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VIA EMAIL TO: info@mississippitoday.org,
UNITED STATES CERTIFIED MAIL, & HAND DELIVERY TO:

Mississippi Today
Attn: Chief Executive Officer Mary Margaret White, Editor-in-Chief Adam Ganuchau, and
Investigative Reporter Anna Wolfe
750 Woodlands Parkway, Suite 100
Ridgeland, Mississippi 39157

Re: Notice of Suit Pursuant to Miss. Code Ann. § 95-1-5(1)

Dear Ms. White, Mr. Ganuchau, and Ms. Wolfe:

I represent former-Governor Phil Bryant. This correspondence is former-Governor Bryant's notice to Ms. White and Mississippi Today, pursuant to Miss. Code Ann. § 95-1-5(1), that Ms. White, individually and on behalf of Mississippi Today, defamed former-Governor Bryant while serving as a panelist in a February 2023 Knight Foundation media conference. The panel was titled, "The Key to Scaling News Start-Ups."

Additionally, this correspondence is former-Governor Bryant's notice to Mr. Ganuchau and Ms. Wolfe that comments made in Mississippi Today's "The Other Side" podcast falsely claim that Mississippi Today personnel had never stated that former-Governor Bryant committed a crime. The podcast episode at issue was published today, May 10, 2023. The comments of White, Ganuchau, and Wolfe collectively serve to defame former-Governor Bryant and to deny such occurred.

Former-Governor Bryant demands that (1) Mississippi Today publish full-and-fair corrections of White's false and defamatory statement and the subsequent comments made by Adam Ganuchau and Anna Wolfe that are prominently displayed on Mississippi Today's webpage, that are promoted in the social media accounts of Mississippi Today, White, Ganuchau, and Wolfe, and that are verbally made on "The Other Side" podcast; (2) that Mississippi Today, White, Ganuchau, and Wolfe publicly apologize for having made false, misleading, and defamatory statements concerning former-Governor Bryant; and (3) that Mississippi Today, White, Ganuchau, and Wolfe issue public retractions within ten (10) days after service of this notice. This demand is constructed to be consistent with the requirements of Miss. Code Ann. § 95-1-5(2).

1. White's defamatory statement

During the panel discussion, White stated the following: "We're the newsroom that broke the story about \$77 million in welfare funds, intended for the poorest people in the poorest state in the nation, *being embezzled by a former governor* and his bureaucratic cronies to be used on pet projects like a state-of-the-art volleyball stadium at Brett Favre's alma mater." The "we're" and

“newsroom” referenced in the statement is Mississippi Today. Wolfe is a member of the referenced newsroom. Ganucheau serves as the referenced newsroom’s editor-in-chief.

2. Publication and Republication

The February 2023 panel discussion is available for anyone with an internet connection to view at: <https://knightfoundation.org/events/knight-media-forum/knight-media-forum-2023/>.

On Friday, May 5, 2023, an internet link to the panelist discussion in which White made the false and defamatory statement was republished by the Madison County Journal. The editorial titled, “Phil Bryant’s ‘welfare fraud’” can be found at: <https://onlinemadison.com/stories/editorialphil-bryants-welfare-fraud,67089>.

On Sunday, May 7, 2023, the Magnolia Tribune published an editorial titled, “In TANF welfare scandal, media pushes guilt by innuendo.” This editorial republished White’s false and defamatory statement. The editorial can be found at: <https://magnoliatribune.com/2023/05/07/tanf-welfare-scandal-guilt-by-innuendo/>.

Today, the Daily Journal published an opinion column written by contributing columnist Sid Salter in which the Daily Journal republished and Salter commented on White’s false and defamatory statement. Salter’s column can be found at: https://www.djournal.com/opinion/columnists/without-charges-arrests-or-indictments-how-s-bryant-to-defend-himself-in-tanf-scandal/article_0f1d0bcd-27c3-505b-a3b7-3c08af1cc2a4.html.

3. Embezzlement

As you are surely aware, embezzlement is a crime in Mississippi. Miss. Code Ann. § 97-23-19 provides in pertinent part as follows:

If any person shall embezzle or fraudulently secrete, conceal, or convert to his own use, or make way with, or secrete with intent to embezzle or convert to his own use, any goods, rights in action, money, or other valuable security, effects, or property of any kind or description which shall have come or been entrusted to his care or possession by virtue of his office, position, place, or employment, either in mass or otherwise, he shall be guilty of embezzlement.

The Encyclopedia of Mississippi Law explains that “[t]he elements of embezzlement include: (a) being an individual contemplated by the statute; and (b) unlawful conversion for personal use property that comes into his or her hands by virtue of his or her office or employment.” Jeffrey Jackson, Mary Miller & Donald Campbell, 3A *Encyclopedia MS Law* § 23:181 (3rd ed., Oct. 2022 Update).

a. Former-Governor Bryant is an individual contemplated by the embezzlement statute.

The embezzlement statute “includes both public and private individuals who have been entrusted with the property of another.” *Id.* at § 23:182 (citing, Miss. Code Ann. § 97-11-25). As a former governor of this state, Bryant is an individual contemplated by the embezzlement statute.

b. Former-Governor Bryant did not convert property.

The Encyclopedia of Mississippi Law explains the conversion element of embezzlement as follows:

Conversion is an essential element of the crime of embezzlement and must be alleged in the indictment. The burden is on the State to establish “that the property rightfully came into the possession of the defendant . . . by virtue of his [or her] office . . . and that thereafter he [or she] feloniously converted the property . . . to his [or her] own use. This conversion can be proven by circumstantial evidence. However, the State must prove that the conversion was willful and unlawful, and the evidence presented “must exclude every reasonable hypothesis but that of guilt.”

Id. at § 23:183 (citing, *Gradskey v. State*, 243 Miss. 379, 137 So. 2d 820, 822 (1962) (citing, *Bell v. State*, 110 Miss. 430, 70 So. 456 (1916)); *Patterson v. State*, 724 So. 2d 920 (Miss. Ct. App. 1998)).

Former-Governor Bryant **did not** convert or embezzle “welfare funds” and Mississippi Today’s “newsroom” did not “br[ea]k” the story” about Bryant converting or embezzling welfare funds. White’s statement to the contrary is false.

Interestingly, White’s claim that former-Governor Bryant embezzled funds is contrary to statements made by Mississippi Today’s editor-in-chief, Adam Ganuchau, and its investigative reporter, Anna Wolfe, during this morning’s edition of “The Other Side” podcast. Ganuchau and Wolfe stated, among other things, the following:

- At the 16:11 mark, Wolfe stated with reference to former-Governor Bryant and others, “I don’t think that we’ve overtly made it, you know, painted it like we were convicting these people. We’ve simply explained what happened, I think.” Wolfe’s statement is demonstrably false. White, in her capacity as chief executive officer of Mississippi Today, claimed that former-Governor Bryant embezzled welfare funds and bragged that Mississippi Today had exposed such. He did not embezzle funds.
- At the 17:40 mark, Ganuchau stated that, “To date, we have not had to issue any retraction or correction on anything Backchannel-related. You should be proud of that, and I’m proud of that.” This statement is false and misleading. On September 28, 2022, Ganuchau published an “Editor’s note on our welfare coverage,”¹ in which Mississippi Today admitted **for the first time** that Ganuchau’s mother, Stephanie Ganuchau, was the special assistant attorney general who “had signed-off on the language of a lease agreement to construct a University of Southern Mississippi volleyball stadium – a project now a focus of the state’s ongoing welfare scandal.” Ganuchau’s “note” goes on to downplay the scope of his mother’s involvement and authority regarding the project, characterizing her role as “bureaucratic.” Ganuchau’s claim of ignorance strains credibility and his characterization of his mother’s role is intentionally misleading. If it were not for other press outlets exposing Stephanie Ganuchau’s

¹ <https://mississippitoday.org/2022/09/28/editors-note-welfare-coverage/>.

involvement, Mississippi Today would not have issued its belated, and woefully inadequate, disclosure.

- At the 18:00 mark, Ganucheu stated that, “it’s not our job to assign guilt as it relates to a crime.” Wolfe responded, “right.” Yet, that is precisely what White did when she accused former-Governor Bryant of embezzlement.
- At the 18:31 mark, Ganucheu stated that, “in this case, you know, we’ve been very careful not to assign guilt, legal guilt, to anybody.” This is demonstrably false. White’s statement assigns “legal guilt” to former-Governor Bryant and others.

4. Defamation

The four essential elements of former-Governor Bryant’s defamation claim against all of you are as follows:

1. a false and defamatory statement concerning Bryant;
2. an unprivileged publication of the false and defamatory statement to a third party or third-parties;
3. fault amounting to actual malice by you; and
4. either actionability of the statement irrespective of special harm or the existence of special harm caused by publication.

Hudson v. WLOX, Inc., 108 So. 3d 429, 434 (Miss. Ct. App. 2012). Your collective statements satisfy all four of these elements.

a. The statements made by White, Ganucheu, and Wolfe were demonstrably false.

Neither White nor Mississippi Today has any evidence suggesting, tending to suggest, proving, or tending to prove that Bryant converted or embezzled welfare funds. Former-Governor Bryant did not embezzle welfare funds. White said otherwise.

Adding insult to injury, after other press outlets republished White’s remarks, Ganucheu and Wolfe suggested no one affiliated with Mississippi Today had claimed former-Governor Bryant engaged in criminal activity. Ganucheu’s and Wolfe’s comments do not wash away White’s defamatory remarks. In fact, they worsen the offense by pretending it never occurred.

b. White’s statement is defamatory, and Ganucheu’s and Wolfe’s statements are false and calculated to deny White had accused Bryant of criminality.

A defamatory statement is a statement “which tends to injure one’s reputation, and thereby expose him to public hatred, contempt or ridicule, degrade him in society, lessen him in public esteem or lower him in the confidence of the community.” Weems & Weems, *Miss. Law of Torts*, § 11-1(b)

(citing, *Lawrence v. Evans*, 573 So. 2d 695 (Miss. 1990); *Fulton v. Mississippi Publishers Corp.*, 498 So. 2d 1215, 1217 (Miss. 1986) (citing, *Ferguson v. Watkins*, 448 So. 2d 271, 275 (Miss. 1984)). White's self-congratulatory and baseless statement most certainly satisfies this standard and was calculated to do so. Ganuchau's and Wolfe's self-serving and subsequent denials worsen the offense.

c. The statements at issue were published to third-parties.

"Publication requires a communication of the statement to another person or persons." *Id.* at § 11-1(d). Likewise, "secondary publication which is the natural consequence" of White's false and defamatory statement is actionable. *Id.* (citing, *Newson v. Henry*, 443 So. 2d 817, 821 (Miss. 1983); *Henry v. Pearson*, 253 Miss. 62, 158 So. 2d 695, 703 (1963); 33 Am. Jur. *Libel and Slander* § 197; Newell, *Libel and Slander* at 339 (4th ed.)).

White's false and defamatory statement was made to a room of individuals, likely consisting of journalists, and was recorded for publication on the internet. White and Mississippi Today are liable for the harm caused by White's original statement and the republication of it by the Knight Foundation, the Magnolia Tribune, the Madison County Journal, the Daily Journal, and all other news outlets that have opted or will opt to republish it.

The statements made by Ganuchau and Wolfe were published on the internet for anyone who has the capacity to listen to podcasts.

d. The statements were made with actual malice.

The Mississippi Law of Torts explains the actual malice requirement as follows:

In order to recover for defamation, public officials and public figures must prove by clear and convincing evidence that the defendant acted with "actual malice." "Actual malice," sometimes also referred to as "*Times* malice," is a term of art with a very precise meaning. Ill will or personal spite does not constitute actual malice. Actual malice is present when a statement is made "with knowledge that it was false or with reckless disregard of whether it was false or not." "Knowledge of falsity" needs no elaborate definition. "Reckless disregard" means that the defendant made the false publication with a high degree of awareness of probable falsity, or that he "entertained serious doubts as to the truth of his publication." Negligence, either with regard to knowledge of the falsity or reckless disregard, is not sufficient to establish actual malice.

Id. at § 11-2(a) (internal citations omitted). White did not have three months ago, nor does she currently have, any factual basis supporting her statement that former-Governor Bryant embezzled welfare funds. White was, in fact, aware that her statement was false when she made it. No reporter at Mississippi Today or any other publication has ever reported that former-Governor Bryant has embezzled funds. Former-Governor Bryant is not a party to a criminal proceeding and he has never been notified that he is the subject to a criminal investigation. Former-Governor Bryant is not a party to a civil action. White has no proof to support her salacious and slanderous statement and the reason for this lack of evidence is apparent – there is none.

Ganuchau and Wolfe knew when they recorded the podcast episode at issue that White had accused former-Governor Bryant of engaging in criminal activity. Instead of admitting such had occurred and retracting the statement, Ganuchau and Wolfe pretended White had never defamed Bryant. Their actions are evidence of a poorly executed conspiracy to gaslight and deceive the public, and to allow the continued defamation of former-Governor Bryant to persist.

e. White's statement qualifies as slander per se.

Slander per se refers to "words so clearly defamatory that no resort to other facts or circumstances is necessary for the ordinary person to understand injury to the victim's good name." *Id.* at § 11-3(b). Imputation of criminal activity is among the four "historically recognized classifications of slander per se." *Id.* White, individually and on behalf of Mississippi Today, has accused former-Governor Bryant of the crime of embezzlement. This accusation qualifies as slander per se.

f. White's statement has caused damage to former-Governor Bryant.

"No special or pecuniary harm need be established by the plaintiff in cases of 'slander per se.'" *Id.* While former-Governor Bryant could present proof of pecuniary loss or reputational damage, he is not required to do so. "The Supreme Court has held that such testimony of harm to reputation is not necessary in cases of slander per se, for which damages are presumed to have resulted." *Id.* at § 11-4 (citing, *Henry v. Collins*, 158 So. 2d 28, 32 (Miss. 1963); *Travis v. Hunt*, 224 Miss. 193, 79 So. 2d 734, 735 (1955)).

Punitive damages are also available. "The Supreme Court has stated that "[i]t is rarely the case that the compensatory damages to which the plaintiff is entitled . . . can be adequately measured by the extent of his pecuniary loss and, when malice is shown . . . , exemplary damages may be awarded." *Id.* at § 11-4(c) (quoting, *Henry*, 158 So. 2d at 703). In fact, "[w]here the defamation complained of is actionable per se, it is generally held that punitive damages may be awarded even though the amount of actual damages is neither found nor shown, for in such a case the requirement of showing actual damages as the basis of an award of exemplary damages is satisfied by the presumption of injury which arises from a showing of libel or slander that is actionable per se." *Newson*, 443 So. 2d at 824 (quoting, 50 Am. Jur. 2d *Libel and Slander* § 352 (1970)).

Attorneys' fees and costs are recoverable when punitive damages are awarded. *Cronier v. ALR Partners, L.P.*, 309 So. 3d 556, 559 (Miss. Ct. App. 2020) ("Mississippi follows the general rule that, in the absence of a contractual agreement or statutory authority, attorney's fees may not be awarded except in cases in which punitive damages are proper."). In fact, "an actual award of punitive damages is not a prerequisite for an award of attorney's fees; rather, attorney's fees are warranted where 'the awarding of punitive damages would have been justified,' even if punitive damages are not awarded." *Id.* (quoting *Tunica County v. Town of Tunica*, 227 So. 3d 1007, 1029 (Miss. 2017)).

CONCLUSION

White's statement at the February 2023 Knight Foundation media forum crossed the line separating innuendo and speculation from outright falsehood. The subsequent statements made by

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Ganuchau and Wolfe are demonstrably false and are calculated to gaslight and deceive the public. Former-Governor Bryant demands an immediate public correction of all false and misleading statements made by Mississippi Today personnel, a public apology for having made these false and misleading statements, and an absolute and total retraction of the statements.

Sincerely,



William M. Quin II

cc: Mississippi Today Board of Directors (only via certified mail):

Andrew Lack
Donna Barksdale
Bill Bynam
Ivy Barney
Tray Hairston
Todd McDonald
Tom Pittman
Ivy Taylor