

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



VIRGINIA CITIZENS DEFENSE LEAGUE,  
DANIEL L. HAWES, ESQ., and PATRICIA  
WEBB,

Plaintiffs,

v.

KATIE COURIC, STEPHANIE SOECHTIG,  
ATLAS FILMS LLC, and STUDIO 3 PARTNERS,  
LLC d/b/a EPIX,

Defendants.

No. 3:16cv757

**COMPLAINT**

Plaintiffs Virginia Citizens Defense League (“VCDL”), Daniel L. Hawes, Esq., and Patricia Webb file this Complaint against Defendants Katie Couric, Stephanie Soechtig, Atlas Films LLC (“Atlas Films”), and Studio 3 Partners LLC d/b/a Epix (“Epix”), and state as follows:

**NATURE OF THE ACTION**

1. This defamation suit arises from intentionally manipulated and misleading footage that appears in a gun control advocacy film entitled *Under the Gun*, which was narrated and produced by Katie Couric, directed by Stephanie Soechtig, and first published by the Defendants on January 24, 2016, at Sundance Film Festival. The film contains false footage purporting to show members of the Virginia Citizens Defense League sitting silently, stumped, and avoiding eye contact for nearly nine seconds after Couric asked, “if there are no background checks for gun purchasers, how do you prevent felons or terrorists from purchasing a gun?”<sup>1</sup>

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<sup>1</sup> The defamatory fictional exchange is available at <http://www.clarelocke.com/our-cases/katie-couric> and [https://youtu.be/V6\\_9q8K2VK8](https://youtu.be/V6_9q8K2VK8). A copy of the complete film is attached as Exhibit 1.

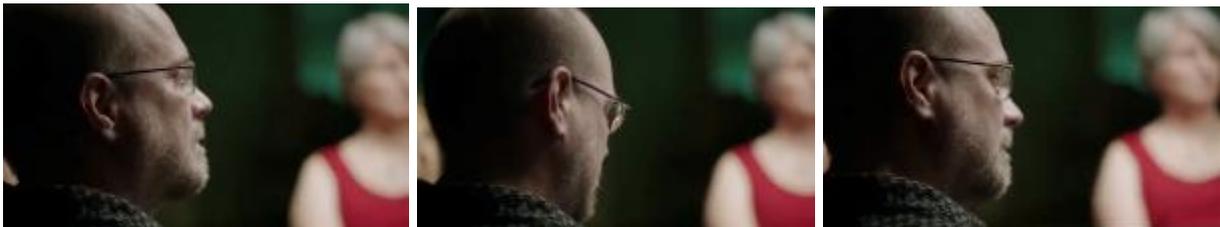
2. While Couric begins posing the question, the film depicts Plaintiff Patricia Webb—a VCDL Executive Member and licensed firearms dealer—listening intently:



3. In the first three seconds immediately following Couric’s question, the film portrays a silent VCDL member looking up, blinking, and then looking away:



4. For the next three seconds, the film depicts Webb—appearing silent and stumped in the background—while another VCDL member silently looks at the floor and then away:



5. In the next three seconds, the film portrays Plaintiff Daniel L. Hawes, Esq.,—a VCDL Executive Member and an attorney who practices litigation involving firearms and personal defense—sitting silently and shifting his gaze toward the floor:



6. After nearly nine seconds of silent footage—instead of the responses that the VCDL members had *actually* provided—the Defendants inserted footage of someone closing the cylinder of a fully-loaded revolver, driving home the point that the exchange was over. The manipulated footage falsely informed viewers that the VCDL members had been stumped and had no basis for their position on background checks.



7. The exchange portrayed in the film is a work of fiction. Unedited audio recording of the exchange reveals that, in reality, Couric had expressly acknowledged that the VCDL members had an answer, and the VCDL members had *not* been stumped but had immediately begun explaining the bases for their position on background checks.<sup>2</sup>

8. In the interview that actually occurred, Hawes had cited existing laws and regulations to rebut the premise of Couric’s question and to provide a basis for opposing background checks:

The fact is we do have statutes, both at the federal and state level that prohibit classes of people from being in possession of firearms. If you’re under 18, in Virginia, you can’t walk around with a gun. If you’re an illegal immigrant, if you’re a convicted felon, if you’ve been adjudicated insane, these things are already illegal. So, what we’re really asking about is a question of prior restraint. How can we prevent future crime by identifying bad guys before they do anything bad? And, the simple answer is you can’t. And, particularly, under the legal system we have in the United States, there are a lot of Supreme Court opinions that say, “No, prior restraint is something that the government does not have the authority to do.” Until there is an overt act that allows us to say, “That’s a bad guy,” then you can’t punish him.

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<sup>2</sup> The unedited audio recording of the relevant portion of the interview is available at <http://www.clarelocke.com/our-cases/katie-couric> and <https://soundcloud.com/washington-free-beacon/raw-audio-of-katie-couric-interview-with-vcdl-members>. A copy of the full unedited interview is attached as Exhibit 2.

9. Webb had also rebutted Couric’s premise and provided another basis for opposing background checks, stating:

I would take another outlook on this. First, I’ll ask you what crime or what law has ever stopped a crime? Tell me one law that has ever stopped a crime from happening.

In response, Couric argued that the Brady Bill had kept guns away from criminals, and Webb rebutted that argument, explaining that criminals could “go out and buy, or steal, a gun somewhere else,” and that, if the Brady Bill had stopped crimes from happening, “we would have seen a significant reduction in crime.” In addition, Webb cited an example of a specific crime that might have been prevented if not for gun control, stating: “there was a case just recently—there was a woman that wanted to buy a gun because of an ex that was threatening to kill her, and there was a waiting period in the state that she lived in, and she was killed before the end of the waiting period.”

10. All told, Hawes, Webb, and three other VCDL members spent nearly six minutes responding to Couric’s question and another three minutes engaging in a related discussion.

11. The Defendants manipulated the footage in service of an agenda: they wanted to establish that there is no basis for opposing universal background checks by fooling viewers into believing that even a panel of pro-Second Amendment advocates could not provide one. The Defendants intentionally disregarded the truth of the actual exchange that had taken place and took at least six intentional steps to manufacture a fictional exchange to support their agenda. *First*, the Defendants misled the VCDL and its members into believing that *Under the Gun* would present the VCDL’s viewpoints. *Second*, Couric asked the interviewees: “If there are no background checks, how do you prevent—*I know how you all are going to answer this*, but I’m asking anyway—if there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into say a licensed gun dealer and purchasing a gun?” *Third*, an

Atlas Films cameraman and Katie Couric told the interviewees that they needed to sit silently for ten seconds so that recording equipment could be calibrated. *Fourth*, as the interviewees complied with that request, the Defendants quietly recorded b-roll footage of the interviewees sitting in silence.<sup>3</sup> *Fifth*, during the editing process, Soechtig and Atlas Films deleted the middle of Couric's question in which she had expressly acknowledged that the interviewees had an answer to her question (as well as the portion of the question about "licensed gun dealer[s]") and instead presented viewers with the following edited version of the question: "If there are no background checks for gun purchasers, how do you prevent felons or terrorists from purchasing a gun?" *Sixth*, Soechtig and Atlas Films cut all of the responses that had actually followed Couric's question, and spliced in nine seconds of the silent b-roll footage that Couric and the cameraman had requested.

12. Before the film's release, Couric reviewed the manipulated footage and then confronted Soechtig and an Atlas Films editor because the footage was misleading and misrepresented her exchange with the VCDL members. In response, Soechtig and the editor admitted that they had intentionally manipulated the footage.

13. Although the Defendants knew that their intentional edits were misleading and misrepresented Couric's exchange with the VCDL, they refused to remove the manipulated footage or to present the footage of what had actually taken place. Instead, they promoted and released the film including the fictional exchange.

14. After the film's debut, the VCDL released an unedited audio recording of the conversation that had actually taken place between Couric and the VCDL. More than two weeks later, Couric admitted that Soechtig and an Atlas Films editor had intentionally manipulated the

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<sup>3</sup> "B-roll" is supplemental or alternative footage intercut with the main shot.

interview footage and misrepresented her exchange with the VCDL. In her statement, Couric wrote that “VCDL members have a right for their answers to be shared and so we have posted a transcript of their responses here.” But rather than posting “their responses,” the Defendants posted another heavily edited version of the transcript, this time cutting *more than 70%* of the VCDL’s responses to Couric’s question. In the edited transcript, Defendants cut critical words from the middle of one member’s response, much of Webb’s response, and the entire responses of several VCDL members. Defendants’ deliberate and continued misrepresentation of Couric’s exchange with the VCDL shows that they did not really regret their actions or want to set the record straight, but that they were attempting to claim the moral high ground while doubling down on their misrepresentation of the VCDL.

15. The fictional exchange is defamatory because it holds the Plaintiffs up as objects of ridicule by falsely representing that, as experts in their respective pro-Second Amendment trades, they had no basis for their opposition to universal background checks. It is also defamatory *per se* as to each of the three Plaintiffs. *First*, the exchange prejudices the Virginia Citizens Defense League in its trade as a pro-Second Amendment advocacy organization. It conveys that the organization is unfit to—and failed to—perform its mission: to defend people’s right to defend themselves. *Second*, the fictional exchange prejudices Webb in her trade as a licensed firearms dealer by falsely conveying that she lacks knowledge regarding background checks—a requirement for every gun sale at her store. *Third*, it prejudices Hawes in his profession as an attorney who practices litigation involving firearms and personal defense by conveying that he lacks the legal expertise and oral advocacy skills required to perform his duties.

16. The Defendants have harmed the Plaintiffs by publishing the fictional exchange. By misrepresenting that the VCDL and its members did not and could not present any basis for opposing universal background checks, the Defendants caused the organization reputational harm, caused the organization economic harm by impairing the organization's ability to attract and retain members and secure donations, and decreased the effectiveness of the organization's advocacy efforts and ability to carry out its mission. In addition, the Defendants have harmed Webb's reputation as a licensed firearms dealer by conveying that she was unable to respond to a simple question related to background checks, an integral aspect of her trade, and Defendants have caused Webb to lose income from decreased sales at the gun business she owns and operates. Finally, the Defendants harmed Hawes's reputation in his trade as an attorney who practices litigation involving firearms and personal defense.

17. The Virginia Citizens Defense League, Hawes, and Webb bring this action to vindicate their rights under civil law, to restore their reputations, and to recover compensatory and punitive damages for the harm that the Defendants have jointly and severally caused.

### **PARTIES**

18. Plaintiff Virginia Citizens Defense League is a Virginia non-profit 501(c)(4) corporation with its headquarters in Newington, Virginia. VCDL is a non-partisan, grassroots organization dedicated to advancing the rights of responsible gun owners under the Second Amendment and the Virginia Constitution. Founded in 1994, VCDL's stated mission is "Defending Your Right to Defend Yourself." This mission statement is broadcast on the group's website and in its promotional materials. VCDL also lobbies lawmakers in Virginia at state and local levels to oppose anti-Second Amendment measures, and it opposes universal background checks. VCDL tracks pending legislation that could impact its members and gun owners generally, and it provides the voting records of public officials who oppose or support legislation

that targets the sale, ownership, or possession of firearms. With regularly scheduled meetings and group discussions, the VCDL advocates for the rights of responsible gun owners and provide an effective voice for members and other supporters of the Second Amendment.

19. Plaintiff Patricia Webb is an individual and resident of the Commonwealth of Virginia, who lives in Hanover County. She is a firearms dealer, licensed pursuant to 18 U.S.C. § 921, *et. seq.*, who owns and operates Gadsden Guns Inc. (“Gadsden Guns”), located in Beaverdam, Virginia. Customers and prospective customers of Gadsden Guns know that Webb is the owner and operator of the business, and they closely associate her with the business. Through Gadsden Guns, Webb sells handguns, rifles, shotguns, ammunition, gun parts, gun storage and safety devices, and other accessories related to shooting sports. For every firearm transaction, Webb’s business conducts a background check to ensure that each customer is permitted to purchase and possess a firearm in Virginia. Additionally, her business runs a background check for every employee who sells, purchases, or transfers firearms, in accordance with state and federal regulations. Gadsden Guns has partnered with the VCDL to promote legislation protecting the right to bear arms and to educate the public about issues relating to Second Amendment rights. Webb’s customers and prospective customers support the right of individuals to keep and bear arms. Webb is a longtime Executive Member of VCDL, and was elected to the Board of Directors in 2016.

20. Plaintiff Daniel L. Hawes, Esq., is an individual and resident of the Commonwealth of Virginia, who lives in Fauquier County. He is a licensed attorney and a member of the Virginia State Bar who practices litigation involving firearms and personal defense. He is admitted to practice in all state courts of the Commonwealth of Virginia, the federal courts of the Eastern District of Virginia, the Fourth Circuit Court of Appeals, and the

United States Supreme Court. Hawes's practice is based on his knowledge of the laws and regulations relating to firearm ownership, possession, and self-defense. For years, Hawes has been an Executive Member of the VCDL and a member of the VCDL Legal Advisory Council. As a member of the VCDL Legal Advisory Council, Hawes answers VCDL members' legal questions regarding firearms on a *pro bono* basis. He has also represented individuals and gun stores against attacks from anti-gun activists. For years, gun owners and gun dealers have hired Hawes as legal counsel. VCDL members and Hawes's clients rely on Hawes to be knowledgeable—and to employ oral advocacy skills—regarding the laws and regulations relating to firearm ownership, possession, and self-defense.

21. Defendant Katie Couric is a journalist and author who works as Global News Anchor for Yahoo!. Couric is from Virginia and is currently a resident of New York. Couric was the executive producer of—and narrated, produced, edited, and published—*Under the Gun*.

22. Defendant Stephanie Soechtig is a filmmaker who co-founded Atlas Films LLC in 2008. Soechtig is a resident of Colorado. Soechtig directed, edited, and published *Under the Gun* and the defamatory content related to the VCDL, Hawes, and Webb.

23. Defendant Atlas Films LLC is a privately held California limited liability company headquartered in Santa Monica, California. Atlas Films LLC is responsible for *Under the Gun*, and it created and published the false and defamatory footage concerning the VCDL, Hawes, and Webb. Upon information and belief, Atlas Films LLC is also liable for the actions of Couric and Soechtig under the doctrine of respondeat superior, principles of agency, ratification, or otherwise.

24. Defendant Studio 3 Partners LLC d/b/a Epix ("Epix") is a privately held Delaware limited liability company headquartered in New York, New York. Even after Couric admitted

that the footage at issue was intentionally manipulated, is misleading, and misrepresented her exchange with the VCDL members, Epix continued to publish and promote the false and defamatory footage.

### **JURISDICTION AND VENUE**

25. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. § 1332 as there exists complete diversity of citizenship between the Plaintiffs and the Defendants and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

26. This Court has personal jurisdiction over the Defendants pursuant to Va. Code § 8.01-328 *et seq.*, because the Defendants transacted business in Virginia and repeatedly and deliberately reached into and travelled to Virginia during the filmmaking process, knowingly published a false and defamatory exchange of and concerning a Virginia non-profit organization and two Virginia residents who were harmed by the Defendants in Virginia, and published the false and defamatory exchange in Virginia and to residents of Virginia. On March 31, 2015, Kristin Lazure, Producer for Atlas Films, emailed Virginia Citizens Defense League President Philip Van Cleave (a Virginia resident) on behalf of the Defendants to ask the VCDL to be interviewed for *Under the Gun*. Lazure said that for the film, the Defendants were “zeroing in on” Virginia to explore the perspective of gun rights advocates.<sup>4</sup> On April 13, 2015, the Defendants interviewed Van Cleave on camera at Tysons Corner Marriott located in Tysons Corner, Virginia. On May 11, 2015, the Defendants again filmed Van Cleave at a shooting range in Chantilly, Virginia. The Defendants also scheduled interviews with VCDL and its members in Loudoun County, Virginia. Because of a scheduling conflict, the interviews were postponed, and the Defendants conducted the interview containing the defamatory footage on June 18, 2015,

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<sup>4</sup> Email from Kristin Lazure to Philip Van Cleave (Mar. 31, 2015, 09:47 EDT) (Exhibit 3).

in Fairfax County, Virginia. The film also includes footage captured at a gun show in Richmond, Virginia. The Defendants knew that the Plaintiffs were residents of Virginia prior to filming. The Defendants intentionally manipulated footage of the Plaintiffs and then published that defamatory footage online to a worldwide audience, including in Virginia to residents of Virginia, damaging the Plaintiffs primarily in Virginia where they reside and work.

27. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the Plaintiffs' claims occurred in the Eastern District of Virginia, and because all the Defendants are subject to personal jurisdiction in this District.

## **FACTS**

### ***Couric, Soechtig, and Atlas Films Manipulated Footage for Their Prior Advocacy Film***

28. Couric, Soechtig, and Atlas Films have engaged in a pattern of manipulating footage to accomplish their political agendas by misrepresenting those who disagree with them. Over the past several years, they perfected the deceptive editing methods that they used in *Under the Gun*. In 2014, Couric, Soechtig, and Atlas Films released their documentary film *Fed Up*, which purports to explore how the American food industry is responsible for obesity in the United States.

29. *Fed Up* includes interviews with two people who hold viewpoints that run counter to the Defendants' anti-food industry narrative. Two interviewees from that film have revealed that the Defendants manipulated footage of their interviews to mislead viewers and advance the Defendants' political agenda. The Defendants first interviewed Lisa Gable, a spokesperson for the Healthy Weight Commitment Foundation, an organization of American food and beverage companies targeted by *Fed Up*. In the interview, Soechtig and Gable discuss whether the food industry would remove certain products from store shelves. After Gable's responses do not satisfy her, Soechtig can be heard saying off-camera that Gable is "avoiding the question." The

camera keeps rolling, showing Gable sitting in silence and not objecting to Soechtig's jab. However, the Defendants lifted Soechtig's allegation that Gable was being evasive from another part of the interview and paired it with silence to undermine Gable and advance their agenda.

30. The next victim was Dr. David Allison, the director of the Nutrition Obesity Research Center. Though the Nutrition Obesity Research Center is funded by the National Institute of Health, the Defendants targeted the organization because it has conducted research that was funded in part by food and beverage companies. Couric instructed Dr. Allison to signal if he stumbled over his words so that they could stop filming and re-record his response. After more than an hour of questioning, she asked whether sugary beverages contribute to obesity more so than other foods. Dr. Allison said that the evidence was unclear. Couric then asked him to explain the science behind his position. Dr. Allison briefly stuttered, and, just as Couric instructed him, he asked for a moment to gather his thoughts. He paused and then answered Couric's question. But the answer he gave did not survive the Defendants' cutting room. Instead, the Defendants left the silent pause but removed Dr. Allison's answer, misleading viewers to believe that Couric had stumped him.

31. During the production of *Fed Up*, Couric, Soechtig, and Atlas Films perfected the deceptive editing techniques that they later employed in making *Under the Gun*. The process was simple: (1) claim to provide a platform for those who disagree with their agenda; (2) present the filmmakers' premise as a question; and (3) cut the opponents' responses, creating the false impression that the opponents have no basis for their position and no ability to rebut the filmmakers' premise.

***The Defendants Acted with Actual Malice by Misrepresenting Their Agenda to Secure an On-Camera Interview with Members of the Virginia Citizens Defense League***

32. In late 2012, Couric and Soechtig joined forces to create an advocacy film supporting more restrictive anti-gun legislation and background checks. In support of that agenda, they set out to portray opposition to background checks as rare and baseless.

33. Concealing their true intentions, Couric and Soechtig recruited members of the Virginia Citizens Defense League to participate in on-camera interviews. On March 31, 2015, a producer from Atlas Films named Kristin Lazure emailed the VCDL's president and asked if some VCDL members would take part in a documentary, representing:

In order to fully understand the complexities of this hot button topic and speak to an audience with *varied viewpoints*, Ms. Couric is very eager to include *all perspectives* in this discussion.<sup>5</sup>

34. The VCDL took Lazure at her word that Couric and Soechtig were making a documentary, not a work of fiction. After the Defendants represented that Couric was interested in "varied viewpoints" and "all perspectives," some VCDL members agreed to be interviewed on camera.

***While Being Interviewed by Katie Couric, VCDL Members Promptly Explained Numerous Bases for Their Opposition to Background Checks***

35. On June 18, 2015, Katie Couric interviewed the following members of the Virginia Citizens Defense League in Fairfax County, Virginia: Plaintiff Daniel L. Hawes, Esq., Plaintiff Patricia Webb, Leonard Harris, Barak Ulrich James, Ed Levine, Terrell Prudé, Judy Rudek, Rubiner Toor, and John Willburn. Soechtig was present and directed the interview. Employees of Atlas Films were also present and recorded the interview.

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<sup>5</sup> Exhibit 3.

36. At the outset of the interview, Couric stated:

First of all, I want to say thank you all so much for doing this, because *we want to get all different points of view, and I know you guys have a specific point of view* on this issue and some of the issues that we're tackling. And so, thank you, thank you for doing this.

37. Later during the interview, Couric asked:

If there are no background checks, how do you prevent—*I know how you all are going to answer this*, but I'm asking anyway—if there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into say a licensed gun dealer and purchasing a gun?

38. Less than one second after Couric asked the question, members of the VCDL began responding:

VCDL MEMBER: Well, for one, if you're not in jail, you should still have your basic rights and you should be able to go out and buy a gun.

COURIC: So if you're a terrorist or a felon?

VCDL MEMBER: If you're a felon, and you've done your time, you should have your rights.

39. Hawes then rebutted the premise of Couric's question with facts regarding existing laws regulating firearms (an area of law in which he practices), stating:

The fact is we do have statutes, both at the federal and state level that prohibit classes of people from being in possession of firearms. If you're under 18, in Virginia, you can't walk around with a gun. If you're an illegal immigrant, if you're a convicted felon, if you've been adjudicated insane, these things are already illegal. So, what we're really asking about is a question of prior restraint. How can we prevent future crime by identifying bad guys before they do anything bad? And, the simple answer is you can't. And, particularly, under the legal system we have in the United States, there are a lot of Supreme Court opinions that say, "No, prior restraint is something that the government does not have the authority to do." Until there is an overt act that allows us to say, "That's a bad guy," then you can't punish him.

40. Webb then gave some of the bases for her opposition to background checks:

WEBB: I would take another outlook on this. First, I'll ask you what crime or what law has ever stopped a crime? Tell me one law that has ever stopped a crime from happening.

COURIC: Well, some would argue since the Brady Bill was enacted, people who have an opposing point of view, two million guns have been kept from the hands of criminals.

WEBB: But who is to say that that person that was denied a background check did not go out and buy or steal a gun from somewhere else?

COURIC: Perhaps it made it more difficult and who knows, that's sort of hypothetical? But I think that that's a law that kept guns from getting into the hands of wrong—of people who should not own guns according to people who support the Brady Bill.

WEBB: If that were the case, we would have seen a significant reduction in crime with the reduction of sales of guns to people.

COURIC: Or we would have seen a smaller increase, and that, again is hard to measure.

WEBB: It is.

HAWES: I tell people all the time, if you go to Prince Georges County, Maryland, I mean, it must be the safest place on earth, because they have tremendous gun control. But in fact, it's practically the murder capital of the country. It's because people who have—otherwise law abiding self-reliant folks are prohibited from being able to defend themselves, and the people who want to kill them, are not.

WEBB: So back to the point that I was getting to in a roundabout way. If someone wants to commit murder, and even if they are prevented from getting a gun to commit that murder with, it doesn't necessarily stop them from committing a murder. And the murder is already against the law. The tool that they use may change. But if they are bound and determined to break a law—commit murder, commit robbery, break into somebody's house—whatever it is they are going to do, then the law is not stopping them, it is just giving an avenue to punish them if and when they are caught.

COURIC: Is it making it, though, potentially more difficult to carry out a crime if it is harder to obtain a gun.

WEBB: I don't think it is harder to obtain a gun.

COURIC: Well, let's say they aren't able to buy a gun legally because of a background check and they have to go somewhere else or they have to find someone to sell them a gun. Theoretically, is that making it perhaps harder for that person to go and kill someone they're angry at? Could they have changed their mind in the interim? I'm just asking.

WEBB: I do not think that it would make a difference if the person wanted to commit a crime. Where we have seen it make a difference—and there was a case just recently—there was a woman that wanted to buy a gun because of an ex that was threatening to kill her, and there was a waiting period in the state that she lived in, and she was killed before the end of the waiting period.

41. In addition to Hawes and Webb, three other VCDL members responded to Couric's question about background checks. The VCDL members' responses to the question went on for nearly six minutes, and a related discussion continued for an additional three minutes.

***The Defendants Acted with Actual Malice by Telling the VCDL Members They Were Calibrating Video Equipment but Instead Were Surreptitiously Video Recording the VCDL Members to Obtain B-Roll Footage to Splice into the Film***

42. At one point during the interview, an Atlas Films cameraman stated, "Can I have ten seconds?" Katie Couric then clarified his request, stating: "Oh sorry. Room tone, so *we can't talk for ten seconds*," conveying that the VCDL members needed to sit silently so that recording equipment could be calibrated. During this time, Atlas Films employees quietly recorded Hawes, Webb, and the other VCDL members complying with the Defendants' instruction.

***The Defendants Acted with Actual Malice by Intentionally Manipulating the Raw Footage to Create a Fictional Exchange That They Knew Never Happened***

43. Soechtig and employees of Atlas Films manipulated the footage of Couric’s question regarding background checks in two ways. *First*, they cut the portion of Couric’s question in which she expressly acknowledged: “I know how you all are going to answer this.” *Second*, they deleted the words “walking into say a licensed gun dealer and”:

| Unedited Question   | Edited Question in <i>Under the Gun</i><br>(cut language shown in bold strikethrough text)  |
|---|---|
| If there are no background checks how do you prevent—I know how you all are going to answer this, but I’m asking anyway—if there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into say a licensed gun dealer and purchasing a gun? | If there are no background checks <del><b>how do you prevent—I know how you all are going to answer this, but I’m asking anyway—if there are no background checks</b></del> for gun purchasers, how do you prevent felons or terrorists from <del><b>walking into say a licensed gun dealer and</b></del> purchasing a gun? |

44. Soechtig and other Atlas Films employees cut Couric’s acknowledgment from the film because it undermined their agenda to portray the Plaintiffs as having *no* answer and *no* basis for opposing background checks.

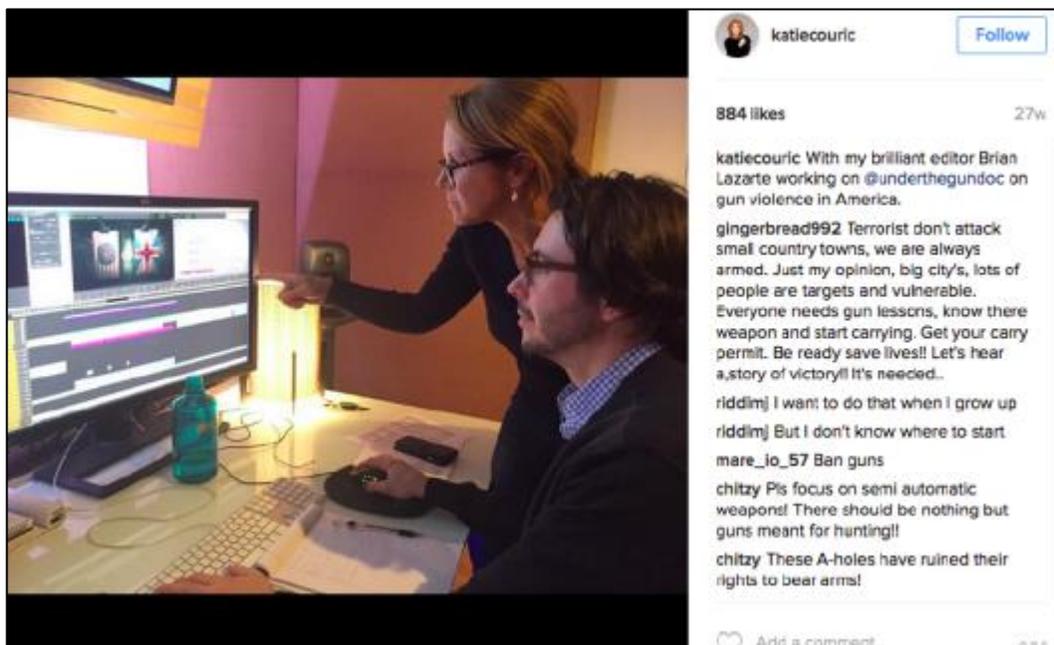
45. By cutting the words “walking into say a licensed gun dealer and” from the phrase “if there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into say a licensed gun dealer and purchasing a gun?,” Defendants materially changed and broadened the premise and meaning of the question posed. As it was actually phrased, the question could be interpreted to falsely imply that the law does not currently require licensed gun dealers to conduct background checks. However, by cutting the words “walking into say a licensed gun dealer” and following the edited question with nearly nine seconds of silence, the Defendants falsely represented that the VCDL members had no basis to oppose a

much broader premise: that universal background checks would prevent felons and terrorists from obtaining guns.

46. Soechtig and Atlas Films intentionally cut all six minutes of the responses that Hawes, Webb, and other VCDL members had provided in response to Couric's question about background checks, as well as the three additional minutes of related discussion.

47. Immediately following the manipulated footage of Couric's question, Soechtig and Atlas Films spliced in nine seconds of the silent b-roll footage of the VCDL members that the Defendants had surreptitiously captured.

48. Before the film was released, Couric knew that footage of her question and the VCDL members' answers had been manipulated by Soechtig and Atlas Film employees. Couric was involved in editing the film. On December 4, 2015, she posted a photograph to her Instagram page of herself editing the film with Brian Lazarte.



49. During the editing process before the film was released, Couric reviewed an early version of the film that contained the manipulated footage. Couric confronted Soechtig and the Atlas Films editor because she knew that the manipulated footage was misleading and did not accurately represent the VCDL or its members. Soechtig and the Atlas Film editor expressly acknowledged that they had inserted the silent footage intentionally, but they refused to remove the manipulated footage from the film or to present non-manipulated footage of the exchange.

***The Defendants Acted with Actual Malice by Publishing the  
Film Including the Intentionally Manipulated Footage***

50. Although she was the Executive Producer for the film and could have overruled Soechtig and the editor, Couric decided to release the film even though she knew it featured misleading and inaccurate footage that misrepresented the VCDL.

51. The Defendants promised that the VCDL members would be given a preview or notice when the film was released. However, on January 24, 2016, the Defendants released the film—which contained the manipulated footage—at various film festivals including Sundance Film Festival, without notice to the VCDL.

52. On April 28, 2016, Atlas Films producer Kristin Lazure, evincing a guilty conscience regarding the manipulated footage of the VCDL members, emailed VCDL President Philip Van Cleave to warn him that “a lot of stuff got left on the cutting room floor.” Shortly after receiving the email, Van Cleave responded that if certain “key points are on the cutting room floor,” it would be “easy for the film to make [VCDL’s] opposition seem unreasonable.” Lazure did not respond.

53. Upon information and belief, the film was published and republished thousands of times across the country after Couric reviewed the VCDL footage and knew that it had been intentionally manipulated and was misleading. Indeed, the film’s own promotional website reveals that it was screened dozens of times across the country—including in Virginia—from mid-April through early June 2016:

|                |   |                |  |                |   |
|----------------|---|----------------|--|----------------|---|
| Apr 15 8:00 AM | EPiX Watch the UNDER THE GUN Premiere FREE on EPiX and EPiX.com   | May 5 7:00 PM  | San Francisco, CA Advance screening hosted by Law Center to Prevent Gun Violence   | May 10 6:30 PM | Brunswick, Maine Advance screening hosted by Moms Demand Action   |
| Apr 20 6:00 PM | Las Vegas, NV Advance Screening Hosted by Nevadans for Background Checks & Everytown for Gun Safety   | May 6 5:30 PM  | Phoenix, AZ Advance screening hosted by Arizona for Gun Safety   | May 10 6:30 PM | Seattle, WA Advance Screening hosted by Alliance for Gun Responsibility, Grandmothers Against Gun Violence, & Seattle Brady Campaign                                |
| Apr 24 6:00 PM | Charleston, South Carolina Advance Screening @ Mother Emanuel AME Church Hosted by Brady Campaign to Prevent Gun Violence, Moms Demand Action, & The South Carolina Minority Affairs Commission | May 7 9:00 AM  | Wilmington, DE Advance screening hosted by Delaware Coalition Against Gun Violence & Movement for a Culture of Resce                               | May 10 7:00 PM | Milwaukee, WI Advance screening hosted by WAVE Educational Fund   |
| May 1 12:00 AM | St. Louis, MO Advance Screening Hosted by Moms Demand Action, Missouri & The Washington University in St. Louis Institute for Public Health   | May 7 3:00 PM  | Richmond, VA Advance screening hosted by Moms Demand Action & First Unitarian Church of Richmond   | May 11 6:00 PM | Austin, TX Advance screening hosted by Texas Gun Sense & Moms Demand Action for Gun Sense in America  |
| May 3 3:15 AM  | Hot Docs Film Festival TIFF Bell Lightbox I   | May 7 7:00 PM  | Oakton, VA Advance screening hosted by The NoVA Chapter of the Brady Campaign to Prevent Gun Violence  | May 11 6:00 PM | Cleveland, Ohio Advance screening hosted by Ohio Coalition Against Gun Violence, God Before Guns, Choices for Safe Communities, Brady Campaign Against Gun Violence |
| May 3 6:00 PM  | Columbus, OH Advance Screening Hosted by Brady Campaign to Prevent Gun Violence & Ohio Coalition Against Gun Violence   | May 8 9:30 AM  | Hot Docs Film Festival TIFF Bell Lightbox I  | May 11 7:00 PM | Albuquerque, NM Advance screening hosted by Moms Demand Action New Mexico   |
| May 3 7:00 PM  | Washington, DC Advance Screening Hosted by Washington National Cathedral  | May 9 7:00 PM  | Ann Arbor, MI Advance screening hosted by Moms Rising and Brady Campaign to Prevent Gun Violence   | May 11 7:00 PM | East Lansing, Michigan Advance screening hosted by Michigan Coalition to Prevent Gun Violence & Moms Rising   |
| May 4 5:30 PM  | Springfield, IL Advance Screening Hosted by Gun Violence Prevention PAC   | May 9 7:00 PM  | New York, NY Advance screening hosted by The Brady Campaign to Prevent Gun Violence, FAVE, New Yorkers Against Gun Violence, Organizing For Action | May 12 6:00 PM | Rochester, New York Advance Screening hosted by Rochester Brady Campaign to Prevent Gun Violence  |
| May 4 6:15 PM  | San Antonio, TX Advance Screening hosted by Everytown for Gun Safety & Moms Demand Action   | May 9 7:30 PM  | Tucson, AZ Advance screening hosted by Moms Demand Action Arizona  | May 12 7:00 PM | Dallas, Texas Advance screening hosted by Moms Demand Action  |
| May 5 9:30 AM  | Hot Docs Film Festival TIFF Bell Lightbox I   | May 10 6:00 PM | Providence, RI Advance screening hosted by Rhode Island Coalition Against Gun Violence   | May 12 7:00 PM | Troy, MI Advance screening hosted by Michigan Hilltop Men Merch, Brady Campaign, Moms Rising, and Michigan Coalition to Prevent Gun Violence                        |

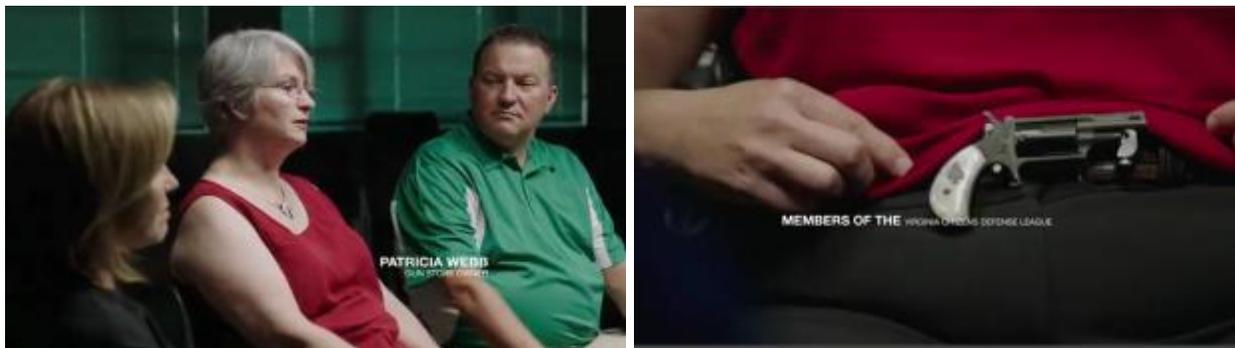
54. On May 13, 2016, the Defendants published the film—including the manipulated footage—to a worldwide audience on cable television and for free at <https://www.epix.com>.

55. The film begins with Couric and VCDL members—including Hawes and Webb—walking into a shadowy and dimly-lit room. Couric says: “First of all, I want to say thank you all so much for doing this because *we want to get all different points of view, and I know you guys have a specific point of view* on this issue and some of the issues that we’re tackling.”

56. The film cuts to a montage of gun-related incidents and then back to the dimly-lit room. Couric asks: “I’m going to start by asking for a show of hands: how many of you all are carrying guns now?” The film introduces the interviewees as “MEMBERS OF THE VIRGINIA CITIZENS DEFENSE LEAGUE:”



57. The film expressly identifies Webb as a gun store owner and shows a picture of the firearm she is carrying while identifying her as one of the members of the Virginia Citizens Defense League:



58. In addition, the film expressly identifies Hawes as an attorney:



### *The Defendants Reveal Their Actual Malice by Using Manipulative Lighting Techniques*

59. Upon information and belief, the Defendants intentionally closed the window blinds and dimmed the lights in the room where the VCDL interview took place and employed other techniques during the filming and editing process to cast shadows on the VCDL members' faces and to portray the VCDL members as sinister and untrustworthy.

60. After confirming that the VCDL members oppose background checks, the film cuts to interviews with two anti-gun advocates. In contrast to the dark and shadowy lighting that the Defendants used for the VCDL members, the Defendants filmed the anti-gun advocates in bright light against bright backgrounds and intentionally did not cast shadows on their faces.

61. A simple comparison of Defendants' manipulative lighting techniques demonstrates their agenda—and it is further evidence of their actual malice:



62. The film then cuts back to Couric's discussion with the VCDL members, portraying the following *edited* version of the question Couric had asked during the interview:

“If there are no background checks for gun purchasers, how do you prevent felons or terrorists from purchasing a gun?”

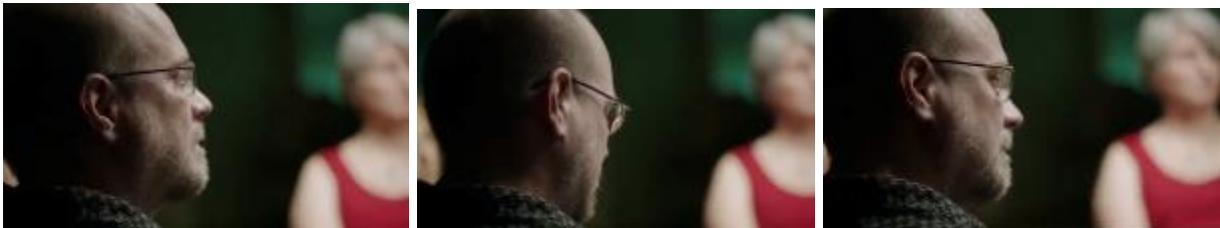
63. While Couric begins posing the question, the film depicts Webb listening intently:



64. In the first three seconds immediately following Couric’s question, the film portrays a silent VCDL member looking up, blinking, and then looking away:



65. For the next three seconds, the film depicts Webb—appearing silent and stumped in the background—while a VCDL member silently looks at the floor and then away:



66. In the next three seconds, the film portrays Hawes sitting silently and shifting his gaze toward the floor:



67. After nearly nine seconds of silence—instead of footage of the responses the VCDL members had actually provided—the film depicts someone closing the cylinder of a fully loaded revolver.



***The Defendants Acted with Actual Malice—and Compounded the Harm of the Manipulated Footage—by Falsely Claiming That the Film Accurately Represents the Views of the Virginia Citizens Defense League***

68. From January to May 2016, Couric and Soechtig traveled across the country to promote the film. They sat on panels and held themselves out as experts on the gun control debate. Throughout their campaign, they promoted *Under the Gun* as impartial and unbiased, and—pointing to the fictional portrayal of the VCDL interview—suggested that there is a wide consensus supporting background checks and that those few people who do oppose background checks have no basis for doing so.

69. For example, in an interview published on January 24, 2016, Soechtig claimed that the viewpoints of “gun owners are really represented” in the film. Indeed, during that interview Soechtig cited the fact that she and Couric had spoken with gun owners—in other words, the VCDL members—and that “one of the most hopeful aspects of the film” was that a vast majority of gun-owners support universal background checks.<sup>6</sup>

70. Armed with the manipulated footage that misrepresented the VCDL’s opposition to so-called universal background checks, Couric and Soechtig have repeatedly promoted the

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<sup>6</sup> [The Hollywood Reporter](http://www.hollywoodreporter.com/review/under-gun-sundance-review-858838): “*Under the Gun*”: Sundance Review (Jan. 24, 2016), available at, <http://www.hollywoodreporter.com/review/under-gun-sundance-review-858838> (“Hollywood Reporter Interview”).

idea that there is wide consensus on the gun control debate, falsely claiming that nearly everyone supports gun control and more extensive background checks. For example, Soechtig has stated:

It was interesting to see how much of the narrative about the gun debate has been dictated by the NRA, we actually—most of us agree—on this issue a lot more than we have been led to believe.<sup>7</sup>

Ninety percent of the country support stricter background checks and yet nothing has changed.<sup>8</sup>

71. Couric has echoed Soechtig, asserting:

There is this silent majority of people who are actually supporting common-sense gun regulation; we just don't hear from them.<sup>9</sup>

72. Couric has also publicly framed her “silent majority” assertion as a question, stating:

If such a high percentage of Americans really favor something being done in terms of gun violence, why isn't anything happening?<sup>10</sup>

73. In an interview with the Los Angeles Times published on January 26, 2016, Couric acknowledged that some people do disagree with background checks, but claimed that they have no basis or information supporting that position. She said:

One of the reasons, I think, that the [gun regulation] conversation is so polarized; *it's based on very little information*. And so that's why people, I think, have these firmly entrenched views, without necessarily the provenance to really express them correctly.<sup>11</sup>

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<sup>7</sup> Los Angeles Times: *Sundance Film Festival 2016: Under the Gun* (Jan. 26, 2016), available at, <https://www.youtube.com/watch?v=-NT3sHm3z8c>.

<sup>8</sup> Movieclips: *Variety Sundance Interview: Katie Couric & Stephanie Soechtig “Under the Gun,”* available at, <http://www.movieclips.com/videos/variety-sundance-interview-katie-couric-and-stephanie-soechtig-under-the-gun-619484227777>.

<sup>9</sup> @Hollywood: *Interview: Katie Couric and Stephanie Soechtig Talk “Under the Gun,”* (Mar. 17, 2016) available at, <https://www.youtube.com/watch?v=KkJHYuvjJWc> (“@Hollywood Interview”).

<sup>10</sup> Hollywood Reporter Interview.

<sup>11</sup> @Hollywood Interview.

74. The Defendants fooled media outlets, film critics, and viewers into believing that the film was a fair and balanced portrayal of the debate on background checks that had accurately portrayed the VCDL.

75. The Defendants' portrayal of the VCDL caused at least one reviewer to remark:

A group of blustery members of the Virginia Citizens Defense League, however, suddenly remain painfully quiet when Couric asks them the hard questions.<sup>12</sup>

76. *The New York Times* gushed that the film was “decidedly fair” and “scrupulously comprehensive,” while *Mother Jones* magazine billed it as “masterfully crafted” and “nothing if not comprehensive.”

***After the VCDL Confronted Them About the Manipulated Footage, the Defendants Acted with Actual Malice by Refusing to Fix the Footage and Continuing to Promote the Film***

77. On May 16, 2016, VCDL President Philip Van Cleave emailed Atlas Films producer Lazure the following:

On the question where our members were asked, “So without background checks, how do you keep guns out of the hands of felons?”: it shows our members just sitting there and then one looking down. The editors merged some “b-roll” of our members sitting quietly between questions, followed by Katie asking the felon question. I have the audio of that entire interview and I know for an absolute fact that our members immediately jumped in to answer the question and did NOT just sit there quietly. To the person watching the video, it gave the intentionally false appearance of no one in our group having an answer. Am I supposed to think that is good journalism, Kristin? I hope that in your heart of hearts that you are at least thinking to yourself, “no, it is not.”

Lazure responded:

I'm truly sorry to hear you were disappointed with the final product. We knew when we set out to make a film on such a divisive issue that we weren't going to make everybody happy. However, we have heard from many gun owners following our screenings and the television premiere who felt we gave the issue a balanced look and reflected their views accurately. But I do apologize if you don't feel the same way.

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<sup>12</sup> Hollywood Reporter Interview.

78. After the Defendants stood by their depiction of the VCDL, on May 23, 2016, Van Cleave released a statement on behalf of the VCDL entitled “Unethical Journalism: Couric Alters Words of VCDL Members.” In the statement, Van Cleave described the manipulated footage in the Defendants’ film. He also posted an unedited audio recording of the exchange between Couric and the VCDL members.

79. After the unedited audio recording was released, Epix issued a statement that it “stands behind Katie Couric, director Stephanie Soechtig, and their creative and editorial judgment. We encourage people to watch the film and decide for themselves.”<sup>13</sup> In so doing, Epix intentionally and expressly ratified and adopted Couric’s, Soechtig’s, and Atlas Films’ misconduct, intentionally disregarded the fact that the film’s portrayal of the VCDL was misleading and inaccurate, and deliberately used the controversy surrounding the film’s inaccuracy to promote the film and “encourage people to watch the film.”

80. Two days after Van Cleave’s letter, Soechtig provided a statement to Erik Wemple, a reporter for *The Washington Post*, stating:

I never intended to make anyone look bad and I apologize if anyone felt that way... My intention was to provide a pause for the viewer to have a moment to consider this important question before presenting the facts on Americans’ opinions on background checks.<sup>14</sup>

81. After reading Soechtig’s statement, Erik Wemple observed:

In the years we’ve covered and watched media organizations, we’ve scarcely seen a thinner, more weaselly excuse than the one in the block above. For starters, it appears to count as an admission that this segment of the documentary was edited. The artistic “pause” provides the viewer not a “moment to consider the important question”; it provides viewers a moment to lower their estimation of gun owners. That’s it. As far as the rest of the statement, adults in 2016 may no longer write

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<sup>13</sup> Brian Stelter, *Katie Couric stands by “Under the Gun” as director apologizes for misleading edit*, CNN Money (May 25, 2016), <http://money.cnn.com/2016/05/25/media/katie-couric-guns-stephanie-soechtig/>.

<sup>14</sup> *Id.*

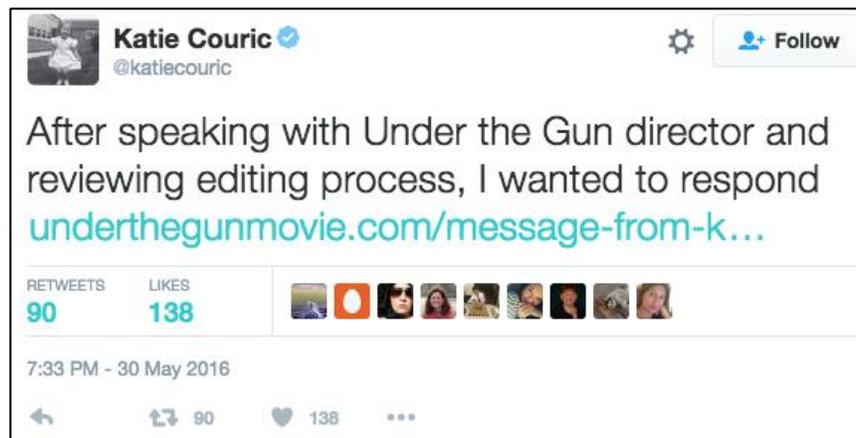
the phrase “apologize if anyone felt that way” and preserve their standing as professionals.<sup>15</sup>

82. While Soechtig told the public that she “never intended to make anyone look bad,” in fact she took numerous intentional steps that had precisely that effect.

83. On May 25, 2016, Couric said “I support Stephanie’s statement and am very proud of the film.”

***After The Defendants Had Been Caught, They Acted with Actual Malice by Misrepresenting That They Had Posted The VCDL Members’ Responses, When In Fact They Had Posted a Heavily Edited Transcript That Continued to Misrepresent the VCDL***

84. Less than one week later, on May 30, 2016, Couric changed course and tweeted: “After speaking with Under the Gun director and reviewing editing process, I wanted to respond.”



85. At the end of the tweet, Couric included a hyperlink to the following statement:

As Executive Producer of “Under the Gun,” a documentary film that explores the epidemic of gun violence, I take responsibility for a decision that misrepresented an exchange I had with members of the Virginia Citizens Defense League (VCDL). My question to the VCDL regarding the ability of convicted felons and

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<sup>15</sup> Eric Wemple, *Audiotape: Katie Couric documentary falsely depicts gun supporters as ‘idiots,’* *The Washington Post* (May 25, 2016), [https://www.washingtonpost.com/blogs/erik-wemple/wp/2016/05/25/audiotape-katie-couric-documentary-falsely-depicts-gun-supporters-as-idiots/?utm\\_term=.c7b53b5dcb4c](https://www.washingtonpost.com/blogs/erik-wemple/wp/2016/05/25/audiotape-katie-couric-documentary-falsely-depicts-gun-supporters-as-idiots/?utm_term=.c7b53b5dcb4c).

those on the terror watch list to legally obtain a gun, was followed by an extended pause, making the participants appear to be speechless.

When I screened an early version of the film with the director, Stephanie Soechtig, I questioned her and the editor about the pause and was told that a “beat” was added for, as she described it, “dramatic effect,” to give the audience a moment to consider the question. When VCDL members recently pointed out that they had in fact immediately answered this question, I went back and reviewed it and agree that those eight seconds do not accurately represent their response.

VCDL members have a right for their answers to be shared and so we have posted a transcript of their responses here. I regret that those eight seconds were misleading and that I did not raise my initial concerns more vigorously.

I hope we can continue to have an important conversation about reducing gun deaths in America, a goal I believe we can all agree on.

Transcript with VCDL Response:

KATIE: If there are no background checks, how do you prevent ... I know how you all are going to answer this, but I’m asking anyway. If there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into, say a licensed gun dealer and purchasing a gun?

MALE: Well, one, if you’re not in jail then you should still have your basic rights and you should go buy a gun.

KATIE: So, if you’re a terrorist or a felon ...

MALE: If you’re a felon and you’ve done your time, you should have your rights.

MALE: The fact is we do have statutes, both at the federal and state level that prohibit classes of people from being in possession of firearms. If you’re under 18 in Virginia you can’t walk around with a gun. If you’re an illegal immigrant, if you’re a convicted felon, if you’ve been adjudicated in same, these things are already illegal. So, what we’re really asking about is a question of prior restraint. How can we prevent future crime by identifying bad guys before they do anything bad? And, the simple answer is you can’t.

And, particularly, under the legal system we have in the United States there are a lot of Supreme Court opinions that say, “No, prior restraint is something that the government does not have the authority to do.” Until there is an overt act that allows us to say, “That’s a bad guy,” then you can’t punish him.

FEMALE: I would take another outlook on this. First, I'll ask you what crime or what law has ever stopped a crime? Tell me one law that has ever stopped a crime from happening?<sup>16</sup>

86. However, rather than posting “a transcript of [the VCDL members’] responses,” as they represented they had done, the Defendants doubled down on their misrepresentation of the VCDL by cutting *more than 70%* of the VCDL’s responses from the transcript they posted and by editing even the responses they did post.

87. For example, Defendants’ edited transcript quotes a VCDL member as saying that a felon “should go buy a gun,” when in reality, he said that someone who has completed his sentence “should *be able to* go buy a gun.” While the edited response suggests that the VCDL member was recommending that felons should buy guns, the actual response focused on individuals’ *rights*, not a recommendation that felons should take any particular action.

88. Similarly, Defendants cut much of Webb’s response, including the fact that if the Brady Bill had been effective, then one would expect to see a decrease in crime, and her comments about a woman who had recently been killed by a domestic abuser while waiting to purchase a gun for self-defense. By doing so, the Defendants misled readers to believe that Webb had finished her response with an unanswered rhetorical question and had failed to provide any specific examples supporting her position.

89. While the VCDL members had provided nearly six minutes of responses to Couric’s question regarding background checks and another three minutes of related discussion immediately thereafter, the transcript posted with Couric’s statement reflects only about a minute and a half of those responses and omits the responses of several VCDL members entirely.

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<sup>16</sup> Katie Couric, A Message From Katie Couric, *Under the Gun* (May 31, 2016), <http://underthegunmovie.com/message-from-katie> (Exhibit 4).

90. Defendants titled Couric’s statement a “Message from Katie,” rather than a “Correction” or “Apology.” Defendants chose not to post Couric’s statement—or to refer to Couric’s statement—on the *Under the Gun* homepage at <http://underthegunmovie.com>. Instead, to access the statement from the *Under the Gun* homepage, readers must click “About the Film” and then “Message from Katie.”

91. Two days after Couric issued her statement, Soechtig publicly announced “I made the creative decision and I stand by it.”<sup>17</sup> In the same interview, Soechtig also asserted that the editing did not “misconstrue[] any of the facts.”

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<sup>17</sup> Daniel Holloway, ‘*Under the Gun*’ Director: ‘I Stand By Controversial Edit,’ Variety, <http://variety.com/2016/film/news/under-the-gun-director-i-stand-by-edit-1201787149/>.

92. The Defendants have not removed the manipulated footage from the film or replaced it with non-manipulated footage of the exchange that actually took place. To this day, the Defendants continue to promote and publish the film. Indeed, on the film's own promotional website, it invites viewers to host a screening party and invite the filmmakers to the event:

The image shows a web form titled "HOST A SCREENING" with a dotted line separator below the title. The form contains the following fields and options, with most input areas redacted with black boxes:

- First Name \* [Redacted]
- Last Name \* [Redacted]
- Organization Type \* [Dropdown menu showing "Individual"]
- Organization name (if applicable) [Redacted]
- Email Address \* [Redacted]
- Contact Number [Redacted]
- Address (for film delivery) \* [Redacted]
- City\* [Redacted]
- State\* [Redacted]
- Country \* [Dropdown menu showing "Select Country"]
- ZIP Code\* [Redacted]
- Number of screenings [Redacted]
- Expected audience size [Redacted]
- Screening Date (if known) [Dropdown menu showing "D", "M", "Y"]
- I'll be charging for tickets
- Please invite filmmakers to speak
- What are the last four letters of octopus? (Just checking you are a human not a spammer) \* [Redacted]

A red "Send" button is located at the bottom of the form.

**COUNT ONE - DEFAMATION  
(AGAINST ALL THE DEFENDANTS)**

93. The Plaintiffs repeat and re-allege each of the foregoing paragraphs as if set forth fully herein.

94. The Defendants published *Under the Gun* beginning in January 2016 to audiences at Sundance Film Festival, Nevadans for Background Checks & Everytown for Gun Safety, Moms Demand Action, Hot Docs Film Festival, Washington National Cathedral, Gun Violence Prevention PAC, Law Center to Prevent Gun Violence, Arizonans for Gun Safety, First Unitarian Church of Richmond, Virginia, and Northern Virginia Chapter of the Brady Campaign to Prevent Gun Violence.

95. On April 15, 2016, the Defendants premiered *Under the Gun* to a worldwide internet audience, and to audiences in Virginia, via the Epix website at <http://www.epix.com/movie/under-the-gun/>.

96. On May 15, 2016, the Defendants released the film to the general public.

97. Thereafter, the Defendants have broadcast the film globally and into Virginia on cable television, iTunes, Amazon Video, Vudu, YouTube and Google Play, Fandango Now, FIOS by Verizon, CinemaNow, and PlayStation. The Defendants have promoted *Under the Gun* on Soechtig's and Couric's Twitter, Facebook, and Instagram pages. They have promoted the film in *Variety Magazine*, *The Hollywood Reporter*, *The New York Times*, *The Boston Globe*, *USA TODAY*, CNN, ABC, NBC, CBS, Yahoo!, *Mother Jones*, *The Chicago Tribune*, and *The Washington Post*.

98. *Under the Gun* contains the following false and defamatory exchange:

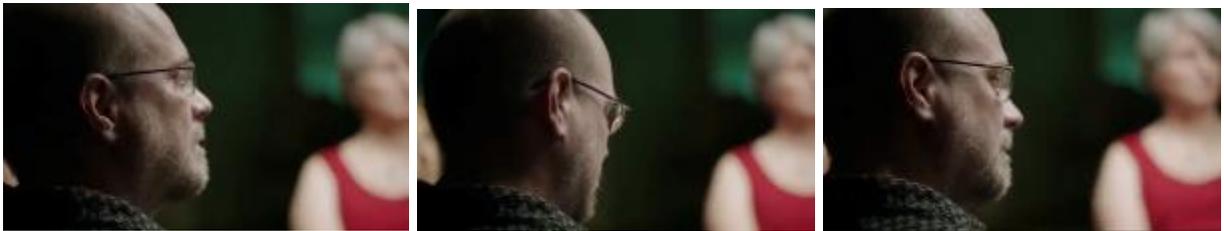
99. While Couric begins posing the question— “If there are no background checks for gun purchasers, how do you prevent felons or terrorists from purchasing a gun?”—the film depicts Webb listening intently:



100. In the first three seconds immediately following Couric’s question, the film portrays a silent VCDL member looking up, blinking, and then looking away:



101. For the next three seconds, the film depicts Webb—appearing silent and stumped in the background—while a VCDL member silently looks at the floor and then away:



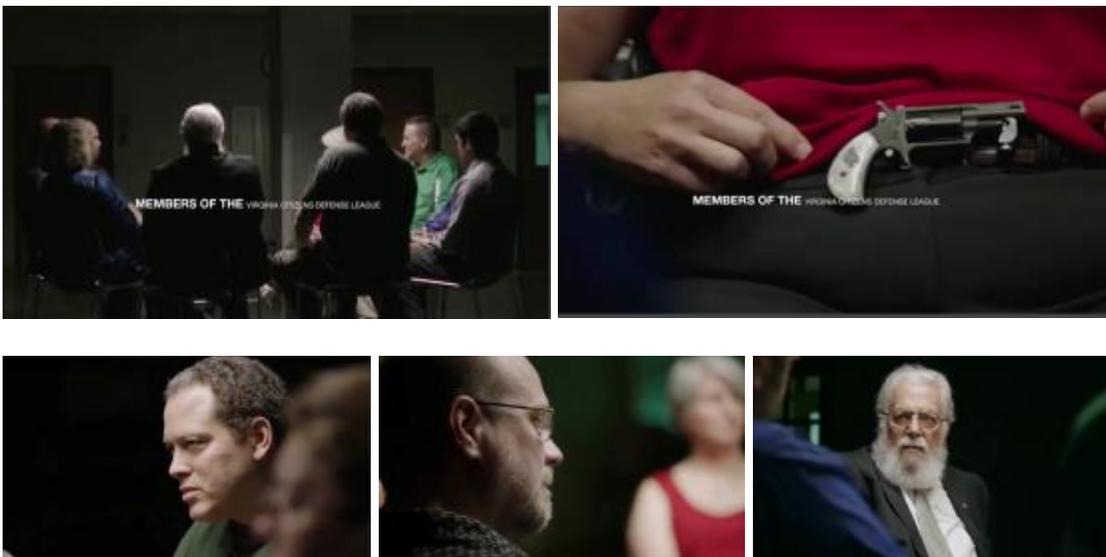
102. In the next three seconds, the film portrays Hawes sitting silently and shifting his gaze toward the floor:



103. After nearly nine seconds of silence—instead of footage of the responses the VCDL members had actually provided—the film depicts someone closing the cylinder of a fully loaded revolver, driving home the point that the exchange was over. The manipulated footage falsely informed viewers that the VCDL members had been stumped and had no basis for their position on background checks.



104. The defamatory footage is of and concerning the VCDL. The film expressly identifies the interviewees as “Members of the Virginia Citizens Defense League,” and subsequently shows footage of those interviewees sitting silently following edited footage of Couric’s question. The Defendants intended to and did expressly refer to the Virginia Citizens Defense League, and those who watched *Under the Gun* understood the defamatory exchange to concern the VCDL:



105. The defamatory footage is of and concerning Webb. The film expressly identifies Webb by name and as a “Gun Store Owner,” and subsequently portrays footage of her sitting silently both during and following edited footage of Couric’s question. The Defendants intended to and did expressly refer to Webb, and those who watched *Under the Gun* understood the defamatory exchange to concern Webb:



106. The defamatory footage is of and concerning Hawes. The film expressly identifies Hawes by name and as an “Attorney,” and subsequently portrays footage of him sitting silently following edited footage of Couric’s question. The Defendants intended to and did expressly refer to Hawes, and those who watched *Under the Gun* understood the defamatory exchange to concern Hawes:



107. The exchange depicted in the film is false. The Defendants did not merely imply that the Plaintiffs had no response to Couric's question by, for example, cutting away to a different scene. Instead, the Defendants spliced in nine seconds of silent footage of the Plaintiffs immediately following Couric's edited question—and then ended the exchange with the image of a cylinder being closed—to affirmatively represent that the Plaintiffs had *no* answer and *no* basis for their opposition to background checks. In reality, the VCDL, Hawes, and Webb did *not* sit silently, as the Defendants made it appear. Rather, they promptly answered and provided numerous bases supporting their position, for approximately six minutes, and engaged in a related discussion for an additional three minutes.

108. The Defendants acted with actual malice, intentionally disregarding the truth and manipulating the footage to falsely convey that the Plaintiffs were stumped by Couric's question and had no basis for their opposition to background checks. Evidence of the Defendants' actual malice includes:

- (a) When Couric and Soechtig decided to make *Under the Gun*, they started with a preconceived storyline and intended that it would be an anti-gun advocacy piece. As part of that agenda, they set out to convey (falsely) that there is an almost universal consensus supporting background checks and that those who oppose background checks have no basis for that position.
- (b) To induce the VCDL members into participating in an on-camera interview, Atlas Films represented (falsely) that Couric was "eager to include *all perspectives* in th[e] discussion" and to "speak to an audience with *varied viewpoints*."
- (c) Confirming the prior representation, at the outset of the interview, Couric represented (falsely): "we want to get all different points of view."
- (d) After VCDL agreed to take part in the film, the Defendants repeated the deceptive editing techniques that they had honed while making *Fed Up*.
- (e) Although Couric expressly acknowledged during the interview that she knew that the VCDL members had an answer to her question regarding background checks, stating, "*I know how you all are going to answer this*" in the middle of her question, during the editing process, Soechtig and Atlas Films employees intentionally cut the footage of Couric's acknowledgement that the VCDL

members had an answer to her question, because that acknowledgment undermined the Defendants' agenda to portray the VCDL members as having no basis to oppose background checks.

- (f) Couric and Atlas Films employees instructed the Plaintiffs to sit in silence so that microphones and cameras could be calibrated. The Defendants then surreptitiously and quietly recorded b-roll footage of the Plaintiffs sitting in silence as instructed in order to use it to misrepresent their perspectives in the film.
- (g) Immediately following the edited footage of Couric's question, Soechtig and Atlas Films employees intentionally cut all of the responses that VCDL members had provided and spliced in nine seconds of silent b-roll footage of the Plaintiffs that had been captured surreptitiously. They did so because the actual exchange did not support the Defendants' agenda to portray the VCDL members as having no basis to oppose background checks.
- (h) Upon information and belief, the Defendants intentionally closed the window blinds, dimmed the lighting, and used other lighting and editing techniques to cast literal shadows upon the VCDL members' faces and to portray them as sinister and untrustworthy. In contrast, the Defendants selected bright and colorful backgrounds for interviews with anti-gun activists.
- (i) Before the film was released, Couric reviewed an early version of the film that contained the manipulated footage of the VCDL interview. She confronted Soechtig and an Atlas Films editor because she knew the footage was misleading and misrepresented her exchange with the VCDL members. Soechtig and the editor confirmed that they had manipulated the footage intentionally, but they refused to cut the manipulated footage or to include non-manipulated footage portraying the exchange that had actually occurred.
- (j) Although the Defendants had promised that they would give the VCDL members a preview and notice of the film being released, they chose not to do so because they wanted to avoid giving the VCDL an opportunity to realize and publicize the fact that the film was misleading and misrepresented the VCDL prior to the film's release.
- (k) The Defendants released and promoted the film including the manipulated footage even though the film's executive producer, Katie Couric, knew and had notified Soechtig and an Atlas Films editor that the footage was misleading and inaccurate with respect to the VCDL.
- (l) The Defendants have repeatedly confirmed their agenda and their actual malice by citing the VCDL interview as evidence that opposition to gun control is "based on very little information" and that there is virtual consensus favoring background checks.

- (m) After the raw unedited audio of the exchange was released and showed that the footage of the VCDL interview had been manipulated, Soechtig made numerous public statements standing by the editing choices that had been made by her and others.
- (n) Weeks after being confronted with the unedited audio recording, Couric issued a public statement purporting to “regret” that the manipulated footage was “misleading.” With the statement, the Defendants represented that they had posted a transcript of the VCDL members’ responses. Instead of doing so, the Defendants posted another heavily edited transcript that omitted more than 70% of the answers that had been given by the VCDL members, misleadingly edited and misrepresented some of the responses given, and omitted other VCDL members’ responses entirely. In addition, the Defendants titled the statement “Message from Katie,” rather than “Correction” or “Apology” and buried the statement on a difficult-to-find webpage rather than on the *Under the Gun* homepage in order to further mislead viewers and to conceal their own misconduct. Defendants’ deliberate and continued misrepresentations show that they did not really regret their actions or want to set the record straight, but that they were attempting to claim the moral high ground while doubling down on their misrepresentation of the VCDL.
- (o) Although the film’s executive producer, Katie Couric, publicly acknowledged that the silent b-roll footage was “misleading” and “misrepresented” her exchange with the VCDL, the Defendants have not removed the misleading footage from the film or replaced it with truthful footage of the exchange that actually took place.
- (p) Even after the raw unedited audio of the exchange was released, Epix stood “behind Katie Couric, director Stephanie Soechtig, and their creative and editorial judgment.”
- (q) The Defendants have used the controversy over the manipulated footage to promote the film and to entice people to watch the film.
- (r) To this day, the Defendants have not corrected the manipulated footage in the film, but continue to promote the film through additional screenings and inviting individuals to host screening parties for the film.

109. The Defendants' actions were malicious, willful, and wanton, and evidence a conscious disregard for the rights of the Plaintiffs. Accordingly, punitive damages are appropriate.

110. Upon information and belief, Couric and Soechtig were acting as employees or agents of Atlas Films during all aspects of the filmmaking and promotional process for *Under the Gun*. Atlas Films participated in, authorized, and ratified Couric's and Soechtig's conduct.

111. Epix knowingly and intentionally ratified and adopted Couric's, Soechtig's, and Atlas Films' misconduct when—even *after* the unedited audio of the VCDL interview was released and the film's executive producer admitted that the footage of the VCDL was misleading and inaccurate—Epix: (1) publicly announced that it was standing by the filmmakers' editing choices; (2) continued to publish and promote the film including the defamatory exchange; and (3) exploited the media firestorm surrounding the controversy to promote the film.

112. The false exchange is defamatory because it conveys that the VCDL, Hawes, and Webb are ignorant and unfit in their trades, uninformed notwithstanding their expertise in the areas of gun regulations and gun rights, that they were stumped, and that they have no basis for their opposition to universal background checks.

113. The exchange is defamatory *per se* as to the VCDL because the organization's stated mission is to defend Virginians' right to purchase and possess firearms for self-defense. The manipulated footage falsely conveys that in response to a pointed question based on an anti-gun premise, the VCDL failed to deliver on its mission to speak in defense of the Second Amendment and in opposition to gun control measures like background checks. As such, the exchange prejudices the VCDL in its trade and impugns the VCDL's ability to perform its duties.

114. By misrepresenting that the VCDL did not present any basis for opposing universal background checks, the Defendants caused the organization reputational harm, caused the organization economic harm by impairing the organization's ability to attract and retain members and secure donations, and decreased the effectiveness of the organization's advocacy efforts and ability to carry out its mission.

115. The exchange is defamatory *per se* as to Webb. As a federally licensed firearms dealer, Webb is legally required to conduct background checks before she sells firearms. Since Webb is in the business of selling firearms to individuals, her customers and prospective customers—by definition—support the right of individuals to purchase firearms. Her business requires her to be knowledgeable regarding background checks and the right of individuals to purchase firearms. By falsely representing that Webb had no response to a question about background checks, the Defendants have prejudiced Webb in her trade and conveyed that she lacks knowledge regarding integral aspects of her business.

116. As a direct and proximate result of the Defendants' manipulated footage, Webb's reputation has been damaged and Webb has lost income. As a firearms dealer and advocate for the Second Amendment, Webb was personally humiliated by the footage and the footage lowered Webb's reputation in the minds of the public generally and in the minds of her business's customers and prospective customers specifically. Gadsden Guns, which Webb owns, would have sold more firearms but for the defamatory footage. Therefore, Webb lost income as a result of the defamatory footage.

117. The exchange is defamatory *per se* as to Hawes. Hawes is an attorney who practices litigation involving firearms and personal defense. His profession requires that he employ oral advocacy skills to articulate the legal and practical bases for his clients' right to

defend themselves, their homes, and their families. As such, by falsely conveying that Hawes was stumped by a loaded question based on an anti-gun premise, the Defendants prejudiced Hawes in his profession and impugned his ability to advocate for his clients.

118. As a direct and proximate result of the Defendants' manipulated footage, Hawes's reputation has been damaged. As an attorney who practices litigation involving firearms and personal defense, Hawes was personally humiliated by the footage and the footage lowered Hawes's reputation in his trade.

**COUNT TWO - DEFAMATION BY IMPLICATION  
(AGAINST ALL THE DEFENDANTS)**

119. The Plaintiffs repeat and re-allege all of the forgoing paragraphs as if set forth fully herein. If the manipulated footage described above is deemed to be literally true, then the Plaintiffs allege, in the alternative, that the Defendants are jointly and severally liable for defamation by implication.

120. The Defendants published *Under the Gun* beginning in January 2016 to audiences at Sundance Film Festival, Nevadans for Background Checks & Everytown for Gun Safety, Moms Demand Action, Hot Docs Film Festival, Washington National Cathedral, Gun Violence Prevention PAC, Law Center to Prevent Gun Violence, Arizonans for Gun Safety, First Unitarian Church of Richmond, Virginia, and Northern Virginia Chapter of the Brady Campaign to Prevent Gun Violence. On April 15, 2016, the Defendants premiered *Under the Gun* to a worldwide internet audience, and to audiences in Virginia, via the Epix website at <http://www.epix.com/movie/under-the-gun/>. On May 15, 2016, the Defendants released the film to the general public.

121. Thereafter, the Defendants have broadcast the film globally and into Virginia on cable television, iTunes, Amazon Video, Vudu, YouTube, Google Play, Fandango Now, FIOS by Verizon, CinemaNow, and PlayStation. The Defendants have promoted *Under the Gun* on Soechtig's and Couric's Twitter, Facebook, and Instagram pages. They have promoted the film in *Variety Magazine*, *The Hollywood Reporter*, *The New York Times*, *The Boston Globe*, *USA TODAY*, CNN, ABC, NBC, CBS, Yahoo!, *Mother Jones*, *The Chicago Tribune*, and *The Washington Post*.

122. *Under the Gun* contains the following exchange, which produces a false and defamatory meaning apparent from a plain viewing of the film:

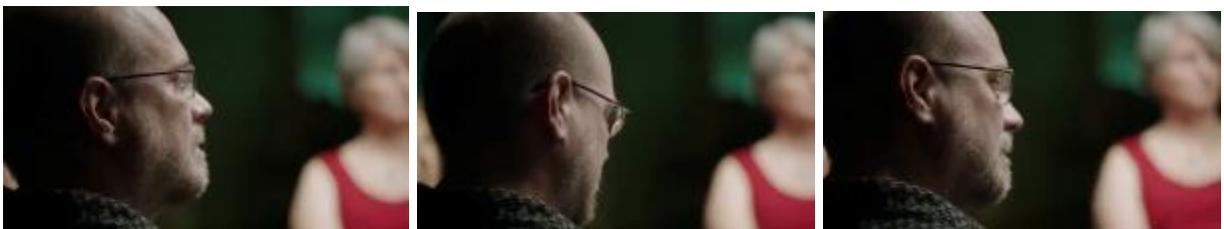
123. While Couric begins posing the question— “If there are no background checks for gun purchasers, how do you prevent felons or terrorists from purchasing a gun?”—the film depicts Webb listening intently:



124. In the first three seconds immediately following Couric’s question, the film portrays a silent VCDL member looking up, blinking, and then looking away:



125. For the next three seconds, the film depicts Webb—appearing silent and stumped in the background—while a VCDL member silently looks at the floor and then away:



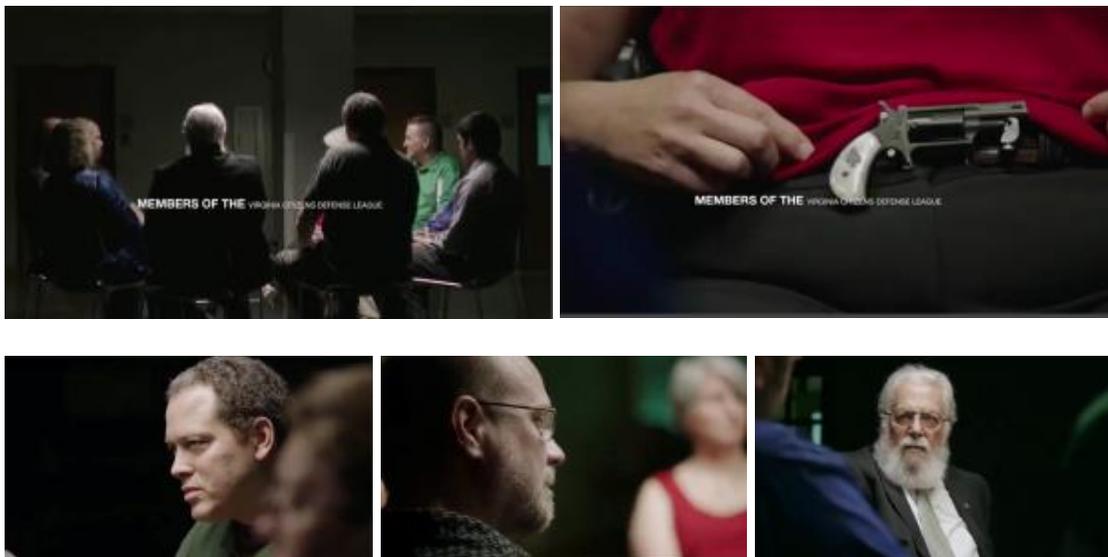
126. In the next three seconds, the film portrays Hawes sitting silently and shifting his gaze toward the floor:



127. After nearly nine seconds of silence—instead of footage of the responses the VCDL members had actually provided—the film depicts someone closing the cylinder of a fully loaded revolver, driving home the point that the exchange was over. The manipulated footage falsely implies that the VCDL members had been stumped and had no basis for their position on background checks.



128. The defamatory footage is of and concerning the VCDL. The film expressly identifies the interviewees as “Members of the Virginia Citizens Defense League,” and subsequently shows footage of those interviewees sitting silently following edited footage of Couric’s question. The Defendants intended to and did expressly refer to the Virginia Citizens Defense League, and those who watched *Under the Gun* understood the defamatory exchange to concern the VCDL:



129. The defamatory footage is of and concerning Webb. The film expressly identifies Webb by name and as a “Gun Store Owner,” and subsequently portrays footage of her sitting silently both during and following edited footage of Couric’s question. The Defendants intended to and did expressly refer to Webb, and those who watched *Under the Gun* understood the defamatory exchange to concern Webb:



130. The defamatory footage is of and concerning Hawes. The film expressly identifies Hawes by name and as an “Attorney,” and subsequently portrays footage of him sitting silently following edited footage of Couric’s question. The Defendants intended to and did expressly refer to Hawes, and those who watched *Under the Gun* understood the defamatory exchange to concern Hawes:



131. By presenting footage of the VCDL members, Webb, and Hawes sitting silently immediately following edited footage of Couric’s question regarding background checks, the Defendants’ film falsely implies that the Plaintiffs have no basis for their opposition to background checks and that they are therefore unfit for their respective roles as a firearms advocacy organization, licensed firearms dealer, and attorney who practices litigation involving

firearms and personal defense. In reality, the VCDL, Hawes, and Webb did *not* sit silently, as the Defendants made it appear. Rather, they promptly answered and provided numerous bases supporting their position, for nearly six minutes, and engaged in a related discussion for an additional three minutes.

132. The Defendants acted with actual malice, intentionally disregarding the truth and manipulating the footage to falsely imply that the Plaintiffs were stumped by Couric's question and had no basis for their opposition to background checks. Evidence of the Defendants' actual malice includes:

- (a) When Couric and Soechtig decided to make *Under the Gun*, they started with a preconceived storyline and intended that it would be an anti-gun advocacy piece. As part of that agenda, they set out to convey (falsely) that there is an almost universal consensus supporting background checks and that those who oppose background checks have no basis for that position.
- (b) To induce the VCDL members into participating in an on-camera interview, Atlas Films represented (falsely) that Couric was "eager to include *all perspectives* in th[e] discussion" and to "speak to an audience with *varied viewpoints*."
- (c) Confirming the prior representation, at the outset of the interview, Couric represented (falsely): "we want to get all different points of view."
- (d) After VCDL agreed to take part in the film, the Defendants repeated the deceptive editing techniques that they had honed while making *Fed Up*.
- (e) Although Couric expressly acknowledged during the interview that she knew that the VCDL members had an answer to her question regarding background checks, stating, "*I know how you all are going to answer this*" in the middle of her question, during the editing process, Soechtig and Atlas Films employees intentionally cut the footage of Couric's acknowledgement that the VCDL members had an answer to her question, because that acknowledgment undermined the Defendants' agenda to portray the VCDL members as having no basis to oppose background checks.
- (f) Couric and Atlas Films employees instructed the Plaintiffs to sit in silence so that microphones and cameras could be calibrated. The Defendants then surreptitiously and quietly recorded b-roll footage of the Plaintiffs sitting in silence as instructed in order to use it to misrepresent their perspectives in the film.

- (g) Immediately following the edited footage of Couric's question, Soechtig and Atlas Films employees intentionally cut all of the responses that VCDL members had provided and spliced in nine seconds of silent b-roll footage of the Plaintiffs that had been captured surreptitiously. They did so because the actual exchange did not support the Defendants' agenda to portray the VCDL members as having no basis to oppose background checks.
- (h) Upon information and belief, the Defendants intentionally closed the window blinds, dimmed the lighting, and used other lighting and editing techniques to cast literal shadows upon the VCDL members' faces and to portray them as sinister and untrustworthy. In contrast, the Defendants selected bright and colorful backgrounds for interviews with anti-gun activists.
- (i) Before the film was released, Couric reviewed an early version of the film that contained the manipulated footage of the VCDL interview. She confronted Soechtig and an Atlas Films editor because she knew the footage was misleading and misrepresented her exchange with the VCDL members. Soechtig and the editor confirmed that they had manipulated the footage intentionally, but they refused to cut the manipulated footage or to include non-manipulated footage portraying the exchange that had actually occurred.
- (j) Although the Defendants had promised that they would give the VCDL members a preview and notice of the film being released, they chose not to do so because they wanted to avoid giving the VCDL an opportunity to realize and publicize the fact that the film was misleading and misrepresented the VCDL prior to the film's release.
- (k) The Defendants released and promoted the film including the manipulated footage even though the film's executive producer, Katie Couric, knew and had notified Soechtig and an Atlas Films editor that the footage was misleading and inaccurate with respect to the VCDL.
- (l) The Defendants have repeatedly confirmed their agenda and their actual malice by citing the VCDL interview as evidence that opposition to gun control is "based on very little information" and that there is virtual consensus favoring background checks.
- (m) After the raw unedited audio of the exchange was released and showed that the footage of the VCDL interview had been manipulated, Soechtig made numerous public statements standing by the editing choices that had been made by her and others.
- (n) Weeks after being confronted with the unedited audio recording, Couric issued a public statement purporting to "regret" that the manipulated footage was "misleading." With the statement, the Defendants represented that they had posted a transcript of the VCDL members' responses. Instead of doing so, the Defendants posted another heavily edited transcript that omitted more than 70%

of the answers that had been given by the VCDL members, misleadingly edited and misrepresented some of the responses given, and omitted other VCDL members' responses entirely. In addition, the Defendants titled the statement "Message from Katie," rather than "Correction" or "Apology" and buried the statement on a difficult-to-find webpage rather than on the *Under the Gun* homepage in order to further mislead viewers and to conceal their own misconduct. Defendants' deliberate and continued misrepresentations show that they did not really regret their actions or want to set the record straight, but that they were attempting to claim the moral high ground while doubling down on their misrepresentation of the VCDL.

- (o) Although the film's executive producer, Katie Couric, publicly acknowledged that the silent b-roll footage was "misleading" and "misrepresented" her exchange with the VCDL, the Defendants have not removed the misleading footage from the film or replaced it with truthful footage of the exchange that actually took place.
- (p) Even after the raw unedited audio of the exchange was released, Epix stood "behind Katie Couric, director Stephanie Soechtig, and their creative and editorial judgment."
- (q) The Defendants have used the controversy over the manipulated footage to promote the film and to entice people to watch the film.
- (r) To this day, the Defendants have not corrected the manipulated footage in the film, but continue to promote the film through additional screenings and inviting individuals to host screening parties for the film.

133. The Defendants' actions were malicious, willful, and wanton, and evidence a conscious disregard for the rights of the Plaintiffs. Accordingly, punitive damages are appropriate.

134. Upon information and belief, Couric and Soechtig were acting as agents of Atlas Films during all aspects of the filmmaking and promotional process for *Under the Gun*. Atlas Films participated in, authorized, and ratified Couric's and Soechtig's conduct.

135. Epix knowingly and intentionally ratified and adopted Couric's, Soechtig's, and Atlas Films' misconduct when—even *after* the unedited audio of the VCDL interview was released and the film's executive producer admitted that the footage of the VCDL was misleading and inaccurate—Epix: (1) publicly announced that it was standing by the filmmakers'

editing choices; (2) continued to publish and promote the film including the defamatory exchange; and (3) exploited the media firestorm surrounding the controversy to promote the film.

136. The false exchange is defamatory because it conveys that the VCDL, Hawes, and Webb were ignorant and unfit in their trades, uninformed notwithstanding their expertise in the areas of gun regulations and gun rights, that they were stumped, and that they have no basis for their opposition to universal background checks.

137. The exchange is defamatory *per se* as to the VCDL because the organization's stated mission is to defend Virginians' right to purchase and possess firearms for self-defense. The manipulated footage falsely conveys that in response to a pointed question based on an anti-gun premise, the VCDL failed to deliver on its mission to speak in defense of the Second Amendment and in opposition to gun control measures like background checks. As such, the exchange prejudices the VCDL in its trade and impugns the VCDL's ability to perform its duties.

138. By misrepresenting that the VCDL did not present any basis for opposing universal background checks, the Defendants caused the organization reputational harm, caused the organization economic harm by impairing the organization's ability to attract and retain members and secure donations, and decreased the effectiveness of the organization's advocacy efforts and ability to carry out its mission.

139. The exchange is defamatory *per se* as to Webb. As a federally licensed firearms dealer, Webb is legally required to conduct background checks before she sells firearms. Since Webb is in the business of selling firearms to individuals, her customers and prospective customers—by definition—support the right of individuals to purchase firearms. Her business requires her to be knowledgeable regarding background checks and the right of individuals to purchase firearms. By falsely representing that Webb had no response to a question about

background checks, the Defendants have prejudiced Webb in her trade and conveyed that she lacks knowledge regarding integral aspects of her business.

140. As a direct and proximate result of the Defendants' manipulated footage, Webb's reputation has been damaged and Webb has lost income. As a firearms dealer and advocate for the Second Amendment, Webb was personally humiliated by the footage and the footage lowered Webb's reputation in the minds of the public generally and in the minds of her business's customers and prospective customers specifically. Gadsden Guns, which Webb owns, would have sold more firearms but for the defamatory footage. Therefore, Webb lost income as a result of the defamatory footage.

141. The exchange is defamatory *per se* as to Hawes. Hawes is an attorney who practices litigation involving firearms and personal defense. His profession requires that he employ oral advocacy skills to articulate the legal and practical bases for his clients' right to defend themselves, their homes, and their families. As such, by falsely conveying that Hawes was stumped by a loaded question based on an anti-gun premise, the Defendants prejudiced Hawes in his profession and impugned his ability to advocate for his clients.

142. As a direct and proximate result of the Defendants' manipulated footage, Hawes's reputation has been damaged. As an attorney who practices litigation involving firearms and personal defense, Hawes was personally humiliated by the footage and the footage lowered Hawes's reputation in his trade.

## **PRAYER FOR RELIEF**

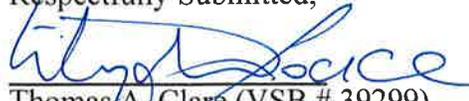
WHEREFORE, Plaintiffs Virginia Citizens Defense League, Daniel L. Hawes, Esq., and Patricia Webb demand judgment against the Defendants, jointly and severally, as follows:

- (a) awarding compensatory damages of not less than \$12,000,000.00;
- (b) awarding each Plaintiff punitive damages of \$350,000.00;
- (c) awarding the VCDL, Hawes, and Webb all expenses and costs, including attorneys' fees;
- (d) an injunction prohibiting the Defendants from disseminating, distributing, or publishing any footage of the VCDL's members, Hawes, or Webb that is judicially determined to be false; and
- (e) such other and further relief as the Court deems appropriate.

A JURY TRIAL IS DEMANDED.

Dated: September 13, 2016

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Thomas A. Clare".

Thomas A. Clare (VSB # 39299)

Elizabeth M. Locke (VSB # 71784)

Megan L. Meier (VSB # 88720)

CLARE LOCKE LLP

902 Prince Street

Alexandria, VA 22314

Telephone: (202) 628-7400

Email: tom@clarelocke.com

Email: libby@clarelocke.com

Email: megan@clarelocke.com

*Attorneys for Plaintiffs*

# **Exhibit 1**

**Video File Will Be  
Provided to Court**

# **Exhibit 2**

**Audio File Will Be  
Provided to Court**

# **Exhibit 3**

**From:** VCDL President [president@vcdl.org](mailto:president@vcdl.org)  
**Subject:** Re: Katie Couric interview request  
**Date:** March 31, 2015 at 7:08 PM  
**To:** Kristin Lazure [kristin@atlasfilms.com](mailto:kristin@atlasfilms.com)

---

Same here, Kristin. As in Star Wars dialog "In touch we will stay." ;-)

On Mar 31, 2015, at 6:30 PM, Kristin Lazure <[kristin@atlasfilms.com](mailto:kristin@atlasfilms.com)> wrote:

Ah yes, we'll be in Nashville too on the 10th and 11th. So potentially the afternoon of 4/13 in McLean?

OK let's stay in contact to figure out scheduling. I look forward to working with you.

Thanks,  
Kristin

Kristin Lazure  
Producer, Atlas Films  
917-951-4285

On Mar 31, 2015, at 5:02 PM, VCDL President <[president@vcdl.org](mailto:president@vcdl.org)> wrote:

Perhaps on the 13th, depends on if I go to the NRA Conference that weekend. I prefer afternoons if that is possible.

On Mar 31, 2015, at 12:41 PM, Kristin Lazure <[kristin@atlasfilms.com](mailto:kristin@atlasfilms.com)> wrote:

Hi Mr. Van Cleave -

Wonderful! I'm sure we can arrange to film somewhere in NoVA, maybe the McLean area. Right now, we have an interview on Capitol Hill at 1:30pm...so let me work on some logistics of doing a morning interview with you.

Is there any possibility of you being available on 4/13?

I look forward to working with you!

Thanks,  
Kristin

On March 31, 2015 at 11:01 AM VCDL President <[president@vcdl.org](mailto:president@vcdl.org)> wrote:

Kristin,

Currently April 14th is open. If we can do the interview somewhere in Northern Virginia, I can drive up from Richmond.

Regards,  
Philip

On Mar 31, 2015, at 9:47 AM, Kristin Lazure <[kristin@atlasfilms.com](mailto:kristin@atlasfilms.com)> wrote:

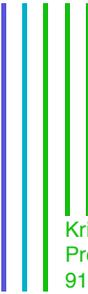
Hi Mr. Van Cleave,

I'm a producer working with Ms. Couric on a documentary about the gun violence prevention movement in America. Some of the storylines we're exploring include the legislative process on the federal and state level, how the Second Amendment has been interpreted in the wake of the Supreme Court's Heller ruling, and what impact mass shootings like Aurora and Sandy Hook have on gun reform legislation.

We have found that after the failure of President Obama's gun initiatives in 2013, the action to limit access to firearms has moved to the state level. One of the states we're zeroing in on is Virginia. We are following closely the race between Del. Kathleen Murphy and her opponent Craig Parisot, where guns is a dominant issue.

In order to fully understand the complexities of this hot button topic and speak to an audience with varied viewpoints, Ms. Couric is very eager to include all perspectives in this discussion.

We are going to be in Washington, D.C. on April 13th and 14th (and again in mid-May if those dates don't work for you), and she would love the opportunity to sit down and speak with you then.



Please let me know if you have any questions. I'd welcome the chance to speak with you more about the project.

Thanks,  
Kristin

Kristin Lazure  
Producer, Atlas Films  
917-951-4285

Kristin Lazure  
Producer, Atlas Films  
917-951-4285

# **Exhibit 4**

[underthegunmovie.com](http://underthegunmovie.com)

# Message from Katie | Under the Gun

## A Message from Katie Couric

As Executive Producer of “Under the Gun,” a documentary film that explores the epidemic of gun violence, I take responsibility for a decision that misrepresented an exchange I had with members of the Virginia Citizens Defense League (VCDL). My question to the VCDL regarding the ability of convicted felons and those on the terror watch list to legally obtain a gun, was followed by an extended pause, making the participants appear to be speechless.

When I screened an early version of the film with the director, Stephanie Soechtig, I questioned her and the editor about the pause and was told that a "beat" was added for, as she described it, “dramatic effect,” to give the audience a moment to consider the question. When VCDL members recently pointed out that they had in fact immediately answered this question, I went back and reviewed it and agree that those eight seconds do not accurately represent their response.

VCDL members have a right for their answers to be shared and so we have posted a transcript of their responses here. I regret that

those eight seconds were misleading and that I did not raise my initial concerns more vigorously.

I hope we can continue to have an important conversation about reducing gun deaths in America, a goal I believe we can all agree on.

### **Transcript with VCDL Response:**

KATIE: If there are no background checks, how do you prevent ... I know how you all are going to answer this, but I'm asking anyway. If there are no background checks for gun purchasers, how do you prevent felons or terrorists from walking into, say a licensed gun dealer and purchasing a gun?

MALE: Well, one, if you're not in jail then you should still have your basic rights and you should go buy a gun.

KATIE: So, if you're a terrorist or a felon ...

MALE: If you're a felon and you've done your time, you should have your rights.

MALE: The fact is we do have statutes, both at the federal and state level that prohibit classes of people from being in possession of firearms. If you're under 18 in Virginia you can't walk around with a gun. If you're an illegal immigrant, if you're a convicted felon, if

you've been adjudicated in same, these things are already illegal. So, what we're really asking about is a question of prior restraint. How can we prevent future crime by identifying bad guys before they do anything bad? And, the simple answer is you can't.

And, particularly, under the legal system we have in the United States there are a lot of Supreme Court opinions that say, "No, prior restraint is something that the government does not have the authority to do." Until there is an overt act that allows us to say, "That's a bad guy," then you can't punish him.

FEMALE: I would take another outlook on this. First, I'll ask you what crime or what law has ever stopped a crime? Tell me one law that has ever stopped a crime from happening.