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**SUPERIOR COURT OF NEW JERSEY
UNION COUNTY – LAW DIVISION**

TAMAR HERMAN,

Plaintiff,

v.

IBTIHAJ MUHAMMAD, SELAEDIN MAKSUT,
COUNCIL ON AMERICAN-ISLAMIC
RELATIONS A/K/A/ CAIR A/K/A CAIR-
FOUNDATION INC., and CAIR NEW JERSEY
A/K/A CAIR NJ A/K/A CAIR NJ INC.,

Defendants.

CIVIL ACTION

DOCKET #: UNN-L-
002913-22

**PROPOSED AMENDED
COMPLAINT
& JURY DEMAND**

Plaintiff, TAMAR HERMAN (“Herman” or “Plaintiff”), by and through her attorneys Bochner IP, PLLC by way of Amended Complaint against Defendants IBTIHAJ MUHAMMAD (“Muhammad”), SELAEDIN MAKSUT (“Maksut”), COUNCIL ON AMERICAN-ISLAMIC RELATIONS A/K/A CAIR (“CAIR”), and CAIR NEW JERSEY A/K/A CAIR NJ INC. (“CAIR NJ”), says as follows below.

Statements are made on personal knowledge as to Plaintiff's own actions, and on information and belief as to all other matters:

SUMMARY OF THE ACTION

1. This action relates to the incalculable reputational, financial, professional, mental, medical, emotional, and other personal harm caused to Herman—a beloved, veteran teacher with a stellar reputation earned at Seth Boyden Elementary School (the “School”) in the South Orange Maplewood School District (the “District”) in Maplewood, New Jersey for twenty years, with more than thirty years of overall teaching experience—by categorically false allegations of bigotry, child abuse, and gross pedagogical misconduct made by the Defendants with actual malice against Herman on October 7, 2021 and October 8, 2021, arising out of events that occurred at the School on October 6, 2021. As a result of the Defendants’ fabricated and malicious claims, Herman had her reputation impugned, she was targeted with threats to her physical safety, was mercilessly bullied and ridiculed, was shamed in local and national news articles, and humiliated in front of her community—by being removed from her classroom at the School and placed on administrative leave by the District, by a District letter sent to all District families, by an “anti-bias” training company hired by the District, by a Tweet from New Jersey Governor Phil Murphy, and by a public Facebook post from the rabbi of her childhood synagogue. Furthermore, as this was going on, she was also subjected to antisemitic vitriol and hatred by readers and viewers of the libels made by Defendants. Moreover, due to the widely published nature of the fabrications, she has no reasonable prospect of securing future public school teaching opportunities and was subjected to a criminal investigation and the threat of criminal charges by the Essex County

Prosecutor's Office. She suffered and continues to suffer from emotional and mental harm to such a degree that she has had no realistic choice but to permanently move out of her home and, prior to that, had to ask for police protection and temporarily relocate in the immediate aftermath of Defendants' lies. The Defendants—all famous, powerful, and well-financed individuals and/or entities with major public platforms both online and elsewhere—and motivated by a combination of greed and a fierce desire to burnish their brands as fighters against Islamophobia, have inflicted irreparable harm on Herman through their false statements made with actual malice as detailed hereinafter.

Accordingly, Herman brings this action to recover damages for defamation and false light invasion of privacy based on the harm she suffered at the hands of the Defendants as a direct and proximate result of their fabricated and malicious claims. Moreover, as set forth at length hereinafter, punitive damages are warranted against all of the Defendants, as their false statements were made with actual malice, and motivated in substantial part by greed and a reckless desire to burnish their brands as fighters against Islamophobia. Additionally, punitive damages are warranted against Muhammad by reason of certain material false claims made by her in defense of this action, and her persistent refusal to mitigate the harm caused by her fabricated and malicious claims despite being afforded ample opportunity to do so by Herman.

PARTIES

2. Plaintiff Herman is a natural person, at all relevant times was and still is a resident of New Jersey and is currently a resident of Union County, New Jersey; was and still is a licensed teacher with twenty years of experience at the School, and thirty-three years of overall teaching experience, also including twenty-nine years of experience as a

Hebrew School teacher and experience conducting High Holiday and Sabbath services for children at three local congregations. Herman, until being placed on administrative leave by the District as a result of the Defendants' fabrications, had never been subjected to professional discipline of any kind. Herman is well-known in the District and at the School for her support to students of all backgrounds¹ and her unusual level of dedication to her students. For example, over her many years of teaching, her car was usually the last one in the parking lot because she was working late in service to her students. During the COVID-19 pandemic, to make sure her students felt connected and did not fall behind, she visited all her students' homes multiple times to deliver school supplies and Valentine's Day packages. Herman is also a loving mother and grandmother. Herman has received numerous glowing reviews from the most important persons – her students – as well as numerous professional accolades and commendations from, supervisors, parents and others, a selection of which is attached hereto. *See Exhibit B.*

3. Defendant Muhammad is a natural person and, on information and belief, at all relevant times was and still is a resident of New Jersey; is a native of Maplewood, New Jersey; has been a member of the United States National Fencing Team since 2010; is a former United States Olympic sabre fencer who gained national and international publicity because she wore a hijab while competing at the 2016 Summer Olympics in Rio de Janeiro, Brazil, at which she won a bronze medal in the Team Sabre event, and for which she attracted enormous media attention both for her successful finish, and more notably for becoming the first woman to wear a hijab while competing for the United States in the Olympics and the first female Muslim-American athlete to earn a medal at

¹ *See Exhibit A*, an image from a lesson Herman distributed to her students during the COVID-19 pandemic that included an image of a girl wearing a hijab while reading.

the Olympics; was named by President Obama to the President’s Council on Fitness, Sports, and Nutrition in 2017; as of 2017, was ranked number two in the United States and number seven in the world in fencing; was and still is a five-time Senior World medalist, including 2014 World Champion in the team event; was and still is a co-owner and proprietor, together with her siblings, of a clothing company established in 2014 and known as Louella; has authored three books that are for sale on Amazon.com and other major online marketplaces: *Proud: My Fight for an Unlikely American Dream* (2018),² *The Proudest Blue: A Story of Hijab and Family* (2019),³ and its sequel, *The Kindest Red: A Story of Hijab and Friendship (The Proudest Blue)* (release date 2023);⁴ is also the subject of two biographies: one authored by Daniel R. Faust entitled *Ibtihaj Muhammad: Muslim American, Champion Fencer, and Olympian (Breakout Biographies)* (2017)⁵ and one authored by Katie Lajiness entitled *Ibtihaj Muhammad (Big Buddy Olympic Biographies)* (2016);⁶ was one of the subjects of Mattel’s 2017 International Women’s Day Campaign, through which Mattel introduced a line of female role model Barbies, including one in a hijab, modeled after Muhammad,⁷ and also for sale on Amazon.com and other major online marketplaces; did and still does engage in

² <https://www.amazon.com/Proud-Fight-Unlikely-American-Dream/dp/0316518964> (last visited April 1, 2023).

³ https://www.amazon.com/Books-Ibtihaj-Muhammad/s?rh=n%3A283155%2Cp_27%3A%2FIbtihaj+Muhammad (last visited April 1, 2023).

⁴ https://www.amazon.com/Kindest-Red-Story-Friendship-Proudest/dp/0759555702/ref=sr_1_2?crid=13WBN3FOTMEZN&keywords=Ibtihaj+Muhammad&qid=1659918454&s=books&prefix=ibtihaj+muhammad%2Cstripbooks%2C88&sr=1-2 (last visited April 1, 2023).

⁵ <https://www.amazon.com/Ibtihaj-Muhammad-American-Champion-Biographies/dp/1508160600> (last visited April 1, 2023).

⁶ https://www.amazon.com/Ibtihaj-Muhammad-Buddy-Olympic-Biographies/dp/1680785540/ref=sr_1_6?crid=13WBN3FOTMEZN&keywords=Ibtihaj+Muhammad&qid=1659918454&s=books&prefix=ibtihaj+muhammad%2Cstripbooks%2C88&sr=1-6 (last visited April 1, 2023).

⁷ <https://www.amazon.com/Barbie-FJH67-Ibtihaj-Muhammad-Doll/dp/B079JCZMMH> (last visited April 1, 2023).

substantial efforts to promote herself and her personal brand, her various businesses, and her books, and to realize profits from these promotional efforts, both online and in-person, and both through her website⁸ and personal Facebook,⁹ Instagram,¹⁰ and Twitter¹¹ accounts; has approximately 513,000 followers on Facebook, approximately 382,000 followers on Instagram, and approximately 62,100 followers on Twitter; did and still does conduct substantial business in the State of New Jersey through her aforementioned business ventures; and did and still does target consumers in the State of New Jersey in connection with her business activities.

4. Additionally, Muhammad and Herman know each other personally, having developed what had been a friendly relationship prior to the events at issue in this action from having worked out together at the NBD Fitness Gym in Springfield, New Jersey as part of a small training group on numerous occasions and having also shared the same personal trainer; from Herman having attended one of Muhammad's book signings on July 25, 2018 for Muhammad's book, *Proud: My Fight for an Unlikely American Dream*, where they posed for a photograph together proudly displaying Muhammad's book and Muhammad signed a copy of her book for Herman with the personal handwritten message: "*Tamar, Here's To Believing The Impossible Is Always Possible [hand-signed by Muhammad]*" (Photographs of this signed personal message and of Muhammad and Herman posing together are collectively attached hereto as **Exhibit C**), which Herman has used in her classroom; from several conversations in which they discussed Muhammad speaking at the School (which, memorably, is Muhammad's alma

⁸ <https://www.ibtihajmuhammad.com> (last visited April 1, 2023).

⁹ <https://www.facebook.com/ibtihajmuhammadusa> (last visited April 1, 2023).

¹⁰ <https://www.instagram.com/ibtihajmuhammad/> (last visited April 1, 2023).

¹¹ <https://twitter.com/IbtihajMuhammad/> (last visited April 1, 2023).

mater) and visiting Herman's classroom, resulting in Muhammad and Herman exchanging phone numbers and Muhammad sharing her email address. (An email sent by Herman to a teaching colleague with Muhammad's email address to invite Muhammad to be a speaker at the School is attached hereto as **Exhibit D**). They also discussed how holding a sporting event in Israel between people of different religions could build cross-cultural understanding. As well, prior to the events at issue in this action, Herman expressed support for Muhammad specifically, and Islam generally, online, where the two were Facebook friends. For example, on May 5, 2019, in response to Muhammad posting on her Facebook account the news that she had been named Stanford Baccalaureate speaker, Herman posted: "Go Ibtly! [Muhammad]. A Seth Boyden student and Bronze medalist in the Olympics!" On an earlier occasion, April 10, 2019, in response to Muhammad posting on the internet the news that she was featured in a Nike ad campaign called "Dream Crazier," Herman posted: "Go Ibtihaj! A Seth Boyden graduate and a Muslim female athlete who has amazing discipline, determination, and purpose in spite of sooooo much adversity." On August 6, 2016, even Herman's then-husband posted support for Muhamad, writing: "Rooting for her! She works out at the local gym with my wife." Herman's affinity and respect for Muhammad was perhaps best evidenced by Muhammad's prominent place in Herman's classroom and its surroundings: Herman had a poster of Muhammad displayed in the hallway outside Herman's classroom on a special class bulletin board of character traits and accomplishments, and the class studied Muhammad as an example of perseverance, persistence, dedication, overcoming obstacles, overcoming adversity, and achieving excellence in spite of it all.

5. Defendant Maksut is a natural person and, on information and belief, at all relevant times was and still is a resident of New Jersey; was named Deputy Executive Director of CAIR NJ on October 17, 2019;¹² holds a B.A. in Middle Eastern and Islamic Studies from New York University, and an M.A. in Religious Studies from Columbia University; and is also the Vice-President of The Muslim Network, a New Jersey-based not-for-profit organization. Like Muhammad, he maintains an active presence on social media through, *inter alia*, his Twitter,¹³ Facebook,¹⁴ and Instagram¹⁵ accounts, as well as on CAIR NJ's social media accounts.

6. Defendant CAIR is a non-profit Muslim civil rights and advocacy group with its principal offices located in Washington, D.C. and numerous satellite chapters and offices located nationwide, including in New Jersey; conducts substantial operations in New Jersey, both through its New Jersey chapter (CAIR NJ) and otherwise; is, by its own description, “a grassroots civil rights and advocacy group [and] America’s largest Muslim civil liberties organization”;¹⁶ claims on its website that its “mission is to enhance understanding of Islam, protect civil rights, promote justice, and empower American Muslims”;¹⁷ engages in substantial fundraising efforts in support of its mission nationwide and in New Jersey; has regional chapters and offices nationwide, including co-Defendant CAIR NJ. According to the Anti-Defamation League (ADL), members of “CAIR’s current leadership had early connections with organizations that are or were affiliated with Hamas [a designated foreign terrorist organization by the United States].”

¹² <https://m.facebook.com/CAIRNewJersey/photos/meet-selaedin-maksut-our-new-deputy-executive-director-selaedin-holds-a-ba-in-mi/2601407306583889/> (last visited April 1, 2023).

¹³ <https://twitter.com/mselaedin?lang=en> (last visited April 1, 2023).

¹⁴ <https://www.facebook.com/selaedin.maksut> (last visited Aug. 17, 2022).

¹⁵ <https://www.instagram.com/s.maksutt/> (last visited April 1, 2023).

¹⁶ https://www.cair.com/about_cair/about-us/ (last visited April 1, 2023).

¹⁷ *Id.*

Additionally, members of CAIR’s leadership “have used ... antisemitic tropes related to Jewish influence over the media or political affairs, or has descended into the vilification of Zionists, which includes the majority of American Jews, who view a connection with Israel as a component of their Jewish identity.”¹⁸ CAIR maintains an active presence on social media through, *inter alia*, its Twitter,¹⁹ Facebook,²⁰ and Instagram²¹ accounts, and has approximately 139,000 followers on Facebook, approximately 9,034 followers on Instagram, and approximately 56,100 followers on Twitter.

7. Defendant CAIR NJ at all relevant times was and still is the New Jersey chapter and office of CAIR and engages in substantial fundraising efforts in support of CAIR’s mission in New Jersey. CAIR NJ maintains an active presence on social media, through – *inter alia* – its Twitter,²² Facebook,²³ and Instagram²⁴ accounts.

JURISDICTION & VENUE

8. This Court has jurisdiction over this matter because all parties reside in the State of New Jersey or conduct substantial business within the State of New Jersey.

9. Venue is proper in Union County because Herman resides in Union County.

¹⁸ <https://www.adl.org/education/resources/backgrounders/the-council-on-american-islamic-relations-cair> (last visited April 1, 2023).

¹⁹ <https://twitter.com/CAIRNational> (last visited April 1, 2023).

²⁰ <https://www.facebook.com/CAIRNational> (last visited April 1, 2023).

²¹ https://www.instagram.com/cair_national/ (last visited April 1, 2023).

²² <https://twitter.com/CAIRNJ> (last visited April 1, 2023).

²³ <https://www.facebook.com/CAIRNewJersey> (last visited April 1, 2023).

²⁴ <https://www.instagram.com/cair.nj/> (last visited April 1, 2023).

FACTUAL BACKGROUND

The Events of October 6, 2021

10. On October 6, 2021, Herman was teaching her second-grade class at the School (the class was busily engaged in a writing workshop assignment) when she noticed one of her students (the “Student”) wearing a hood that was blocking her eyes. While Herman was aware that the Student—who was 7 years of age—regularly wore a form-fitting hijab, the article of clothing Herman witnessed on October 6, 2021 did not resemble the hijab that this student wore every day prior. Accordingly, Herman believed in good faith that the student’s hijab was being worn under the hood. Intending to encourage the Student to engage in her schoolwork as her eyes were partially blocked by the hood, Herman—in accordance with school policy which indicates the students should not be allowed to wear items that block their vision—asked the Student to brush back her hood. This was a particularly reasonable request as the rest of the Student’s face was already significantly covered by a mask being worn to protect against COVID-19. When the Student did not respond to Herman’s request, Herman, believing the Student’s hijab was underneath, brushed the hood back a few inches with her hand in order to uncover the Student’s eyes and facilitate learning. While lightly brushing back the hood itself, and without making contact with the Student physically, Herman noticed the Student’s hair and that the Student was not wearing her regular form-fitting hijab underneath. Herman immediately brushed the hood back to cover all the Student’s hair and, out of respect for the religious practices of Islam and for the Student’s observation of same, apologized to the Student. The hood never left the Student’s head, and the classroom learning went on as normal.

11. As well, during this interaction, Herman did not speak to the Student or utter any words, other than the aforementioned apology. Nor did Herman remove the hood from the Student's head or use physical force of *any* kind on the Student and her hijab, including grabbing, pulling, ripping, or stripping; rather, Herman merely *brushed* the hood back, and lightly, at that. Herman did not subject the Student to force, the Student did not resist (the interaction lasted mere seconds and Herman immediately brushed the hood back into place), and Herman did not make any comments about the Student's appearance or anything else, other than the apology.

12. When Herman arrived at the School the next morning, October 7, 2021, she met with Principal Shannon Glander and Assistant Principal Sheila Murphy, who informed Herman that they had heard from the Student's mother of the momentary interaction with the Student the previous day. Principal Glander told Herman that the Student's mother had told Principal Glander that she understood what had happened with her daughter was simply a misunderstanding.²⁵

13. Yet, later that same day, Herman was placed on administrative leave. Typically, these incidents are quickly and quietly resolved, and the teacher returns to the classroom when no wrongdoing is found.

14. It is now over a full year later and, due to Defendants' defamation of Herman and the firestorm created by same (discussed *infra*), Herman remains on administrative leave and with her employment status at best describable as "in limbo."

²⁵ The Student's mother repeated this belief a few months later when she showed up at Herman's home (uninvited) on January 28, 2022, and told Herman, in the presence of others that her daughter, the Student, loves Herman and that the interaction was all a "misunderstanding."

15. Muhammad’s defamatory posts of October 7, 2021 (discussed *infra*) led to a “flood” of complaints to the District from “thousands of people,” including some that were “vulgar” and “threatening.”²⁶ The flood of interest and outrage instigated by her defamation and its amplification by the other Defendants transformed a minor interaction that would have been resolved in favor of Herman into a national news story that wrecked Herman’s life and from which she has not recovered.

16. Even though District Superintendent Ronald Taylor had announced that social media was not a “reliable form of due process,”²⁷ the public pressure caused by Defendants’ explosive lies proved too much for Taylor to withstand.

17. The District quickly caved to the pressure brought to bear by the reaction from misguided individuals posting on social media and the thousands of people that contacted the District in response to Defendants’ lies, and posted a letter on October 11th on the District’s website to all District parents disavowing Herman for her alleged actions and sending resources for children about Islamophobia, implying that Herman was Islamophobic.²⁸ Five days after Muhammad’s initial post, the District held a District-wide implicit bias training for teachers and used Herman as an example of inappropriate teacher behavior.

18. On October 8, 2021, even New Jersey’s Governor, Phil Murphy, offered his opinion on his Twitter account, which has over 447,000 followers.²⁹ Governor

²⁶ Jesse O’Neill, *NJ teacher accused of removing student’s hijab speaks out as cops investigate*, New York Post (Oct. 13, 2021) (last visited April 1, 2023), <https://nypost.com/2021/10/13/nj-teacher-tamar-herman-accused-of-removing-2nd-graders-hijab-speaks-out/>

²⁷ *Id.*

²⁸ Superintendent’s Statement: SB Discrimination Allegations Follow-Up & Update (October 12, 2021)

²⁹ <https://twitter.com/govmurphy/status/1446584729550168066?lang=en> (last visited April 1, 2023).

Murphy, further fanning the flames of the fire started by Defendants, tweeted, *inter alia*, that he was “[d]eeply disturbed by these accusations.”³⁰

19. The public pressure was so frenzied that the rabbi of the local synagogue where Herman grew up, and who did not know Herman at all, felt compelled on the evening of October 9, 2021 to condemn Herman for her actions in a public Facebook post.

B. Defendants’ Defamatory Statements

i. Muhammad’s First Defamatory Social Media Post

20. On October 7, 2021, only one day after the interaction between Herman and the Student, Muhammad made two defamatory social media posts about Herman and the interaction.

21. First, at 4:03 p.m. Eastern Time on October 7, 2021, Muhammad published the following post on her verified Facebook and Instagram accounts, featuring a photo of her book *The Proudest Blue: A Story of Hijab and Family* and the following message:

I wrote this book with the intention that moments like this would never happen again. When will it stop? Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. School should be a haven to all of our kids to feel safe, welcome and protected – no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden

³⁰ *Id.*

Elementary (973) 378-5209 and EMAIL the principal sglander@somsd.k12.nj.us and the superintendent rtaylor@somsd.k12.nj.us

22. A copy of this social media post is attached hereto as **Exhibit E** and is available on Muhammad’s Facebook account³¹ (hereinafter referred to as “Muhammad Post #1”).

23. The Instagram version of Muhammad Post #1 is largely identical to the Facebook version except that the bottom of the caption on the Instagram version tagged two Instagram accounts—@cair_national and @cair.nj, the accounts affiliated with CAIR and CAIR NJ. A copy of Muhammad’s social media post on Instagram is attached hereto as **Exhibit F** and was previously available on Muhammad’s Instagram account.³²

24. As of the date the original complaint was filed in this matter, Muhammad Post #1 remains on Muhammad’s Facebook account. However, as of the date of this Amended Complaint, it appears that the post had been taken down.

25. As of the present date, the Facebook version of Muhammad Post #1 garnered approximately 5,200 reactions, 465 comments, and 1,300 shares.

26. As of the present date, the Instagram version of Muhammad Post #1 garnered approximately 15,277 likes and 253 comments.

³¹

[https://www.facebook.com/ibtihajmuhammadusa/posts/pfbid0bPq5p9fcXfLg1EkbhTKjjrtXrv9XLC3w9r4NqQ9LMHheShN5UdkxrSVifgYNZy1tl?_cft_\[0\]=AZVVbtaH4560iVVGos8egm58u42qwnf7eJk3NdgDvvLX7iPcabfA_gR34ViLCjEHpabIoh89-8HWr2NEBHaoj-2zOcywQtZXkxqtouPk-coHJ0i19y1QJ8QEflsOUwnaYocRqdXOKIuHaR2G8oP52ME7&_tn_=%2CO%2CP-R](https://www.facebook.com/ibtihajmuhammadusa/posts/pfbid0bPq5p9fcXfLg1EkbhTKjjrtXrv9XLC3w9r4NqQ9LMHheShN5UdkxrSVifgYNZy1tl?_cft_[0]=AZVVbtaH4560iVVGos8egm58u42qwnf7eJk3NdgDvvLX7iPcabfA_gR34ViLCjEHpabIoh89-8HWr2NEBHaoj-2zOcywQtZXkxqtouPk-coHJ0i19y1QJ8QEflsOUwnaYocRqdXOKIuHaR2G8oP52ME7&_tn_=%2CO%2CP-R) (last visited April 1, 2023).

³² Previously available at https://www.instagram.com/p/CUvWR81MkOQ/?utm_source=ig_web_copy_link (last visited Aug. 15, 2022).

ii. **Muhammad’s Second Defamatory Social Media Post**

27. At 4:30 p.m. Eastern Time on October 7, 2021, less than a half an hour after her Facebook defamatory post, Muhammad published another Instagram post, featuring photos of the School and a years-old photo of Herman herself (obtained by Muhammad from Herman’s private Facebook page), with the following message, again tagging CAIR and CAIR NJ:

Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. Schools should be a haven for all of our kids to feel safe, welcome and protected— no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden Elementary (973) 378-5209 and EMAIL the principal sglander@somds.k12.Nj.us and the superintendent Rtaylor@somds.k12.Nj.us

@cair_national @cair.nj

28. A copy of the textual portions of this social media post is attached hereto as **Exhibit G** and was previously available on Muhammad’s Instagram account³³

(hereinafter referred to as “Muhammad Post #2”).

29. As of the present date, Muhammad Post #2 remains on Muhammad’s Instagram account.

30. As of the present date, Muhammad Post #2 garnered approximately 68,661 likes and 2,508 comments.

³³ Previously available at https://www.instagram.com/p/CUvZrQHsB6-/?utm_source=ig_web_copy_link (last visited Aug. 15, 2022).

31. Upon information and belief, Muhammad tagged CAIR and CAIR NJ on both of her Instagram social media posts in order to reach the largest possible audience and to cause the maximum possible amount of inflammation and vitriol directed toward Herman.

32. As discussed herein, Muhammad did not investigate whether the allegations in her posts were true or false, even though they were unbelievable stories based on the third-hand account of a dubious witness, because she did not care whether they were true or false – they helped her obtain publicity and promotion for her business ventures and raise her standing in the Muslim community.

33. Muhammad’s exaggerated language substantially distorted and twisted what happened during the interaction between Herman and the Student, transforming Herman’s caring actions into imagined abhorrent actions. Her language grossly distorted the difference between Herman’s gentle and momentary brushing back of the Student’s hood to facilitate learning and imagined forceful removal of a hijab in much the same way tapping someone is substantially different than hitting someone, or assisting an elderly person down a staircase is substantially different than shoving an elderly person down a staircase. These facts demonstrate actual malice on Muhammad’s part.

iii. Defamatory Statements By Maksut, CAIR & CAIR NJ

34. On October 8, 2021, at 12:41 a.m. Eastern Time, Maksut, having seen Muhammad’s social media posts (like hundreds of thousands of other people), posted the following message on his Twitter account:

Absolutely unacceptable. Teacher pulls off 7 year old’s hijab...in front of the class.

Our @CAIRNJ office is calling for immediate termination.

Racist teachers like this cannot be trusted around our children.

35. A copy of Maksut's original Twitter post is attached hereto as **Exhibit H** and is available on Maksut's Twitter account.³⁴

36. As of the present date, this post remains on Maksut's Twitter account.

37. At approximately 2:13 p.m. Eastern Time on October 8, 2021, Maksut posted, and later deleted, the following reply to his original Twitter post:

Call and email the Superintendent, Dr. Ronald G. Taylor, today, and let him know Tamar Wyner Herman³⁵ is unfit to be a teacher.

*rtaylor@somssd.k12.nj.us
(973) 762-5600*

38. A copy of Maksut's reply to his original Twitter post is attached hereto as part of **Exhibit H**.

39. As of the present date, this reply has been deleted.

40. Also on October 8, 2021 at 9:45 a.m. Eastern Time, CAIR posted a substantially similar version of Maksut's October 8, 12:41 a.m. Tweet on its Facebook and Twitter accounts, with a link to an NBC New York story referencing Herman by name and entitled *NJ Teacher Accused of Pulling Hijab Off 2nd Grade Student's Head*.³⁶

A teacher pulled off a 7-year-old student's hijab in front of her class. This is completely unacceptable, and we are calling for immediate termination. Our children are not safe with #Islamophobia in the classroom.

³⁴ <https://twitter.com/MSelaedin/status/1446334944960204832> (last visited April 1, 2023).

³⁵ Wyner is Herman's maiden name.

³⁶ NBC News New York, *NJ Teacher Accused of Pulling Hijab Off 2nd Grade Student's Head* (Oct. 8, 2021), <https://www.nbcnewyork.com/news/local/nj-teacher-accused-of-pulling-hijab-off-2nd-grade-students-head/3313080/?amp=1> (last visited April 1, 2023).

41. Copies of these Facebook and Twitter posts are attached hereto as **Exhibit I** and are available on CAIR’s Facebook³⁷ and Twitter³⁸ accounts.

42. As of the present date, this post remains on CAIR’s Facebook and Twitter accounts.

43. On October 8, 2021 at 3:56 p.m. Eastern Time, CAIR posted the following message on its Twitter account with a link to an NBC News story entitled *Olympian accuses New Jersey teacher of pulling off girl’s hijab, school district investigating*,³⁹ tagging CAIR NJ and Maksut:

CAIR-NJ Exec. Dir. Selaedin Maksut: “Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.”
 @CAIRNJ @Mselaedin
 #Islamophobia

44. Copies of this Tweet are attached hereto as part of **Exhibit I** and are available on CAIR’s Twitter account.⁴⁰

45. As of the present date, this post remains on CAIR’s Twitter account.

46. In addition, on the morning of October 8, 2021 at 7:34 a.m. Eastern Time, ABC’s television show “Good Morning America” broadcasted a report entitled *Calls to Fire Teacher Accused of Pulling Off Student’s Hijab* (the “GMA Report”).

³⁷

<https://www.facebook.com/CAIRNational/posts/pfbid0SBgbx8u1iBXDpH775ByQZCKLk6uYL4RoApNz7T83o8esGCFJNyDesyEBNDrepGtWl> (last visited April 1, 2023).

³⁸

<https://twitter.com/CAIRNational/status/1446471920325701633?s=20&t=qeNRv4dZCurq8s44mQ2Wnw> (last visited April 1, 2023).

³⁹ David K. Li, *Olympian accuses New Jersey teacher of pulling off girl’s hijab, school district investigating*, NBC News (Oct. 8, 2021), <https://www.nbcnews.com/news/us-news/olympian-accuses-new-jersey-teacher-pulling-girl-s-hijab-school-n1281117> (last visited April 1, 2023).

⁴⁰

<https://twitter.com/CAIRNational/status/1446565117584367617?s=20&t=qeNRv4dZCurq8s44mQ2Wnw> (last visited April 1, 2023).

47. During the GMA Report, a clip of an interview with Maksut appeared. Maksut stated: “The hijab, you know, is much like any other article of clothing for a Muslim woman. To remove that publicly can be very humiliating.” Later in the segment, a second clip of the interview with Maksut appeared. Maksut stated: “Anyone who thinks it’s OK to do this to a student clearly is not fit to be a teacher.”

48. After the GMA Report aired, CAIR then posted the GMA Report on its YouTube channel, called “CAIRtv”—which, as of the present date, has 11,300 subscribers—under a heading entitled *CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*. As of the present date, this YouTube post remains on CAIRtv.⁴¹

49. Also after the GMA Report aired, on October 9, 2021 at 9:52 a.m. Eastern Time, CAIR posted the GMA Report on its Facebook account under a heading entitled *Video: CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*.⁴² CAIR then posted the GMA Report on its Twitter account on October 9, 2021 at 9:53 a.m. Eastern Time.⁴³ As of the present date, these posts remains on CAIR’s Facebook and Twitter accounts. Moreover, on October 9, 2021 at 10:56 a.m. Eastern Time, CAIR NJ posted the GMA Report on its Facebook account.⁴⁴ As of the present date, this post remains on CAIR NJ’s Facebook account.

⁴¹ <https://www.youtube.com/watch?v=az-6Xr44bfl> (last visited April 1, 2023).

⁴² <https://www.facebook.com/CAIRNational/posts/pfbid0cJuXHt7BZCmnPUHeCcum4Y34iejYWCU5FpKWcjgctQYWUrLvm8jdHraobaVmNqG9l> (last visited April 1, 2023).

⁴³ <https://twitter.com/CAIRNational/status/1446836255430488071?s=20&t=qeNRv4dZCurq8s44mQ2Wnw> (last visited April 1, 2023).

⁴⁴ <https://www.facebook.com/CAIRNewJersey/posts/pfbid0akivLSeuwmFtejoC66G1mkJynY7dExTXWzE78oYqHxstDcJok3i77RW8rX2XVEml>

50. Additionally, on October 8, 2021 at 11:28 a.m. Eastern Time, CAIR posted a press release on its website entitled *CAIR-NJ Calls for Immediate Firing of Teacher Who Allegedly Pulled Off Muslim Student's Hijab*, in which Maksut was quoted as follows:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ. Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it's unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

51. A copy of CAIR's press release is attached hereto as **Exhibit J** and is available on CAIR website⁴⁵ (hereinafter referred to as the "Press Release").

52. As of the present date, the Press Release remains on CAIR's website.

53. Contemporaneously with the issuance of the Press Release on the CAIR website, CAIR NJ also posted defamatory portions of the Press Release on its Facebook account.

54. A copy of this Facebook post is attached hereto as part of **Exhibit J** and is available on CAIR NJ's Facebook account.

55. As well, on October 8, 2021 at 11:42 a.m. Eastern Time, CAIR posted the following message on its Twitter account, with a link to the Press Release, and tagging CAIR NJ and Maksut:

Our children must be protected from anti-Muslim bigotry and abuse at school. The teacher who pulled a second grader's hijab off in class must be fired immediately.

⁴⁵ https://www.cair.com/press_releases/cair-nj-calls-for-immediate-firing-of-teacher-who-allegedly-pulled-off-muslim-students-hijab/ (last visited April 1, 2023).

#Islamophobia
@cairnj @ Mselaedin

56. A copy of this Twitter post is attached hereto as part of **Exhibit K** and is available on CAIR's Twitter account.⁴⁶

57. On October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following message its Twitter account, which was a partial repeat of the Press Release:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ.

58. Also on October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following messages on its Twitter account in reply to the first message, which were also partial repeats of the Press Release, and which, taken together, were a complete verbatim repeat of Maksut's quoted statement in the Press Release:

Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it's unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

59. Copies of CAIR NJ's Twitter posts are attached hereto as **Exhibit L** and are available on CAIR NJ's Twitter account.⁴⁷

60. Contemporaneously with the posting of these messages on Twitter, CAIR

⁴⁶

<https://twitter.com/CAIRNational/status/1446501232399556631?s=20&t=qeNRv4dZCurq8s44mQ2Wnw> (last visited April 1, 2023).

⁴⁷ <https://twitter.com/CAIRNJ/status/1446502941507129344> (last visited April 1, 2023).

NJ posted the same messages on its Facebook account, the first time at 11:34 AM Eastern Time, which are attached hereto as part of **Exhibit J**.

61. As of the present date, all of the CAIR NJ Twitter and Facebook posts remain on CAIR NJ’s Twitter and Facebook accounts, even though their narrative was undermined when they were publicly sent screenshots of the Student’s mother’s antisemitism (*see Exhibit M*, screenshots).

62. On October 8, 2021, CBS News New York quoted Maksut as saying, “The teacher not only put her hands on her, removed her headscarf. And this is, of course, humiliating for any Muslim woman to be exposed this way, in public.”⁴⁸

63. According to WCBS NEWSRADIO 880, “Selaedin Maksut, Executive Director of The Council on American-Islamic Relations of New Jersey, called the alleged incident disturbing and is demanding the teacher be fired immediately. ‘Clearly she’s demonstrated she cannot be trusted around students,’ Maksut told WCBS.”⁴⁹

64. On October 9, 2021, Maksut told NBC’s TODAY in a phone interview, “Anything less than removing her from the classroom would be unacceptable. If she can’t respect the religious practices of her students, then she shouldn’t be teaching.”⁵⁰

65. For similar reasons as Muhammad, as discussed herein, Maksut repeated Muhammad’s allegations *and expanded upon them* without investigation because – like Muhammad – Maksut simply did not care at all whether the statements were true or not.

⁴⁸ Teacher Accused of Forcefully Removing 2nd Grader’s Hijab (Oct 8, 2021) (last visited April 1, 2023) <https://www.cbsnews.com/newyork/news/teacher-accused-of-forcibly-removing-2nd-graders-hijab-in-class/>

⁴⁹ Peter Haskell and Marta Zielinska, NJ mom says daughter who allegedly had hijab pulled off head by teacher is ‘very, very sad,’ WCBS NEWSRADIO 880 (Oct 9, 2021) (last visited April 1, 2023), <https://www.audacy.com/wcbs880/news/local/nj-teacher-accused-of-removing-students-hijab-in-class>

⁵⁰ Alyssa Newcomb, New Jersey teacher under investigation after allegedly pulling hijab off student, Today Show (Oct 9, 2021) (last visited April 1, 2023), <https://www.today.com/news/new-jersey-teacher-under-investigation-after-allegedly-pulling-hijab-student-t233784>

Maksut is a high-level executive within CAIR-NJ. Like any executive at any political organization, part of Maksut's job performance is based on raising money for the organization. In today's political climate, a quick and easy way to raise money from donors is to generate sensational publicity that makes those donors feel that they – or their cause – is under threat.⁵¹ The value of the unbelievable story - that a beloved grandmotherly second grade teacher would forcefully strip off the religious headgear of a Muslim student – lies not in its truthfulness but rather in its sensational nature, inflaming the passions of Maksut's employer (CAIR NJ), that employer's affiliated organizations (CAIR Foundation / national), and those entities' donors and funders. Maksut hoped to profit internally by being the trigger that caused the donations. The fact that his re-publication of it was now a fourth-hand account, through non-witnesses of dubious veracity and having clear ulterior motives, did not matter at all to Maksut – all that mattered was getting credit for being the one to light the match, thereby increasing his influence within his organization and community, and increasing his employer's ability to extract donations from the community.

66. As with Muhammad's social media posts containing her exaggerated language, Maksut's exaggerated language substantially distorted and twisted what happened during the interaction between Herman and the Student, transforming Herman's caring actions into imagined abhorrent actions. His language grossly distorted the difference between Herman's gentle and momentary brushing back of the Student's hood to facilitate learning and imagined forceful removal of a hijab in much the same way tapping someone is substantially different than hitting someone, or assisting an

⁵¹ See: Scoop: Trump Raises over \$5 million since indictment news. Retrieved from: <https://www.axios.com/2023/04/02/trump-indictment-2024-campaign-donations> on April 4, 2023.

elderly person down a staircase is substantially different than shoving an elderly person down a staircase. These facts demonstrate actual malice on Maksut's part.

67. Neither Maksut, CAIR, CAIR NJ, nor any other representatives or agents of these organizations ever attempted to contact Herman to learn what actually happened.

68. For the same reasons that Maksut recklessly published the statements without caring whether they were true or false, CAIR and CAIR NJ published and republished them— the statements generated anxiety and concern amongst their base of donors and concerned individuals, which resulted in influence and donations for the organization. These facts demonstrate actual malice on CAIR and CAIR NJ's part.

C. The Criminal Investigation by the Essex County Prosecutor's Office

69. On or about October 13, 2021, as a result of Defendants' defamatory social media posts and the firestorm of controversy they ignited, the Essex County Prosecutor's Office opened a criminal investigation into the allegations against Herman arising out of the interaction that occurred between her and the Student on October 6, 2021.

70. On January 19, 2022, following a thorough investigation, the Prosecutor's Office informed Herman that there would be no criminal charges brought against her arising out of the interaction that occurred between her and the Student on October 6, 2021. Although Herman was vindicated by the outcome of the investigation, she had been the subject of a criminal investigation for over three months and had been forced to endure the acute emotional distress associated with such circumstances.

Physical Threats Directed at Herman as a Result of Defendants' Defamatory Social Media Posts

71. As a direct result of Defendants' defamatory social media posts, Plaintiff received threats to her physical safety, compelling her to seek police protection.

72. The threats against Herman were reported in online media coverage of the story. For example, Meaww.com reported that “[Herman] is getting death threats after allegedly being ‘falsely’ accused of pulling off a student’s hijab in the middle of a class.”⁵²

D. Subsequent Media Coverage and Other Public Discourse Resulting from Defendants’ Defamatory Social Media Posts

73. In addition, in the days and weeks following Defendants’ defamatory social media posts, numerous major media outlets reported about Herman, referencing the defamatory posts, thereby exposing Herman to humiliation, ridicule, and shame, and, overnight, destroying her hard-earned reputation as an outstanding teacher, which she had built for over three decades. The staggering amount of media coverage only added to the firestorm of lies and negativity ignited by the Defendants.

74. For example, The New York Times published an article entitled *Online Furor Over a Student’s Hijab Engulfs a Liberal Town*.⁵³ The headline also read, “A 7-year-old told her mother that she resisted a New Jersey teacher’s attempt to pull off her Muslim head covering. It spiraled from there.”⁵⁴ This article mentioned Herman by name.

75. The New York Post, in yet another example of the media frenzy, published a story entitled *NJ teacher accused of removing student’s hijab speaks out as cops investigate*.⁵⁵ The newspaper, borrowing language from the Muhammad posts, reported

⁵² Sumanti Sen, *Tamar Herman: Teacher gets death threats after Olympian’s ‘fake’ story of her pulling off girl’s hijab*, Meaww.com (Oct. 12, 2021) (last visited April 1, 2023), <https://meaww.com/tamar-herman-new-jersey-teacher-gets-death-threats-after-pulling-off-girls-hijab>

⁵³ Tracey Tully, *Online Furor Over a Student’s Hijab Engulfs a Liberal Town*, The New York Times (Oct. 22, 2021) (last visited April 1, 2023), <https://www.nytimes.com/2021/10/22/nyregion/hijab-muslim-nj-student.html>

⁵⁴ *Id.*

⁵⁵ Jesse O’Neill, *NJ teacher accused of removing student’s hijab speaks out as cops investigate*, New York Post (Oct. 13, 2021) (last visited April 1, 2023), <https://nypost.com/2021/10/13/nj-teacher-tamar-herman-accused-of-removing-2nd-graders-hijab-speaks-out/>

that “[a]uthorities in Maplewood, New Jersey have opened an investigation into allegations that a teacher ‘forcibly’ removed a second grader’s hijab.” The newspaper further reported, *inter alia*, that “[t]he alleged Oct. 6 incident at Seth Boyden Elementary School touched off an *online firestorm* after fencer Ibtihaj Muhammad, the first Muslim-American Olympic medalist, posted about it on Facebook last week.”⁵⁶ (Emphasis added). This article mentioned Herman by name, referring to her as “[a]ccused teacher Tamar Herman.”

76. NBC News, in another example of the firestorm of negative attention, published a story entitled *Olympian accuses New Jersey teacher of pulling off girl’s hijab, school district investigating*.⁵⁷ The media giant reported that “[a]n Olympic medal-winning fencer accused a teacher of humiliating a second-grade girl by allegedly pulling off the child’s hijab in their New Jersey classroom, and officials said this week they are investigating the allegation.”⁵⁸ Yahoo! News picked up the same story.⁵⁹

77. ABC News reported that “public backlash” was sparked “after fencer and

⁵⁶ *Id.*

⁵⁷ David K. Li, *Olympian accuses New Jersey teacher of pulling off girl’s hijab, school district investigating*, NBC News (Oct. 8, 2021) (last visited April 1, 2023), <https://www.nbcnews.com/news/us-news/olympian-accuses-new-jersey-teacher-pulling-girl-s-hijab-school-n1281117>

⁵⁸ *Id.*

⁵⁹ David K. Li and Donna Mendel, *Olympian accuses New Jersey teacher of pulling off girl’s hijab, school district investigating*, Yahoo!News (Oct. 8, 2021) (last visited April 1, 2023) https://news.yahoo.com/olympian-accuses-jersey-teacher-pulling-180146510.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xiLmNvbS8&guce_referrer_sig=AQAAAH_hkVMePzS3wIuKjQyURg05fY4F-HO6VGvYF0N8ytmXV5ARc5f9WZwhAn0PfH-Yfq95swEihWK8tINxFqRAME8Z6rHhxJQkiZybHhOaSyXjBxbV0nxM8EWK-QGWIMi9o_bz3L1LO7TEGycY_CsAKThh6kQPH4QR99XXtYO4RtP

Olympic medalist Ibtihaj Muhammad, who is also from Maplewood, [took to Facebook](#) to shed light on the incident. . . . ‘This is abuse,’ she wrote. ‘Schools should be a haven for all of our kids to feel safe, welcome and protected – no matter their faith.’”⁶⁰

78. CBS News New York reported on the interaction quoting CAIR NJ Executive Director Selaedin Maksut: “The teacher not only put her hands on her, removed her headscarf. And this is, of course, humiliating for any Muslim woman to be exposed this way, in public.”⁶¹

79. CBS NEWSRADIO 880 indicated that the story went viral due to Muhammad’s post: “The alleged incident sparked widespread outrage Thursday when Olympic fencer Ibtihaj Muhammad, a Maplewood native, claimed in a social media post that a teacher at Seth Boyden Elementary School ‘forcibly removed’ the child’s hijab during class Wednesday.”⁶²

80. In another example of the online furor, USA Today published a story headline indicating that the furor originated from Muhammad’s social media post, entitled *New Jersey teacher pulled hijab off second grader’s head, Olympic fencer Ibtihaj Muhammad alleges*.⁶³

81. Newsweek, on October 8, 2021, reported Muhammad’s allegations in the

⁶⁰ Family says daughter’s 2nd-grade teacher ripped hijab off her head in NJ school (Oct 9, 2021) (last visited April 1, 2023), <https://abc7.com/teacher-pulls-off-hijab-muslim-maplewood-seth-boyden-elementary-school/11103242/>

⁶¹ Teacher Accused of Forcefully Removing 2nd Grader’s Hijab (Oct 8, 2021) (last visited April 1, 2023) <https://www.cbsnews.com/newyork/news/teacher-accused-of-forcibly-removing-2nd-graders-hijab-in-class/>

⁶² Peter Haskell and Marta Zielinska, NJ mom says daughter who allegedly had hijab pulled off head by teacher is ‘very, very sad,’ WCBS NEWSRADIO 880 (Oct 9, 2021) (last visited April 1, 2023), <https://www.audacy.com/wcbs880/news/local/nj-teacher-accused-of-removing-students-hijab-in-class>

⁶³ Liam Quinn, New Jersey teacher pulled hijab off second grader’s head, Olympic fencer Ibtihaj Muhammad alleges, USA Today, (Oct 9, 2021) (last visited April 1, 2023), <https://www.usatoday.com/story/sports/olympics/2021/10/08/olympic-fencer-ibtihaj-muhammad-teacher-removed-student-hijab/6053259001/>

first lines of their story: “An elementary school teacher was accused of ‘forcibly’ removing the hijab of a second-grade student in Maplewood, New Jersey. Olympic fencer and Maplewood native, Ibtihaj Muhammad, wrote about the interaction on Facebook.”⁶⁴

82. Many local outlets reported on the story, referring to Muhammad’s allegations. Patch reported on October 7, 2022, only a few hours after Muhammad’s post. The first line of its story was “Olympic athlete Ibtihaj Muhammad said a Maplewood teacher was accused of removing a student’s hijab, but the teacher’s attorney denied it.”⁶⁵ NJ.com reported on the accusations, with the headline and the first five paragraphs of the story focusing on Muhammad and her statements.⁶⁶ The first line of the story published by Daily Voice Essex focused on Muhammad’s accusations.⁶⁷

83. Even foreign-based outlets picked up on the story. For example, the Daily Mail Online (United Kingdom) published a story entitled *Muslim Olympic US fencer accuses NJ teacher of ‘pulling hijab off second-grade girl in front of her class*.⁶⁸

84. Other foreign, Jewish, and Muslim outlets reported on the story, including

⁶⁴ Fatma Khaled, Elementary School Teacher Accused of ‘Forcibly’ Removing Hijab Off Girl’s Head, Newsweek, (Oct 8, 2021) (last visited April 1, 2023), <https://www.usatoday.com/story/sports/olympics/2021/10/08/olympic-fencer-ibtihaj-muhammad-teacher-removed-student-hijab/6053259001/>

⁶⁵ Caren Lissner, Maplewood Probes Accusation That Teacher Removed Student’s Hijab, (Oct 7, 2021) (last visited April 1, 2023), <https://patch.com/new-jersey/maplewood/maplewood-probes-whether-teacher-removed-students-hijab-reports>

⁶⁶ Anthony Attrino, NJ Olympian says elementary school teacher pulled hijab from 7-year old girl’s head, nj.com, (Oct 8, 2021) (last visited April 1, 2023), <https://www.nj.com/education/2021/10/nj-olympian-says-elementary-school-teacher-pulled-hijab-from-7-year-old-girls-head.html>

⁶⁷ Cecilia Levine, NJ Teacher Accused of Ripping Hijab Off Student Was Trying To Fix Her Hood, Attorney Says, Daily Voice Essex, (Oct 9, 2021) (last visited April 1, 2023), <https://www.nj.com/education/2021/10/nj-olympian-says-elementary-school-teacher-pulled-hijab-from-7-year-old-girls-head.html>

⁶⁸ Ronny Reyes, *Muslim Olympic US fencer accuses NJ teacher of ‘pulling hijab off second-grade girl in front of her class*, Daily Mail (Oct. 8, 2021) (last visited April 1, 2023), <https://www.dailymail.co.uk/news/article-10074083/Olympic-fencer-accuses-New-Jersey-teacher-pulling-hijab-second-grade-girl.html>

Timeturk,⁶⁹ an English language site that follows the news in Turkey and the world, The Jerusalem Post,⁷⁰ and The Times of Israel,⁷¹ two English language outlets based in Israel, and other sites like Islamic Bridge⁷² and Anadolu Agency.⁷³

85. Smaller media outlets also picked up the story, reporting on various matters, including the numerous death threats against Herman.⁷⁴

86. The damage to Herman's reputation extended well beyond negative media coverage. For example, a Change.org petition, entitled *Fire the Teacher that Pulled off a Second Grader's Hijab Forcefully!*, repeats Muhammad's false accusations, calls for Herman to be fired, and the comments thereto include anti-Jewish rhetoric.⁷⁵ This petition has garnered 41,006 signatures to date.⁷⁶

87. Indeed, Defendants' notoriety and the public platform that comes with such notoriety, coupled with the inflammatory nature of their false accusations, caused their lies to resonate with such force that on October 8, 2021, even New Jersey Governor Phil Murphy offered his opinion on his Twitter account, on which he has over 447,000

⁶⁹ US Olympic Fencer Accuses Teacher of Removing Student's Hijab, TIMETURK (Oct. 8, 2021) (last visited April 1, 2023), <https://www.timeturk.com/en/us-olympic-fencer-accuses-teacher-of-removing-student-s-hijab/news-45518>

⁷⁰ Shira Hanau, Jewish teacher accused of forcibly removing a student's hijab at NJ school (Oct. 11, 2021) (last visited April 1, 2023), <https://www.jpost.com/diaspora/jewish-teacher-accused-of-forcibly-removing-a-students-hijab-at-nj-school-681687>

⁷¹ Shira Hanau, Jewish teacher accused of forcibly removing a student's hijab at NJ school (Oct. 12, 2021) (last visited April 1, 2023), <https://www.timesofisrael.com/jewish-teacher-accused-of-forcibly-removing-a-students-hijab-at-nj-school/>

⁷² Maplewood Teacher Accused of Pulling Hijab Off Student's Head (last visited April 1, 2023), <https://islamicbridge.com/2021/10/maplewood-teacher-accused-of-pulling-hijab-off-students-head/>

⁷³ Michael Hernandez, US Olympic fencer accuses teacher of removing student's hijab. Anadolu Agency (Oct 8, 2021) (last visited April 1, 2023), <https://www.aa.com.tr/en/americas/us-olympic-fencer-accuses-teacher-of-removing-students-hijab/2386878>

⁷⁴ Sumanti Sen, *Tamar Herman: Teacher gets death threats after Olympian's 'fake' story of her pulling off girl's hijab*, Meaww.com (Oct. 12, 2021) (last visited April 1, 2023), <https://meaww.com/tamar-herman-new-jersey-teacher-gets-death-threats-after-pulling-off-girls-hijab>

⁷⁵ <https://www.change.org/p/everyone-fire-the-teacher-that-pulled-off-a-second-grader-s-hijab-forcefully> (last visited April 1, 2023).

⁷⁶ *Id.*

followers.⁷⁷ Governor Murphy, further fanning the flames of the fire started by Defendants, tweeted, *inter alia*, that he was “[d]eeply disturbed by these accusations.”⁷⁸

88. More damage was done on the local level with Herman being denounced in her community. Already mentioned is the condemnation of Herman by the rabbi from Herman’s childhood congregation, which was shared by others in the community. In addition, the SOMA [South Orange and Maplewood] Black Parent Workshop issued a statement on October 11, 2021 denouncing Islamophobia and notifying the Essex County Prosecutor’s office of the alleged incident, saying that the story is part of a pattern of abuse of Black children in the District. SOMA Justice, a racial justice/social justice organization in Maplewood/South Orange, thanked Muhammad on Instagram for drawing attention to this case and pledged to purchase Muhammad’s book for every elementary school classroom in the District. In addition, local Facebook group comments like those in SOMA Lounge accused Herman of Islamophobia, racism, and of perpetrating a hate crime—all because of the false accusations spread by the defendants.

E. Herman’s Longstanding Personal Relationship with Muhammad, Muhammad’s Actual Malice and Reckless Speech, and Muhammad’s Refusal to Retract Her Defamatory Social Media Posts Upon Herman’s Request

89. Prior to October 7, 2021, Herman and Muhammad had shared a personal relationship and been friendly for many years, having first met at NBD Fitness approximately 10 years ago, where they worked out together as part of a small training group on numerous occasions and also shared the same personal trainer.

⁷⁷

<https://twitter.com/GovMurphy/status/1446584729550168066?s=20&t=mvOJKYGYokMw6NMFyVE6M> (last visited April 1, 2023).

⁷⁸ *Id.*

90. Herman also attended one of Muhammad's book signings on July 25, 2018 for Muhammad's book, *Proud: My Fight for an Unlikely American Dream*, where Muhammad signed a copy of her book for Herman with the personal handwritten message: "*Tamar, Here's To Believing The Impossible Is Always Possible* [hand-signed by Muhammad]," which Herman has used in her classroom. In addition, at the book signing, Muhammad took a photo with Herman where, together, they proudly displayed Muhammad's book.

91. On numerous occasions, Herman also invited Muhammad to speak to Herman's class and the wider community at the School, which resulted in Herman and Muhammad exchanging phone numbers and Muhammad giving Herman her email address. They also discussed how holding a sporting event in Israel between people of different religions could build cross-cultural understanding.

92. As well, prior to the events at issue in this action, Herman expressed support for Muhammad specifically, and Islam generally, online, where the two were Facebook friends, including the May 5, 2019 post mentioned *supra* in which Herman posted: "Go Ibtly! [Muhammad]. A Seth Boyden student and Bronze medalist in the Olympics!"; and an April 10, 2019 post mentioned *supra* in which Herman posted: "Go Ibtihaj! A Seth Boyden graduate and a Muslim female athlete who has amazing discipline, determination, and purpose in spite of soooo much adversity."

93. Herman's affinity and respect for Muhammad was perhaps best evidenced by Muhammad's prominent place in Herman's classroom and its surroundings, mentioned *supra*, including a poster of Muhammad displayed in the hallway and class sessions in which Muhammad was the subject of study as an example of perseverance,

persistence, dedication, overcoming obstacles, overcoming adversity, and achieving excellence.

94. Despite the *overwhelming* evidence that Muhammad and Herman know each other (and knew each other before Herman commenced this action), Muhammad submitted a Certification in support of her Motion For Summary Judgment and To Dismiss Herman’s first Complaint, dated March 22, 2023 (Trans ID: LCV20231010661)(the “Certification”). In the Certification, Muhammad asserted that she found a private old photo of Herman from Google (Certification ¶ 16), denied having Herman’s phone number (Certification ¶ 17), denied being Facebook friends with Herman (Certification ¶ 18), and perhaps most astoundingly, asserted that: “I have no recollection of ever speaking with Herman, either before or after the events in question.” (Certification ¶ 19). These assertions are outright falsehoods. Muhammad also asserted that “[w]hile I believe Herman and I may have exchanged pleasantries at the gym, I do not recall any in particular.” (*Id.*). This assertion is at best misleading, as Herman and Muhammad frequently interacted during the fitness instruction at NBD Fitness, having built a friendship out of their shared connection to the School (Muhammad’s alma mater and Herman’s place of employment).

95. Without ever seeking Herman’s version of the interaction with the Student that occurred on October 6, 2021—something Muhammad could have easily done, given her relationship with Herman, her familiarity with Herman, and her possession of Herman’s contact information—Muhammad, in making her social media posts of October 7, 2021, maliciously and heedlessly repeated and embellished the words of

Cassandra Wyatt (“Wyatt”), the mother of the Student, whom Muhammad knew from the close-knit Maplewood Muslim community.

96. Rather, on October 6, 2021, after school had been dismissed for the day, the Student apparently spoke to her mother, Wyatt, about the interaction between the Student and Herman. The precise content of this conversation is unknown to Herman at this time, but will be ascertained through discovery in this action.

97. Sometime later that same evening or the next morning, Wyatt apparently called Muhammad’s mother, Denise Garner-Muhammad (“Garner-Muhammad”), with whom Wyatt was personally acquainted through the Maplewood Muslim community. According to Garner-Muhammad, during this conversation, Wyatt claimed that the Student had purportedly told her that Herman pulled off the Student’s hijab and that the Student had resisted. Wyatt further relayed that Herman had purportedly made a comment regarding the Student’s hair being beautiful. As mentioned *supra*, Wyatt’s account could not have been accurate, as Herman did not pull off the Student’s hijab, the Student did not resist (the interaction lasted mere seconds and Herman immediately brushed the hood back into place), and Herman did not make any comments about the Student’s appearance.

98. On October 7, 2021, after Garner-Muhammad spoke to Wyatt, Garner-Muhammad spoke to her daughter, Defendant Muhammad, and relayed the substance of the conversation with Wyatt.

99. After listening to Garner-Muhammad, Muhammad prepared her aforementioned first defamatory social media post (Muhammad Post #1) and read it to Garner-Muhammad in a purported attempt to confirm the accuracy of what Garner-

Muhammad told her. However, Muhammad made no effort to contact Wyatt, the Student, or Plaintiff before making her defamatory social media posts, despite the fact that Muhammad could have easily had access to Wyatt or the Student via Garner-Muhammad, and to Plaintiff via internet social media, via their shared personal trainer at the gym, or via Plaintiff's cell phone number which Muhammad was in possession of. This is because Muhammad simply did not care at all whether the facts alleged in the post were true or false – she desired to make the post to create publicity for herself, and her clothing and book businesses, all of which would generate income for her and social media clout for her cause. From Muhammad's perspective and in her mindset, the importance of the truth or falsity of the statements was not important in comparison to their sensational nature. Thus, even though the statements were based on third-hand accounts from informants of dubious veracity (including a family with notorious antisemitic views), she published them without a care of providing true information to the public, but with the goal of attracting publicity for herself, with complete disregard for the fact that they were false. This fact demonstrates actual malice on Muhammad's part.

100. Muhammad's posting of Wyatt's purported report of what her 7-year-old said was reckless, as Muhammad knew that Herman was not Islamophobic and, to the contrary, repeatedly celebrated Muhammad's Muslim heritage, Muhammad also knew that Herman was not disposed to use force against a student, and it is common knowledge that young children are not reliable reporters and can be easily manipulated. Moreover, Muhammad's post was based on a *thirdhand* account—the account of Garner-Muhammad obtained from Wyatt, in turn obtained from her 7-year-old daughter. Again, as discussed herein, Muhammad made no effort to verify the truth of these accusations

because she did not care whether the accusations were true or false, because making them would generate publicity for her. These facts also demonstrate actual malice on Muhammad's part.

101. Furthermore, Muhammad, instead of using her private access to Herman to check the accuracy of Wyatt's purported allegations, used her personal connection to Herman to make her malicious defamation "go viral." Indeed, in the time Muhammad spent browsing Herman's private Facebook page to dig up the years-old photo of Herman for her false narrative, she could have easily privately messaged, called, or texted Herman to obtain her version of events. Instead, Muhammad scrolled through Herman's Facebook photos to find a photo that was just right for Muhammad's accusatory post, an unattractive photo of Herman with her arm and fingers outstretched. Muhammad's use of Herman's private Facebook page to obtain photos for her defamatory allegations was particularly malicious and reckless, given that she knew from working out in the same physical fitness training group, Herman's supportive Facebook posts, multiple school speaking requests, and from her book event attendance and book purchase, that it was not in Herman's character to have "forcibly" removed a hijab, or "stripped" a child of her clothing in front of classmates, or told a child that she need not wear her hijab to school anymore. Further, displaying a photograph of Herman along with her defamatory accusations served to promote visual recognition of her by members of the public, putting a target on Herman's back. These facts also demonstrate actual malice on Muhammad's part.

102. Accordingly, on October 7, 2021 at 8:14 p.m. Eastern Time

(approximately four hours after Muhammad’s first post regarding the previous day’s events), Herman and Muhammad exchanged several text messages in which Herman informed Muhammad that her social media posts were false. In a texted response, Muhammad admitted that she was relying on the recall of a 7-year-old who, as video discussed *infra* reveals, was being coached by her mother (Wyatt), something Muhammad knew or should have known given the young age of the child.⁷⁹ Again, as discussed herein, Muhammad made no effort to verify the truth of these accusations *because she did not care whether the accusations were true or false*, because making them would generate publicity for her. This fact shows Muhammad’s actual malice.

103. On October 9, 2021 at 8:24 p.m. Eastern Time, after receiving no further response from Muhammad and seeing that her Instagram and Facebook posts had not been deleted, Herman sent another text message to Muhammad. In this message, Herman again attempted to correct the record by explaining briefly what had transpired between her and the Student. Further, Herman wrote that, due to Muhammad’s “tremendous” influence, her social media messages had “turned [Herman’s] life upside down overnight,” and had resulted in Herman “receiving threats” and “being hounded by the media.” Herman explicitly stated that what had been posted by Muhammad and reported on the media was “completely false and terribly damaging.” She further requested that Muhammad remove the social media posts, explain that there are varying accounts of the interaction, and allow the District to carry out its investigative process before passing judgment. Muhammad did not reply.

⁷⁹ *Id.*, <https://rumble.com/vnktof-nj-hijab-story-mothers-facebook-live-session-she-deleted.html> (last visited April 1, 2023). Notably, this video reveals that, even with the coaching, the child does not corroborate Muhammad’s false and inflammatory claims.

104. Rather than heed Herman's reasonable requests, instead, on or around October 30, 2021, Muhammad posted an Instagram Live video in which she referred to the "alleged incident" that happened in Maplewood, NJ, though she did not mention Herman by name.

105. The fact that Herman and Muhammad knew each other well enough to each have the other's phone numbers and to be Facebook friends, and to work out in the same physical fitness training group and share the same physical fitness trainer, and the fact that Herman immediately gave Muhammad an opportunity to correct or retract her defamatory posts, are all particularly significant, as Muhammad's malicious choice to instead perpetuate her lies and to not correct or retract her defamatory posts until a year later when she was sued for defamation and false light herein, and her choice to act as judge and jury, caused incalculable harm to Herman that was cruel, needless, and undertaken to advance Muhammad's personal, financial and political agendas. These facts also all demonstrate actual malice on Muhammad's part.

106. Further, the fact that—subsequent to Herman's communications and almost one month after the initial post—Muhammad referred to the teacher-student interaction as the "alleged incident," which evidenced that Muhammad was aware at that point that she had committed libel against Herman and was (unsuccessfully) attempting to buffer herself *against her own libelous statements*. In all her previous posts, Muhammad, motivated by her desire to find and combat Islamophobia and to sell her book and burnish her brand, never once used the word "allegedly" – presenting her false allegations as statements of fact. These facts also demonstrate actual malice on Muhammad's part.

107. Notably, Muhammad, as part of her dishonest effort to deny that she knows Herman, claims that “I had no idea who the text message was from but could surmise from context that it was from the person who pulled off the student’s hijab, i.e. Tamar Herman.” (Certification at ¶ 20). This statement is also false and misleading, as Muhammad had Herman’s phone number and had communicated with her on numerous prior occasions. This dishonesty and failure to remedy her falsehood even after receiving communication from Herman further demonstrates Muhammad’s actual malice.

108. These text messages between Herman and Muhammad should have given a reasonable person in Muhammad’s position serious pause as to the accuracy of her social media posts, yet Muhammad did not retract her defamatory statements. The fact that these messages did not even give Muhammad so much as pause further demonstrates Muhammad’s actual malice.

109. She continues: “I was not even sure that the texter was Herman. This was the only communication I recall ever having with Herman.” (Certification at ¶ 22). This statement is also categorically false, as Muhammad had communicated with Herman on numerous occasions prior to these texts as they had a personal relationship. As well, her claim that she wasn’t sure who the texter was strains credulity. Muhammad’s willingness to submit falsehoods to the Court in defense of this action and her defamatory statements reinforces that the social media posts were made with actual malice.

110. Disturbingly, Muhammad’s dishonesty about knowing Herman seems to have no boundaries. Later in her Certification, she states: “Immediately after Herman texted me, I texted with and then spoke with my trainer by telephone. My trainer confirmed that Herman went to the same gym.” (Certification at ¶ 28). She further claims

that “I also confirmed with my trainer Herman’s phone number, so that I knew the texts were from Herman and not a hoax.” (Certification at ¶ 30). These claims make no sense since Herman did not identify herself in her text as a friend from the gym; if Muhammad did not know Herman, she would not have known to contact her trainer to confirm Herman’s identity. Even if, *arguendo*, Muhammad’s claim about contacting the trainer were true, already knowing Herman’s identity is the only explanation for Muhammad contacting her trainer, a trainer Muhammad knew she shared with Herman.

111. That Muhammad already knew Herman is also clear from Muhammad’s decision to respond to rather than ignore Herman’s text message and in the manner of her response. In her response to Herman’s text, Muhammad neither denies her friendship with Herman (who had just texted Muhammad “I considered you a friend”) nor expresses surprise about receiving a text from Herman. Rather, she responds conversationally as one would do to a friend, even referring to the 7-year-old Student by name. This is because Herman and Muhammad were personally familiar with each other and on friendly terms from numerous workout sessions together. Muhammad downplays their relationship by claiming that: “In retrospect, I recognize Herman by face (but not by name) from the gym. I do not remember whether I made that connection when I made my Instagram post and googled her photograph, or after my trainer confirmed we went to the same gym.” (Certification at ¶ 31). Again, this falsehood is an indication of Muhammad’s actual malice. It was not possible to find this photo of Herman by Googling her. Muhammad’s contention that she only recognized Herman by face, and only after jogging her memory at that, is absurd.

112. Notably, Muhammad also claimed that she “did not know Herman was

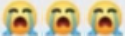

Jewish until after the filing of this lawsuit.” This is also implausible and further indication of Muhammad’s actual malice, as the two had discussed cross-cultural sporting events in Israel bringing together people of different religions.

113. The bottom line is that Muhammad had many reasons to know that her social media posts were likely riddled with inaccuracies, and also had ample opportunity to correct or retract those posts, yet in what can only be described as plain confirmation of her actual malice, declined to do so.

114. Furthermore, Muhammad’s malicious repetition and embellishment of Wyatt’s inflammatory and false accusations was even more egregious because, upon information and belief, Muhammad was familiar with Wyatt’s and her ex-husband’s (Joseph Wyatt) antisemitic sentiments, given that they were a part of the same small, local and close-knit Islamic community and that Wyatt declared her anger at Herman’s Judaism on Facebook (see Wyatt’s social media posts, *infra* next paragraph)—knowledge that should have made her highly suspicious of Wyatt’s distorted presentation of Herman, who Muhammad knew was Jewish. This fact also demonstrates actual malice on Muhammad’s part.

115. Indeed, Wyatt’s grossly distorted account was so unreliable and unworthy of trust that even Garner-Muhammad admitted that she did not remember the exact substance of Wyatt’s claim that Herman made a comment about the Student’s hair (“Cassandra also told me that the teacher made a comment regarding the student’s hair being beautiful, but I no longer remember the exact statement.”) (Certification of Garner-Muhammad at ¶ 9) (Trans ID: LCV20231010661). Yet, Muhammad, in a display of actual malice, recklessly wrote that: “*Herman told the student that her hair was beautiful*

and she did not have to wear hijab to school anymore.” This, despite the fact that Garner-Muhammad didn’t even remember the supposed exact statement and thus Muhammad had no reasonable basis to rely on this account.

116. Wyatt made numerous disparaging comments about Herman’s Jewish identity. Wyatt concluded a video that she posted on Facebook, in which she coaches her child (the Student) about the October 6, 2021 interaction with Herman, with the words, “She’s Jewish. She’s Jewish,” as if Herman’s Judaism is proof for why Wyatt’s story is true.⁸⁰ Wyatt openly admitted that it was her discovery that Herman was Jewish that changed her understanding of what happened, posting on her Facebook account, “I JUST FOUND OUT THE TEACHER IS JEWISHHHHHHHHHHH 
 . . . that’s why I believe she did it now I’m furious.” She also wrote, “Allahumma Aaaminnnn I keep saying the speechless I Im blown back I’m confused... so I kept mute.. I had no understanding she been in her class a month now....Nowwww I’m not speechless nor mute I 4lnderstand nowww.... SHE’S JEWISH OO SUS GOT A PROBLEM ON HER HANDS.” She posted on the SOMA Justice page the following statements

SHE’S JEWISH! Period TRY & CHANGE THAT! Imma print 1000 SHIRTS THAT SAYS HERMAN IS JEWISH! Imma keep saying that! Isn’t she? A JEWSIH TEACHER THAT TAUGHT AT A JEWISH SCHOOL & A PUBLIC SCHOOL FOR 30 YEARS PULLED MY MUSLIM 7 YEAR OLD DAUGHTER HIJAB OFF HER HEAD CLAIMING IT WAS A HOODIES.. SHE’S JEWISH!

SHE’S JEWISH! HERMAN IS JEWISH AM IM WRONG?! SHE’S JEWISH! A JEWISH TEACHER PULLED MY 7 YEAR OLD MUSLIM DAUGHTER HIJAB OFF HER HEAD IN FRONT OF HER CLASS. WHO ONCE TAUGHT AT A JEWISH SCHOOL ALSO TAUGHT AT A PUBLIC SCHOOL FOR 30 YEARS CLAIMING IT WAS A HOODIE

⁸⁰ <https://rumble.com/vnkt0f-nj-hijab-story-mothers-facebook-live-session-she-deleted.html> (last visited Sep. 21, 2022; April 1, 2023, see 8:22-8:27)

HERMAN IS JEWISH!!!! IMMA PRINT 1000 SHIRTS SAYING HERMAN IS JEWISH &&& WHEN THE MUSLIMS COME OUT BCUZ IVE BEEN TRYING TO HOLD THEM BACK FROM FLOODING UR CITY. ILL BE SURE TO DROP TO DROP THE 1000 SHIRTS MASK && HATS OFF AT THE MASJID!

IM THE ONE THAT'S TRYING TO STOP THE MUSLIMS FROM ALL OVER FROM COMING OUT! ME THE VICTIMS MOTHER TRYING TO PROTECT OTHER KIDS && MOMS FEELINGS... NOW I WONT SAY A WORD IF THEY FEEL THEY WANNA FLOOD UR CITY IMMA SIP MY TEA 🍵

117. Moreover, Muhammad's posting of such inflammatory accusations was particularly reckless because, she knew or should have known that the mother's accusations were in service of her own greed, seeking a monetary recovery against the District. The child's mother openly exhibited her desire to profit off a lawsuit⁸¹ when she wrote on Facebook, "Allah perfect in his planning" in response to a post congratulating her for hitting the "jackpot."

118. Joseph Wyatt, for his part, is an unapologetic anti-Semite. According to Joseph Wyatt, "They [Jews] think they're chosen by God. They come with the money. They monopolize a lot of stuff for money. The Jews—the Semitics—they run Hollywood. They run a lot of stuff. It's all Jewish names There's always been a conflict with the Muslims and the Jews . . . That's why they are fighting in Palestine."⁸²

FIRST COUNT – Defamation Per Se
(All Defendants)

119. Herman repeats, reiterates, and restates each and every allegation

⁸¹ Indeed, the Wyatt family filed a lawsuit against the SOMA District and Herman in March of 2022.

⁸² Washington Post, *She pushed back her student's hijab. Was it a mistake or an act of hate?* (March 1, 2023), https://www.washingtonpost.com/education/2023/03/01/student-school-hijab-maplewood-new-jersey/?pwapi_token=eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWJpZCI6ImExOTU2IiwicmVhc29uIjoiZ2lmdCIsIm5iZiI6ImTY3OTYzMDQwMCwiaXNzIjoic3Vic2NyaXB0aW9ucyIsImV4cCI6ImTY4MDkyNm5OSWiaWF0IjoxNjc5NjMwNDAwLCJqdGkiOiJjNzUwZjJmZC1jMmQ3LTQ2MwUtYjklNC00OTg3MjhlZmY0OTIiLCJ1cmwiOiJodHRwczovL3d3dy53YXNoaW5ndG9ucG9zdC5jb20vZWR1Y2F0aW9uLzlwMjMvMDMvMDEvc3R1ZGVudC1zY2hvb2wtaGlqYWItbWFwbGV3b29kLW5ldy1qZXJzZXkvIn0.ee0U9VODz-0gBR4_pbXpoL9yIjhfOJEnT5jdvOc3VLY (March 1, 2023) (last visited April 3, 2023).

contained herein with the same force and effect as if set forth at length.

120. At 4:03 p.m. Eastern Time on October 7, 2021, Muhammad knowingly, maliciously, and willfully published Muhammad Post #1 containing the following false and harmful statements about Herman, without authorization or privilege, and with actual malice, on Muhammad’s Facebook and Instagram accounts, featuring a photo of her book *The Proudest Blue: A Story of Hijab and Family* and the following message:

I wrote this book with the intention that moments like this would never happen again. When will it stop? Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. School should be a haven to all of our kids to feel safe, welcome and protected – no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden Elementary (973) 378-5209 and EMAIL the principal sglander@somsd.k12.nj.us and the superintendent rtaylor@somsd.k12.nj.us

121. In truth, Herman did not “forcibly remove[]” the Student’s hijab, or otherwise utilize any forceful action such as grabbing, pulling, or ripping. Herman gently brushed back what she thought was a hood a few inches, based on her good-faith assumption that the Student was wearing her form-fitting hijab underneath. The Student did not “resist[]” in any way and there was no physical struggle of any kind. The interaction lasted only mere moments, Herman restored the Student’s hood to its original position immediately and apologized, and at no time did the hood come off the Student’s head. Herman did not “pull[] the hijab off,” and Herman did not tell the Student that “her

hair was beautiful and she did not have to wear a hijab to school anymore.” In fact, Herman said nothing to the Student during the interaction other than the initial request to remove the hood and the apology after Herman discovered that the Student was not wearing her form-fitting hijab underneath the hood. Herman did not “strip[.]” the Student of her clothing in front of the class. Herman did not remove any articles of clothing from the Student other than gently brushing the hood back a few inches. Herman did not “abuse” the Student in any way, and in fact did not touch the child. Finally, Herman did not engage in an act of racism or bigotry.

122. Muhammad, further confirming her actual malice, has never retracted or withdrawn these defamatory statements contained in Muhammad Post #1, despite Herman having requested that Muhammad do so.

123. Muhammad’s inclusion of a photo of her book *The Proudest Blue: A Story of Hijab and Family* and her reference to the book in the post clearly demonstrate that, in making this defamatory post, she was substantially motivated by profit and by drawing attention to herself and her personal brand, and that the post was made with reckless disregard for the truth. Furthermore, the comments she received from people, thanking her for standing up against bigotry and wishing to buy her book, showed the effectiveness of her strategy.

124. At 4:30 p.m. Eastern Time on October 7, 2021, Muhammad knowingly, maliciously, and willfully published Muhammad Post #2 containing the following false and harmful statements about Herman, without authorization or privilege, and with actual malice, on social media sites, including but not limited to Muhammad’s Instagram

account, featuring photos of the School and a photo of Herman herself, with the following message:

Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. Schools should be a haven for all of our kids to feel safe, welcome and protected— no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden Elementary (973) 378-5209 and EMAIL the principal sglander@somds.k12.Nj.us and the superintendent Rtaylor@somds.k12.Nj.us

[@cair_national](https://twitter.com/cair_national) [@cair.nj](https://twitter.com/cair.nj)

125. In truth, Herman did not “forcibly remove[]” the Student’s hijab, or otherwise utilize any forceful action such as grabbing, pulling, or ripping; Herman gently brushed the Student’s hood back a few inches based on her good-faith assumption that the Student was wearing her form-fitting hijab underneath the hood. The Student did not “resist[]” in any way and there was no physical struggle of any kind. Rather, the interaction lasted only mere moments and Herman restored the hood to its original position immediately. Herman did not “pull[] the hijab off.” Herman did not tell the Student that “her hair was beautiful and she did not have to wear a hijab to school anymore.” In fact, Herman said nothing to the Student during the interaction other than the initial request to remove the hood and the apology after Herman discovered that the Student was not wearing her form-fitting hijab underneath the hood. Herman did not “strip[]” the Student of her clothing in front of the class; Herman did not remove any

articles of clothing from the Student other than gently brushing the hood back a few inches. Herman did not “abuse” the Student in any way, and in fact did not touch the student. Finally, Herman did not engage in an act of racism or bigotry.

126. Muhammad, confirming her actual malice, has never retracted or withdrawn these defamatory statements contained in Muhammad Post #2, despite Herman having requested that Muhammad do so.

127. On October 8, 2021, at 12:41 a.m. Eastern Time, Maksut knowingly, maliciously, and willfully published the following false and harmful statements about Herman without authorization or privilege, and with actual malice, on his Twitter account:

Absolutely unacceptable. Teacher pulls off 7 year old’s hijab...in front of the class.

Our @CAIRNJ office is calling for immediate termination.

Racist teachers like this cannot be trusted around our children.

128. In truth, Herman did not “pull off [a] 7 year old’s hijab . . . in front of the class,” (nor did Herman engage in any use of force, including grabbing, pulling, or ripping), Herman is not a “[r]acist teacher,” and Herman is a highly trustworthy teacher with a track record of maintaining supportive classroom communities built over a period of twenty years educating students in the District.

129. At approximately 2:13 p.m. Eastern Time on October 8, 2021, Maksut knowingly, maliciously, and willfully published the following false and harmful statement about Herman without authorization or privilege, and with actual malice, in reply to his original Tweet:

Call and email the Superintendent, Dr. Ronald G. Taylor, today, and let him know

Tamar Wyner Herman is unfit to be a teacher.

*rtaylor@somsd.k12.nj.us
(973) 762-5600*

130. In truth, Herman is a highly fit teacher who worked tirelessly for *all* her students and helped many students make dramatic strides in their learning year after year. She had a strong pedagogical record built over a thirty-three-year teaching career, with twenty years in the District.

131. Also on October 8, 2021 at 9:45 a.m. Eastern Time, CAIR posted a substantially similar version of Maksut’s October 8, 12:41 a.m. Tweet on its Facebook and Twitter accounts, with a link to an NBC New York story referencing Herman by name and entitled *NJ Teacher Accused of Pulling Hijab Off 2nd Grade Student’s Head:*

A teacher pulled off a 7-year-old student’s hijab in front of her class. This is completely unacceptable, and we are calling for immediate termination. Our children are not safe with #Islamophobia in the classroom.

132. In truth, Herman did not “pull[] off a 7 -year-old student’s hijab in front of her class (nor did Herman engage in any use of force, including grabbing, pulling, or ripping) and Herman is not an Islamophobe.

133. CAIR has never retracted or withdrawn this defamatory statement, further evidencing their actual malice.

134. On October 8, 2021 at 3:56 p.m. Eastern Time, CAIR and Maksut knowingly, maliciously, and willfully published the following false and harmful statement about Herman without authorization or privilege, and with actual malice:

CAIR-NJ Exec. Dir. Selaedin Maksut: “Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.”

*@CAIRNJ @Mselaedin
#Islamophobia*

135. In truth, Herman did not “forcefully strip[] off the religious headscarf of a Muslim girl” (Nor did Herman engage in any use of force, including grabbing, pulling, or ripping).

136. CAIR and Maksut have never retracted or withdrawn this defamatory statement contained in this Twitter post, further evidencing their actual malice.

137. On October 8, 2021 at 7:34 a.m. Eastern Time, ABC aired the GMA Report (which CAIR then posted on its CAIRtv YouTube account, its Facebook and Twitter accounts, and the CAIR NJ Facebook account), in which Maksut was quoted as follows:

The hijab, you know, is much like any other article of clothing for a Muslim woman. To remove that publicly can be very humiliating. Anyone who thinks its OK to do this to a student clearly is not fit to be a teacher.

138. After the GMA Report aired, CAIR then posted the GMA Report on its YouTube channel, called “CAIRtv”—which, as of the present date, has 11,300 subscribers—under a heading entitled *CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*. As of the present date, this YouTube post remains on CAIRtv.

139. Also after the GMA Report aired, on October 9, 2021 at 9:52 a.m. Eastern Time, CAIR posted the GMA Report on its Facebook account under a heading entitled *Video: CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*. CAIR then posted the GMA Report on its Twitter account on October 9, 2021 at 9:53 a.m. Eastern Time. As of the present date, these posts remains on CAIR’s Facebook and Twitter accounts. Moreover, on October 9, 2021 at 10:56 a.m. Eastern Time, CAIR NJ posted the GMA Report on its Facebook account. As of the

present date, this post remains on CAIR NJ's Facebook account.

140. In truth, Herman is a highly fit teacher with a strong pedagogical record built over a thirty-three-year teaching career, with twenty years in the District.

141. Maksut, CAIR, and CAIR NJ have never retracted or withdrawn this defamatory statement made in the GMA Report, further evidencing their actual malice.

142. On October 8, 2021, at 11:28 a.m. Eastern Time, CAIR posted the Press Release knowingly, maliciously, and willfully, without authorization or privilege, and with actual malice, on the CAIR website containing the following quote from Maksut:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ. Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it's unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

143. In truth, Herman did not “pull[] off the headscarf of a young Muslim student” (Herman gently brushed the Student's hood back a few inches based on her good-faith assumption that the Student was wearing her form-fitting hijab underneath), Herman did not “[f]orcefully strip[] off the religious headscarf of a Muslim girl (nor did Herman engage in the use of any force, including grabbing, pulling, or ripping), and Herman did not engage in an act of Islamophobia.

144. Maksut, CAIR, and CAIR NJ have never retracted or withdrawn these defamatory statements, further evidencing their actual malice.

145. On October 8, 2021 at 11:42 a.m. Eastern time, CAIR posted the

following message knowingly, maliciously, and willfully, without authorization or privilege, and with actual malice, on its Twitter account:

*Our children must be protected from anti-Muslim bigotry and abuse at school. The teacher who pulled a second grader's hijab off in class must be fired immediately.
#Islamophobia
@cairnj @ Mselaedin*

146. In truth, Herman did not “pull[] a second grader’s hijab off in class” (Herman gently brushed the Student’s hood back a few inches based on her good-faith assumption that the Student was wearing her regular form-fitting hijab underneath).

147. CAIR has never retracted or withdrawn this defamatory statement, further evidencing their actual malice.

148. On October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following message its Twitter account, which was a partial repeat of the Press Release:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ.

149. Also on October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following messages on its Twitter account in reply to the first message, which were also partial repeats of the Press Release, and which, taken together, were a complete verbatim repeat of Maksut’s quoted statement in the Press Release:

Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it’s unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

150. Contemporaneously with the posting of these messages on Twitter,

CAIR NJ posted the same messages on its Facebook account, the first time at 11:34 AM Eastern Time.

151. In truth, Herman did not “pull[] off the headscarf of a young Muslim Student,” did not “[f]orcefully strip[] off the religious headscarf of a Muslim girl,” and is not an Islamaphobe. Herman gently brushed the Student’s hood back a few inches based on her good-faith assumption that the Student was wearing her regular form-fitting hijab underneath. Herman did not engage in the use of any force, including grabbing, pulling, or ripping, and Herman did not engage in an act of Islamophobia.

152. CAIR and CAIR NJ have never retracted or withdrawn these defamatory statements, further evidencing their actual malice.

153. As well, on October 8, 2021, Maksut said to CBS News: “The teacher not only put her hands on her, removed her headscarf. And this is, of course, humiliating for any Muslim woman to be exposed this way, in public.”⁸³ These statements were false.

154. In truth, Herman never “put her hands on” the Student, did not “remove her headscarf,” and did not “expose” her.

155. Maksut, CAIR, and CAIR NJ have never retracted or withdrawn these defamatory statements contained in the CBS News Interview, further indicating their actual malice.

156. In truth, Herman did not “pull[] off a 7-year-old student’s hijab in front of her class,” and Herman did not engage in an act of Islamophobia.

157. CAIR and CAIR NJ have never retracted or withdrawn this defamatory

⁸³ Teacher Accused of Forcefully Removing 2nd Grader’s Hijab (Oct 8, 2021) (last visited April 1, 2023) <https://www.cbsnews.com/newyork/news/teacher-accused-of-forcibly-removing-2nd-graders-hijab-in-class/>

statement.

158. Upon information and belief, all of these false and defamatory statements set forth in this Amended Complaint were substantially motivated by Defendants' desires to burnish their brand as fighters against Islamophobia.

159. All of these aforementioned false and defamatory statements made by Defendants and set forth in this Amended Complaint constitute defamation *per se* because they were and still are about Herman and relating to Herman; were knowingly and/or with recklessness and actual malice published to third parties; falsely impugn, attack, malign, and destroy Herman's professional reputation as a teacher, her reputation for fitness and trustworthiness as a teacher, her character, her honesty, her integrity, her tolerance, and her mental state; and, moreover, because these false and defamatory statements accuse Herman of engaging in criminal behavior and portray Herman as being a bigot, a racist, and generally as a disreputable and loathsome person.

160. All of these false and defamatory statements set forth in this Amended Complaint have proximately caused Herman to be subjected to threats to her physical safety, antisemitic vitriol and hatred, relentless harassment from strangers, merciless bullying and ridicule, being the object of shame in local and national news stories, and to be subjected to humiliation in front of her community, by being placed by the District indefinitely on administrative leave from her teaching position, by a District letter sent to all District families associating Herman with Islamophobia, by being used as an example of bigoted behavior in a District-wide teacher professional development implicit bias training, by a Twitter post from Governor Phil Murphy, and by a public Facebook condemnation from the rabbi of her childhood synagogue. Furthermore, the defamation

caused her to be put in a position of having no reasonable prospect of securing future public school teaching opportunities, to be subjected to a criminal investigation and the threat of criminal charges, to suffer emotional and mental harm to such a degree that she had no realistic choice but to permanently move out of her home, and, prior to that, to have to ask for police protection and temporarily relocate in order to escape the horrific fallout of the immediate aftermath of the Defendants' lies.

161. Herman, who had resided at her home for twenty-seven years, did not want to move but, as a result of Defendants' lies, Herman no longer felt safe in her home. Indeed, ever since Defendants published their lies, Herman has experienced paralyzing fear every time she steps outside her home, and she surveys her surroundings for people who may wish her harm. In fact, ever since Defendants published their lies, Herman has stopped walking around the town of Maplewood, where she grew up and lived for more than twenty-five years, for fear that she will encounter someone who wishes her harm.

162. Moreover, as a result of Defendants' defamatory statements and their explosive consequences, Herman has been taking medication, seeing a psychotherapist on a regular basis, and has become terrified of visiting public locations.

163. The mental and physical harm suffered by Herman as a result of Defendants' defamatory statements and their explosive consequences are tangible and acute. For example, since the defamatory statements, Herman began to suffer and continues to suffer from devastating headaches that continue to plague her. She also is unable to get adequate sleep. And, as a result of the stress she experienced, she had to take prescription medication and still struggles to sleep through the night.

164. As a result of the foregoing, all of the Defendants are liable to Herman for

defamation *per se*.

165. As a consequence of Defendants' defamation, Herman has been damaged, in an amount to be determined upon trial of this action, and is entitled to a money judgment against Defendants for compensatory damages, together with punitive damages, all in an amount to be determined upon trial of this action.

SECOND COUNT – False Light Invasion of Privacy
(All Defendants)

166. Herman repeats, reiterates, and restates each and every allegation contained herein with the same force and effect as if set forth at length.

167. At 4:03 p.m. Eastern Time on October 7, 2021, Muhammad knowingly, maliciously, and willfully published Muhammad Post #1 containing the following false and harmful statements about Herman, without authorization or privilege, and with actual malice, on Muhammad's Facebook and Instagram accounts, featuring a photo of her book *The Proudest Blue: A Story of Hijab and Family* and the following message:

I wrote this book with the intention that moments like this would never happen again. When will it stop? Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. School should be a haven to all of our kids to feel safe, welcome and protected – no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden Elementary (973) 378-5209 and EMAIL the principal sglander@somsd.k12.nj.us and the superintendent rtaylor@somsd.k12.nj.us

168. At 4:30 p.m. Eastern Time on October 7, 2021, Muhammad knowingly,

maliciously, and willfully published Muhammad Post #2 containing the following false and harmful statements about Herman, without authorization or privilege, and with actual malice, on social media sites, including but not limited to Muhammad's Instagram account, featuring photos of the School and a photo of Herman herself, with the following message:

Yesterday, Tamar Herman, a teacher at Seth Boyden Elementary in Maplewood, NJ forcibly removed the hijab of a second grade student. The young student resisted, by trying to hold onto her hijab, but the teacher pulled the hijab off, exposing her hair to the class. Herman told the student that her hair was beautiful and she did not have to wear hijab to school anymore. Imagine being a child and stripped of your clothing in front of your classmates. Imagine the humiliation and trauma this experience has caused her. This is abuse. Schools should be a haven for all of our kids to feel safe, welcome and protected— no matter their faith. We cannot move toward a post-racial America until we weed out the racism and bigotry that still exist in all layers of our society. By protecting Muslim girls who wear hijab, we are protecting the rights of all of us to have a choice in the way we dress. Writing books and posting on social is not enough. We must stand together and vehemently denounce discrimination in all of its forms. CALL Seth Boyden Elementary (973) 378-5209 and EMAIL the principal sglander@somsd.k12.Nj.us and the superintendent Rtaylor@somsd.k12.Nj.us

[@cair_national](https://www.instagram.com/cair_national) [@cair.nj](https://www.instagram.com/cair.nj)

169. Muhammad's aforementioned statements were false and created a false public impression about Herman. These statements were highly offensive to Herman and would have been offensive to any other reasonable person. Moreover, Muhammad, in making these false statements, acted in reckless disregard as to the falsity of the publicized matters and the false light in which Herman would be placed.

170. On October 8, 2021, at 12:41 a.m. Eastern Time, Maksut knowingly, maliciously, and willfully published the following false and harmful statements about Herman without authorization or privilege, and with actual malice, on his Twitter account:

Absolutely unacceptable. Teacher pulls off 7 year old's hijab...in front of the class.

Our @CAIRNJ office is calling for immediate termination.

Racist teachers like this cannot be trusted around our children.

171. At approximately 2:13 p.m. Eastern Time on October 8, 2021, Maksut knowingly, maliciously, and willfully published the following false and harmful statement about Herman without authorization or privilege, and with actual malice, in reply to his original Tweet:

Call and email the Superintendent, Dr. Ronald G. Taylor, today, and let him know Tamar Wyner Herman is unfit to be a teacher.

*rtaylor@somsd.k12.nj.us
(973) 762-5600*

172. Also on October 8, 2021 at 9:45 a.m. Eastern Time, CAIR posted a substantially similar version of Maksut's October 8, 12:41 a.m. Tweet on its Facebook and Twitter accounts, with a link to an NBC New York story referencing Herman by name and entitled *NJ Teacher Accused of Pulling Hijab Off 2nd Grade Student's Head*:

A teacher pulled off a 7-year-old student's hijab in front of her class. This is completely unacceptable, and we are calling for immediate termination. Our children are not safe with #Islamophobia in the classroom.

173. On October 8, 2021 at 3:56 p.m. Eastern Time, CAIR and Maksut knowingly, maliciously, and willfully published the following false and harmful statement about Herman without authorization or privilege, and with actual malice:

*CAIR-NJ Exec. Dir. Selaedin Maksut: "Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience."
@CAIRNJ @Mselaedin
#Islamophobia*

174. On October 8, 2021 at 7:34 a.m. Eastern Time, ABC aired the GMA

Report (which CAIR then posted on its CAIRtv YouTube account, its Facebook and Twitter accounts, and the CAIR NJ Facebook account), in which Maksut was quoted as follows:

The hijab, you know, is much like any other article of clothing for a Muslim woman. To remove that publicly can be very humiliating. Anyone who thinks its OK to do this to a student clearly is not fit to be a teacher.

175. After the GMA Report aired, CAIR then posted the GMA Report on its YouTube channel, called “CAIRtv”—which, as of the present date, has 11,300 subscribers—under a heading entitled *CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*. As of the present date, this YouTube post remains on CAIRtv.

176. Also after the GMA Report aired, on October 9, 2021 at 9:52 a.m. Eastern Time, CAIR posted the GMA Report on its Facebook account under a heading entitled *Video: CAIR-NJ Director on ABC Amid Calls for Firing of Teacher Who Allegedly Pulled Off Student’s Hijab*. CAIR then posted the GMA Report on its Twitter account on October 9, 2021 at 9:53 a.m. Eastern Time. As of the present date, these posts remains on CAIR’s Facebook and Twitter accounts. Moreover, on October 9, 2021 at 10:56 a.m. Eastern Time, CAIR NJ posted the GMA Report on its Facebook account. As of the present date, this post remains on CAIR NJ’s Facebook account.

177. On October 8, 2021, at 11:28 a.m. Eastern Time, CAIR posted the Press Release knowingly, maliciously, and willfully, without authorization or privilege, and with actual malice, on the CAIR website containing the following quote from Maksut:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ. Forcefully stripping off the religious headscarf of

a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it's unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

178. On October 8, 2021 at 11:42 a.m. Eastern time, CAIR posted the following message knowingly, maliciously, and willfully, without authorization or privilege, and with actual malice, on its Twitter account:

*Our children must be protected from anti-Muslim bigotry and abuse at school. The teacher who pulled a second grader's hijab off in class must be fired immediately.
#Islamophobia
@cairnj @ Mselaedin*

179. In truth, Herman did not “pull[] a second grader’s hijab off in class” (Herman gently brushed the Student’s hood back a few inches based on her good-faith assumption that the Student was wearing her regular form-fitting hijab underneath).

180. On October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following message its Twitter account, which was a partial repeat of the Press Release:

We call for the immediate firing of the Maplewood teacher who pulled off the headscarf of a young Muslim student. Anything less is an insult to the students and parents of Maplewood, NJ.

181. Also on October 8, 2021, at 11:49 a.m. Eastern Time, CAIR NJ posted the following messages on its Twitter account in reply to the first message, which were also partial repeats of the Press Release, and which, taken together, were a complete verbatim repeat of Maksut’s quoted statement in the Press Release:

Forcefully stripping off the religious headscarf of a Muslim girl is not only exceptionally disrespectful behavior, but also a humiliating and traumatic experience.

Muslim students already deal with bullying from peers, it's unthinkable that a teacher would add to their distress. Islamophobia in our public schools must be addressed in NJ. Classrooms are a place for students to feel safe and welcome, not fear practicing their faith.

182. Contemporaneously with the posting of these messages on Twitter, CAIR NJ posted the same messages on its Facebook account, the first time at 11:34 AM Eastern Time.

183. As well, on October 8, 2021, Maksut said to CBS News: “The teacher not only put her hands on her, removed her headscarf. And this is, of course, humiliating for any Muslim woman to be exposed this way, in public.”⁸⁴ These statements were false. actual malice.

184. These aforementioned statements by Maksut, CAIR, and CAIR NJ were false and created a false public impression about Herman. These statements were highly offensive to Herman and would have been offensive to any other reasonable person. Moreover, Maksut, CAIR, and CAIR NJ, in making these false statements, acted in reckless disregard as to the falsity of the publicized matters and the false light in which Herman would be placed.

185. These aforementioned statements by Defendants were false and created a false public impression about Herman. These statements were highly offensive to Herman and would have been offensive to any other reasonable person. Moreover, Defendants, in making these defamatory statements, acted in reckless disregard as to the falsity of the publicized matters and the false light in which Herman would be placed.

186. All of these false and defamatory statements by the Defendants constitute

⁸⁴ Teacher Accused of Forcefully Removing 2nd Grader’s Hijab (Oct 8, 2021) (last visited April 1, 2023) <https://www.cbsnews.com/newyork/news/teacher-accused-of-forcibly-removing-2nd-graders-hijab-in-class/>

the tort of false light invasion of privacy *per se* because they falsely impugn, attack, malign, and destroy Herman's professional reputation as a teacher, her reputation for fitness and trustworthiness as a teacher, her character, her honesty, her integrity, her tolerance, her mental state, and, moreover, because these false and defamatory statements accuse Herman of engaging in criminal behavior and portray Herman as being a bigot, a racist, and generally as a disreputable and loathsome person. Thus, the false light in which Defendants placed Herman would be highly offensive to a reasonable person. Moreover, all of the Defendants acted in reckless disregard as to the falsity of the publicized matters and the false light in which Herman would be placed.

187. These false and defamatory statements, which place Herman in false light, have proximately caused Herman to be subjected to threats to her physical safety, antisemitic vitriol and hatred, relentless harassment from strangers, merciless bullying and ridicule, being the object of shame in local and national news stories, and subjected to humiliation in front of her community, by being placed by the District indefinitely on administrative leave from her teaching position, by a District letter sent to all District families associating Herman with Islamophobia, by being used as an example of bigoted behavior in a District-wide teacher professional development implicit bias training, by a Twitter post from Governor Phil Murphy, and by a public Facebook condemnation from the rabbi of her childhood synagogue. Furthermore the defamation caused her to be put in a position of having no reasonable prospect of securing future public school teaching opportunities, to be subjected to a criminal investigation and the threat of criminal charges, to suffer emotional and mental harm to such a degree that she has had no realistic choice but to permanently move out of her home, and, prior to that, to have to

ask for police protection and temporarily relocate in order to escape the horrific fallout of the immediate aftermath of Defendants' lies.

188. As a result of the foregoing, all of the Defendants are liable to Herman for the tort of false light.

189. As a consequence of Defendants' defamation, Herman has been damaged in an amount to be determined upon trial of this action and is entitled to a money judgment against Defendants for compensatory damages, together with punitive damages, all in an amount to be determined upon trial of this action.

WHEREFORE, Plaintiff, Tamar Herman, demands the following relief and judgment against Defendants:

- (a) Entry of Judgment in favor of Plaintiff and against Defendant Muhammad, in an amount to be proven at trial;
- (b) Entry of Judgment in favor of Plaintiff and against Defendant Maksut, in an amount to be proven at trial;
- (c) Entry of Judgment in favor of Plaintiff and against Defendant CAIR, in an amount to be proven at trial;
- (d) Entry of Judgment in favor of Plaintiff and against Defendant CAIR NJ, in an amount to be proven at trial;
- (e) An award of pre- and post-judgment interest in favor of Plaintiff;
- (f) Punitive damages;
- (g) An award to Plaintiff of attorneys' fees;
- (h) Any other relief which to the Court seems just and proper.

DATED: April 11, 2023

Respectfully submitted,

/Erik Dykema/
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Attorneys for Plaintiff
Tamar Herman

DESIGNATION OF TRIAL COUNSEL

Edward Andrew Paltzik, Esq. is designated as trial counsel in this matter.

/Erik Dykema/
Bochner IP, PLLC
Erik Dykema

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that to the best of my knowledge there are no other pending actions or arbitration proceedings concerning the subject of this action, and that no such other actions or arbitration proceedings are contemplated at this time. I further certify that I know of no other persons who should be joined as parties in this action at this time.

/Erik Dykema/
Bochner IP PLLC
Erik Dykema

JURY DEMAND

Plaintiff, by and through her undersigned attorneys, hereby demands a trial by jury as to all issues herein.

Respectfully submitted,

/Erik Dykema/
Bochner IP PLLC
Erik Dykema

