

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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JAMES L. TURNER,
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Plaintiff,
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v.
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THEODORE V. WELLS, JR. and PAUL, WEISS,
RIFKIND, WHARTON & GARRISON LLP,
:

Defendants.
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:
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No.: _____

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff James L. Turner (“Turner” or “Plaintiff”), by his undersigned counsel, for his Complaint against Defendants Theodore V. Wells, Jr. (“Wells”) and Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul Weiss”) (collectively, “Defendants”), alleges as follows:

NATURE OF THE ACTION

1. Wells and his law firm, Paul Weiss, were retained by the National Football League (“NFL” or “League”) ostensibly to conduct an “independent” investigation into alleged workplace bullying and harassment of a former Miami Dolphins’ player, Jonathan Martin (“Martin”), by some of his Dolphins teammates. The news became a national story. Martin allegedly was the victim of a protracted bullying and harassment campaign led by his teammate Richie Incognito (“Incognito”).

2. The public outcry was loud and the League, ever mindful of its public persona, purported to take the matter seriously despite decades of ignoring instances of a lack of toleration when those issues did not create a media outcry. On November 6, 2013, Commissioner Roger Goodell (“Goodell”) announced that the League had hired Defendants to investigate and submit

a final report on their findings (the “Wells Report” or “Report”).¹ Goodell, in making the announcement, represented: “Mr. Wells will conduct a thorough and objective investigation” and “ensure that we have all the facts so that we can address this matter constructively.” Goodell’s representations were almost immediately belied by Defendants’ actions.

3. Martin’s departure from the Team created a national story that put pressure on the NFL and, by extension, on Defendants to feign concern about the Dolphins’ workplace environment in order to placate the public outcry that ensued. Presenting a complete and accurate picture of the situation in the Dolphins’ locker room would not have satisfied that goal.

4. The NFL did not want a real investigation. The public already believed that Martin was a victim of bullying – some of the bullying with racist overtones – and, with bullying of children being an emerging epidemic, the League could not afford to be perceived as insensitive or unwilling to take bullying and workplace harassment seriously.

5. The League commissioned Defendants to write a report that confirmed the public story and defended Martin and that also identified individuals who could take the blame and face discipline. With the handsome fees to be received and the prospect of future representation of the NFL in such matters, Defendants obliged.² On information and belief, the League ultimately paid Defendants \$3 to \$4 million for their “investigation.”

6. Defendants knowingly or with reckless disregard and negligently withheld or ignored key information from the final Report, including testimony and potential testimony of

¹ A copy of the Wells Report is attached hereto as Exhibit A.

² The NFL recently retained Wells and Paul Weiss to conduct another “independent” investigation into allegations that the New England Patriots, including quarterback Tom Brady, violated League rules by purposely deflating footballs prior to games (the scandal became known as “deflategate”). Wells published his deflategate report on May 6, 2015. An independent analysis of Wells’ deflategate report by the American Enterprise Institute concluded that the Wells’ report was “deeply flawed.” A copy of the American Enterprise Institute’s report can be found at <https://www.aei.org/wp-content/uploads/2015/06/On-the-Wells-report.pdf> (last visited on July 18, 2015). Wells has acknowledged that Defendants were paid “millions” for their work on that NFL scandal.

several former and current Dolphins players and coaches. In some cases, Defendants noted certain evidence but ignored it or discredited it without explanation and failed to consider pertinent information when analyzing certain events or the actions of certain individuals. In the end, Defendants gave the NFL what it wanted: the Wells Report defended Martin and concluded that Martin was the innocent victim of workplace bullying and harassment and that several teammates and coaches, including Turner, were to blame.

7. With respect to Turner, Defendants falsely accused him of helping to create the atmosphere that allowed bullying and harassment to happen by participating in the harassment of players and by creating a “code” against “snitching” on teammates that prevented Martin from coming forward and reporting the bullying and harassment to which he was a victim. Moreover, Defendants falsely accused Turner of knowing about the bullying and harassment and failing to take any action to stop it. Defendants knew or were reckless and negligent in not knowing that the accusations against Turner were false and, by connecting him to and assigning culpability for the bullying and harassment, Defendants defamed Turner, severely injured Turner in his business and occupation and damaged Turner’s character and reputation, a reputation that Turner had worked hard to develop, and caused Turner emotional distress, pain and suffering.

8. Defendants had a duty to conduct an independent and fair investigation and to present all relevant evidence regarding the situation and the circumstances leading to Martin’s departure from the Team and not to misrepresent or distort relevant information that they obtained or that was available to them. Instead, Defendants presented a false and one-sided narrative that falsely accused Turner of participating in and condoning Martin’s alleged bullying and harassment.

9. Defendants' false statements imputed to Turner conduct and characteristics that are incompatible with Turner's profession as a professional football coach and injured Turner in his trade or business.

10. Turner seeks to recover damages for the injuries he suffered and continues to suffer as a result of Defendants' defamation of his character and reputation and for the emotional distress, pain and suffering Defendants caused.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2) because Turner at all relevant times was a resident of the State of Florida, Defendants published their defamatory statements against Turner in Florida and Defendants' conduct injured Turner in Florida.

13. The law of the State of Florida governs Turner's claim. Under Florida's choice-of-law analysis, Florida is the state with the most significant relationship to Defendants' actions because the supposed events at issue and addressed in the Report occurred in Florida; Turner at all relevant times was a resident of Florida; Defendants published and publicly distributed the Wells Report in Florida, including by making the Report available on the internet, where it could be, and was, accessed by citizens of the State of Florida, including Turner's then-employer, the Dolphins, which caused the Dolphins to terminate Turner; and, Turner's character and reputation were damaged by Defendants' conduct in Florida.

THE PARTIES

14. Turner is a former assistant coach with the Miami Dolphins, a professional football team and member team of the NFL. At all relevant times, Turner was a resident of the State of Florida.

15. Turner is neither a public figure generally nor a limited purpose public figure. Martin's departure from the Dolphins and subsequent controversy gained significant public attention, but Turner did not voluntarily inject himself into the controversy or deliberately seek out and make use of the media to speak publicly about the controversy until after Defendants published the false and defamatory statements about Turner in the Wells Report and elsewhere.

16. Defendant Paul Weiss is a Delaware limited liability partnership engaged in the practice of law with its headquarters in New York, New York. Upon information and belief, Paul Weiss does not have, and at all relevant times did not have, an office in the State of Florida.

17. Defendant Theodore V. Wells, Jr. is an attorney and a partner at Defendant Paul Weiss. Upon information and belief, Wells is a citizen of the State of New Jersey. At all relevant times, Wells acted on behalf and in furtherance of Paul Weiss's business.

FACTUAL ALLEGATIONS

Turner's Background and Career as a Coach

18. Turner grew up in Braintree, Massachusetts and attended Boston College, where he was a fullback for the Eagles and the team captain during the 1987 college football season. In 1988, Turner received his Bachelor of Arts Degree in Sociology.

19. After college, Turner briefly played semi-professional football before focusing on coaching. He began his coaching career as an offensive coach for his former high school team in Braintree and offensive coordinator for the Kent Rams, an English semi-professional team.

20. In 1990, Turner joined the United States Marine Corps and received his Infantry Officer commission after completing Officer Candidate School in Quantico, Virginia. As a platoon commander and operations officer, Turner served in the Middle Eastern, Asian and European theaters.

21. Following an honorable discharge in 1994, Turner returned to coaching and has coached football ever since until victimized by Defendants in the manner alleged herein. He has coached at Northeastern University (offensive line, tight ends, running backs, defensive line and special teams, 1994-98); Louisiana Tech University (offensive line and special teams, 1999); Harvard University (offensive line and run game coordinator, 2000-02); Temple University (offensive line coach, 2003-04); University of Delaware (offensive line coach, assistant head coach and recruiting coordinator, 2005-06); and, Texas A&M (offensive line coach, 2008-11).

22. The Dolphins hired Turner as the Team's offensive line coach for the 2012 Season. The Dolphins terminated Turner in February 2014 in the wake, and as a result, of Defendants' actions.

Turner's Reputation Among Dolphins' Players

23. Current and former Dolphins players and coaches have expressed their utmost respect for Turner. Several described him as the best coach under whom they had ever played.

24. Player 1³ described Turner as a "great coach," a "great man" and a "great father," and expressed disappointment at the way Turner has been portrayed in the wake of the Wells investigation and stated that the Wells Report and related media coverage portrayed the situation inaccurately and out of context.

³ The Wells Report refers to certain Dolphins players by letters purportedly in order to maintain the confidentiality of the players' identities. After the Wells Report was published, Turner commissioned his own investigation and representatives spoke with several players as part of that investigation, not all of whom were interviewed by Defendants or referenced in the Report. Dolphins' players will be referred to by numbers herein to maintain confidentiality. Player A in the Wells Report is referred to herein as Player 1.

25. Former assistant offensive line coach Chris Mosley called Turner a “great football coach,” a “great person” and a “great leader.” Mosley’s impression was that each player felt as if Turner “loved” and cared about him as an individual and as a person. Mosley commented on Turner’s ability to make practices “fun.”

26. Player 6 observed that Turner’s “open door” made him feel that he could call Turner at any time.

27. Player 2 described Turner as a great coach and “one of the best coaches I’ve ever had.” Player 2 commented on Turner’s military experience and said that Turner made everyone “work hard like he does.”

28. Player 3 stated that Turner was a “great coach,” who always had the players’ backs and kept morale high on the Team. Player 3 said that he “loved working” with Turner.

29. Player 4 described Turner as “straight-forward” and “one of the best coaches I ever had.” Player 4 said Turner tried to do as much as he could for his players and to put them in the best possible situation to succeed. Player 4 also said he felt comfortable talking openly to Turner.

30. Player 5 described Turner as a great coach and his personal favorite coach of his entire football career. Player 5 echoed other players’ description of Turner as someone extremely knowledgeable about football with an ability to motivate and keep the game fun.

The Dolphins “Bullying” Scandal and League Investigation

31. Beginning on October 30, 2013, national sports media reported that Martin had “gone AWOL” from the Dolphins in response to a cafeteria “prank” by his teammates. Fox Sports’ NFL commentator Jay Glazer “tweeted” that the incident “was basically [the] final straw for [Martin]” and that Martin was “in [a] treatment facility trying to work thru [sic] it.”

32. Reports emerged that Martin was allegedly the victim of locker room “bullying” by his Dolphins teammates, and the story gained national attention.

33. In response to the media attention, on November 6, 2013, the NFL retained Defendants to conduct “an independent investigation into issues of workplace conduct at the Miami Dolphins” and “prepare a Report for the commissioner.” The League announced that the report would be made public.

34. From the outset, the investigation was never “independent.” After Martin quit the Team and the national media picked up the news and ran with it, the story that emerged was of the soft-spoken Stanford graduate, Martin, bullied and harassed by his more aggressive teammates that went unchecked in the out-of-control environment of the Dolphins’ locker room. The accuracy of this story mattered little to the League. The NFL had to demonstrate abhorrence of such behavior and a commitment to preventing and punishing “workplace bullying” in order to preserve its public posture and Goodell’s legacy despite a history of ignoring such matters and showing, expressly and tacitly, a tolerance for “locker room” behavior. Having suffered multiple, highly publicized defeats in the courts, arbitrations and in the public forum, Goodell set out with a publicity-driven agenda and the League retained Defendants to assist with this agenda.

35. Defendants tailored their investigation and the resulting Report to confirm this narrative and to put the blame on a select few individuals who would take the fall.

36. During the course of Defendants’ investigation, Wells and his team of Paul Weiss partners, associates and paralegals reportedly conducted interviews with current and former Dolphins players, the Dolphins coaching staff and front office personnel. Defendants also purportedly reviewed documentary evidence, including emails and text messages between Martin and his Miami teammates and coaches. In addition, Defendants claim to have

interviewed Martin's former teammates and coaches at Stanford University, his parents and his agent.

37. Defendants knowingly, recklessly and negligently left out or failed to analyze evidence that contradicted and called into doubt the pre-determined outcome concocted by the NFL.

38. Defendants interviewed Turner twice in connection with their investigation. Prior to being interviewed, the Dolphins' legal staff advised Turner not to obtain personal legal counsel and said that the Dolphins' legal counsel would be present to counsel and advise him during the interviews.

39. The first interview occurred in person in November 2013 in Miami and was conducted by Wells and two other members of Defendants' investigative team. A member of the Dolphins' legal staff was present as well. During this approximately two hour interview, Turner fully cooperated and answered their questions to the best of his ability.

40. At one point during the interview, Turner was asked to provide the Wells team with a copy of the personal notes he had brought to the interview.

41. In addition to Turner's recollection of the facts relating to Martin's time on the Dolphins, these notes contained Turner's personal thoughts and reflections on a variety of matters, some having little or no connection to Martin. Accordingly, Turner told the investigators that he preferred not to turn them over. Turner also suggested that he would show the investigators his notes if the investigators would, in turn, show him their notes being taken during the interview. Wells and his team declined this offer of mutual disclosure.

42. Wells and his team without basis challenged some of Turner's answers because Turner provided information at odds with the NFL's and, by extension, Defendants' pre-

determined narrative that Martin was the innocent victim of ongoing bullying and harassment from teammates with the knowledge and, in some cases, the participation of certain coaches.

43. Several weeks later, in mid-December, Turner participated in a second interview with Defendants. This interview occurred via teleconference in which Wells and a member of his team spoke with Turner and a member of the Dolphins' legal staff. During this interview, the questions were even more accusatory than was the case at the first interview. Based on the suggestive and aggressive tone of the questioning, Turner felt uncomfortable and defensive.

44. Turner was never given an opportunity to review and respond to the supposed facts and conclusions about his conduct that eventually made their way into Defendants' final Report, a failing which is unusual with internal investigations such as Defendants'.

The Wells Report

45. On February 14, 2014, Defendants publicly released their final Report of the investigation. The 144-page Report concluded, among other things, that Martin was subjected to "persistent harassment" and that several Dolphins teammates persistently made insulting and derogatory comments about Martin and his family, which treatment was consistent with a case of workplace bullying. According to the Report, this harassment "contributed to Martin's decision to leave the team" and "the treatment of Martin and others in the Miami Dolphins organization at times was offensive and unacceptable in any environment, including the world professional football players inhabit."

46. In addition, Defendants concluded that "the Dolphins' rules of workplace behavior were not fully appreciated and, with respect to at least some of their actions, Incognito and his teammates may not have been clearly notified that they were crossing lines that would be enforced by the Team with serious sanctions."

47. The Wells Report contained several false accusations about Turner's conduct. For example, the Defendants accused Turner of: (a) participating in the "harassment" of a Dolphins player who teammates often joked was gay (though he was not); (b) establishing a so-called "Judas Code" under which players were not supposed to "snitch" on teammates or they could face a fine; (c) knowing about the bullying and harassment directed at Martin but failing to take any action to stop it; and, (d) improperly pressuring Martin publicly to defend Incognito after Martin quit the Team.

48. Five days after the Wells Report was released, the Dolphins fired Turner.

The Wells Report Omits and Fails to Analyze Relevant Facts

49. Defendants concluded in the Wells Report that Martin was the victim of a sustained bullying and harassment campaign from teammates, primarily Incognito, and coaches, including Turner. The Report also alleged that teammates and coaches created a culture which encouraged the bullying and harassment and discouraged Martin from seeking help from coaches or anyone else lest he be considered a "snitch" or "traitor."

50. Defendants knowingly and recklessly mischaracterized supposed facts, actions and events in, and omitted relevant and material information from, the Wells Report and otherwise ignored or downplayed and failed to analyze relevant information that was inconsistent with the pre-determined result.

51. Defendants negligently mischaracterized supposed facts, actions and events in, and omitted relevant and material information from, the Wells Report, and otherwise ignored and downplayed and failed to analyze relevant and material information.

52. Defendants ignored first-hand information provided to Defendants by other players and coaches which contradicts the Report's adoption of Martin's perspective. Defendants ignored and failed to consider such conflicting perspectives in the Wells Report.

53. Had Defendants not acted in the manner herein alleged, the Report would have painted a much different – and accurate – picture of the situation in the Dolphins' locker room, the relationship between Martin and his teammates, of Martin himself and of Turner. Instead, Defendants purposely tailored the Report to the narrative and conclusions the NFL desired, namely, that Martin was the victim of bullying and harassment and that other individuals, including Turner, needed to “take the fall.”

54. By way of example, Player 6, based on his personal knowledge and first-hand observations, knows that the Report is “not an accurate reflection of what [the Dolphins locker room] was like.” Player 4 observed that, based on his review of the Wells Report, “all of the other interviews [besides Martin's] were a waste of time.” Player 4 observed that none of the information he provided to Defendants was included in the Wells Report. Player 3 similarly concluded that the Report was “not objective” and that the investigative team “came in with their minds made up . . . that Martin was a victim and Richie was a bad guy.” Player 2 believes that the Report is inaccurate and biased in favor of Martin and is inconsistent with the true facts.

The Environment in the Dolphin's Locker Room

55. Defendants concluded in the Wells Report that Martin was the victim of “persistent” harassment from several Dolphins' players, which bore the “hallmarks of a classic case of bullying, where persons who are in a position of power harass the less powerful.”

56. Defendants knowingly and recklessly failed to include crucial testimony and other evidence from players and coaches that more accurately described the environment within the Dolphins' locker room and the interactions between players and coaches.

57. Defendants had a duty to discover and include in the Report the testimony and other evidence from players and coaches regarding the environment within the Dolphins' locker room but negligently failed to do so in breach of that duty.

58. Defendants alleged that the treatment of Martin and others "was offensive and unacceptable in any environment, including the world professional football players inhabit."

59. As alleged above, Defendants' assertion was not true according to players and coaches. Defendants knowingly and recklessly and negligently omitted this information and evidence from the Wells Report, including information and evidence that was not consistent with the NFL's pre-determined conclusions. Defendants presented an inaccurate depiction in order to serve the NFL's interests.

The Truth About Martin and His Departure from the Team

60. The Wells Report paints a picture of Martin as the innocent victim of a vicious and protracted campaign of bullying and harassment which caused Martin severe mental distress and ultimately to quit the Team.

61. Defendants ignored, downplayed, mischaracterized and omitted facts that contradict and would have altered the pre-ordained narrative set forth in the Report. Like the facts about the Dolphins' locker room that Defendants ignored, these facts are crucial to understanding the reality of the situation and the accurate context within which to interpret Turner's conduct and Defendants' accusations against him.

62. Defendants attribute Martin's emotional breakdown and decision to leave the Team to the purported bullying and harassment. Martin admits to having a history of emotional issues and an acute sensitivity to perceived bullying. For example, in a text message from Martin to his mother, Martin complained that he has been bullied since he was in middle school and that he was always a "pushover" who "never fought back." He told his mother that "high school still and will forever haunt me." Martin has admitted to a history of "self-diagnosed depression" and has confessed to having suicidal thoughts. Martin has admitted to two specific instances where he seriously contemplated suicide. Martin also has admitted that he had these feelings since his early teenage years and that depression was genetic and ran in his family.

63. Defendants knowingly and recklessly failed to analyze how this history contributed to Martin's decision to quit the Team.

64. Defendants negligently failed to analyze how Martin's history contributed to his decision to quit the Team.

65. Rather than including and analyzing this information in the Report, Defendants credited Martin's testimony that he had no issues with depression or suicidal thoughts during the four years he played at Stanford University prior to joining the Dolphins as a rookie in 2012.

66. Defendants also knowingly and recklessly failed to analyze the obviously close relationship between Martin and Incognito.

67. Defendants negligently failed to analyze the obviously close relationship between Martin and Incognito.

68. The relationship between Martin and Incognito was so close that many Dolphins players believed that "Incognito was Martin's best friend on the team" and "that the two

appeared inseparable” and were often “overheard in the locker room discussing recent social activities or making plans to spend time together after practice.”

69. Rather than recognizing the friendship between Martin and Incognito, and analyzing that friendship while reaching conclusions about what caused Martin’s departure from the Dolphins, Defendants, without any viable factual or expert basis, knowingly, recklessly and negligently concluded that the relationship was not one of friendship but instead reflected Martin trying to reduce the harassment he faced by attempting to develop a close friendship with an abusive person.

70. Defendants also knowingly and recklessly and negligently ignored and failed to analyze the evidence that Martin himself engaged in the type of activities about which he later claimed were so disturbing, including frequenting strip clubs, using vulgar language, making crude remarks about women and homosexuals, telling teammates that another player was a homosexual and invoking denigrating nicknames to identify teammates. Martin also participated in Team pranks, one time even helping to steal a teammate’s automobile and move it to another location.

71. Perhaps even more tellingly, Defendants knowingly, recklessly and negligently ignored in their conclusions set forth in the Wells Report that Martin had motivations for leaving the Dolphins that conflicted with the League’s pre-determined conclusions. Martin never felt that he “fit in” with football and football players. He expressed these feelings in text messages to his mother, and, in a text message from April 2013 (prior to the 2013 NFL Season), Martin acknowledged that he “very badly wanted to quit football” because it “forced” him “to act a certain way, to hang out with certain people, & prevented [him] from fully taking advantage of

the social and cerebral advantages of college & experiencing new things and meeting new people.”

72. When the Season began, the Dolphins offensive line, including Martin specifically, played poorly during the first several games. To help improve the line’s performance, the Team acquired veteran left tackle Bryant McKinnie from the Baltimore Ravens in a trade, and Martin, who had been the starting left tackle, was moved to right tackle. Left tackle is the preeminent position on the offensive line. The move from left tackle to right tackle was viewed as a demotion.

73. Just seven days later and the day after another poor on-field performance, Martin quit the Team and went “AWOL.”

74. Defendants knowingly, recklessly and negligently failed to analyze the impact these circumstances had on Martin’s decision to leave the Team.

75. Defendants’ decision not to analyze and simply to dismiss or ignore all of the foregoing evidence is intentional, reckless, negligent, inexcusable and demonstrates that the NFL and, by extension, Defendants, were not interested in the truth and were not acting out of a genuine goal of understanding the workplace environment. Instead, Defendants created a false and misleading picture of the situation and circumstances leading to Martin’s departure from the Team.

Defendants’ Specific False and Misleading Statements About Turner

76. In addition to the foregoing, Defendants knowingly, recklessly and negligently ignored critical facts which contradicted the Wells Report’s criticism and analysis of Turner’s conduct in specific incidents. Defendants’ specific accusations against Turner were false and

were made knowingly, recklessly and negligently, and, further, constituted false attacks against his character and reputation.

77. Defendants knew and ignored and otherwise failed to consider critical facts, and were reckless in not knowing critical facts that contradicted their statements and conclusions in the Report. As a result, Defendants' specific accusations against Turner contained in the Report were false and misleading.

78. Defendants had a duty to discover and disclose and analyze the critical facts relevant to an accurate evaluation of Turner's conduct in connection to the Martin situation. Defendants failed to discover or disclose and analyze these critical facts and were negligent in not knowing or disclosing or analyzing these critical facts.

The Player 1 Incident

79. Defendants asserted that Player 1, a Dolphins offensive lineman, was the subject of homophobic taunting. Defendants claimed that Turner knew that Player 1 was "taunted for supposed homosexuality" and falsely accused Turner of participating in this "taunting."

80. Defendants set forth a supposed story from the 2012 holiday season when Turner gave the offensive linemen stockings filled with a variety of gifts, including a music CD and a copy of Dr. John Gray's famous book, "Men are from Mars, Women are from Venus." The purpose of the latter gift was to express to the athletes that they needed to work on their relationships with their significant others. Continuing in this vein, Turner warned the players that if they did not learn how to improve their relationships with people outside football, their relationships were unlikely to last. To emphasize the point, Turner presented each player with a female "blow-up" doll. The dolls were a humorous way to convey a serious message: this is what awaits you if you do not learn to relate better to your spouses or significant others. As

Turner joked at the time he presented the gifts, “you are all social misfits and you will probably end up with this.”

81. Player 1’s gift bag, however, contained a male “blow-up” doll. Defendants contend that Martin reported that he was surprised Turner did this and offended that Turner “endorsed the humiliating treatment of Player 1 by participating in it.”

82. Defendants also asserted that “Player [1] regarded the persistent insults and mocking physical contact as unwelcome” and these “incidents” were “part of a pattern of abusive, unprofessional behavior that ultimately undermined the offensive line and hurt the entire team.”

83. Defendants’ assertion that Player 1 was taunted for supposed homosexuality and that Turner participated in this taunting is false. Defendants knowingly and recklessly created a false and misleading characterization of the event. Further, the Report’s statement that Player 1 was offended by Turner’s gesture also is not true.

84. Defendants negligently mischaracterized these events and negligently misrepresented that Player 1 was offended by Turner’s gesture.

85. In fact, Player 1 was not believed to be a homosexual. Rather, the joke was that Player 1 did not always have success dating women. Turner explained that on several occasions he had heard Player 1 tell stories about being turned down by women for dates or failing to obtain potential dates’ telephone numbers. Thus, giving Player 1 the male doll was intended as a joke and was in the same spirit as the rest of the gift exchange. Even if slightly juvenile, it in no way expressed cruelty or homophobia on Turner’s part.

86. Tellingly, Defendants failed to include that Player 1 himself viewed the gift as a joke and stated that he did not find the prank malicious “in any way.” Defendants also

knowingly or recklessly failed to note that Player 1 has described Turner as a “great coach,” a “great man” and a “great father.” Player 1 himself believes that Defendants portrayed the situation out of context. In response to the Wells Report’s false and misleading rendition of what occurred, Player 1 released a statement through his agent on national television defending Turner: “[Player 1] personally has the highest opinion of Turner both personally and professionally and feels terrible about the way their relationship has been portrayed in the [Wells R]eport.”

87. Essentially everyone present echoed Player 1’s view of the event. In light of the nearly universal view that Turner’s gift was an inoffensive joke enjoyed by those present, and particularly in light of the fact that Player 1 himself was not offended by the episode, an impartial analysis could only conclude that Turner did not behave inappropriately with respect to this incident. Defendants knew and knowingly failed to include this information in the Wells Report or were reckless in not knowing this information.

88. Defendants negligently failed to discover and analyze this information in the Wells Report or properly account for the information in their analysis of this incident.

89. Defendants did not even bother to interrogate Turner about this incident during their first interview. Rather, the Wells team waited until the second, purposely confrontational and accusatory interview, to ask about the incident. Turner became guarded in responding during this second interview. When asked about the doll incident, Turner questioned its relevance to Martin’s decision to leave the Team and asked that the questioning be directed to issues involving Martin, which was ostensibly the purpose of the interview. Defendants refused to respond and became dictatorial and even more aggressive and unprofessional in response to Turner’s effort to engage in a discussion. Turner dismissed the question about the doll as

irrelevant and accusatory; Defendants used Turner's justifiable reaction to the Wells team's unprofessionalism as a basis to criticize Turner.

90. Without an experienced counsel with whom to consult, as a result of the Dolphins' advice to Turner and pressure not to retain an attorney, Turner's reaction to the unjustifiably accusatory questioning on irrelevant issues was to shut down.

The Existence of a "Judas Code"

91. Defendants also falsely accused Turner of establishing a "Judas Code" by which an offensive lineman could be fined and branded a "Judas" – a reference to the Biblical Judas who betrayed Jesus Christ and meaning, in this context, a traitor or "snitch" – for criticizing a fellow offensive lineman. The Wells Report stated that "if Turner, while watching game film footage, criticized a lineman for missing an assignment, and that lineman pointed out that one of his teammates was actually at fault, that lineman might be labeled a 'Judas,' which could result in a fellow player imposing a fine."

92. Defendants falsely stated that this fictional "code" prevented Martin from reporting the "abuse" to which he was allegedly subjected by his teammates. Defendants knew, or were reckless in not knowing, that no such "Judas Code" existed and that Turner had no role in the creation or implementation of the offensive line's self-imposed fine system.

93. Defendants had a duty to discover the true facts regarding offensive line's self-imposed fine system and Turner's occasional use of the term "Judas," but Defendants negligently failed to discover these facts or consider them in their analysis before falsely accusing Turner of establish a "code" against "snitching."

94. Defendants concluded in the Wells Report: "We accept that the fear of being labeled a 'snitch' or a 'Judas' played a role in Martin's decision not to report abuse from his

teammates. Martin believed that going to his coaches or other authority figures meant risking ostracism or even retaliation from his fellow linemen.”

95. The accusation that Turner established a “Judas Code” against snitching is false.

96. The facts simply do not support the conclusion that the occasional use of the term “Judas” by Turner – who was raised as an Irish Catholic in the Boston area – to describe situations in which one of his players transferred responsibility for an on-field error to another player impacted Martin’s behavior.

97. Defendants had a duty to investigate and discover the true facts regarding Turner’s occasional use of the term “Judas,” namely, that it had nothing to do with “snitching” or reporting misconduct to coaches.

98. Turner did not discourage, by word or deed, any player from approaching him with a personal problem. Nor did his occasional use of the term “Judas” create that impression. The evidence shows the opposite.

99. Defendants ignored the evidence when analyzing the so-called “Judas Code” and falsely connected Turner’s use of the term “Judas” to Martin’s failure to report issues he may have had with his teammates. In doing so, Defendants falsely accused Turner of playing a role in Martin’s emotional struggles and decision to leave the Team.

100. Defendants knew or were reckless in not knowing these facts.

101. Defendants had a duty to discover these facts but failed to do so, and thus were negligent in not knowing these facts.

Defendants’ False Accusation that Turner Knew about “Insulting Comments” and Failed to Stop Them

102. Defendants falsely accused Turner of hearing or learning about “insulting comments” directed toward Martin yet failed to take action to stop it. The Wells Report states:

“we find that Coaches Turner and Mosely were certainly aware of some of the insulting comments directed to Martin by Incognito, Jerry and Pouncey [and that it] is undisputed that these coaches never sought to stop the behavior.”

103. This “finding” is false and is contradicted by evidence Defendants knew about and intentionally chose to ignore, or were reckless in not knowing, the accurate facts in reaching their conclusions.

104. Defendants were negligent in failing to set forth and analyze or to know this evidence that contradicted the Report’s false statements about Turner in this regard.

105. As alleged herein, Wells and his team knowingly and recklessly and negligently failed to include in the Report evidence gathered during their purported investigation regarding the locker room environment and how it compared to other football locker rooms.

106. Former and current Dolphins players and coaches stressed to Defendants that the Dolphins’ locker room was the “exact same” as all the other football locker rooms in which these players and coaches had been.

107. Taking account of that evidence would have undermined the pre-ordained agenda to find scapegoats for Martin and to differentiate the Dolphins from the remainder of the League, which Goodell was determined to safeguard even at the expense of individuals such as and including Turner.

November 2013 text messages to Martin

108. Defendants made false accusations against Turner relating to text messages Turner sent to Martin shortly after Martin quit the Dolphins. Beginning on November 2, 2013, Turner and Martin engaged in a text message discussion of the media coverage of Martin’s departure from the Team. The conversation, in its entirety, proceeded as follows:

November 2, 2013

Turner: Richie incognito is getting hammered on national TV. This is not right. You could put an end to all the rumors with a simple statement. DO THE RIGHT THING. NOW.

Martin: Coach. I want to put out a statement. Believe me I do. This thing has become such a huge story somehow. But I've been advised not to... And I'm not supposed to text anyone either cuz last time I responded to a teammate (Richie) I was intentionally manipulated and the conversation was immediately forwarded to a Reporter.

Turner: He is protecting himself. He has been beat up for 4 days. Put an end to this. You are a grown man. Do the right thing.

Turner: John I want the best for you and your health but make a statement and take the heat off Richie and the locker room. This isn't right.

November 3, 2013

Turner:I know you are a man of character. Where is it?

November 6, 2013

Turner:It is never too late to do the right thing!

109. Defendants accused Turner of “demonstrat[ing] poor judgment” by sending these messages.

110. Defendants knowingly and recklessly omitted materially relevant information about the context in which Turner’s communications with Martin occurred. Defendants knew or should have known that, by omitting said relevant information, they were creating a false impression of Turner’s motivations for reaching out to Martin.

111. Defendants were negligent in not knowing or in omitting relevant information about the context in which Turner’s communications occurred and, as a result, Defendants presented in the Report a description of Turner’s communications and motives that was false and misleading.

112. Turner knew – and Defendants purposely ignored – that Martin and Incognito were close friends, and Turner believed that Martin did in fact want to put out a statement defending his friend and respected member of the Team but, as Turner correctly concluded and Defendants ignored, a third-party was advising – or directing – Martin not to set the record straight about Incognito.

113. Defendants ignored this important factual context when concluding that Turner was insensitive and uncaring about Martin's well being.

114. In truth, Turner's messages to Martin reflect not only a concern for Incognito's unfair treatment by the press but also his concern for Martin and his health, and for the other players who were being caught in the media frenzy.

115. Defendants knowingly or recklessly took Turner's text messages out of context and falsely accused Turner of poor judgment and lack of compassion for one of his players who was obviously troubled.

116. Defendants had a duty to present and analyze all the relevant facts regarding Turner's communication with Martin but Defendants breached that duty and negligently took Turner's text messages out of context and negligently accused Turner of poor judgment and lack of compassion for one of his players who was obviously troubled.

Turner's Damages

117. Defendants falsely accused Turner of participating in the bullying and harassment of Martin and of creating an atmosphere that discouraged Martin from coming forward about this purported abuse.

118. Defendants' false and misleading statements impute to Turner conduct and characteristics incompatible with the proper exercise of Turner's trade or profession and constitute defamation *per se*.

119. Defendants' false and misleading statements injured Turner in his trade and profession and damaged his character and reputation.

120. Defendants knew, or were reckless in not knowing, that these accusations were false and misleading.

121. Defendants had a duty to discover the truth of these accusations but failed to do so and knew true facts but negligently failed to include them in the Report or consider them in their analysis. Thus, Defendants were negligent in not knowing the true facts which were inconsistent with the Report's false and misleading accusations against Turner or negligent in not including these facts in the Report or considering these facts in their analysis of Turner's conduct.

122. Five days after the Wells Report was released, the Dolphins fired Turner.

123. Since his termination from the Dolphins, Turner has actively sought work as a football coach but, as a direct result of the damage to his character and reputation caused by the Defendants' false accusations, Turner has yet to receive an offer of employment.

124. The attack on his character and reputation and resulting inability to find employment has also caused Turner significant psychological and emotional pain and suffering.

CLAIMS

COUNT I

(Defamation *Per Se*)

125. Turner realleges and incorporates the allegations set forth in paragraphs 1 through 125 above.

126. Defendants made false and misleading statements about Turner in the Wells Report, falsely accusing Turner of participating in the alleged bullying and harassment of Martin and of creating an atmosphere that discouraged Martin from coming forward about this purported abuse.

127. Defendants knowingly and recklessly failed to include, downplayed or failed to analyze relevant information in the Wells Report in order to identify scapegoats to take the blame for what became a black eye on the NFL and in order to placate the public outcry that ensued.

128. Defendants' false and misleading statements about Turner contained in the Wells Report, in the context in which they were presented and by publicly associating Turner with the alleged bullying and harassment of Martin, impute to Turner conduct and characteristics incompatible with the proper exercise of Turner's trade and profession and constitute defamation *per se*.

129. Defendants published and publicly distributed the Wells Report, including by making the Report available on the internet, where it could be, and was, accessed by citizens of the State of Florida and throughout the United States.

130. Defendants published and publicly distributed the Wells Report, including to the Dolphins organization, which resulted in the Team's decision to terminate Turner's employment.

131. Defendants' false statements have injured Turner in his trade and profession and have damaged his character and reputation, which have prevented Turner from obtaining employment as a football coach despite his qualifications and have caused Turner to suffer damages in an amount to be determined at trial.

COUNT II
(Defamation)

132. Turner realleges and incorporates the allegations set forth in paragraphs 1 through 132 above.

133. Defendants made false and misleading statements about Turner in the Wells Report by falsely accusing Turner of participating in the alleged bullying and harassment of Martin and of creating an atmosphere that discouraged Martin from coming forward about this purported abuse.

134. Defendants acted with actual malice because they knew, or were reckless in not knowing, that their accusations against Turner in the Wells Report were false and misleading. Defendants were aware of relevant facts, or knowingly and recklessly ignored relevant facts, or deliberately avoided learning of these facts, in order to satisfy their agenda as dictated by the NFL.

135. Defendants knowingly and recklessly failed to include, downplayed or failed to analyze relevant information in the Wells Report in order to identify scapegoats to take the blame for what became a black eye on the NFL and in order to placate the public outcry that ensued.

136. Defendants also were motivated to give the NFL the storyline it wanted in order to ensure that the NFL would retain them for future investigations, which are extremely lucrative engagements.

137. Defendants published and publicly distributed the Wells Report, including by making the Report available on the internet, where it could be, and was, accessed by citizens of the State of Florida and throughout the United States.

138. Defendants' false and misleading statements about Turner contained in the Wells Report, in the context in which they were presented and by publicly associating Turner with the alleged bullying and harassment of Martin, constitute defamation of Turner.

139. Defendants published and publicly distributed the Wells Report, including to the Dolphins organization, which resulted in the Team's decision to terminate Turner's employment.

140. Defendants' false statements have injured Turner in his occupation, business and employment and have damaged his character and reputation, which have prevented Turner from obtaining employment as a football coach despite his experience and qualifications.

141. Defendants' false and misleading statements have caused Turner significant psychological and emotional pain and suffering.

142. As a direct and proximate result of Defendants' actions, Turner has suffered and continues to suffer damages in an amount to be determined at trial.

COUNT III
(Defamation)

143. Turner realleges and incorporates the allegations set forth in paragraphs 1 through 143 above.

144. Defendants made false and misleading statements about Turner in the Wells Report by falsely accusing Turner of participating in the alleged bullying and harassment of Martin and of creating an atmosphere that discouraged Martin from coming forward about this purported abuse.

145. Defendants were negligent in not knowing that their accusations against Turner in the Wells Report were false and misleading and negligent in not knowing the true facts and in not including the true facts in the Wells Report. Defendants had a duty to discover and include

in its analysis all the relevant facts and evidence regarding the circumstances surrounding Martin's departure from the Team and his alleged bullying.

146. In breach of their duty, Defendants, in order to confirm the story pre-determined by the NFL, falsely accused Turner of participating in the alleged bullying and harassment of Martin and of creating an atmosphere that discouraged Martin from coming forward about this purported abuse. Defendants were negligent in not knowing that their accusations against Turner were false and misleading.

147. Defendants negligently failed to include, downplayed or failed to analyze, necessary information in the Wells Report in order to identify scapegoats to take the blame for what became a black eye on the NFL and in order to placate the public outcry that ensued.

148. Defendants also were motivated to give the NFL the storyline it wanted in order to ensure that the NFL would retain them for future investigations, which are extremely lucrative engagements.

149. Defendants published and publicly distributed the Wells Report, including by making the Report available on the internet, where it could be, and was, accessed by citizens of the State of Florida and throughout the United States.

150. Defendants' false and misleading statements about Turner contained in the Wells Report, in the context in which they were presented and by publicly associating Turner with the alleged bullying and harassment of Martin, constitute defamation of Turner.

151. Defendants published and publicly distributed the Wells Report, including to the Dolphins organization, which resulted in the Team's decision to terminate Turner's employment.

152. Defendants' false statements have injured Turner in his occupation, business and employment and have damaged his character and reputation, which have prevented Turner from obtaining employment as a football coach despite his qualifications.

153. Defendants' false and misleading statements have caused Turner significant psychological and emotional pain and suffering.

154. As a direct and proximate result of Defendants' actions, Turner has suffered and continues to suffer damages in an amount to be determined at trial.

REQUEST FOR RELIEF

Turner demands a trial by jury on all issues triable as a matter of right.

Turner respectfully requests this Court to enter judgment in his favor, granting the following relief:

- a. damages in an amount to be determined at trial, including compensatory and consequential damages, punitive damages, litigation costs and attorneys' fees;
- b. damages in an amount to be determined at trial for Turner's psychological and emotional pain and suffering; and
- c. such other and further relief as this Court deems just and equitable under the circumstances.

Dated: New York, New York
August 10, 2015

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