch Drive Manassas, VA 20109	Borders	Free Wi-Fi Access Powered by Verizon.
Newport News 757.249.0480	12300 Jefferson Ave. Newport News, VA 23602	Borders	Free Wi-Fi Access Powered by Verizon.
Pentagon City 703.418.0166	1201 Hayes Street Arlington, VA 22202	Borders	Free Wi-Fi Access Powered by Verizon.
Richmond 804.965.0733	9750 W. Broad St Glen Allen, VA 23060	Borders	Free Wi-Fi Access Powered by Verizon.
Springfield 703.924.4894	6701 Frontier Dr. Springfield, VA 22150	Borders	Free Wi-Fi Access Powered by Verizon.
Stafford 540.720.9636	1240 Stafford Market Place Stafford, VA 22556	Borders	Free Wi-Fi Access Powered by Verizon.
Sterling 703.430.4675	21031 Tripleseven Rd. Sterling, VA 20165	Borders	Free Wi-Fi Access Powered by Verizon.
Sterling-Dulles Airport 703.661.5420	Washington Dulles International Airport Sterling, VA 20166	Borders Airport	
Vienna - Tysons Corner 703.556.7766	8027 Leesburg Pike Vienna, VA 22182	Borders	Free Wi-Fi Access Powered by Verizon.
Virginia Beach 757.425.8031	1744 Laskin Rd Virginia Beach, VA 23454	Borders	Free Wi-Fi Access Powered by Verizon.
Warrenton 540.347.9412	251 W. Lee Hwy. Warrenton, VA 20186	Borders	Free Wi-Fi Access Powered by Verizon.


2/2/2010

Store Locator - Borders - Books, Music ...

[Winchester](#)
540.535.2243

2420 S. Pleasant Valley Rd.
Winchester, VA 22601


Borders

 Free Wi-Fi
Access Powered by
Verizon.

[Woodbridge](#)
703.897.8100

2904 Prince William County Parkway
Woodbridge, VA 22192

Borders

 Free Wi-Fi
Access Powered by
Verizon.

Store Type

Amenities

PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS
CASE No. 1:09-cv-01398-CMH-TRJ

EXHIBIT D

Adventures In Autism

News And Commentary On The Autism Epidemic And My Beautiful Boy Who Is Living With Autism.

JANUARY 8, 2010

FOLLOW ME



THE HIGHLIGHTS

[Julie Gerberding Tells CNN that Vaccines Trigger Autism](#)

[Looking For Information on How To Vaccinate More Safely?](#)

[An Introduction to Chandler: Birth to Diagnosis](#)
[Blessed Are The Meek The Power of Truth](#)
[The History of Thimerosal Here's Why the Disdain... "No Evidence of Any Link"](#)

[Letting Go Of Chandler Autism in God's Economy](#)
[Green Our Vaccines](#)
[Maine CDC Autism Conference](#)
[Irresponsible Journalism in Autism](#)
[Contradictory Rulings in Vaccine Court](#)
[Head of AAP Lies About Vaccine Safety](#)

ADS

[Maine Bunk Beds](#)



Barbara Loe Fisher Sues Paul Offit, Amy Wallace and Conde Nast for Defamation in the Wired Article

Last year Paul Offit was sued by JB Handley for lying about him in his book, "Autism's False Profits". Offit wrote an apology letter and had to donate money to Jenny McCarthy's favorite charity.

This represents the second such suit in about a year, and stems from the claim that Offit made in the atrociously biased November 2009 Wired Magazine article, "An Epidemic of Fear: One man's battle against the anti-vaccine movement" in which Dr. Offit claimed that Barbara Loe Fisher of the National Vaccine Information Center "lies".

"Kaflooy theories' make him (Offit)crazy, especially if they catch on. Fisher, who has long been the media's go-to interview for what some in the autism arena call 'parents [sic] rights,' makes him particularly nuts, as in 'You just want to scream. The reason? 'She lies/ he says flatly.'"

Now if Dr. Offit truly believes that Fisher is lying to the public and passing on "Kafloey theories" that are catching on, then certainly it is his duty to list them and correct the record. But that is not what he does here. He calls her a liar, fails to tell us what bad vaccine info she is passing on, and then retreats back into the St. Paul the Oppressed martyr stance that we have come to see so often now.

"Barbara Loe Fisher inflames people against me. And wrongly. I'm in this for the same reason she is. I care about kids. Does she think Merck is paying me to speak about vaccines? Is that the logic?" he asks, exasperated. (Merck is doing no such thing). But when it comes to mandating vaccinations, Offit says, Fisher is right about him: He is an adamant supporter."

Ms. Fisher's opinions and research are among those that I have listened to over the years. If there is something that she is lying to me about, then Offit should be telling me, right? So if she is lying, why isn't he telling me where?

This may be to be a repeat of the episode wherin Offit claimed that CBS news correspondent Sharyl Attkisson lied in a piece about him in this story:



Eco friendly and safer for kids, made with sustainable wood, organic paints and zero VOC finishes by Maine Craftsman



Available in New England

ABOUT ME



Ginger Taylor

I am an autism mom.

[View My Complete Profile](#)

E-MAIL ME

I am coming to terms with the fact that I have become horrible at responding to email. My workload has increased and although I mean to respond to all emails like I could in the old days, it just doesn't happen any more.

So I apologize in advance if you don't hear back from me, or if it takes two months to hear back from me. But please don't let my potential failure to respond discourage you from getting in touch. I love to hear from readers.

mail AT adventuresinautism DOT com

SUBSCRIBE

- Posts ▼
- Comments ▼

SUBSCRIBE VIA EMAIL

Offit's response to the story:

"Did (reporter Sharyl Attkisson) lie about whether or not we provided materials? Of course,"

...but when the Orange County Register spoke to him and...

"Asked whether any specific facts in the story were wrong, he said it was primarily the tone he objected to."

Is the same thing happening with Fisher? I guess we will find out.

Amy Wallace and Conde Nast are also named in the suit for publishing the information. Wallace interviewed Fisher, and had every opportunity to both require Offit to provide proof of his charge, and allow Fisher to defend her self against specific charges of lying. But if this happened as it should have if it was being properly researched and written by a responsible journalist, none of that seems to have made its way into Wired. Fisher charges it never happened at all. From the suit:

"Before publishing the article, Wallace engaged in a lengthy interview with Plaintiff Fisher by phone and in communications with her via electronic mail. She never questioned in that interview Plaintiff Fisher's honesty or integrity and did not thereafter confront her with the Offit charge that she was a liar and invite her to respond."

Merely a charge of telling lies, with out even mentioning what lies she is telling.

On this blog I called the head of the AAP a liar mitruther, and then I spent a significant amount of time detailing the lie and the documentation showing that he was full of bologna. Certainly Dr. Offit should at least be required to do what a little blogger like me must do when attacking public figures.

Personally, I am no fan of law suits, but at this point, I want people under oath when talking about things, because the BS is so thick in this debate, and the accountability for flat out lying so thin, that something has got to put the breaks on the corruption.

POSTED BY GINGER TAYLOR AT FRIDAY, JANUARY 08, 2010
LABELS: AMY FISHER, BARBARA LOE FISHER, NVIC, PAUL OFFIT, WIRED MAGAZINE

3 Comments:

Robin Nemeth said...

'Under oath' should have happened many years ago.

2:47 PM



Sherry at EX Marks the Spot said...

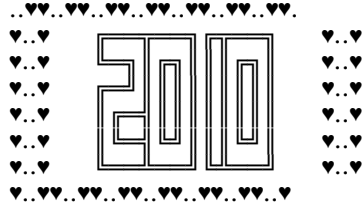
Interesting post. Glad I happened on to it.

9:59 PM



Jet said...

Oh,your blog is very nice .I really like it !



Welcome to my website : <http://9wallpapers.blogspot.com>. This is a website where have a lot of beautiful wallpapers . Especially , all free !!!!

1:07 AM

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The Skepchick versus Barbara Loe Fisher

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Location

U.S.A.

Birthday

September 14

Bio

Chantal Laurent is a Haitian expatriate who blogs about Haiti issues at thehaitianblogger. In 2007, she was part of a delegation to Haiti, which was critically assessing the UN presence in Haiti. The delegation facilitator, Lovinsky Pierre-Antoine, a respected community leader and close ally of President Aristide was disappeared during the trip. She also writes at OpEdNews and Windows On Haiti.

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MY RECENT COMMENTS

"Aww... that's ok Trig. In fact, the sentiment is much appreciated and returned. I..." 7:20PM

"FYI. The Paypal problem is fixed." 6:46PM

"I'm not surprised that they are still pulling out people from the quake in Haiti,..." 6:02PM

"skeletonwmn-- Thank you! I'll tell ML about the Paypal problem. Spin- - I have a fee..." 5:57PM

"Sometimes it is hard to

OCTOBER 26, 2009 5:03 PM

H1N1: CDC, MSM, Obama are SO SCARED for US

Tip! RATE: 3 Flag Email



Over at WIRED, they seem to have disabled the comments on the article "An Epidemic of Fear: How Panicked Parents Skipping Shots Endangers Us All." The writer Amy Wallace hinges her pro-vaccines argument on the "herd immunity" concept. From the title, one gathers that some members of the "herd" (parents) have decided in a "panic" to decline vaccination for themselves or other "herd" members (children), therefore they bear the responsibility for risking the health of the entire animal kingdom [sic].

The concept of "herd immunity" sounds to me like a pharmaceutical industry term that is very similar to "dead peasant" insurance (Does your Boss Want You Dead?)--both terms are equally offensive and hint at a hidden agenda.

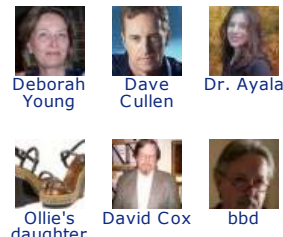
According to the CDC, "herd immunity" is "A concept of protecting a community against certain diseases by having a high percentage of the community's population immunized... even if a few members of the community are unable to be immunized, the entire community will be indirectly protected because the disease has little opportunity for an outbreak. However, with a low percentage of population immunity, the disease would have great opportunity for an outbreak."

While parents may take exception to being the animals in this metaphor, it is an effective propoganda tool that relies on guiltng people into not being the "freeloaders" who allow other members of the "herd" to bear the "risk" of vaccination. If the concept is to be believed--one should get vaccinated for the common good.

One could argue that this "herd immunity" concept is "Pseudo-science [which] preys on well-intentioned people who, motivated by love for their kids, become vulnerable to one of the world's oldest professions. Enter the snake-oil salesman." This is Ms. Wallaces charge against those who believe that vaccines damage children's health.

Ms. Wallace cautions that "For starters, the human brain has a natural tendency to pattern-match -- to ignore the old dictum "correlation does not imply causation" and stubbornly persist in associating proximate phenomena." So according to Wallace, to be reasoned and logical, one should demand peer-reviewed studies and scientific data to substantiate any concept

THE ZEN HAITIAN'S FAVORITES



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Find H1N1 flu shot clinic locations near you using Google Maps

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Need an H1N1 Clinic?

We have H1N1 vaccine ready. Call now to arrange for your clinic

www.OccuVax.com

5 Worst Vaccines Exposed

Leading doctor reveals vaccine dangers in free report.

www.douglassreport.com

Hospital H1N1 tracking

Automated planning and tracking tool. CDC real-time guidance

www.Concerro.com

H1N1 Vaccination Training

Train vaccinators on the BD syringe that comes with the H1N1 vaccine.

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UPDATES

I'm First, NO I'm First, NO, I was First, etc., posted by: scanner

Zoophilia: Counterculture or Cruelty? posted by: Caroline

emphasize how important a person is to a cause. My analysis..."
5:53PM

THE ZEN HAITIAN'S LINKS

Coup & Empire

Honduras, Washington and Latin America: Doctor Jekyll and Mr. Good Neighbor
The Honduran Coup and the Clinton Connection
Honduran Organization Reveals US Involvement in Coup against Zelaya
Coup Underway Honduras: Obama's 1st Coup D'etat
The USA's Long Involvement in Honduras
US Sponsored Coup d'Etat Protect Aristide = Army Pension Revoked
The Overthrow of Haiti's Aristide: a Coup made in the USA
Aristide-Coup on Democracy Now!
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Haiti & Venezuela--Coup & Empire (Part I)
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The Inauguration in the Shadow of Gaza

H1N1: CDC, MSM, Obama are SO SCA...

that purports to have scientific value. Does the concept of "herd immunity" have a scientific basis? One is left to wonder.

Wallace singles out two Senators for criticism for buying the "snake-oil" of "pseudo-science": Chris Dodd of CT and John Kerry of MA are "currying favor" with their constituents by linking autism to vaccines, says Wallace. Wallace is also critical of Robert Kennedy, who she says "authored a deeply flawed 2005 *Rolling Stone* piece called "Deadly Immunity." In it, he accused the government of protecting drug companies from litigation by concealing evidence that mercury in vaccines may have caused autism in thousands of kids."

Two activist moms, whose kids have medical conditions that both attribute to vaccines are Jenny McCarthy and Barbara Loe Fisher. Jenny McCarty, Wallace points out, is an actress and former *Playboy* centerfold who is apt to go off into "stream-of-consciousness rants" and is "the anti-vaccine movement's most popular pitchman and prettiest face." Wallace grudgingly acknowledges Barbara Loe Fisher as "the movement's brain" and "a skilled debate" against "well informed scientists," but then goes on to call her a liar. Paul Offit (he may seem "brash") says that Fisher "makes him particularly nuts, as in "You just want to scream." The reason? "She lies," he says flatly." Wallace explains that that Fisher maintains that draconian laws are forcing people to get vaccinated. "That isn't true — the swine flu vaccine, like other flu vaccines, will be administered on a voluntary basis. But no matter: Fisher's argument turns vaccines from a public health issue into one of personal choice, an unwritten bit of the Bill of Rights" writes Wallace.

Up until recently, vaccines may not have been **mandated**, but they were **required** by most school systems in order for children to attend school. Parents should be made aware that they can refuse to comply. For the record, in most cases a parent (and sometimes a student) can sign a form stating that they are against vaccination on conscience or on religious grounds.

There is a steady progression towards instituting mandates. In 2007, Texas became the first state to "require that young girls be vaccinated against some sexually transmitted viruses." This year state legislatures are debating whether to **mandate the Human Papillomavirus (HPV) vaccine for girls**. Also this year, Massachusetts' legislature has voted to fine, jail or forcibly quarantine anyone who refuses vaccination in the event of a "public health emergency." There is a concern that this reaction by the Massachusetts legislature to the "pandemic" scare of H1N1 may be replicated by other state legislatures.

As an aside, schools are now equipped with a cornucopia of pharmaceuticals for the attending students for prescribed medical conditions. While many children with serious medical conditions do need their meds--it is worthwhile to note that more and more children, particularly black kids, are being diagnosed with "disruptive behavior" or ADHD and prescribed what are described as "behavioral drugs" or "psychiatric drugs." Do pharmaceutical companies benefit from this increase in diagnosed cases of "behavioral" problems? Do these drug companies have lucrative contracts with the public school systems? Are these things related? Makes you think.

As of last week the CDC is attributing 1000 deaths to H1N1, but can this figure be trusted given that the CDC lies? An article written in 2005, which has been substantiated by the *British Medical Journal* titled "**Annual Flu Deaths: The Big Lie**" takes issue with the CDC's numbers, flatly stating that the CDC's own findings in its ***National Vital Statistics Reports***, are contradict the 63,000 flu deaths reported by the CDC. The real number of flu deaths is under 1000.

Reportedly, on Friday, President Barack Obama declared a "national emergency with respect to the 2009 H1N1 influenza pandemic." Skeptics may well wonder at the hasty nature of the President's actions. Why do 1000 deaths from the H1N1 a cause for panic?

Is this H1N1 outbreak really a "pandemic?" By way of contrast, over 200,000 Americans die every year due to errors by doctors and hospitals. The CDC should be equally panicked about this issue of doctor and hospital errors which causes so many fatalities.

Just today CNN reported about an unfortunate woman who is now a

Hagood



Oil in Haiti, reasons for the US occupation, Part 2

posted by: *Ezili Danto*



President's Questions: Obama at the GOP's Retreat

posted by: *norman kelley*



Moral Character (Repost)

posted by: *Sirenita Lake*



The Ant and the Elephant - A Supreme Court Fable

posted by: *Paul J. O'Rourke*



Unions and Why Us Peasants Need Them.

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1/29/2010

Venezuela to ask new US gov't to hand over Posada
Resolution on the Cuban Five political prisoners and Luis Posada Carriles
Before the Coup: Haiti's Achievements Under Aristide and Lavalas
Eshu's blues: Obama scabs on the autonomy of Palestine-and the rest of us
A New Attitude at the White House Towards Venezuela and Bolivia?

H1N1: CDC, MSM, Obama are SO SCA...

quadraplegic due to a "miscommunication" at the hospital. She informed the hospital of her kidney stone, but they released her without taking care of it. The error lead to complications that caused the amputation of both of her arms and legs. Here is a link to the article: "Kids care for mom without arms, legs" By Ashley Fantz, CNN

Update 11.17.2009 -- two interesting articles that were brought to my attention...

FDA Approved H1N1 Vaccines Contain Ingredients Known to Cause Cancer and Death

"Most health experts will agree that vaccine reactions can occur. It is estimated that roughly 1 in every million people will react to their vaccine. Even then, health officials maintain that it is usually a simple case of inflammation at the injection site and/or a slight fever. On a rare occasion, anaphylactic shock may occur due to the patient reacting to a substance that they are allergic to. However, the FDA recently approved four H1N1 vaccines that not only contain very questionable ingredients, but some of those ingredients have even been proven to cause cancer and death."

More.

Widespread rumors of Ukraine bioterrorism

Source: Ukraineplague.blogspot.com

UPDATE 11/10/09 3:00pm est – Widespread rumors of Ukraine bioterrorism

This is not H1N1 2009 pandemic swine flu, also called California flu in Ukraine. People everywhere continue to refer to it as H1N1, but according to both WHO and the Ukraine government they are different diseases. The Ukraine government still reports only a handful of deaths from H1N1 California ("swine") flu, with just one lab-confirmed death. **Meanwhile both the government and WHO have been tracking the exponential increased of illnesses from severe acute respiratory illness, which have symptoms very different from H1N1 flu.**

It is expected that within the next day or so WHO will release the gene sequence from tissue samples. Meanwhile speculation is rampant about what the 'mystery disease' actually is. Opinions range from a mutated, recombined, or man-made H1N1 to weaponized pneumonic plague or bird flu. At this stage there is no publicly available information on the cause. However, many observers say that it cannot possibly be H1N1 unless it is a different and much more virulent strain of it.

Background

On October 29 people in Kiev and cities in western Ukraine reported that light planes and helicopters had been spraying something to protect people against swine flu. Business owners were told in advance to keep doors and windows shut and to stay inside. There were many reports to local newspapers and radio stations, but local officials would not let them be published.

Within hours people were feeling ill, some reporting red rashes on their arms. Within two days a dozen people had died of severe acute respiratory illness (reported by WHO October 30 on their website), some with their lungs full of blood, fevers up to 39C-40C, and lung temperatures as high as 55C. This severe hemorrhagic pneumonia has similar symptoms to the 1918 Spanish flu, pneumonic plague, pulmonary anthrax, SARS and avian flu (H5N1).

More

CERTIFICATE OF SERVICE

I, Jonathan W. Emord, hereby certify that on this 3rd day of February, 2010, I electronically filed the foregoing Opposition to Defendants' Motion to Dismiss with the Clerk using the CM/ECF system, which will send a notification of such filing to the following:

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