Exhibit A
Via Email

David McCraw
Senior Vice President & Deputy General Counsel,
The New York Times Company,
620 8th Ave,
New York, NY 10018
Email: mccrad@nytimes.com

Re: False Allegations regarding Project Veritas

Dear David:

I write on behalf of my client, Project Veritas.

On September 29, 2020, The New York Times published two articles online, and on September 30, 2020 a third article in its print edition, that falsely accused Project Veritas of releasing a “deceptive video” as part of a “coordinated disinformation campaign” in coordination with the Trump Presidential reelection campaign. The articles also strongly suggest that it did so to take attention away from The Times’ own article regarding President Trump’s tax returns.1 These articles contain numerous false and defamatory claims, and there are clear indicia that The Times acted with actual malice in publishing them. To avoid litigation that would be costly and not in the interests of either of our clients, I am asking (again) that The Times retract them.

As an initial matter, the articles are false and defamatory because they accuse Project Veritas and its founder, James O’Keefe, of creating a “deceptive video.” Remarkably, The Times is defending that statement as its “opinion.” See Letter D. Green to J. Ede (“But whether a video is

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‘deceptive’ is plainly opinion and not actionable as a matter of law.”). Nonsense. The Times clearly suggests that Project Veritas altered, ‘doctored,’ or selectively edited the video in order to deceive or fraudulently induce the public to believe a narrative that was not true. More specifically, The Times makes the (false) claim that Project Veritas made a “deceptive video” and then engaged in a widespread and coordinated effort to create the perception that the “deceptive video” was accurate when the underlying video was manipulated. Of course, juries are asked every day to determine, as a factual matter, whether a business has engaged in deceptive conduct in marketing a product—it is one of the legal elements of every consumer protection statute on the books, including in The Times’ own home jurisdiction.3 And whether the video was purportedly “deceptive,” because according to The Times it relied on “unidentified sources and with no verifiable evidence that Representative Ilhan Omar’s campaign had collected ballots illegally,” for some other reason, or not “deceptive” at all is a question for the jury.4 (We do find it highly ironic that The Times is complaining of the use of “unidentified sources”—which were on video—given The Times’ routine usage of anonymous and confidential sources who rarely, if ever, appear on video.) Notably, Ms. Green relies on an unpublished California case to support her “opinion” defense, but we are confident that a fulsome review of myriad cases we have cited below will help change The Times’ perspective on this point.

Not only is the question of whether Project Veritas published a “deceptive video” a question of fact capable of a defamatory meaning, it is also defamatory per se. Although The Times pejoratively characterized Mr. O’Keefe as a “conservative activist” in the September 29 articles, he is a journalist and Project Veritas is a non-profit journalism enterprise whose very purpose is to conduct undercover investigations.5 Their mandate is to “investigate[] and expose[] corruption, dishonesty, self-dealing, waste, fraud, and other misconduct in both public and private institutions.”6 Falsely...

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2 Flowers v. Carville, 310 F.3d 1118, 1128 (9th Cir. 2002) (holding that plaintiff stated a claim for defamation where defendants alleged that plaintiff published “doctored” or “selectively edited” tapes because such statements “insinuate [plaintiff engaged in] deception”); see also Manufactured Home Communities, Inc. v. Cty. of San Diego, 544 F.3d 959, 964 (9th Cir. 2008) (holding that accusations implying that plaintiff deliberately misled the public for its own benefit were defamatory); Brokers’ Choice of Am., Inc. v. NBC Universal, Inc., 757 F.3d 1125, 1136-40 (10th Cir. 2014) (holding that plaintiff stated a claim for defamation where plaintiff alleged that he was the subject of a deceptively edited interview which falsely implied plaintiff used predatory tactics to grow his business); Sherrod v. Breitbart, 304 F.R.D. 73, 74-75 (D.D.C. 2014) (holding that plaintiff stated a claim for defamation where plaintiff alleged that defendant published a deceptively edited video implying that plaintiff discriminates against persons on the basis of race); cf. Partridge v. State, 100 N.Y.S.3d 730, 734 (N.Y. App. Div. 2019).


4 Flowers, 310 F.3d at 1127 (holding that where a statement is susceptible to more than one meaning, “one of which is defamatory, the resolution of the ambiguity is a question of fact for the jury”); G.L. v. Markowitz, 955 N.Y.S.2d 643, 645 (N.Y. App. Div. 2012) (“If the contested statements are reasonably susceptible of a defamatory connotation, then it becomes the jury’s function to say that was the sense in which the words were likely to be understood by the ordinary and average [listener.”] (internal quotation marks and citations omitted); Arrigoni v. Velalla, 110 A.D.2d 601, 604-05, 488 N.Y.S.2d 184 (N.Y. App. Div. 1985) (same).

5 See Project Veritas, Overview, https://www.projectveritas.com/about/.

6 Id.
attributing to Mr. O'Keefe and to Project Veritas a claim that they intentionally manipulated their broadcast video in a deceptive manner attributes to them conduct unfit for their profession and trade, as a journalist and journalism enterprise.7 And, as you know, damages are presumed in a defamation per se case under New York law.8 Some of those damages include, for example, the cost for me to prepare this letter after The Times' refused to issue a retraction when Project Veritas' in-house counsel wrote to it.9

As a factual matter, the video itself is in no way “deceptive.” The video centers on self-recorded videos from Mr. Liban Mohamed, which Mr. Mohamed publicly shared on social media and only later deleted. In one self-recorded video, Mr. Mohamed explains while driving his car that he has collected enough absentee ballots to fill his entire car, and then he pans the camera to reveal the numerous absentee ballots resting on the dashboard.10 In another, Mr. Mohamed alleges that he collected 300 ballots “just today” for Mr. Jamal Osman.11 And that barely scratches the surface of videos created and published to social media by Mr. Mohamed, which include shots of Mr. Mohamed collecting ballots as late as 2:00 a.m. and footage of Mr. Mohamed in his car with another person holding what appears to be a large number of ballots.12 Again: these are not videos taken or recorded by Project Veritas; these are videos recorded, and uploaded, by Mr. Mohamed himself to his personal social media account and later deleted. Mr. Mohamed, in a recorded phone call with a Project Veritas journalist, also said that he worked for Jamal Osman.13 And Mr. Omar Jamal confirmed that Mr. Mohamed worked for Rep. Omar and Jamal Osman.14 Mr. Jamal also specifically connected Rep. Omar with the cash-for-ballots scheme when he alleged that her Deputy

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7 Spring v. County of Monroe, 57 N.Y.S.3d 799, 802 (N.Y. App. Div. 2017) (holding that accusations that plaintiff is dishonest with respect to plaintiff’s practice of plaintiff’s profession); Gatz v. Otis Ford, Inc., 691 N.Y.S.2d 113, 114 (N.Y. App. Div. 1999) (statements implying that plaintiff was dishonest in his profession were defamatory per se); Grimaldi v. Schillaci, 484 N.Y.S.2d 159 (N.Y. App. Div. 1984) (same); Daradashian v. Gitman, No. 17-Civ-4327, 2017 WL 6398717, at *8 (S.D.N.Y. Nov. 8, 2020) (“A statement constitutes defamation per se if there is some reference, direct or indirect, in the words or in the circumstances attending their utterance, which connects the charge of incompetence or dishonesty to the particular profession or trade engaged in by plaintiff.”); see N.Y. Jurisprudence 2d: Defamation and Privacy § 31 (noting that charges that a person is dishonest in connection with his or her occupation or with reference to the carrying on of his or her business).

8 Geraci v. Probst, 938 N.E.2d 917, 923 (N.Y. 2010) (“Damages will likewise be presumed for statements that charge a person with committing a serious crime or that would tend to cause injury to a person’s profession or business.”); Liberman v. Gelstein, 605 N.E.2d 344, 347 (N.Y. 1992) (same).

9 See, e.g., Den Norske Amerikalinje Actieselskabet v. Sun Printing & Publishing Ass’n, 122 N.E. 463 (N.Y. 1919) (holding defamation plaintiff may recover reasonable expenses incurred mitigating damages); see also Houston v. New York Post Co., No. 93-CIV-4408, 1997 WL 10034, at *6 (S.D.N.Y. Jan. 10, 1997) (holding defamation plaintiff is entitled to expenses incurred for mitigating damages, and therefore permitting plaintiff to replead where plaintiff claimed that $30,000.00 in mitigation expenses for obtaining a retraction from defendant).


11 Id. at 1:21-24.

12 Id. at 1:39:1:57.

13 Id. at 5:59:6:24.

14 Id. at 2:00; 3:55.
Director in Minneapolis, Ali Isse Gainey who has done fieldwork in the past for her,\textsuperscript{15} "is part of people who are using cash to get votes."\textsuperscript{16}

Several unnamed sources also corroborated that Rep. Omar and others are involved in illegal ballot-harvesting. In one recorded interview, an unnamed source stated that canvassers working for Rep. Omar came to his apartment complex; told a number of the people living there that they would apply for absentee ballots; and, when those living in the complex received the ballots, the canvassers returned, filled out the ballots for Rep. Omar; and paid those people when they signed the absentee ballots and then mailed the ballots in.\textsuperscript{17} Another anonymous source said that Mr. Gainey brought "bags" of money and paid those who voted for Rep. Omar, and she identified Mr. Gainey as a "campaign chair of Ilhan, a staffer in her office."\textsuperscript{18}

The fact that Project Veritas utilized unnamed sources certainly is not evidence that the video was "deceptive"—unless of course The Times is prepared to concede that its own reporting that all too frequently relies on anonymous and confidential sources\textsuperscript{19} is, by the same token, "deceptive." Is The New York Times prepared to admit that any facts only supported by "unnamed sources" are not credible? For instance, is The Times willing to admit that an article published on October 6, 2020, 'We Need to Take Away Children,' No Matter How Young, Justice Dept. Officials Said, which is "based on a review of the 86-page draft report and interviews with three government officials who read it in recent months” but “who spoke on the condition of anonymity because they had not been authorized to discuss it publicly,” is not a “deceptive” article\textsuperscript{20} Or is the recent report that “a


\textsuperscript{17}Id. at 4:29-5:41.

\textsuperscript{18}Id. at 6:49.

\textsuperscript{19}See, e.g., Emily Cochrane, Trump says he is pulling the plug on stimulus talks., The New York Times (Oct. 6, 2020), https://www.nytimes.com/2020/10/06/world/trump-says-he-is-pulling-the-plug-on-stimulus-talks.html?searchResultPosition=5 ("Ms. Pelosi had told lawmakers on a private caucus call moments before Mr. Trump’s tweets that Democrats were ‘waiting for them to approve our language to crush the virus and how we put money in the pockets of the American people,’ according to a Democratic aide on the call, who disclosed her remarks on condition of anonymity."); Liam Stack, Backlash Grows in Orthodox Jewish Areas Over Virus Crackdown by Cuomo, The New York Times (Oct. 7, 2020), https://www.nytimes.com/2020/10/07/nyregion/orthodox-jews-ncoronavirus.html?searchResultPosition=1 (reporting that a man beaten in Brooklyn, NY "was identified as Berish Getz by a relative, who spoke on the condition of anonymity out of fear for their safety"); Jonathan Martin, Citing Joe Biden’s ‘Wishes,’ Pro-Biden Group Will Not Air Ad Recounting the Deaths of His First Wife and His Daughter, The New York Times (Oct. 8, 2015), https://www.nytimes.com/politics/first-draft/2015/10/08/citing-joe-bidens-wishes-pro-biden-group-will-not-air-ad-recounting-the-deaths-of-his-first-wife-and-his-daughter?searchResultPosition=60 (relying on an "unnamed source close to Mr. Biden” regarding Mr. Biden’s unwillingness to “politically capitalize on the tragedies they [the Biden family] have endured”).

volunteer in the British portion of the [covid-19 vaccine] trial had received a diagnosis of transverse myelitis, a rare but serious inflammation of the spinal cord," also “deceptive” because it was based on “an unnamed source”?21 Should The Times’ readers regard those as facts as not credible? And if The Times stands by those reports, why is The Times treating Project Veritas’ reporting with such hostility simply because it includes statements—and videos—from unnamed sources?

Apart from the legal risk The Times has taken by publishing this false claim, we are also confused by Ms. Green’s “opinion” defense when these articles appeared on Times’ Politics news page authored by one of its political reporters:

Did Ms. Astor recently become part of The Times’ editorial team and her Times’ bio has simply not been updated—and The Times erroneously published her “opinion” piece on the news side, rather than editorial side of the paper? Or is The Times conceding that it publishes its political opinions on its news pages when it is covering a purportedly “political activist” whose “conservative” politics it does not like? Wouldn’t that be a violation of The Times’ own standards for “[e]thical journalism,” which demand “strict neutrality in reporting on politics and government” and which clearly and unambiguously declare that “[j]ournalists have no place on the playing fields of politics”?22 Or is this a made-for-litigation argument by Ms. Green that, based on the caselaw we cite above, holds little weight? Regardless of which of these is correct (hint: it’s the last one!), it is problematic for The Times. And at minimum, the placement of this article by this reporter suggests that The Times’ own news editors believed that the statement was a verifiable statement of fact—not an opinion.

Separate from the false and defamatory claim that Project Veritas published a “deceptive video,” The Times also makes the false and defamatory statement that it was part of a coordinated “disinformation campaign” with President Trump’s reelection campaign—in violation of campaign finance laws23—by pointing to the fact that individuals associated with the campaign like Donald

22 The New York Times, Ethical Journalism, Participation in Public Life, available at https://www.nytimes.com/editorialstandards/ethical-journalism.html#protectingThePapersNeutraliy (“No newsroom or editorial employee may do anything that damages The Times’s reputation for strict neutrality in reporting on politics and government. ... Journalists have no place on the playing fields of politics.”).
23 See 11 C.F.R. §§ 109; 100.52; 300.2.
Trump Jr. and Mike Lindell also retweeted or published the video shortly after it was published. In fact, The Times falsely claimed that Project Veritas changed the release date and time of the video specifically to counterbalance negative press the President’s reelection campaign would receive based on The Times’ article regarding President Trump’s tax returns. That is false. The truth is that Project Veritas made an independent decision to move up the release date of this video on Saturday, September 26—well before The Times’ story was published on Sunday, September 27. Internal Project Veritas emails and documents will prove this unequivocally. And I would be happy to share them with you under appropriate circumstances. Project Veritas and Mr. O’Keefe simply did not know that The Times’ was set to publish its story on the same day, and the timing of this video release had simply nothing to do with with The Times whatsoever.

The facts The Times points to as purportedly supporting its false and defamatory claims are 1) Mike Lindell tweeted the new release time for the video before Project Veritas did; and 2) Donald Trump Jr. tweeted a version of the video soon after Project Veritas’ release that apparently may have had different metadata than the version that Project Veritas released on Twitter. But Mr. O’Keefe provided many different individuals—including a variety of main stream media outlets—advance notice and an embargoed copy of the video, several of which occurred before The Times published its story on President Trump’s taxes, and many more of which occurred virtually simultaneously with The Times’ story, which explains why the metadata on Mr. Trump Jr.’s version may very well be different than that on the version Project Veritas posted. But, to be clear, Project Veritas researched, produced, edited, paid for, and selected the time and mode of release of this video (on its own website and on its own social media) entirely of its own volition and independent of any communication with any individual associated with President Trump’s reelection campaign. Period. The Times’ entirely unsupported accusation that Project Veritas rushed the release of this video in coordination with—and in aid of—President Trump’s campaign as a result of The Times’ reporting is false, and it is defamatory per se because it attributes to Project Veritas illegal and unethical conduct in violation of federal campaign finance laws, which prohibit a campaign from “coordinating” with third parties without paying for and disclosing those expenditures.24

It is no response to claim that The Times’ only used the term “coordinated” and “coordination” in its colloquial sense and not in a manner to convey illegal conduct in violation of federal campaign finance laws. As an initial matter, The Times’ deliberately selected to include the quote from Stanford and The University of Washington that this “raises questions of coordination,” clearly implying some nefarious and unethical conduct. And as a legal matter, of course, where there

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are two plausible interpretations of a statement—one defamatory and the other not—it is a question for the jury to sort out.25

Not only are The Times' allegations defamatory per se, but there is clear and convincing evidence that they were published with actual malice. To begin with, The Times failed to contact Project Veritas regarding internal editorial decisions about editing the video or about when to release the video is evidence that The Times purposefully avoided the most obvious sources who could corroborate or refute these allegations. Naturally, the best source of information regarding internal decisions about video-editing and the timing of publication is Project Veritas. Such purposeful avoidance of obvious sources is evidence of actual malice.26

Furthermore, The Times' failure to provide Project Veritas an opportunity to comment on the allegations is a clear violation of basic journalistic standards, which is additional evidence of malice.27 Had The Times' bothered to reach out, Project Veritas would have informed it of the truth, including by showing it internal company emails demonstrating the timing of its decision to publish this video. And had The Times' reached out, Project Veritas would have informed The Times that the underlying "study" by "researchers" at Stanford and the University of Washington was fraught with factual errors and its own violations of basic journalistic standards. For instance, none of the authors of the "study" contacted Project Veritas before publication. Additionally, Project Veritas would have explained how the "researchers" of the "study" selectively omitted material information, including the fact that Project Veritas was the first to publish the updated release date and time of the video.

A failure to retract is also evidence of malice.28 Mr. Ede wrote to The Times to ask for a retraction of these articles, providing some of the very information I have here, including that the

25 Yonaty v. Minicella, 945 N.Y.S.2d 774, 775 (N.Y. App. Div. 2012) ("If the contested statements are reasonably susceptible of a defamatory connotation it becomes the jury’s function to say whether that was the sense in which the words were likely to be understood by the ordinary and average person."); Corporate Training Unlimited, Inc. v. National Broadcasting Co., Inc., 981 F. Supp. 112, 118 (E.D.N.Y. 1997) ("If the statement is subject to defamatory meaning, it is then for the jury to determine whether a plaintiff has been defamed."); Church of Scientology Intern. V. Eli Lilly & Co., 778 F. Supp. 661, 666 (S.D.N.Y. 1991) (if statements are reasonably susceptible to a defamatory meaning, then it is for the jury to decide if the defamatory meaning was the one actually understood by readers of the statements."); James v. Gannett Co., 353 N.E.2d 834, 838 (N.Y. 1976) (same).

26 Curtis Publishing Co. v. Butts, 388 U.S. 130, 157 (1967) (a failure to interview key witnesses with direct knowledge of the accuracy of the statements is evidence of malice); Quigley v. Rosenthal, 43 F. Supp. 2d 1163, 1180 (D. Colo. 1999) ("Failure to investigate obvious sources of refutation or corroboration of statements, especially when there is no time-pressure on their publication, may indicate not only negligence, but the higher standard of actual malice.").


28 Biro v. Conde Nast, 963 F. Supp. 2d 255, 281 (S.D.N.Y. 2013) (failure to retract may tend to support a finding of actual malice); Zerangue v. TSP Newspapers, Inc., 814 F.2d 1066, 1071 (5th Cir. 1987) (same).
“study” The Times purportedly relied upon, itself, was littered with factual inaccuracies.29 Ms. Green responded with a two-page, cursory letter (relying on unpublished or otherwise non-controlling caselaw) concluding that these articles “present well-founded and non-actionable opinions” and “The Times stands by its reporting.”30

The Times’ decision to ignore key sources of corroboration or refutation, its failure to adhere to its own journalistic standards by failing to call an obvious source of information and by its decision to include purported “opinions” outside of its editorial pages, and its refusal to retract suggest that The Times is continuing to ignore the facts and is insisting on standing by this story reflects its preconceived narrative about Project Veritas—that is, that Project Veritas regularly distorts videos with the purported intent of deceiving the public to adopt Project Veritas’ “conservative activism.” A blind adherence to a preconceived narrative is also evidence of malice.31 Other media companies have acted more responsibly. As The Times itself acknowledged, other major social media outlets with fact-checking protocols did not find the video misleading. Twitter, YouTube, and Reddit specifically took no action whatsoever regarding the video—not even marking the video as “misleading.” Nor did Facebook mark the video as misleading.

We also recognize that The Times has a financial incentive and retaliatory motive to discredit its competitors—especially a competitor whose video The Times is targeting has been viewed by more individuals than the total number of Times subscribers.32 Indeed, the entire gist of these articles suggest that The Times was angry that Project Veritas’ work overshadowed what The Times’ hoped would be an explosive expose on the President’s tax returns. How long had The Times been working to obtain the President’s tax returns to write this story? How infuriated were those at The Times that James O’Keefe’s work overshadowed this long and hard-fought for story about the President’s taxes? How much money and time had The Times spent on securing the President’s tax returns? Were the September 29 articles part of The Times’ own coordinated effort to punish and retaliate against Mr. O’Keefe and Project Veritas? Litigation undoubtedly would result in discovery into these questions particularly where, as here, they strongly suggest The Times had a financial or retaliatory motive to harm, and harbored ill-will and hostility toward, Project Veritas—all of which are further evidence of malice.33

29 Letter from Jered T. Ede, Chief Legal Officer, to Maggie Astor & Dean Baquet re Retraction of September 29 Articles (Sept. 30, 2020).
31 See Eramo, 209 F. Supp. 3d at 872 (“[E]vidence that a defendant conceived a story line in advance of an investigation and then consciously set out to make the evidence conform to the preconceived story is evidence of actual malice.”) (quoting Harris v. City of Seattle, 52 Fed. Appx. 565, 568 (9th Cir. 2005); Gilmore v. Jones, 370 F. Supp. 3d 630, 673 (W.D. Va. 2019) (noting that evidence that defendants pursued a preconceived narrative is probative of actual malice); Butowsky v. Folkenflik, No. 4:18-CV-442, 2019 WL 2518833, at 44 (E.D. Tex. Apr.17, 2019) (evidence that a media outlet pursued a “preconceived narrative” is probative of actual malice).
33 Enigma Software Grp. USA, LLC v. Bleeping Computer LLC, 194 F. Supp. 3d 263, 288 (S.D.N.Y. 2016); Liberman, 605 N.E.2d at 332 (evidence that defendant was motivated to make false statements about plaintiff out of spite, bias, or ill
Taken together, The Times' reckless disregard or purposeful avoidance of the most obvious sources, its failure to adhere to basic journalistic standards, its willingness to rely on dubious sources to advance a preconceived narrative, and its financial incentive and hostility towards Project Veritas, and its refusal to retract this story constitute clear and convincing evidence of actual malice.34

It is no response to argue that The Times is not liable for these false and defamatory statements because these articles merely republished the claims made in a “study” authored by “researchers” at the Stanford Internet Observatory and the University of Washington Center for an Informed Public.35 As an initial matter, The Times clearly adopted the claim that Project Veritas’ video was “deceptive” when it described the video with that adjective in the very first sentence of both articles as a matter of fact: “A deceptive video released on Sunday, which claimed through unidentified sources and with no verifiable evidence that Representative Ilhan Omar’s campaign had collected ballots illegally, was probably part of a coordinated disinformation effort, according to researchers at Stanford University and the University of Washington.” That sentence, read with its plain and ordinary meaning, attributes only that it was part of a “disinformation campaign” to these “researchers”: The claim that the video is “deceptive” The Times adopted for itself.36 (That is further evidence by The Times’ factual statement later in the article that “[n]one of the material in the video actually proved voter fraud.”) Moreover, The Times—not Stanford or the University of Washington—selected to include quotes in these articles from these “researchers” that the timing of the video release was “a great example of what a coordinated disinformation campaign looks like” while simultaneously making the conscious decision to exclude any comment from Project Veritas in the article because, of course, it did not call Project Veritas for comment. In addition, The Times—not Stanford or the University of Washington—elected to include in its own article that Project Veritas’ release was coordinated with the Trump reelection campaign in an effort to overshadow The Times’ own reporting. Finally, as we have already explained, the “researchers” for this “study” made their own serious factual errors and never called Project Veritas for comment—a fact The Times purposefully avoided and that Project Veritas would have shared had The Times made an effort to call before publication of these articles.


34See Eramo, 209 F. Supp. 3d at 872 (denying defendant’s motion for summary judgment and finding “[a]lthough failure to adequately investigate, a departure from journalistic standards, or ill will or intent to injure will not singularly provide evidence of actual malice, the court believes that proof of all three is sufficient to create a genuine issue of material fact”).


36 Goldman v. Reddington, 417 F. Supp. 3d 163, 175 (E.D.N.Y. 2019) (concluding that a defendant could be held liable for a Facebook message that she screenshotted because she “appear[ed] to take ownership of it” by posting the screenshot and “adding her own commentary,” and because “those who repeat another’s defamatory statements are not sheltered from liability” (record citation and quotation marks omitted)); Enigma Software Grp. USA LLC v. Bleeping Comput. LLC, 194 F. Supp. 3d 263, 287 (S.D.N.Y. 2016) ("A speaker who repeats another’s defamatory statement is not made immune from liability for defamation merely because another person previously made the same demeaning claim"); Law Firm of Daniel P. Foster, P.C. v. Turner Broadcast. Sys., Inc., 844 F.2d 955, 960 (2d Cir. 1988).
I trust you understand my client's seriousness of purpose. I do not think protracted, expensive litigation is in either of our clients' interests. You know me and my firm well—we do not make idle litigation threats that we do not follow through on. Unfortunately, this is one of those situations that I do believe will result in the filing of a complaint if The Times does not issue a retraction. Because of that, until this matter is resolved, we must insist that The Times, the authors, their editors, and any other individuals who participated in the reporting and editing of the September 29 Articles, preserve and retain all documents, data, and electronically stored information relating in any way to this publication. For the avoidance of doubt, this document hold request includes, without limitation, the ongoing obligation to preserve and retain: (i) all communications with sources and/or potential sources, including phone records, social media posts or direct messages (including on those platforms like Signal, which may be set to automatically delete communications); (ii) all communications with all persons who have performed or are performing any work related to the September 29 Articles; (iii) all communications between the authors, editors, fact-checkers, and/or attorneys involved with this September 29 articles; and (iv) all notes regarding the September 29 Articles, as well as all drafts or versions of it. Because we believe that The Times acted out of retaliation for overshadowing, and The Times’ story attributes a motive to Project Veritas regarding, The Times’ own reporting on the President’s tax returns, we must insist that this document preservation notice extend equally to reporting on that story as well. These items should be preserved regardless of the medium, format, or device on which they are hosted, and regardless of whether they appear in documents, drafts, notes, emails, text messages, voicemail messages, social media posts, audio and video recordings, or in any other form. Please confirm receipt of this letter and that you intend to adhere to our request to retain documents as set forth above. We can confirm that we are already preserving documents on our end.

We look forward to your prompt response.

Sincerely,

[Signature]

Elizabeth M. Locke, P.C.