Allen Hyman (California State Bar No. 73371)
LAW OFFICES OF ALLEN HYMAN
10737 ½ Riverside Dr.
N. Hollywood, CA 91602
lawoffah@aol.com
P: (818) 763-6289

Richard A. Roth * *Pro Hac Vice Application to be Filed*
Richard@rrothlaw.com
Brian Levenson * *Pro Hac Vice Application to be Filed*
brian@rrothlaw.com
THE ROTH LAW FIRM, PLLC
295 Madison Ave., Fl.22
New York, NY, 10017
P: (212) 542-8882

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FIONA HARVEY Plaintiff, vs. NETFLIX, INC., and NETFLIX WORLDWIDE ENTERTAINMENT, LLC, Defendant.	Case No.: **COMPLAINT** **DEMAND FOR JURY TRIAL**

"This is a true story."
- Baby Reindeer, Episode 1.

PRELIMINARY STATEMENT

1. The above quote from the first episode of the Netflix series, *Baby Reindeer*, is the biggest lie in television history. It is a lie told by Netflix and the show's creator, Richard Gadd, out of greed and lust for fame; a lie designed to attract more viewers, get more attention, to make more money, and to viciously destroy the life of Plaintiff, Fiona Harvey – an innocent woman defamed by Netflix and Richard Gadd at a magnitude and scale without precedent.

2. This is an action by Plaintiff Fiona Harvey ("Harvey") against Defendants Netflix, Inc. and Netflix Worldwide Entertainment (collectively "Netflix"), for defamation, intentional infliction of emotional distress, negligence, gross negligence, and violations of Harvey's right of publicity, arising out of the brutal lies Defendants told about her in the television series, *Baby Reindeer*. The lies that Defendants told about Harvey to over 50 million people worldwide include that Harvey is a twice convicted stalker who was sentenced to five years in prison, and that Harvey sexually assaulted Gadd. Defendants told these lies, and never stopped, because it was a better story than the truth, and better stories made money.

3. And Netflix, a multi-national billion dollar entertainment streaming company did literally nothing to confirm the "true story" that Gadd told. That is,

it never investigated whether Harvey was convicted, a very serious misrepresentation of the facts. It did nothing to understand the relationship between Gadd and Harvey, if any. It did nothing to determine whether other facts, including an assault, the alleged stalking or the conviction was accurate. It did nothing to understand whether Gadd's production, which ruined Harvey was accurate. As a result of Defendants' lies, malfeasance and utterly reckless misconduct, Harvey's life had been ruined. Simply, Netflix and Gadd destroyed her reputation, her character and her life.

THE PARTIES

4. Plaintiff Ms. Fiona Harvey ("Harvey") is a resident of England. Harvey earned a Degree of Bachelor of Laws from the University of Aberdeen in 1990, a diploma in Legal Practice from the University of Strathclyde in 1993 and was granted an Entrance Certificate to the Law Society of Scotland in 1997. In 2005, Harvey earned her Graduate Diploma in Law (CPE) from the University of Westminster.

5. Defendant Netflix, Inc. is a Delaware corporation with a principal place of business at 121 Albright Way, Los Gatos, California, 95032. Netflix is a producer and distributor of content with over 260 million paid subscribers and a market cap of $283 billion. Netflix Inc. owns the Netflix streaming platform that streamed *Baby Reindeer*. "[Netflix] acquires, licenses and produces content,

including original programming, in order to offer our members unlimited viewing of video entertainment." Netflix, Inc. Jan. 26, 2024 10-K Report at p. 28 ("Netflix 10-K.

6. Netflix, Inc. is at home in Los Angeles, as it leases its "principal properties" in Los Angeles. Netflix, 10-K at p. 18, Item 2. In total, Netflix, leases and occupies over 1.4 million square feet of office and studio space.

7. Netflix leases and fully occupies, Epic, a 13-story, 327,913 square foot high rise at 5901 Sunset Boulevard in Hollywood.

8. In addition, Netflix, Inc. leases 325,757 square feet of office space at ICON and 91,953 squre feet of office space at CUE, both of which are located on the Sunset Bronson Studios lot at 5800 Sunset Blvd. in Hollywood. I

9. In addition, Netflix has leases about 100,000 square feet of space at the historic Musicians Union at 817 Vine Street in Hollywood, and over 355,000 square feet at the Academy on Vine, a development that occupies an entire city block bounded by Vine Street, DeLongpre Avenue, Ivar Street, and Homewood Avenue in Hollywood. Upon expanding into the Academy on Vine property, Netflix CFO David Wells said "Our expansion into the Academy on Vine Property further deepens our connection with the Los Angeles and Hollywood communities."

10. On May 12, 2024, Netflix marked the sixth anniversary of its flagship FYSEE (a play on "FYC") space by moving to Sunset Las Palmas in Hollywood. Netflix's FYSEE space in Hollywood, serves as a hub for Official For Your Consideration ("FYC") events,

11. As noted in Netflix Inc.'s most recent 10-K filing with the SEC:

> we must continually add new members to replace canceled memberships and to grow our business beyond our current membership base. . . Our ability to continue to attract and retain our [subscribers] will depend in part on our ability to consistently provide our members in countries around the globe with *compelling* content choices that keep our [subscribers] engaged with our service, effectively drive conversation around our content and service, as well as provide a quality experience for choosing and enjoying TV series, films and games. . . If we do not grow as expected . . . operations may be adversely impacted. If we are unable to successfully compete with current and new competitors in providing *compelling* content, retaining our existing members and attracting new members, our business will be adversely affected.

Netflix 10-K at p. 4 (emphasis added).

12. Netflix, Inc. earns revenue not only through paid subscribers (called "members") but "also earns revenue from advertisements presented on its streaming service, consumer products and other various sources." Netflix 10-K at p. 46

13. Defendant Netflix Worldwide Entertainment, LLC is a Delaware corporation with a principal place of business at 5808 W. Sunset Blvd., Los Angeles, California, 90028 ("Netflix Worldwide"). Netflix Worldwide is the

copyright owner of *Baby Reindeer*. Netflix, Inc. and Netflix Worldwide are collectively referred to herein as "Netflix."

14. On May 8, 2024, Netflix and Gadd hosted a For Your Consideration ("FYC") screening of *Baby Reindeer* at the Director's Guild of America Theater Complex at 7920 Sunset Blvd, Los Angeles, CA 90046 in support of Netflix's submission of "Baby Reindeer" for consideration to be nominated for over a dozen Emmy Awards including, best limited series, best actor and best writing (Gadd), and best supporting actress (Jessica Gunning as 'Martha').

15. On June 1, 2024, Netflix and actress, Jessica Gunning, who plays 'Martha' in *Baby Reindeer*, hosted a special screening for *Baby Reindeer* at FYSEE at Sunset Las Palmas Studios in Los Angeles.

JURISDICTION AND VENUE

16. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the parties reside in different states and the amount in controversy exceeds $75,000.

17. There is personal jurisdiction against the Defendants as Netflix's principal place of business is in the State of California and Netflix is at home in Los Angeles, California as lessee of over 1.4 million square feet. Netflix actively promoted and screened *Baby Reindeer* throughout Hollywood for purposes of winning numerous categories at this year's 77th Emmy Awards to be hosted in Los

Angeles on September 15, 2024 at the Peacock Theater at L.A. Live in Los Angeles.

18. Venue is proper in this judicial district because Defendant Netflix Worldwide has its headquarters in Los Angeles, Netflix, Inc. has over 1.4 million square feet of space in Los Angeles, Netflix has hosted promotional screenings of *Baby Reindeer* in Los Angeles in support of Emmy nominations, and Gadd and Netflix have promoted *Baby Reindeer* in Los Angeles. Los Angeles has a vested interest in hearing this case because the claims made in this action are important to the television and film business in Los Angeles.

BABY REINDEER

19. *Baby Reindeer* is a seven episode limited television series about the "true story" of Richard Gadd, a failing comedian, set in the year 2015.

20. Gadd is the writer and creator of *Baby Reindeer* in addition to starring in it as "Donny."

21. *Baby Reindeer* is a worldwide phenomenon, premiered on Netflix on April 11, 2024, and has since drawn over 56 million views through May 8, making it Netflix's most popular content this year, and on track to become the most streamed show on Netflix of all time. Netflix stopped publicly releasing viewership of *Baby Reindeer*.

22. The draw for the show is the representation made by the Defendants that this is a true story.

23. At the 1:39 mark of the Episode 1, this image appears on screen:

Richard Gadd

24. Richard Gadd wrote and created the "true story" *Baby Reindeer*, and stars in it playing himself.

25. Gadd is a self-admitted crack, meth, and heroin user (Ep. 4, -19:07) with a self-admitted history of masturbating to Harvey (Ep 5 – 8:01), following her home and spying on her through her window, (Ep. 1 -15:00 – -13:20), and lying to the police about his contacts with her. (Ep. 6, -26:58):

26. Baby Reindeer tracks Gadd's progress in a comedy competition while he works as a bartender at the pub, The Heart, in Camden, London.

"Martha"

27. To overcome the uninteresting "true story" of Gadd's inability to advance professionally in the London comedy circuit, Defendants fabricated a the "true story" of a woman, 'Martha', that Gadd meets at the pub, to make *Baby Reindeer* more captivating.

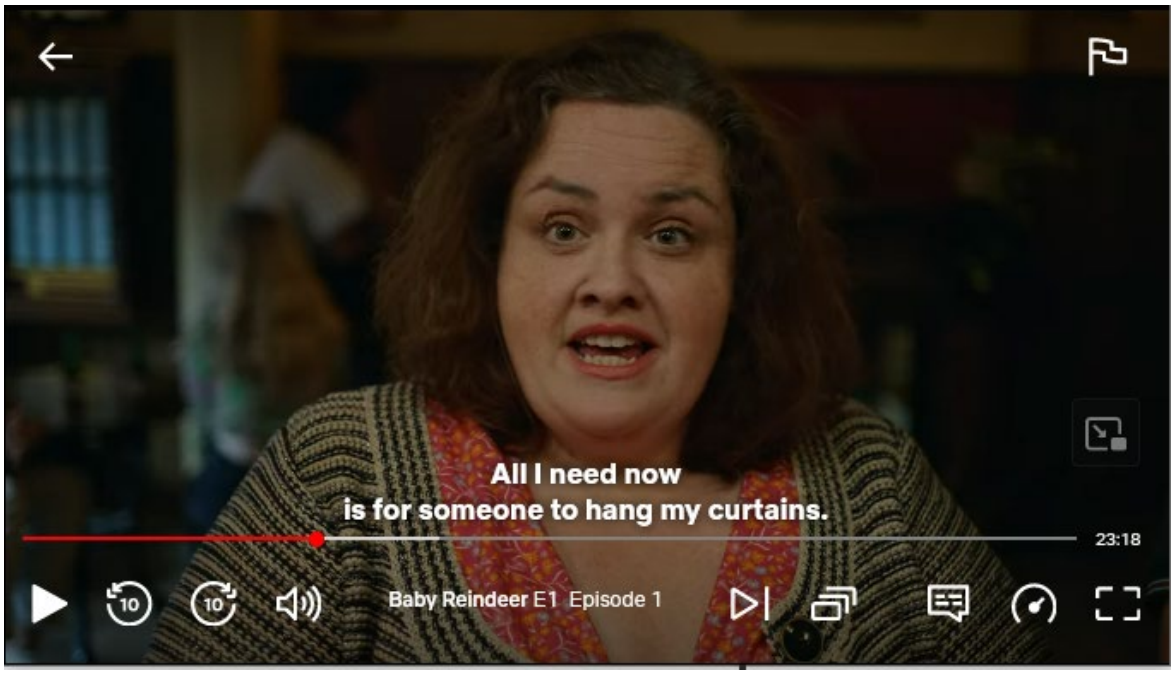
28. According to Defendants, the real 'Martha' is a twice convicted criminal. She spent a total of five years in prison for stalking Gadd and another woman. In addition, Martha stalked a policeman, sexually assaulted Gadd in an alley; violently attacked him in a pub and waited outside his home every day for up to 16 hours a day.

29. The real Martha is reasonably understood by all viewers to have done all of these monstrous things because Netflix and Gadd stated this was true.

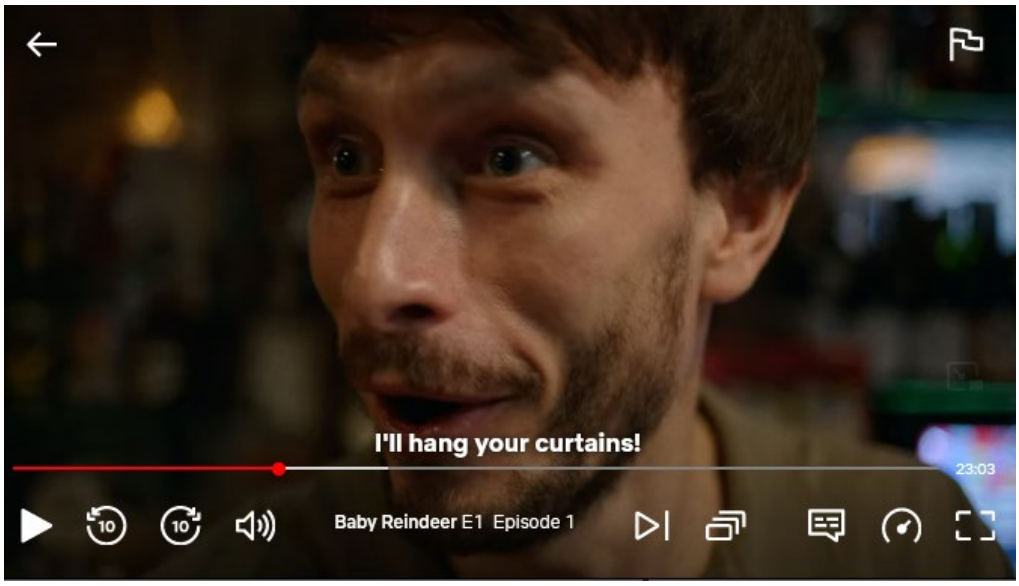
"Hang My Curtains" – Harvey is Identified

30. A recurring joke throughout *Baby Reindeer* is the phrase "hang my curtains" as a euphemism for Gadd having sex with 'Martha.'

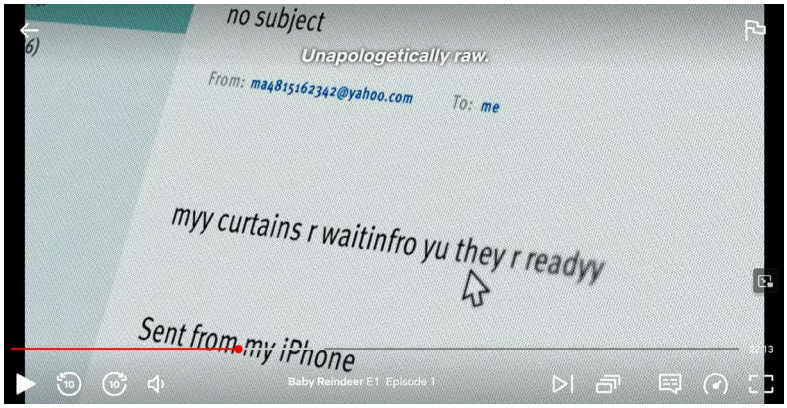
31. For example, in Episode 1 at -23:18, Gadd's fellow bartenders ask Gadd when he and "Martha" are "going to shag." Gadd responds that he does not believe in sex before marriage to which "Martha" replies that she is marriage material and that all she needs is someone to hang her curtains:



32. Gadd narrates that "hang her curtains" sounded "vaguely sexual" and he responds to "Martha" by joking, "I'll hang your curtains!" to which the bar erupts in laughter.



33. Later in Episode 1, 'Martha' sends Gadd 80 emails per day including this one stating: "my curtains are waiting for you they are ready" (spelling corrected):



34. In an interview with GQ Magazine, Gadd claimed "we've gone to such lengths to disguise [Harvey] that I doubt she would recognize herself in the show."

35. In real life, this tweet from @FionaHarvey2014 to @Mr.RichardGadd in 2014, was publicly searchable on X when *Baby Reindeer* was released in April 2024, and easily found:

36. Within days after the release of Baby Reindeer on April 11, 2024, members of the public identified Fiona Harvey as "Martha."

37. Total strangers began to message on Harvey on Facebook and *call* her. The messages below are just some of the Facebook users with names beginning with the letter, 'A':

Did you stalk Richard? X
Apr 21, 2024 9:47:20pm

R you a stalker?
Apr 25, 2024 1:32:16am

are you on netflix
Apr 21, 2024 7:55:02pm

r u the stalker
Apr 26, 2024 7:58:09am

Baby reindeer
Apr 21, 2024 10:58:48pm

Are you Martha Scott
Apr 24, 2024 8:02:58am

Ur insane
May 14, 2024 4:23:18pm

Can I hang your curtains
May 04, 2024 5:21:07pm

Are you the real Martha from Baby Reindeer?
Apr 23, 2024 12:34:09am

Hey martha x
Apr 26, 2024 4:08:07pm

hey martha
Apr 26, 2024 12:01:39am

Are u Martha
Apr 21, 2024 8:46:27pm

Hello reindeer
Apr 29, 2024 4:04:14pm

Psycho stalker
Apr 26, 2024 7:31:46am

Have you been convicted of harassment and stalking on Richard Gaad?
Apr 22, 2024 1:35:45pm

You are a crazy stalker
Apr 26, 2024 12:44:46pm

Hi, sorry, did you sexually harassed and stalked Richard Gadd?
Apr 23, 2024 11:35:53pm

Rapist
Apr 26, 2024 12:05:48pm

Your some nutjob should be locked up
Apr 28, 2024 12:03:35pm

You are a horrible person. I hope you suffer for the rest of your shit life
May 01, 2024 1:02:15am

38. Popular internet forums such as Redditt and TikTok had thousands of users identifying and discussing Harvey as the real "Martha."

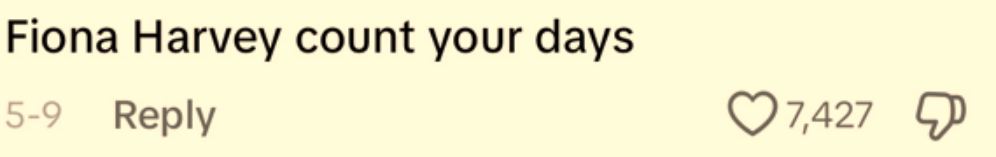
39. The identification of Harvey as 'Martha' was easy and took a matter of days as Harvey's identity was completely undisguised.

40. In *Baby Reindeer*, 'Martha' is a Scottish lawyer, living in London, twenty years older than Gadd, and was accused of stalking a barrister in a newspaper article who communicated with him on social media.

41. Like 'Martha," Harvey is a Scottish lawyer, living in London, twenty years older than Gadd, was accused of stalking a lawyer in a newspaper article, and who bears an uncanny resemblance to 'Martha'. Further, 'Martha's' accent, manner of speaking and cadence, is indistinguishable for Harvey's.

42. After being identified, the press in London began to contact Harvey, and the hatred towards Harvey on Internet forums such as Reddit and TikTok

reached extreme levels including death threats, such as this one on TikTok that was "liked" by 7,000 people:



43. Since being identified as 'Martha' only days after Netflix's release of *Baby Reindeer*, Harvey has been tormented. Harvey continues to suffer emotional distress, which has been manifested by objective symptomology. Harvey is physically weak. She has and continues to experience anxiety, nightmares, panic attacks, shame, depression, nervousness, stomach pains, loss of appetite and fear, extreme stress and sickness all directly caused by the lies told about her in *Baby Reindeer.*

44. Harvey is fearful of leaving her home or checking the news. As a direct result of *Baby Reindeer*, Harvey has become extremely secluded and isolated, in fear of the public, going days without leaving her home.

45. At the same time, Netflix and Gadd, have traveled the country promoting the show and accepting awards while receiving praise and applause for the series, everything Gadd and Netflix wanted, for this 'true story.'

46. *Baby Reindeer* is not a true story. It is a lie created by Gadd and distributed by Netflix.

47. Gadd confesses in *Baby Reindeer* that he has a deep psychological need for attention so intense that in the past he willfully prostituted himself to another man to advance his career and for "a little peep at fame." Ep. 6, -8:00.

48. In addition, Gadd confesses in *Baby Reindeer* that he is not worried that people think badly of him, but instead "worried they don't think about me at all." Ep. 1 at -7:25.

49. To get his "peep at fame" and get people to think about him, Gadd and Netflix defamed a middle-aged woman, Fiona Harvey, so completely, that Harvey is even afraid to go outside.

50. As stated in Netflix's most recent 10-K filed with the SEC:

> If we do not grow as expected . . . operations may be adversely impacted. If we are unable to successfully compete with current and new competitors in providing *compelling* content, retaining our existing members and attracting new members, our business will be adversely affected. Netflix 10-K at p. 4 (emphasis added).

51. To ensure that Netflix continued to meet its shareholders' "growth expectations" and to satisfy it desperate need for "compelling content", Netflix ruthlessly defamed Fiona Harvey.

<u>Defamation</u>

<u>Harvey Has Never Been Convicted of a Crime</u>

52. Harvey has never been convicted of any crime and has never been to prison. Attached as Exhibit 1 is a Certificate confirming that Harvey has no convictions, cautions, reprimands, or warnings.

53. Notwithstanding, the central plot, and the arc of the series, is that Gadd befriended, 'Martha', a convicted stalker who returns to prison for stalking Gadd.

54. In Episode 1 at -3:18, Defendants claim that 'Martha' had received a "four-and-a half-year prison sentence."

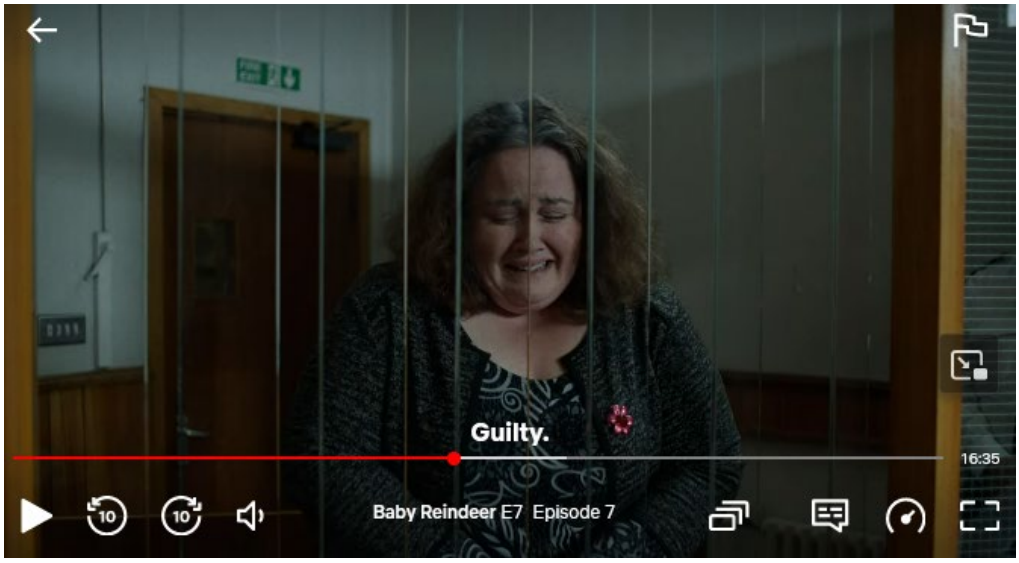
55. Episode 1 ends with the following repeated refrain from Gadd:

I had a convicted stalker stalking me

I had a convicted stalker stalking me

I had a convicted stalker stalking me

56. Episode 7 climaxes with a two-minute-long courtroom scene in which Harvey dramatically pleads guilty from behind bars and is convicted of three charges of stalking Gadd and harassment of his mother and faither.



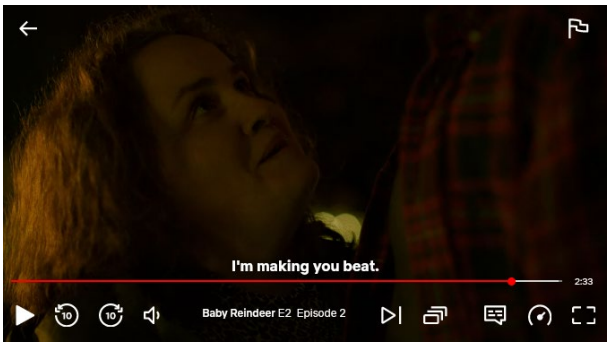
57. In Episode 7, Defendants claim that Harvey was "sentenced to nine months in prison and a five-year restraining order was issued that same day." Ep. 7 at -15:42.

58. In fact, Harvey has never pled guilty to any crime. Harvey is not a convicted criminal.

Harvey Never Sexually Assaulted Gadd

59. In addition to lying about Harvey being a criminal, *Baby Reindeer* makes the outrageous claim that Harvey sexually assaulted Gadd in an alley.

60. In a disturbing scene at the end of Episode 2, Defendants allege that Harvey sexually assaulted him a dark alley, by pushing Gadd against a wall and grabbing his penis without consent. Gadd claims he said, "please stop" and Harvey responded, "keep still" and continued to grab Gadd until she 'made him beat'.



61. Harvey has never had any sexual encounter with Gadd. The claim that Harvey sexually assaulted Gadd is a lie.

<u>Harvey Never Stalked Gadd</u>

62. *Baby Reindeer* includes the repeated lie that Harvey stalked Gadd.

63. Episode 1 concludes with the repeated refrain:

> *I had a convicted stalker stalking me*
>
> *I had a convicted stalker stalking me*
>
> *I had a convicted stalker stalking me*

64. For approximately two minutes of Episode 3, Defendants claim that Harvey stalked Gadd by sitting at a bus stop on the same street – thirty yards away – as Gadd's residence, from morning to night:

> *Every day now, Martha would be outside. This ticking time bomb on my life. I would leave first thing in the morning and she would be there. Then I would come back sometimes as late as 11 or 12 at night and she would still be there. . . . It was all catcalls and snatched glimpses, as she devoted 15, 16-hour days to a fleeting encounter. But soon, as time wore on and the temperature dropped, I noticed a change in Martha as she descended into this staring.*

65. Harvey never waited outside Gadd's residence.

66. Defendants' claim that Harvey waited outside on the same street as Gadd's residence every day, for up to 15-16 hours a day, is a psychotic lie.

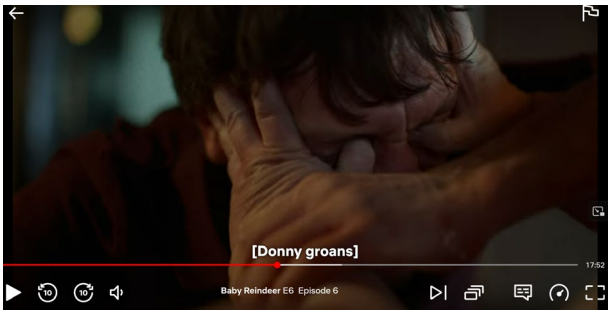
Harvey Never Stalked A Police Officer

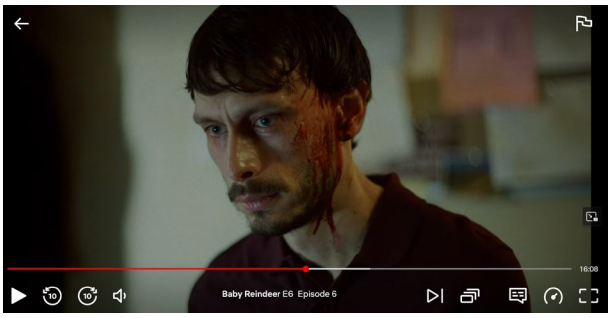
67. In Episode 5, Defendants claims that when Gadd went to the police to report Harvey for stalking, the police detective informed Gadd that Harvey was "a very serious woman. So serious that she once stalked a policeman." Ep. 5 at -10:15.

68. This is another lie. Harvey never stalked any police officer and no police detective ever told Gadd that Harvey stalked a policeman. This lie by Defendants is reprehensible as it gives Gadd's defamatory story the authority of official police statements.

Harvey Never Attacked Gadd

69. In Episode 6, Defendants claim that Harvey violently smashed a glass bottle over Gadd's head and gouged his eyes with her thumbs in a horrific physical assault that left Gadd's head bloodied.





70. This is a lie. Harvey never smashed a glass bottle over Gadd's head, gouged his eyes, or ever physically attacked him in any way.

Netflix Defames Harvey on its Website, *Tudum*

71. Netflix owns and controls the website www.tudum.com.

72. On May 16, 2024, Netflix published an article on Tudum by Christopher Hudspeth titled, *What is Baby Reindeer? The True Story and New Series Explained* (the "Netflix Article").

73. The Netflix Article states unequivocally that the "series is a true story" and "it's important to remember that this isn't just a story — it's true."

74. The Netflix Article is defamatory as the story told about Harvey is a lie.

Netflix Defames Harvey in the House of Commons

75. On May 8, 2024, Netflix executive, Benjamin King, appeared before the House of Commons Culture, Media and Sport Committee, on behalf of Netflix and in his capacity as Senior Director of Public Policy of Netflix.

76. At the Committee hearing, Mr. King and was asked by John Nicolson, Member of Parliament for Ochil and South Pershire, about the duty of care due to woman now identified as 'Martha' from *Baby Reindeer.*

77. Mr. King responded to John Nicolson and stated the following in response:

> *Baby Reindeer* is obviously a true story of the horrific abuse that [Richard Gadd] suffered at the hands of a convicted stalker. We did take every

reasonable precaution in disguising the real life identities of the people whilst striking a balance with the veracity and authenticity of the story.

78. Harvey is not a convicted stalker and King's and Netflix's statement is a defamatory lie.

79. MP John Nicolson went Mr. King a follow up written inquiry requesting "evidence for this serious claim which [Mr. King] to Nicolson at the Select Committee:"

John Nicolson MP
Ochil & South Perthshire
38 Primrose Street, Alloa
Clackmannanshire
FK10 1JG

Benjamin King
Senior Director of Public Policy,
UK and Ireland at Netflix

Friday 17th May 2024

Dear Mr King ,

At your appearance on 8th May before the House of Commons Culture, Media and Sport Committee, I asked you about the Netflix series 'Baby Reindeer' and, specifically, the duty of care due to the woman now identified as 'Martha' from the series.

You told me the following:

"[Baby Reindeer] is obviously a true story of the horrific abuse that the writer [...] suffered, at the hands of a convicted stalker. We did take every reasonable precaution in disguising the real life identities of the people whilst striking a balance with the veracity and authenticity of [the] story."

Journalists have thus far been unable to find a record of the conviction to which you referred. Can you provide me with the evidence for this serious claim which you made to me at the Select Committee?

Yours sincerely,

John Nicolson.

John Nicolson MP
Member of Parliament for Ochil and South Perthshire

80. Netflix has not provided any evidence.

Netflix Failed to Do Any Due Diligence

81. Netflix told the lies in *Baby Reindeer* that Harvey is a twice convicted criminal who sexually assaulted him.

82. Netflix and Gadd have never, to this day, contacted Harvey directly or indirectly to confirm Gadd's story.

83. Defendants never obtained any confirmation from any governmental authority confirming that Harvey had been convicted of any crime.

84. Defendants did not investigate Gadd's claim that Harvey sexually assaulted him, and recklessly and/or intentionally disregarded the truth of these defamatory statements.

Netflix's Algorithm

85. *Baby Reindeer* is on track to become one of Netflix's most popular series of all time.

86. When asked about the success of *Baby Reindeer*, Netflix's CEO Ted Sarandos said the series owed its popularity to Netflix's algorithm, stating "[*Baby Reindeer]* g[ot] picked up in the algorithm and start[ed] getting more and more presented."

FIRST CAUSE OF ACTION
(DEFAMATION)

87. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

88. Defendants each made the statements herein that (1) Harvey was convicted stalker who served a four-and-a-half-year sentence in Scotland; (2) Harvey was a convicted stalker and harasser who pled guilty and was sentenced to a nine-month sentence and a five year restraining order; (3) Harvey sexually assaulted Gadd as depicted in Episode 2; (4) Harvey violently attacked Gadd by smashing a glass over his head and gouged his eyes; (5) Harvey stalked a policeman; (6) a police detective told Gadd that Harvey stalked a policeman; and (7) Harvey waited outside Gadd's residence every day up to 16 hours a day.

89. Each of these statements was viewed more than 50 million times.

90. In addition, Netflix made the statement that Harvey was a convicted stalker in a committee meeting in the House of Commons and stated that *Baby Reindeer* was true in Parliament on Netflix's website, Tudum.

91. Netflix viewers, and members of the public, reasonably understood that the statements were about Harvey and that Harvey was a twice convicted stalker who separately served prison sentences of four-and-a-half years, and nine months, and that Harvey sexually assaulted Gadd, violently attacked Gadd, and that Gadd had been warned by the police that Harvey stalked a policeman.

92. Each of the Defendants failed to use reasonable care to determine the truth or falsity of the statements.

93. Defendants wrongful conduct was a substantial factor in causing harm to Harvey's reputation, and caused shame, ridicule, mortification, and hurt feelings to Harvey.

94. Defendants wrongful conduct constitutes defamation per se.

95. Accordingly, Harvey has been seriously damaged mentally and emotionally. Said damages, which shall be determined at trial, are believed to exceed $50 million, exclusive of legal fees, costs and statutory interest.

96. In addition, because Defendants' conduct was so outrageous, Harvey seeks punitive damages in an amount that will punish Defendants from ever engaging in said conduct and an amount and that will deprive Defendants of all benefit, financial or otherwise, of their defamatory statements.

SECOND CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

97. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

98. Defendants' conduct herein was extreme and outrageous with the intention of causing, or recklessly disregarding the probability of causing, emotional distress to Harvey.

99. Defendants' conduct was "extreme and outrageous" defined under California law as "so extreme as to exceed all bounds of that usually tolerated in a civilized community."

100. Harvey suffered severe and extreme emotional distress directly and proximately caused by Defendants' outrageous conduct.

101. Defendants' conduct was intended to inflict injury on Harvey and was engaged in with the realization that injury would result to Harvey.

102. Accordingly, Harvey has been seriously damaged mentally and emotionally. Said damages, which shall be determined at trial, are believed to exceed $50 million, exclusive of legal fees, costs and statutory interest.

103. In addition, because Defendants' conduct was so outrageous, Harvey seeks punitive damages in an amount that will punish Defendants from ever engaging in said conduct and deprive them of all benefit, financial or otherwise, of their outrageous conduct, in an amount believed to be in excess of an additional $20 million.

THIRD CAUSE OF ACTON
(NEGLIGENCE)

104. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

105. Defendants owed Harvey a duty of care to accurately represent her in *Baby Reindeer* which they billed as "true", to confirm the details of allegations

made about her in *Baby Reindeer* as true, including without limitation, her criminal convictions, sexual and physical assaults on Gadd, and/or to sufficiently ensure Harvey could not be identified based on information in *Baby Reindeer*.

106. Defendants breached their duty of care by lying repeatedly about Harvey in *Baby Reindeer*, including Harvey's criminal record, that she stalked a policeman, that Gadd was told by the police that Harvey stalked a policeman, that Harvey physically and sexually assaulted Gadd, and that she waited outside his resident for 16 hours a day, every day.

107. Defendants further breached their duty of care insufficiently disguising Harvey as the real 'Martha.' Defendants breached their duty of care by making 'Martha," like Harvey, a female Scottish lawyer twenty years older than Gadd, living in Camden who patroned the pub where Gadd worked in the year 2014. Defendants' further breached their duty by giving 'Martha' an uncanny resemblance to Harvey. Defendants' breached their duty by ensuring that Harvey could not be identified within a matter of days after the Baby Reindeer launched based on Harvey's public social media posts.

108. As a result of Defendants' breaches, Harvey has been damaged severely. Since being identified as the real 'Martha' in *Baby Reindeer*, Harvey has experienced among other things intense panic, fear, anxiety, sleeplessness, and

despair. Harvey is reluctant to go outside, watch the news, and has become inhumanly isolated.

109. It is foreseeable that depicting a vulnerable woman as an actual real-life violent convicted monster to 50 million people will cause these damages. This is a case of unprecedented mental and emotional distress.

110. Harvey has suffered severe emotional distress as a result of Defendants' negligence.

FOURTH CAUSE OF ACTION
(GROSS NEGLIGENCE)

111. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

112. Defendants' acts, when viewed objectively from Defendants' standpoint, involved an extreme risk considering the probability and magnitude of potential harm to Harvey.

113. Each of the Defendants had actual subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and/or welfare of Harvey.

114. As such, each of the Defendants' actions constitute gross negligence.

115. Therefore, Harvey prays that punitive damages be awarded against each of the Defendants.

116. Accordingly, Harvey has been seriously damaged mentally and emotionally. Said damages, which shall be determined at trial, are believed to exceed $20 million, exclusive of legal fees, costs and statutory interest.

117. In addition, because Defendants' conduct was so outrageous, Harvey seeks punitive damages in an amount that will punish Defendants from ever engaging in said conduct and deprive them of all benefit, financial or otherwise, of their outrageous conduct, an amount believed to be in excess of an additional $50 million.

FIFTH CAUSE OF ACTION
VIOLATIONS OF RIGHT OF PUBLICITY UNDER
CALIFORNIA COMMON LAW

118. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

119. Defendants used Harvey's identity and likeness for commercial advantage without her consent, resulting in injury to Harvey.

120. At all times Defendants knew that they did not have permission to use Harvey's identity or likeness for commercial purposes.

121. There is a direct connection between the use of Harvey's identity and likeness, and Defendants' commercial purposes.

122. Harvey has suffered mental anguish caused by the unauthorized use of her identity and likeness without her permission in *Baby Reindeer.*

123. Harvey is entitled to recover, and Defendants are each liable for, any damages suffered by Harvey, including without limitation, profits from the unauthorized use of Harvey's identity and likeness in *Baby Reindeer.*

SIXTH CAUSE OF ACTION
VIOLATIONS OF RIGHT OF PUBLICITY UNDER
CALIFORNIA CIV. CODE § 3344

124. Harvey realleges each of the aforementioned allegations as if fully alleged herein.

125. Defendants used Harvey's identity and likeness for commercial advantage without her consent, resulting in injury to Harvey.

126. At all times Defendants knew that they did not have permission to use Harvey's identity or likeness for commercial purposes.

127. There is a direct connection between the use of Harvey's identity and likeness, and Defendants' commercial purposes.

128. Harvey has suffered mental anguish caused by the unauthorized use of her identity and likeness without her permission in *Baby Reindeer.*

129. Harvey is entitled to recover, and Defendants are each liable for, any profits from the unauthorized use of Harvey's identity and likeness.

130. In addition, Harvey is entitled to recover, and Defendants are each liable for punitive damages, attorneys' fees and costs under Cal. Civ. Code, § 3344.

EXEMPLARY DAMAGES

131. The acts complained of herein and in the preceding paragraphs above were done willfully, unlawfully, maliciously, and in wanton disregard of the rights and feelings of Harvey and by reason thereof, she now demands punitive and compensatory damages.

JURY DEMAND

132. Harvey requests a trial by jury on all claims.

PRESERVATION NOTICE

133. Harvey requests that Defendants preserve any and all related evidence, reports, statements, notes, emails, text messages, communications, concerning the allegations herein. Defendants' failure to preserve relevant evidence may warrant a spoliation instruction at trial which creates a presumption that if the evidence was preserved, it would weigh against the respective party.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Fiona Harvey requests that defendants Netflix, Inc., Netflix Worldwide, LLC, and Richard Gadd, be cited to appear and answer,

and that at the final trial of this matter, Harvey have judgment against Defendants, as follows:

A. Judgment against Defendants for actual damages, the sum to be determined at trial, but is believed to exceed $50 million, exclusive of legal fees, costs and statutory interest;

B. Judgment against Defendants for compensatory damages in the maximum amount allowed by law, in an amount to exceed $50 million, exclusive of legal fees and costs, including mental anguish, loss of enjoyment of life and loss of business;

C. Judgment against Defendants for all profits from *Baby Reindeer*, in the maximum amount allowed by law, in an amount to exceed $50 million, exclusive of legal fees and costs;

D. Judgment against Defendants for punitive damages in the maximum amount allowed under law, and believed to exceed $20 million;

E. Pre-judgment interest at the legally prescribed rate from the date of the violations until judgment as well as post-judgment interest as applicable;

F. An award of attorneys' fees.

G. Such other general relief to Harvey is just entitled.

Dated: June 6, 2024

Respectfully submitted,

By: /s/ Allen Hyman
Allen Hyman (California State Bar No. 73371)
LAW OFFICES OF ALLEN HYMAN
10737 ½ Riverside Dr.
N. Hollywood, CA 91602
lawoffah@aol.com
P: (818) 763-6289

THE ROTH LAW FIRM, PLLC
295 Madison Ave., Fl. 22
New York, NY 10017
P: (212) 542-8882
Richard A. Roth
(*Pro Hac Vice Application to be Filed)*
Richard@rrothlaw.com
Brian Levenson
(*Pro Hac Vice Application to be Filed)*
brian@rrothlaw.com

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Local Rule 38-1, and otherwise, Plaintiff respectfully demands a trial by jury on all issues so triable.

Dated: June 6, 2024

Respectfully submitted,

By: /s/ Allen Hyman
Allen Hyman (California State Bar No. 73371)
LAW OFFICES OF ALLEN HYMAN
10737 ½ Riverside Dr.
N. Hollywood, CA 91602
lawoffah@aol.com
P: (818) 763-6289

By: */s/ Richard A. Roth*
THE ROTH LAW FIRM, PLLC
295 Madison Ave., Fl. 22
New York, NY 10017
P: (212) 542-8882
Richard A. Roth
(*Pro Hac Vice Application to be Filed)*
Richard@rrothlaw.com
Brian Levenson
(*Pro Hac Vice Application to be Filed)*
brian@rrothlaw.com

Attorneys for Plaintiff