

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

**THE NEW YORK TIMES COMPANY,**

**Plaintiff,**

**-against-**

**CONTESSA BOURBON,**

**Defendant.**

**Index No.**

**COMPLAINT**

Plaintiff, The New York Times Company (“Plaintiff” or “The Times”), for its Complaint against Defendant Contessa Bourbon (“Defendant” or “Ms. Bourbon”), alleges as follows:

**NATURE OF ACTION**

1. This is an action for dilution of trademark arising under the New York General Business Law, N.Y. Gen. Bus. Law § 360-L, and the common law of the State of New York. This action arises from Ms. Bourbon’s pattern of representing that she is a reporter for The New York Times in order to, *inter alia*, gain admittance to news conferences and other events and to attract followers on social media, when she is not and has never been a reporter for The New York Times.

**PARTIES**

2. Plaintiff, The Times, is a New York corporation with its principal place of business at 620 Eighth Avenue, New York, New York, 10018. The Times publishes The New York Times newspaper and operates a website at www.nytimes.com. The Times does business throughout the United States, including in this county.

3. On information and belief, Ms. Bourbon is a resident of Queens County, residing at 9426 57<sup>th</sup> Ave., 2<sup>nd</sup> Floor, Elmhurst, New York 11373.

### JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to New York Civil Practice Law and Rules (“C.P.L.R.”) § 301, and because the claims and violations in this action arose under the laws of the State of New York.

5. Venue is proper in New York County pursuant to C.P.L.R. § 503(a) and (c), for at least the reason that The Times has its principal place of business in New York County.

6. On information and belief, Ms. Bourbon is subject to personal jurisdiction in this county by virtue of her residence in this State, and having engaged in systematic and continuous contacts with the State of New York.

### FACTS

7. Ms. Bourbon is not, and has never been, employed by The Times, as a reporter for The New York Times, or in any other position or capacity. Ms. Bourbon has never, at any time, had any professional or business relationship with The Times.

8. Despite the lack of any employment relationship between Ms. Bourbon and The Times, Ms. Bourbon has repeatedly represented herself as a journalist employed by The New York Times since at least May 2015. Ms. Bourbon’s false representations that she is a journalist working for The New York Times include: (1) representations made in person at various press-related events, including to government officials; and (2) representations made on social media.

9. In May 2015, Ms. Bourbon falsely represented herself as a New York Times reporter in: (1) asking questions at an event at the Brookings Institution; and (2) interviewing the Turkish Ambassador and other officials. Online transcripts from the Brookings Institution indicate that Ms. Bourbon had also introduced herself as being “from the New York Times” on

four separate occasions in 2013-14 when asking questions of speakers at events hosted by the Brookings Institution.

10. Upon learning of Ms. Bourbon's activities, on May 18, 2015, The Times contacted Ms. Bourbon by phone and followed up with a letter asking that she immediately cease and desist from claiming that she worked for The New York Times or identifying herself as a New York Times journalist. A true and correct copy of the letter is attached as Exhibit A hereto. Ms. Bourbon did not respond to The Times's letter and continued to represent that she was a journalist for The New York Times.

11. On March 29, 2017, Ms. Bourbon attended a speech by Education Secretary Betsy DeVos at the Brookings Institution and identified herself to attendees, including another New York Times reporter, as a reporter for The New York Times. Ms. Bourbon stood and asked a question of Ms. DeVos at that event in the guise of being a New York Times reporter.

12. Based on Ms. Bourbon's continued identification of herself as a reporter of The New York Times, The Times wrote to Ms. Bourbon again on March 29, 2017 asking that she cease and desist from claiming that she works for or on behalf of The New York Times and identifying herself as a New York Times journalist. A true and correct copy of the letter is attached as Exhibit B hereto. Ms. Bourbon again did not respond to The Times's letter.

13. Despite repeated requests from The Times, Ms. Bourbon has continued to represent herself as a New York Times journalist. On October 12, 2017, she wrote to a congressional staff member asking to cover the Congressional Gold Medal awards event as a representative of The New York Times. On information and belief, Ms. Bourbon also identified herself in a phone call to a congressional staff member as working for The New York Times.

14. On October 12, 2017, when a congressional staff member asked her for documentation of her assignment from The New York Times, Ms. Bourbon tweeted that she was being blocked from covering the event by the congressional staff. Ms. Bourbon's tweets caused the congressional staff member to contact The New York Times because of the staffer's belief, based on Ms. Bourbon's representations, that she was in fact a New York Times reporter.

15. Ms. Bourbon's conduct has caused harm to the reputation of The New York Times because her conduct is inaccurately attributed to The New York Times. Her conduct also creates confusion as to which reporter is representing The New York Times at an event and as to whether an event or interview is actually being reported for The New York Times. Ms. Bourbon's unprofessional conduct in dealing with congressional staff members was also inaccurately attributed to The New York Times, to its detriment.

16. In addition to Ms. Bourbon's in-person representations that she is a New York Times journalist to ask questions and gain access to press events, Ms. Bourbon also falsely claims to work for The New York Times in her social media postings.

17. Ms. Bourbon has a Twitter account under the name "@ContessaBourbon," for which she has the caption "Journalist for the New York Times, Wall Street Journal, London Times, Guardian, Washington Post: Queen of BARCELONA." On this account, she has sent more than 17,000 tweets and has 263 followers.

18. On Twitter, Ms. Bourbon repeatedly asserts that she has reported on various news events and that readers should "Read NYT" to see her work. For example, on November 1, she tweeted: "News I wrote: PresTrump backs American victims of terrorism @ Supreme Court. W views of Congress. Read NYT WSJ Wapo LondonTimes Watch TV news." (emphasis added).

19. Ms. Bourbon's Twitter caption and her postings suggesting that her work can be read in The New York Times or on its website are likely to create confusion as to whether her Twitter account represents the work of a New York Times journalist.

20. Ms. Bourbon has a Facebook profile under the name "Contessa Bourbon," on which she purports to have "Worked at The New York Times." On this account she has 158 Facebook "Friends" and is followed by 124 people.

21. As in her Twitter posts, Ms. Bourbon posts material on her Facebook page concerning her alleged reporting work on behalf of The Times. For example, on October 31, 2017, Ms. Bourbon posted that she had written on "Domestic violence w view fr Senators" and to "Read NYT" tomorrow. On October 27, 2017, she posted that she had "attended and covered a forum at National Press Club DC" and included photos of herself at the event.

22. Ms. Bourbon also has three separate Instagram profiles. Under the name "bourboncontessa," she has 9 followers; under the name "contessabourbon," she has 19 followers and a caption that states "New York Times, Wall Street Journal, Princess of Barcelona;" and under the name "contessa\_bourbon," she has 33 followers.

23. Ms. Bourbon also appears to have a LinkedIn account under the name "contessa Rita bourbon," on which she identifies herself as "Journalist New York Times" and has 35 followers.

24. Ms. Bourbon's social media postings purporting to be made by a New York Times journalist contain unprofessional and misleading posts that reflect negatively on The New York Times. Because journalists who work for The New York Times use Twitter and other social media in their professional capacity, the presence of postings falsely purporting to represent the work of a New York Times journalist harms its reputation.

25. As a result of Ms. Bourbon's actions, and her refusal to cease and desist from these actions despite repeated requests that she do so, The Times has suffered damage to the reputation of its trademarks. The Times's trademarks are associated with, and depend for their value upon, the quality of the reporting performed by its journalists. By falsely claiming to be a reporter representing The New York Times, Ms. Bourbon's conduct has created the likelihood that The Times's trademarks will be diluted and tarnished by a false association with Ms. Bourbon's conduct and online writings.

### **COUNT I**

#### **(N.Y. Gen. Bus. Law § 360-L – Injury to Business Reputation; Dilution)**

26. The Times re-alleges and incorporates herein by reference the allegations set forth in paragraphs 1-25 of this Complaint.

27. The New York Times is an American daily newspaper, founded and continuously published in New York City since September 18, 1851. The newspaper is a world-renowned publication, with subscribers in 195 countries. The New York Times has a daily circulation of approximately 571,500, and a Sunday circulation of approximately 1,087,500. As of July 2017, The New York Times had 2.3 million digital subscribers, with more than 65 million unique visitors per month.

28. The New York Times has a stellar reputation for the quality of its reporting. The New York Times has won 122 Pulitzer Prizes for its journalism- more than any other news organization. In addition, The New York Times has long been heralded as a “newspaper of record” by other journalists and newspapers, recognized for its attention to accuracy, international reach, and editorial excellence.

29. The Times owns and has rights to use numerous federally registered trademarks and service marks in connection with its business of news reporting. One such trademark, The New York Times™ (U.S. Registration No. 227904), **The New York Times.**, in the Goods and Services Class 38 for “daily newspapers,” was registered on May 17, 1927. This particular mark was first used in commerce 160 years ago, in 1857.

30. Another service mark owned by The Times, also The New York Times™ (U.S. Registration No. 2120865), **The New York Times**, is in the Goods and Services Classes 100 and 101 for “computer on-line services, namely, providing a wide range of general interest news and information via a global computer network.” This service mark was first used in commerce on January 19, 1996 and was subsequently registered on December 16, 1997.

31. The Time’s rights in both The New York Times™ trademark and The New York Times™ service mark predate Ms. Bourbon’s use of either mark in connection with her physical impersonations of a New York Times reporter and her online activities where she purports to be the same.

32. Ms. Bourbon’s use of the The New York Times™ (trademark and service mark) in connection with her physical impersonation of a New York Times reporter and in representing herself online (via her social media accounts including LinkedIn, Facebook, Twitter, and Instagram) as a New York Times journalist is likely to cause confusion, or injury to the business reputation of The Times, or dilution of the distinctive quality of The Times’s marks, in violation of Section 360-L of McKinney’s Consolidated Laws of New York Annotated, as amended on January 1, 1997.

33. As a direct and proximate result of Ms. Bourbon's unauthorized use of the marks The New York Times™ (both the trademark and service mark) in falsely representing herself as a reporter for the famous newspaper, The Times has suffered and will continue to suffer substantial injury and irreparable damage to its business, reputation and goodwill.

34. By using the The New York Times™ marks (both the trademark and service mark) without The Times's approval or consent, and with knowledge of The Times's rights in its The New York Times™ trademark and service mark, Ms. Bourbon has willfully infringed upon the rights of The Times, with intent to trade upon the goodwill associated with The New York Times™ marks.

35. The Times has been, is now, and will continue to be irreparably harmed by Ms. Bourbon's aforementioned wrongful acts, unless enjoined by this Court. There is no adequate remedy at law for the harm caused by the wrongful acts alleged herein.

36. Wherefore, The Times prays for the relief requested below.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, The New York Times Company, prays that the Court enter judgment against Ms. Bourbon, as follows:

- A. ordering preliminary and permanent injunctive relief restraining and enjoining Ms. Bourbon pursuant to N.Y. Gen. Bus. Law § 360-L;
- B. awarding The Times its costs and attorneys' fees; and
- C. awarding The Times such other and further relief as this Court deems just and proper.

Dated: November 9, 2017

Respectfully submitted,



By: /s/ Steven Lieberman

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