

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

OCEAN WORLD, S.A.,

CASE NO.: 11-17871(21)

Plaintiff,

vs.

EARTH ISLAND INSTITUTE, INC., and
RICHARD O'BARRY, A/K/A RIC O'BARRY,

Defendant.

FOURTH AMENDED COMPLAINT

COMES NOW, the Plaintiff, OCEAN WORLD, S.A., (hereinafter, referred to as "Plaintiff, OCEAN WORLD") by and through undersigned counsel, and hereby sues Defendant, EARTH ISLAND INSTITUTE, INC., (hereinafter, referred to as "Defendant, EARTH ISLAND CORPORATION,") and Defendant, RICHARD O'BARRY, (hereinafter, referred to as "Defendant, R.O'BARRY") and (hereinafter, referred to collectively, as "Defendants") and states as follows:

GENERAL ALLEGATIONS
HISTORICAL BACKGROUND OF DEFENDANTS

JURISDICTION AND VENUE

1. This Court has jurisdiction over this dispute because this Fourth Amended Complaint seeks damages in exceeds \$15,000.00, exclusive of interest and costs.
2. Jurisdiction is proper in Broward County, Florida because upon information and belief, the Defendant, EARTH ISLAND CORPORATION, conducts business in Broward County, Florida.
3. Jurisdiction is proper in Broward County, Florida because upon information and belief, the Defendant, R. O'BARRY, a.k.a. Ric O'Barry a.k.a. Rick Feldman, a.k.a. Richard Feldman conducts business in Broward County, Florida.

4. At all times material hereto, the Defendant, EARTH ISLAND CORPORATION, is a foreign corporation incorporated in the State of California, doing business in Broward County, Florida. Exhibits “A”, “B” and “C”.

5. At all times material hereto, the Defendant, R. O’BARRY, is doing business in Broward County, Florida.

6. Venue is proper in Broward County, Florida because upon information and belief the Defendant, EARTH ISLAND CORPORATION, conducts business in Broward County, Florida.

7. Venue is proper in Broward County, Florida because upon information and belief the Defendant, RICHARD O’BARRY, conducts business in Broward County, Florida.

PARTIES

8. The Plaintiff, OCEAN WORLD, is a world class family marine park located in the Dominican Republic which commenced operations in March of 2004 featuring the largest man-made dolphin habitat in the world, comprised of multiple pools with approximately twelve (12) million gallons of filtered seawater. The park also offers many family related scheduled events, unique interactive marine mammal programs, tropical marine life observation and educational encounters.

9. Defendant, EARTH ISLAND CORPORATION, claims that “[a]ll actions undertaken by E.I.I. staff, including Ric O’Barry have been educational, scientific, and outreach activities to protect and conserve the environment, consistent with E.I.I.’s non-profit educational and charitable purposes.”

10. Defendant, R. O’BARRY, the Director for Defendant’s Miami Branch, is an agent and employee of Defendant, EARTH ISLAND CORPORATION, that operates out of Defendant’s Miami Florida Branch, The Dolphin Project Inc., located at 7511 S.W. 59th Place, Miami, Florida 33143. Defendant, R. O’BARRY, is misleadingly presented by Defendant, EARTH ISLAND CORPORATION, to the public as a marine mammal specialist. Exhibits “D”, “E”, “F”, “G”, and “H”.

11. The Defendant, R. O'BARRY, an agent and employee of Defendant, EARTH ISLAND CORPORATION, and a key active participant in Defendant, EARTH ISLAND CORPORATION's, syndicate targeted and vilified the Plaintiff, OCEAN WORLD, as part of an overt effort to create a more dramatic script screenplay for their propaganda movie/infomercial entitled *The Cove*, for articles, for public appearances, for another book entitled, *The Cove*, and to further Defendant, EARTH ISLAND CORPORATION's, competing business interests. Defendant, EARTH ISLAND CORPORATION, has constructed a money making, merchandising and marketing scheme founded in conduct originating from 2006/2007 to continue growing Defendant, EARTH ISLAND CORPORATION's, reach and improper influence upon governments and private industry through its civil and criminal racketeering based schemes involving defamation, blacklists, fraud, deception and intimidation.¹

12. The Defendant, EARTH ISLAND CORPORATION, and employee/agent, Defendant, R. O'BARRY, have a direct competing commercial and financial business interest against Plaintiff, OCEAN WORLD, and the marine park industry. They are motivated by their efforts to establish a marine park surveillance program that will financially benefit Defendant, EARTH ISLAND CORPORATION, and its syndicate members and agents.

13. The Defendant, EARTH ISLAND CORPORATION, does business in Broward County, Florida and receives money from Floridians through its agent, the federal banking establishment, credit card transactions and via the internet in various forms.

14. The Defendant, R. O'BARRY, as an agent and employee of Defendant, EARTH ISLAND CORPORATION, executed its campaign from Florida to "block the export of Taiji Twelve to the Dominican Republic" and to set the stage for their movie and book

¹ Since Plaintiff, OCEAN WORLD, filed suit in May 2007 and Sea World cowards to Defendant, EARTH ISLAND CORPORATION, influenced the scriptwriter in *The COVE* to substitute Sea World instead of Plaintiff, OCEAN WORLD.

entitled, *The Cove*, which has been regularly used in numerous fund raising activities, propaganda, and appearances including the kind of propaganda exhibited during The *Huckabee Show*.

15. Defendant, EARTH ISLAND CORPORATION, has served as the primary financial recipient of monetary windfalls involving United States currency and credit transactions that are governed by the United States Treasury Department and which is funneled through the following websites: www.earthisland.org, Defendant, R. O'BARRY's, Dolphin Project www.dolphinproject.org, www.ecojoia.com, www.thecovemovie.com, www.opsociety.org, and others unknown at this time.

16. In addition, Defendant, EARTH ISLAND CORPORATION, through Defendant, R. O'BARRY, has benefited by receiving public accolades such as the ones lauded by Gov. Mike Huckabee in his show, and they have also been rewarded with gifts, awards, donations for new money making merchandising websites, multiple money generating donation portals, corporate monetary sponsorship and brand name associations, and public and private money that is directly and indirectly attributable to their civil and criminal racketeering activities against Plaintiff, OCEAN WORLD, which originated from their 2006/2007 conduct and has been recapitulated throughout the last six plus years including the Huckabee Show and which continues to date. The aforementioned racketeering conduct by Defendant, EARTH ISLAND CORPORATION, laid the groundwork for them expanding their racketeering activities into the transportation industry by gaining control of the global shipment of particular food items (tuna/dolphin nexus) transported by Maersk global shipping services.

ALLEGATIONS

17. Prior to March 13, 2010 at 5:00 P.M., Plaintiff, OCEAN WORLD, through its counsel had warned the Defendants on the record in court on multiple occasions that they would be held accountable before a court of law every time they violated Plaintiff,

OCEAN WORLD's, rights. On or about March 13, 2010 at 5:00 P.M., (the best evidence is the video of the *Huckabee* show) R. O'Barry, as agent and employee of Defendant, EARTH ISLAND CORPORATION, consciously and purposefully named Plaintiff, OCEAN WORLD, once again, in their effort to cause further economic harm. R. O'BARRY, held himself out as an expert making statements on behalf of Defendant, EARTH ISLAND CORPORATION, on the *Huckabee* show regarding the Plaintiff, OCEAN WORLD, which were thoughtfully choreographed and orchestrated. Exhibits "I" and "J".

18. Defendants were under no duty to bring Plaintiff, OCEAN WORLD, into the conversation with Governor Mike Huckabee during the interview. Yet, they specifically elected to name Plaintiff, OCEAN WORLD, to connect the Plaintiff's marine park activities as the driving force behind the government sanctioned harvesting of dolphins in Taiji, Japan which is specifically conducted by the Taiji Fisherman's Union which has a 400 year history of capturing dolphins for food consumption. The fabricated connection between the international, scientific, educational and cultural exchange program conducted through the Taiji Whale Museum and the government sanctioned harvesting of dolphins conducted by the Fisherman's Union for the purposes of processing dolphins into food was grossly misrepresented by the Defendants for the purpose of generating money for themselves and their organization, awards, benefits, and fame. Moreover, the connection has been fabricated as propaganda and used as propaganda in order to plunder \$40 to \$50 million of Japan's 2 billion dollar biodiversity environmental fund. The Defendants isolated Plaintiff, OCEAN WORLD, in the same manner as Chris Porter, a dolphin broker, working out of the Solomon Islands, as follows:

We need to make as much noise about this as possible. Exposing the western dolphin dealers publicly and alienating them from their colleagues in the industry is important, this strategy worked in the Solomon Islands campaign against Christopher Porter. He has been abandoned by his peers.

Exhibit “K”.

19. Defendants admit to working to keeping it in the news, from the lips of Defendant’s representative, Defendant, R. O’BARRY:

00:42:35 To keep it in the news.

00:42:38 Keep them in newspapers and television and so forth.

Exhibit “T”.

20. Taiji, Japan has an annual drive tradition that has been in existence for hundreds of years, prior to the existence of the Plaintiff, OCEAN WORLD, and prior to the existence of the marine parks and dolphin swim programs.

21. In 2006, the Plaintiff, OCEAN WORLD, entered a lawful contractual agreement governed by international law and treaty with the Taiji Whale Museum under its educational, scientific, cultural exchange program. The purpose of the international program was to provide safe passage and place the Twelve (12) dolphins² in Plaintiff, OCEAN WORLD.

22. The Plaintiff, OCEAN WORLD, tried to provide the option of life in Plaintiff’s world class resort facility to Twelve (12) dolphins that were destined for certain death to be processed in a meat factory by the Taiji Fisherman’s Union under government authorization. Defendant, OCEAN WORLD, made every effort to provide them with an environment similar to the Israeli facility promoted by the Defendants at the Meister family’s one hundred million dollar (\$100,000,000.00) world class facility.

² Defendants, for purposes of generating revenue, marketing, propaganda, and competing financial interests, coined the name of the twelve dolphins, “The Taiji 12”.

23. Had the Taiji Whale Museum and the international program been nonexistent, all dolphins, by default, harvested through the government sanctioned annual drive would be placed in line for meat processing and sold to supermarkets and restaurants. Plaintiff, OCEAN WORLD, attempted to alter the destiny of those Twelve (12) dolphins for the better.

24. Due to the Defendants' unlawful interference, misrepresentations, fabrication of false videos, unlawful governmental influence, deception and racketeering activities, the Plaintiff, OCEAN WORLD's, contracts and business relationships, the importation permits of "The Taiji 12" were denied by the government of the Dominican Republic despite the fact that the Japanese government authorities issued the exportation permit out of Japan guaranteeing that the collection occurred pursuant to international laws and CITES.

25. After Plaintiff, OCEAN WORLD, was denied the import of their dolphins, Defendant, R. O'BARRY, stated that they "moved on" and did not care for the welfare and full protection of the Plaintiff's Twelve (12) dolphins. Deposition Transcript of Richard O'Barry, Dated November 14, 2008, p. 93, l. 22 in *Ocean World v. O'Barry, et al*, Seventeenth Judicial Circuit, Broward County, CACE 07-009966 and Deposition Transcript of Richard O'Barry, Dated September 18, 2008, p. 341, ll. 22 - 23 in *Meister v. O'Barry*, Exhibits "L" and "M".

26. The Plaintiff, OCEAN WORLD, filed a lawsuit in May of 2007 in Seventeenth Judicial Circuit, Broward County, CACE 07-009966(14) for interference with the Plaintiff, OCEAN WORLD's, contracts and business relationships and not for the reasons stated by Defendants on *Huckabee* show which was allegedly "for speaking out against this".

27. Defendant, EARTH ISLAND CORPORATION's, representative Defendant, R. O'BARRY, confirmed in the article, *Activist Ric O'Barry: Boycotting Japan is 'Racist'*, Takepart.com, December 27, 2012, David Kirby, <http://news.yahoo.com/dolphin-activist->

[ric-o-barry-boycotting-japan-racist-174018801.html](http://news.yahoo.com/dolphin-activist-ric-o-barry-boycotting-japan-racist-174018801.html) that Plaintiff, OCEAN WORLD, “filed suit against me and Earth Island Institute claiming we interfered with their contract.” Exhibit “N”.

28. Defendant, EARTH ISLAND CORPORATION’s, representative, Defendant, R. O’BARRY, also admitted in the article, *Activist Ric O’Barry: Boycotting Japan is ‘Racist’*, Takepart.com, December 27, 2012, David Kirby, <http://news.yahoo.com/dolphin-activist-ric-o-barry-boycotting-japan-racist-174018801.html> that he was speaking about Plaintiff, OCEAN WORLD, S.A., on the *Huckabee* show, as follows:

I also went on Mike Huckabee’s show, twice, and I referred to them as a “dolphin abusement park.” I said the live dolphin capture at Taiji, for parks and casinos, is the economic underpinning of the whole slaughter. Dead dolphins only yield about \$500 for meat. But live ones go for as much as \$154,000. And those boats are burning lots of diesel fuel. It wouldn’t be economical if they couldn’t capture those live dolphins. And I’m being sued for saying that. But they can’t win. It’s about inflicting as much damage as they can. I don’t worry about it, and I don’t think about it. We have very good lawyers working pro-bono.

Exhibit “N”.

29. Defendants’ statement that their lawyers are working pro-bono is a blatant misrepresentation and is further example of deceptive conduct as they are represented through their insurance company. Defendants have misrepresented this fact to the Courts and in numerous other articles and propaganda.

30. Defendant, R. O’BARRY, at the direction of his employer Defendant, EARTH ISLAND CORPORATION, intentionally and repeatedly continues to name Plaintiff, OCEAN WORLD, in connection with its marketing and propaganda in order to generate more revenue for its corporation, including but not limited to television appearances, magazine articles, video podcasts, and Internet publications years after Plaintiff, OCEAN WORLD’s, May 2007 filing. It is done so in an attempt to fabricate news material that generates revenue for the Defendants and in turn continues to cause Plaintiff, OCEAN

WORLD, economic and reputational harm. The article, *Activist Ric O'Barry: Boycotting Japan is 'Racist'*, Takepart.com, December 27, 2012, David Kirby, <http://news.yahoo.com/dolphin-activist-ric-o-barry-boycotting-japan-racist-174018801.html>, is another such example. Exhibit "N".

31. On March 1, 2011, more than Five (5) days prior to filing this action, even though to Fla. Stat. §770.01 is inapplicable, the Plaintiff, OCEAN WORLD, served notice upon the Defendant, EARTH ISLAND CORPORATION, and complied with statutory notice requirements pursuant to §770.01 on the Defendant. Exhibit "O".

32. On May 31, 2013, more than Five (5) days prior to filing this action, even though to Fla. Stat. §770.01 is inapplicable, the Plaintiff, OCEAN WORLD, served notice upon the Defendant, EARTH ISLAND CORPORATION, and complied with statutory notice requirements pursuant to §770.01 on the Defendant. Exhibit "P".

33. On May 31, 2013, more than Five (5) days prior to filing this action, even though to Fla. Stat. §770.01 is inapplicable, the Plaintiff, OCEAN WORLD, served notice upon the Defendant, R. O'BARRY, and complied with statutory notice requirements pursuant to §770.01 on the Defendant. Exhibit "Q".

COUNT I
DEFAMATION – SLANDER & LIBEL BY DEFENDANT, EARTH ISLAND
CORPORATION OF PLAINTIFF, OCEAN WORLD, S.A., ON HUCKABEE
BROADCAST

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Thirty-One (31), as set forth herein

34. The Plaintiff, OCEAN WORLD, is and was a business of good name and reputation and enjoyed the esteem and good opinion of business colleagues and others who know them.

35. The Defendant, EARTH ISLAND CORPORATION, knew of the good name, and reputation of the Plaintiff, OCEAN WORLD.

36. It is estimated that on or about March 13, 2010 at 5:00 P.M. (the best evidence is the video of the Mike Huckabee show), on the *Huckabee* show, Defendant, R. O'BARRY, as Defendant, EARTH ISLAND CORPORATION's, alleged Marine Mammal Specialist, intentionally and consciously made factual assertions, as the only authority allegedly speaking the truth regarding secret information that only Defendants knew and/or has seen and published false statements about the Plaintiff, OCEAN WORLD. Exhibits "I" and "J".

37. A YouTube video is legally incorporated by reference which is material and inseparable from the Fourth Amended Complaint and whose images must be considered in the context of the words coming from the Defendants. The images provided to the *Huckabee* show, just like the narrative stated through Defendant, R. O'BARRY, are material to Defendant, EARTH ISLAND CORPORATION's, propaganda, and marketing of *The COVE*, in furtherance of their racketeering activities against Ocean World, the marine park industry, Japan and the dolphin-tuna nexus which is key to the advancement of Defendant, EARTH ISLAND CORPORATION's, surveillance dolphin-tuna surveillance programs. Exhibit "J".

38. The on-line written transcript including typographical errors from the on-line script is attached and legally incorporated by reference as Exhibit "I".

39. The Defendants' statements in conjunction with the images provided to FOX News channel are false and an unlawful misrepresentation of the truth when viewed in its totality. Exhibits "I" and "J".

40. The entire transcript and video images of the actual *Huckabee* show with Defendant's representative and employee, Defendant, R. O'BARRY, attempts to

establish him as an expert with first-hand secret knowledge on an alleged mission to expose the truth about a secret dolphin slaughter via the media. Defendants factually assert that the under-pinning of the slaughter is funded by marine parks purchasing dolphins in which dolphin trainers are working in concert with the Taiji Fisherman's Union's government sanctioned processing of dolphins to be sold as meat for human consumption throughout Japan's restaurants and supermarkets. At 00:47:42 of the on-line transcript, the Defendants seizes the opportunity with malice to inflict economic and reputational harm upon Plaintiff, OCEAN WORLD, after having been warned by the Plaintiff to cease and desist from engaging in defamatory conduct and/or any attempt to unlawfully harm the Plaintiff, OCEAN WORLD. Defendants go on to factually assert that allegedly sued him and Defendant, EARTH ISLAND CORPORATION, for "speaking out against this". Furthermore, the only way to end the slaughter is to stop purchasing tickets and put Plaintiff, OCEAN WORLD, out of business. Exhibit "I".

41. The following is an excerpt from the on-line transcript:

00:40:31	No idea what to do to stop it.
00:40:33	I asked my japanese colleagues, and they said, external pressure.
00:40:42	Bring the media here that's what I started doing.
00:40:45	Cnn, bbc, whoever would come there, including the filmmakers.
00:41:58	13 Boats are killing dolphins, two men in each boat.
00:42:01	We are talking about 26 guys basically.
00:42:05	3,400 People who don't kill dolphins.
00:42:28	That is a form of external pressure.
00:42:33	That's the kind of thing that's going to stop it.
00:42:35	To keep it in the news.
00:42:38	Keep them in newspapers and television and so forth.
00:42:42	want to warn theurbing but compelling scenes ofse fishermen driving hundreds of dolphins to their deaths.
00:46:29	>> When the sun comes up in the morning, 13 boats go out two men in each boat, boats are 38 feet long.

00:46:37 And they wait for dolphins.

00:46:41 Dolphins that are migrating and they get on the outside of them and they are evenly spaced a couple hundred feet apart.

00:46:49 And -- couple hundred feet apart.

00:46:51 And they put a long metal pole in the water that has sort of a bell on the bottom and start banging.

00:46:57 This creates a wall of sound or acoustic net and terrorizes the dolphins.

00:47:05 They are able to drive them into the cove.

00:47:09 And they seal it.

00:47:11 And they call this the drive fisheries.

00:47:13 It has been going on for about 400 years but not with these mechanized boats that has only been going on for 33 years.

00:47:22 The cove is sealed, if there's a capture taking place, you will see about 30 dolphin trainers who select the best for themselves.

00:47:34 And I think that's the economic underpinning of the slaughter.

00:47:39 there's a lot of money for the trainers how much?

00:47:42 >> We know that ocean world casino in the dominican republic paid \$154,000 for each dolphin.

00:47:52 And when we started speaking out against this, myself and earth island institute, we were hit with a 700 million dollar lawsuit which we are still dealing with.

00:48:05 But yeah, I think the captures are the economic unpinning, because the dolphin meat, the dead dolphin is worth \$400, \$500.

00:48:16 That's the hardest thing for me as a former dolphin trainer to understand.

00:48:21 In some ways the fishermen know not what they do.

00:48:39 The dolphin trainers that you see in the movie capturing the dolphins, they know better.

00:48:44 They know they are self-aware and they look them in the eye every -- self-aware.

00:48:50 They look them in the eye everyday.

00:48:52 They gave them names.

00:48:53 So for the life of me I can't figure out what they are doing there.

00:48:57 the trainers that are selecting the best particularly the ones that look like flipper.

00:49:02 What happens to the rest of them now they've herded them into the cove?

00:49:06 >> We never knew the exact details of how they were killed because the cove is out of sight.

00:49:11 So, it took some doing to photograph that covertly.

00:49:17 That's one of the reasons the film crew won the academy award.

00:49:21 They are speared.

00:49:23 Killed with knives and it is the most brutal -- it is so over-the-top that I can't -- words fail me when you ask me that question, what happens?

00:49:32 It is like dante's inferno for dolphins.

00:49:37 but they are sold for food that's the ultimate end.

00:49:41 >> Yes.

00:49:42 you were able to sneak cameras in, in a remarkable operation that frankly rivals any navy seal thing that you can imagine logistically to create and execute this plan and we some scenes from it.

00:49:58 Some scenes from the documentary this is shocking footage that ric and his team shot, we begin with the boats driving the dolphins toward the cove.

00:50:08 >> Miker to routes the dolphins have been using for thousands of years -- they wait until the dolphins come by.

00:50:16 They put the long poles in the water and they bang on these poles with hammers and they create a wall of sound, which frightens the dolphins.

00:50:38 They are freaked out, stressed out to the max.

00:50:42 They seal it, then they go home.

00:50:45 The next morning, all of these dolphin trainers will be lined up, selecting the ones that they want for the -- they are looking for flipper.

00:51:00 >> It is the captivity industry that keeps this slaughter going by rewarding the fishermen.

00:51:14 >> 26,000 Wiped out every year.

00:51:16 And it is not even acknowledged.

00:51:19 >> Nobody has actually seen what takes place out there.

00:52:08 very disturbing video this is why this incredible documentary received the oscar.

00:52:13 Because it's footage ric that was shot in ways no one effort has seen before except the participants.

00:52:20 What has been the reaction that you've had?

00:52:39 Ultimately, it is the consumers who will solve this problem.

00:52:58 It is more about giving them the information in the hopes they will stop buying the product.

00:53:03 Same is true with the dolphin ariums there's 50 in japan.

00:53:11 When people see this film they are going to think twice before they buy a ticket for that dolphin show.

Exhibit "I".

42. The statements and video images were about the Plaintiff, OCEAN WORLD. Exhibits “I” and “J”.

43. The statements were made in connection with specific video images that were broadcast to third parties including Governor Mike Huckabee, the staff at FOX News and to the public via the airing of *Huckabee* show and various forms on the internet. Exhibits “I” and “J”.

44. That the above allegations are particularly false and defamatory for:

- (a) Factually asserting that the Plaintiff was responsible for death of dolphins throughout Taiji, Japan.
- (b) Factually asserting that the Plaintiff was responsible for the government sanctioned harvest drives which are conducted by the Taiji Fisherman’s Union for food consumption throughout Japan.
- (c) Factually asserting that the Plaintiff who was a member of the marine park industry and who sought obtain Twelve (12) dolphins to remove them from the government sanctioned drives and transport them to their facility in the Dominican Republic was “the economic under pinning of the slaughter”.

45. The falsity of the Defendant’s statements and video images caused injury to the Plaintiff, OCEAN WORLD. Exhibits “I” and “J”.

46. Defendant, EARTH ISLAND CORPORATION’s, false communication broadcasted to third parties that Plaintiff, OCEAN WORLD’s, conduct, characteristic, and/or condition as incompatible with the proper exercise of a lawful business, trade, and/or profession.

47. As a result of Defendant, EARTH ISLAND CORPORATION’s, false statements, images, and/or the combination thereof, the Plaintiff, OCEAN WORLD’s, good name, stature, and reputation was injured and the Plaintiff, OCEAN WORLD, has been brought into public scandal and disgrace, and has been otherwise injured.

48. Defendant, EARTH ISLAND CORPORATION's, continued false factual assertions and images were for the purpose of elevating public outrage for Plaintiff, OCEAN WORLD, and dolphin swim programs, to isolate the Plaintiff, and to benefit to the Defendant's multi-pronged objectives stated in Paragraphs 11-16 herein. Defendant, EARTH ISLAND CORPORATION's, fundraising scheme is to fabricate and identify a villain and to hold themselves and their syndicate out as heroes, in any given situation. By doing so, Defendants generate revenue from multiple sources. This is the nature of animal rights' business. Exhibits "I" and "J".

49. The Defendant, EARTH ISLAND CORPORATION, negligently disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

50. The Defendant, EARTH ISLAND CORPORATION, willfully and deliberately disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

51. These statements and images are of a continuing nature in many instances, in that they are either continuously posted and accessible to the public or contained in written and printed format and distributed to thousands of persons and institutions throughout the United States and globally. The resulting damage and injuries are continuing in nature.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for such relief as this Honorable Court deems just and proper. The Plaintiff, OCEAN WORLD, S.A., reserves the right to assert a claim for punitive damages and to amend the complaint to add additional entities, individuals, and claims as it becomes necessary.

COUNT II
DEFAMATION – SLANDER & LIBEL BY DEFENDANT, R. O'BARRY, OF
PLAINTIFF, OCEAN WORLD, S.A. ., ON HUCKABEE BROADCAST

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Thirty (30), as set forth herein

52. The Plaintiff, OCEAN WORLD, is and was a business of good name and reputation and enjoyed the esteem and good opinion of business colleagues and others who know them.

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of Defendant, EARTH ISLAND CORPORATION's, surveillance dolphin-tuna surveillance programs. Exhibit "J".

56. The on-line written transcript including typographical errors from the on-line script is attached and legally incorporated by reference as Exhibit "I".

57. The Defendants' statements in conjunction with the images provided to FOX News channel are false and an unlawful misrepresentation of the truth when viewed in its totality. Exhibits "I" and "J".

58. The entire transcript and video images of the actual *Huckabee* show with Defendant's representative and employee, Defendant, R. O'BARRY, attempts to establish him as an expert with first-hand secret knowledge on an alleged mission to expose the truth about a secret dolphin slaughter via the media. Defendants factually assert that the under-pinning of the slaughter is funded by marine parks purchasing dolphins in which dolphin trainers are working in concert with the Taiji Fisherman's Union's government sanctioned processing of dolphins to be sold as meat for human consumption throughout Japan's restaurants and supermarkets. At 00:47:42 of the on-line transcript, the Defendants ceases the opportunity with malice to inflict economic and reputational harm upon Plaintiff, OCEAN WORLD, after having been warned by the Plaintiff to cease and desist from engaging in defamatory conduct and/or any attempt to unlawfully harm the Plaintiff, OCEAN WORLD. Defendants go on to factually assert that allegedly sued him and Defendant, EARTH ISLAND CORPORATION, for "speaking out against this". Furthermore, the only way to end the slaughter is to stop purchasing tickets and put Plaintiff, OCEAN WORLD, out of business. Exhibits "I" and "J".

59. The following is an excerpt from the on-line transcript:

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00:46:29 >> When the sun comes up in the morning, 13 boats go out two men in each boat, boats are 38 feet long.
00:46:37 And they wait for dolphins.
00:46:41 Dolphins that are migrating and they get on the outside of them and they are evenly spaced a couple hundred feet apart.
00:46:49 And -- couple hundred feet apart.
00:46:51 And they put a long metal pole in the water that has sort of a bell on the bottom and start banging.
00:46:57 This creates a wall of sound or acoustic net and terrorizes the dolphins.
00:47:05 They are able to drive them into the cove.
00:47:09 And they seal it.
00:47:11 And they call this the drive fisheries.
00:47:13 It has been going on for about 400 years but not with these mechanized boats that has only been going on for 33 years.
00:47:22 The cove is sealed, if there's a capture taking place, you will see about 30 dolphin trainers who select the best for themselves.
00:47:34 And I think that's the economic underpinning of the slaughter.
00:47:39 there's a lot of money for the trainers how much?
00:47:42 >> We know that ocean world casino in the dominican republic paid \$154,000 for each dolphin.
00:47:52 And when we started speaking out against this, myself and earth island institute, we were hit with a 700 million dollar lawsuit which we are still dealing with.
00:48:05 But yeah, I think the captures are the economic unpinning, because the dolphin meat, the dead dolphin is worth \$400, \$500.
00:48:16 That's the hardest thing for me as a former dolphin trainer to understand.

00:48:21 In some ways the fishermen know not what they do.

00:48:39 The dolphin trainers that you see in the movie capturing the dolphins, they know better.

00:48:44 They know they are self-aware and they look them in the eye every -- self-aware.

00:48:50 They look them in the eye everyday.

00:48:52 They gave them names.

00:48:53 So for the life of me I can't figure out what they are doing there.

00:48:57 the trainers that are selecting the best particularly the ones that look like flipper.

00:49:02 What happens to the rest of them now they've herded them into the cove?

00:49:06 >> We never knew the exact details of how they were killed because the cove is out of sight.

00:49:11 So, it took some doing to photograph that covertly.

00:49:17 That's one of the reasons the film crew won the academy award.

00:49:21 They are speared.

00:49:23 Killed with knives and it is the most brutal -- it is so over-the-top that I can't -- words fail me when you ask me that question, what happens?

00:49:32 It is like dante's inferno for dolphins.

00:49:37 but they are sold for food that's the ultimate end.

00:49:41 >> Yes.

00:49:42 you were able to sneak cameras in, in a remarkable operation that frankly rivals any navy seal thing that you can imagine logistically to create and execute this plan and we some scenes from it.

00:49:58 Some scenes from the documentary this is shocking footage that Ric and his team shot, we begin with the boats driving the dolphins toward the cove.

00:50:08 >> Miker to routes the dolphins have been using for thousands of years -- they wait until the dolphins come by.

00:50:16 They put the long poles in the water and they bang on these poles with hammers and they create a wall of sound, which frightens the dolphins.

00:50:38 They are freaked out, stressed out to the max.

00:50:42 They seal it, then they go home.

00:50:45 The next morning, all of these dolphin trainers will be lined up, selecting the ones that they want for the -- they are looking for flipper.

00:51:00 >> It is the captivity industry that keeps this slaughter going by rewarding the fishermen.

00:51:14 >> 26,000 Wiped out every year.

00:51:16 And it is not even acknowledged.
 00:51:19 >> Nobody has actually seen what takes place out there.
 00:52:08 very disturbing video this is why this incredible documentary
 received the oscar.
 00:52:13 Because it's footage ric that was shot in ways no one effort has
 seen before except the participants.
 00:52:20 What has been the reaction that you've had?

 00:52:39 Ultimately, it is the consumers who will solve this problem.

 00:52:58 It is more about giving them the information in the hopes they will
 stop buying the product.

 00:53:03 Same is true with the dolphin ariums there's 50 in japan.
 00:53:11 When people see this film they are going to think twice before they
 buy a ticket for that dolphin show.

Exhibit "I".

60. The statements and video images were about the Plaintiff, OCEAN WORLD.
 Exhibits "I" and "J".

61. The statements were made in connection with specific video images that were
 broadcast to third parties including Governor Mike Huckabee, the staff at FOX News and
 to the public via the airing of *Huckabee* show and various forms on the internet. Exhibits
 "I" and "J".

62. That the above allegations are particularly false and defamatory for:

- (d) Factually asserting that the Plaintiff was responsible for death of dolphins
 throughout Taiji, Japan.
- (e) Factually asserting that the Plaintiff was responsible for the government
 sanctioned harvest drives which are conducted by the Taiji Fisherman's
 Union for food consumption throughout Japan.
- (f) Factually asserting that the Plaintiff who was a member of the marine park
 industry and who sought obtain Twelve (12) dolphins to remove them
 from the government sanctioned drives and transport them to their facility
 in the Dominican Republic was "the economic under pinning of the
 slaughter".

63. The falsity of the Defendant's statements and video images caused injury to the Plaintiff, OCEAN WORLD. Exhibits "I" and "J".

64. Defendant, R. O'BARRY's, false communication broadcasted to third parties that Plaintiff, OCEAN WORLD's, conduct, characteristic, and/or condition as incompatible with the proper exercise of a lawful business, trade, and/or profession. Exhibits "I" and "J".

65. As a result of Defendant, R. O'BARRY's, false statements, images, and/or the combination thereof, the Plaintiff, OCEAN WORLD's, good name, stature, and reputation was injured and the Plaintiff, OCEAN WORLD, has been brought into public scandal and disgrace, and has been otherwise injured. Exhibits "I" and "J".

66. Defendant, R. O'BARRY's, continued false factual assertions and images were for the purpose of elevating public outrage for Plaintiff, OCEAN WORLD, and dolphin swim programs, to isolate the Plaintiff, and to benefit to the Defendant's multi-pronged objectives stated in Paragraphs 11-16 herein. Defendant, R. O'BARRY's, fundraising scheme is to fabricate and identify a villain and to hold themselves and their syndicate out as heroes, in any given situation. By doing so, Defendants generate revenue from multiple sources. This is the nature of animal rights' business. Exhibits "I" and "J".

67. The Defendant, R. O'BARRY, negligently disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

68. The Defendant, R. O'BARRY, willfully and deliberately disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

69. These statements and images are of a continuing nature in many instances, in that they are either continuously posted and accessible to the public or contained in written and printed format and distributed to thousands of persons and institutions throughout the United States and globally. The resulting damage and injuries are continuing in nature.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for such relief as this Honorable Court deems just and proper. The Plaintiff, OCEAN WORLD, S.A., reserves the right to assert a claim for punitive damages and to amend the complaint to add additional entities, individuals, and claims as it becomes necessary.

COUNT III
DEFAMATION – LIBEL BY DEFENDANT, EARTH ISLAND CORPORATION
OF PLAINTIFF, OCEAN WORLD, S.A., IN “DOLPHIN ACTIVIST RIC
O’BARRY: BOYCOTTING JAPAN IS ‘RACIST’”

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Twenty-Nine (29) and Thirty-One (31) as set forth herein

70. The Plaintiff, OCEAN WORLD, is and was a business of good name, and reputation and enjoyed the esteem and good opinion of business colleagues and others who know them.

71. The Defendant, EARTH ISLAND CORPORATION, knew of the good name, and reputation of the Plaintiff, OCEAN WORLD.

72. On or about the 27th day of December, 2012, Defendant, EARTH ISLAND CORPORATION, published false statements about the Plaintiff, OCEAN WORLD, in the article, *Activist Ric O’Barry: Boycotting Japan is ‘Racist’*, Takepart.com by David Kirby, <http://news.yahoo.com/dolphin-activist-ric-o-barry-boycotting-japan-racist-174018801.html> which is attached hereto as Exhibit “N”.

73. Defendant, EARTH ISLAND CORPORATION's, agent and employee, Defendant, R. O'BARRY, made false factual assertions, expressly and by implication, during an interview that the Plaintiff, OCEAN WORLD, was engaged in hacking into his computer and engaged in wiretapping his telephone communications, both of which are federal and state felonies carrying heavy fines and imprisonment, as follows:

TakePart: I'm not the paranoid type, but do you think someone is listening in?

Ric O'Barry:: I'm not paranoid either, but I have been fighting some major lawsuits against me over the last five years. And anybody who really knows how to use a computer can hack your system and read all your emails and listen to your calls. This is a multibillion dollar industry. It wouldn't surprise me if they were doing that. We're a big threat to them. Many people tell me they hear three clicks before my phone rings and (industry people) told me they've investigated me. But they can't win these lawsuits, and now we are down to the last one, here in Miami.

Exhibit "N".

74. The statements and factual assertions were pertaining to the Plaintiff, OCEAN WORLD. Exhibit "N".

75. The statements and factual assertions were published to a third party, David Kirby, the general public reading the article, and published globally on the world wide web. Exhibit "N".

76. The falsity of the Defendant's statements and video images caused injury to the Plaintiff, OCEAN WORLD.

77. Defendant, EARTH ISLAND CORPORATION's, false communication broadcast to third parties that Plaintiff, OCEAN WORLD's, conduct, characteristic, and/or condition as incompatible with the proper exercise of a lawful business, trade, and/or profession.

78. As a result of Defendant, EARTH ISLAND CORPORATION's, false statements, images, and/or the combination thereof, the Plaintiff, OCEAN WORLD's, good name, stature, and reputation was injured and the Plaintiff, OCEAN WORLD, has been brought into public scandal and disgrace, and has been otherwise injured.

79. Defendant, EARTH ISLAND CORPORATION's, continued false factual assertions and images were for the purpose of elevating public outrage for Plaintiff, OCEAN WORLD, and dolphin swim programs, to isolate the Plaintiff, and to benefit to the Defendant's multi-pronged objectives stated in Paragraphs 11-16 herein. Defendant, EARTH ISLAND CORPORATION's, fundraising scheme is to fabricate and identify a villain and to hold themselves and their syndicate out as heroes, in any given situation. By doing so, Defendants generate revenue from multiple sources. This is the nature of animal rights' business. Exhibit "N".

80. The Defendant, EARTH ISLAND CORPORATION, negligently disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

81. The Defendant, EARTH ISLAND CORPORATION, willfully and deliberately disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

82. These statements and images are of a continuing nature in many instances, in that they are either continuously posted and accessible to the public or contained in written and printed format and distributed to thousands of persons and institutions throughout the United States and globally. The resulting damage and injuries are continuing in nature.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for such relief as this Honorable Court deems just and proper. The Plaintiff, OCEAN WORLD, S.A., reserves the right to assert a claim for punitive damages and to amend the complaint to add additional entities, individuals, and claims as it becomes necessary.

COUNT IV
DEFAMATION – BY DEFENDANT, R. O'BARRY, OF PLAINTIFF, OCEAN
WORLD, S.A., IN “DOLPHIN ACTIVIST RIC O'BARRY: BOYCOTTING
JAPAN IS ‘RACIST’”

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Twenty-Nine (29) as set forth herein.

83. The Plaintiff, OCEAN WORLD, is and was a business of good name, and reputation and enjoyed the esteem and good opinion of business colleagues and others who know them.

84. The Defendant, R. O'BARRY, knew of the good name, and reputation of the Plaintiff, OCEAN WORLD.

85. On or about the 27th day of December, 2012, Defendant, EARTH ISLAND CORPORATION, published false statements about the Plaintiff, OCEAN WORLD, in the article, *Activist Ric O'Barry: Boycotting Japan is 'Racist'*, Takepart.com by David Kirby, <http://news.yahoo.com/dolphin-activist-ric-o-barry-boycotting-japan-racist-174018801.html> which is attached hereto as Exhibit “N.”

86. Defendant, R. O'BARRY, made false factual assertions, expressly and by implication, during an interview that the Plaintiff, OCEAN WORLD, was engaged in hacking into his computer and engaged in wiretapping his telephone communications,

both of which are federal and state felonies carrying heavy fines and imprisonment, as follows:

TakePart: I'm not the paranoid type, but do you think someone is listening in?

Ric O'Barry:: I'm not paranoid either, but I have been fighting some major lawsuits against me over the last five years. And anybody who really knows how to use a computer can hack your system and read all your emails and listen to your calls. This is a multibillion dollar industry. It wouldn't surprise me if they were doing that. We're a big threat to them. Many people tell me they hear three clicks before my phone rings and (industry people) told me they've investigated me. But they can't win these lawsuits, and now we are down to the last one, here in Miami.

Exhibit "N".

87. The statements and factual assertions were pertaining to the Plaintiff, OCEAN WORLD. Exhibit "N".

88. The statements and factual assertions were published to a third party, David Kirby, the general public reading the article, and published globally on the world wide web. Exhibit "N".

89. The falsity of the Defendant's statements and video images caused injury to the Plaintiff, OCEAN WORLD.

90. Defendant, R. O'BARRY's, false communication broadcast to third parties that Plaintiff, OCEAN WORLD's, conduct, characteristic, and/or condition as incompatible with the proper exercise of a lawful business, trade, and/or profession.

91. As a result of Defendant, R. O'BARRY's, false statements, images, and/or the combination thereof, the Plaintiff, OCEAN WORLD's, good name, stature, and reputation was injured and the Plaintiff, OCEAN WORLD, has been brought into public scandal and disgrace, and has been otherwise injured.

92. Defendant, R. O'BARRY's, continued false factual assertions and images were for the purpose of elevating public outrage for Plaintiff, OCEAN WORLD, and dolphin swim programs, to isolate the Plaintiff, and to benefit to the Defendant's multi-pronged objectives stated in Paragraphs 11-16 herein. Defendant, R. O'BARRY's, fundraising scheme is to fabricate and identify a villain and to hold themselves and their syndicate out as heroes, in any given situation. By doing so, Defendants generate revenue from multiple sources. This is the nature of animal rights' business. Exhibit "N".

93. The Defendant, R. O'BARRY, negligently disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

94. The Defendant, R. O'BARRY, willfully and deliberately disregarded the truth that could have easily been ascertained and maliciously made the statement on public broadcast despite the truth.

95. These statements and images are of a continuing nature in many instances, in that they are either continuously posted and accessible to the public or contained in written and printed format and distributed to thousands of persons and institutions throughout the United States and globally. The resulting damage and injuries are continuing in nature.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for such relief as this Honorable Court deems just and proper. The Plaintiff, OCEAN WORLD, S.A., reserves the right to assert a claim for punitive damages and to amend the complaint to add additional entities, individuals, and claims as it becomes necessary.

COUNT V
NEGLIGENCE OF DEFENDANT, EARTH ISLAND CORPORATION

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Thirty (30) as set forth herein

96. Defendant, EARTH ISLAND CORPORATION, had a duty to:

A. Not to cause Plaintiff, OCEAN WORLD, reputational, financial or economic harm.

B. Not make false assertions that would place Plaintiff, OCEAN WORLD, in harm's way.

C. To not disturb Plaintiff, OCEAN WORLD's, lawful business activities.

D. Not to involve Plaintiff, OCEAN WORLD, in Defendants' deceptive fund raising activities.

97. Defendant, EARTH ISLAND CORPORATION, breached every duty listed in Paragraph 96 (A)- (D).

98. But for Defendant, EARTH ISLAND CORPORATION's, breach of duties in Paragraph 96 (A) - (D), Plaintiff, OCEAN WORLD, would not have been in a position to be exposed to suffering economic and reputational harm.

99. It is reasonably foreseeable that because of Defendant's breach of the duties listed in Paragraph 96 that Plaintiff, OCEAN WORLD, would be exposed to economical and reputational harm.

100. The Plaintiff, OCEAN WORLD, suffered economic and reputational damages.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for such relief as this Honorable Court deems just and proper. The Plaintiff, OCEAN

WORLD, S.A., reserves the right to assert a claim for punitive damages and to amend the complaint to add additional entities, individuals, and claims as it becomes necessary.

COUNT VI
NEGLIGENCE OF DEFENDANT, R. O'BARRY

The Plaintiff, OCEAN WORLD, realleges and reaffirms paragraphs One (1) to Thirty (30) as set forth herein

101. Defendant, R. O'BARRY, had a duty to:

A. Not to cause Plaintiff, OCEAN WORLD, reputational, financial or economic harm.

B. Not make false assertions that would place Plaintiff, OCEAN WORLD, in harm's way.

C. To not disturb Plaintiff, OCEAN WORLD's, lawful business activities.

D. Not to involve Plaintiff, OCEAN WORLD, in Defendants' deceptive fund raising activities.

102. Defendant, R. O'BARRY, breached every duty listed in Paragraph 101 (A)- (D).

103. But for Defendant, R. O'BARRY's, breach of duties in Paragraph 101 (A) - (D), Plaintiff, OCEAN WORLD, would not have been in a position to be exposed to suffering economic and reputational harm.

104. It is reasonably foreseeable that because of Defendant's breach of the duties listed in Paragraph 101 that Plaintiff, OCEAN WORLD, would be exposed to economical and reputational harm.

105. The Plaintiff, OCEAN WORLD, suffered economic and reputational damages.

WHEREFORE, the Plaintiff, OCEAN WORLD, S.A., demands judgment for compensatory damages and any costs of prosecuting this action, attorneys' fees and for

DEMAND FOR JURY TRIAL

The Plaintiff, OCEAN WORLD, S.A., demands trial by jury of all issues so triable.

PENALTA & STIGER, P.A.
Attorney for Plaintiff

/s/ Alexander Penalta

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via E-Mail and U.S. Mail to Deanna Shullman, Esq., Rachel Fugate, Esq., and Ana-Klara H. Anderson, Esq., THOMAS & LOCICERO PL, 601 South Blvd., Tampa, Florida 33606 on this 6th day of June, 2013.

PENALTA & STIGER, P.A.

/s/ Alexander Penalta

Alexander Penalta