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October 12, 2017

**VIA EMAIL:** [straightfromthea@gmail.com](mailto:straightfromthea@gmail.com);  
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Ms. Michelle Brown  
StraightFromTheA



**Re: Kim Zolciak-Biermann, Brielle Biermann and Kroy Biermann / Michelle Brown; StraightFromTheA, et al.**  
Our File No.: 6268-2

Dear Ms. Brown:

We are litigation counsel to Kim Zolciak-Biermann, Brielle Biermann and Kroy Biermann, and I am writing regarding a series of false and highly defamatory statements published on your blog StraightFromTheA on October 5, 2017 in a post entitled, “Shots Fired!! #RHOA Nene Leakes Blasts ‘Racist’ Kim Zolciak-Biermann and her daughter ...” (the “Blog”), and in a 36 minute-long video that was posted to Twitter (the “Video”) and is embedded in the Blog.<sup>1</sup> Throughout the Blog and the Video you repeatedly state that my clients are racist, you refer to my clients and their family as the KKK, falsely insinuating that my clients are affiliated with the Ku Klux Klan, and you state that you “call [Kim] the KKK for a reason.” Statements that my clients are racist are categorically false. It is further outrageous that you would falsely insinuate a relationship between my clients’ family and the Ku Klux Klan by dubbing them the “KKK.” We demand the immediate publication of a retraction, correction and sincere apology to my clients, along with the prompt removal of the false and defamatory statements your Blog and from all social media and blog sites on which they have been posted.

There is zero truth to your assertion that my clients are racists. The Blog is centered around a dispute between Nene Leakes and Kim and her daughter, Brielle Biermann, following an incident that occurred at Nene’s home during her White Party last summer. Linked in the Blog is what you describe as a “15 second video ... taken [by Brielle in Nene’s guest bathroom] this past summer during Nene’s White Party.” Although you claim to have been present at Nene’s White Party, you are wrong about the circumstances of the video footage. What you posted on

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<sup>1</sup> The Blog and the Video may be found at the following link:  
<http://straightfromthea.com/2017/10/05/shots-fired-og-nene-leakes-comes-for-racist-kim-zolciak-biermann-her-daughter-exclusive-details/>



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your Blog is in fact two separate videos. The first video is one that Brielle posted of herself on Snapchat. Unbeknownst to Brielle, the video also captured a large bug crawling across the floor. Within minutes of being posted, it was brought to Brielle's attention that there was a large bug in the video and she immediately deleted the video. Thereafter, Brielle observed that there were what appeared to be several other large insects crawling on the floor in Nene's guest bathroom, and she took a second video which she shared only with her mother. My clients never posted the second video online or commented publicly about finding cockroaches in Nene's home. You and Nene are the only ones who have shared both the video that Brielle previously posted and deleted on Snapchat along with the second video depicting multiple insects. It is an absolute lie for you to state the video posted on your Blog is the same video that was posted and deleted by Brielle on Snapchat.

You further state in the Video, "[w]ho says such and such lives in a roach infested house? The white girl talkin' to the black girl sayin' something like that ... to me that is racist ... you just gonna assume because I'm black I got roaches? Like seriously that is some foul shit." My clients have never made any assumptions about Nene or the state of her home based on her race, and it is offensive and highly defamatory for you to falsely state that my clients would make such an assumption. The fact is that Brielle personally observed insects crawling on the floor in Nene's guest bathroom and she shared that fact privately with her mother. It is not racist for Brielle to share with her mother that Nene's bathroom was crawling with bugs. Furthermore, it is false and patently absurd to state that Kim would not have made any comment about "a fellow caucasian person" having roaches in his or her home.

Based on the false premise that Brielle posted the same video that is posted in the Blog, you falsely and maliciously assert that Kim uses "racist undertones," citing as evidence that Kim supposedly referred to Nene and DeShawn Snow as "chicken-eating" and that she allegedly referred to Kandi Burruss' home as "ghetto," and that Kim was fired from the television series *Real Housewives of Atlanta* ("RHOA") during Season 4 after she was caught using the N-word. There is no truth whatsoever to the foregoing statements. So it is clear, Kim has never used the N-word, and my clients do not condone the use of that word. Nor was Kim fired from RHOA. Moreover, it was Kim's African-American assistant, not Kim, who stated that Kandi's home, which was located in the Cascades section of Atlanta - a neighborhood commonly referred to by locals as the "hood" or the "ghetto" - was in the ghetto. Kim also never described Nene and DeShawn Snow as "chicken-eating." The reference to eating chicken takes completely out of context a conversation between Kim and Nene that occurred after Kim declined an invitation to attend DeShawn Snow's Sunset BBQ in which Kim stated that she did not care to sit around eating chicken. Therefore, it is absolutely false and defamatory for you to state that Kim uses racial undertones.

Throughout the Video, you further malign and defame my clients, stating that "the KKK Kim Kroy Klique struck again," "I've been telling ya'll Kim is racist for the past 5 years... it's no secret," "Kroy can't stand blacks ... we know," "everybody knows that Kim Zolciak is prejudice ... everybody knows," and "I call her the KKK for a reason." Your publication of these



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highly defamatory statements exposes you to significant liability.<sup>2</sup>

You cannot avoid liability by claiming that you were merely reporting on rumors posted and disseminated by others. *Ray v. Citizen-News Co.*, 14 Cal.App.2d 6, 9, 57 P.2d 527, 528-529 (1936) (“A false statement is not less libelous because it is the repetition of rumor or gossip or of statements or allegations that others have made concerning the matter.”); *Jackson v. Paramount Pictures Corp.*, 68 Cal.App.4th 10, 80 Cal.Rptr.2d 1, 27 (1998) (“when a party repeats a slanderous charge, he is equally guilty of defamation, even though he states the source of the charge and indicates that he is merely repeating a rumor.”). Thus, any contention that you were merely repeating gossip reported elsewhere will not insulate you from liability. A publisher is deemed to have adopted the defamatory gossip it repeats. See, e.g., *Khawar v. Globe International, Inc.*, 19 Cal.4th 254, 79 Cal.Rptr.2d 178 (1998) (“one who republishes a defamatory statement is deemed thereby to have adopted it and so may be held liable, together with the person who originated the statement, for resulting injury to the reputation of the defamation victim”); Smolla, *Law of Defamation* (2<sup>nd</sup> Ed. 2004) Vol. 1, §4:91 (secondary publisher, or republisher, may be liable for defamatory publication). Moreover, the fact that your Blog mindlessly regurgitated defamatory rumors published elsewhere supports a finding that your publication was reckless and that no effort whatsoever was undertaken to determine the truth or falsity of the report. Such reckless publication of unsubstantiated defamatory gossip rises to the level of Constitutional malice.

Admittedly, you have an ax to grind with Kim since you state, “I don’t like Kim ... I’m not feelin’ her....” It is obvious that you published the Blog and the Video with a pre-conceived agenda to bash my clients and to bolster Nene’s false and defamatory assertions that my clients are racists. Such reporting does a disservice to legitimate journalists who take seriously the responsibility to fully and accurately report the facts. Here, your reckless disregard of your obligation to provide your readers with accurate information in favor of advancing your own personal agenda will also support a finding of Constitutional malice. *Gertz v. Robert Welch, Inc.*

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<sup>2</sup> See, *Overhill Farms, Inc. v. Lopez* (2010) 190 Cal.App.4th 1248, 1264 (terminated employees’ claims of “racist firing” without disclosure of underlying facts was materially incomplete and misleading); *Ward v. Zelikovsky*, 136 N.J. 516, 538, 643 A.2d 972 (1994) (accusation of bigotry actionable when made in a manner which fairly leads a reasonable listener to conclude it is based on knowledge of specific supporting facts); *Afro-American Publishing Co. v. Jaffe*, 366 F.2d 649 (D.C.Cir.1966) (defamatory to imply that plaintiff was a bigot); *Stevens v. Tillman* (N.D. Ill. 1983) 568 F.Supp. 289, 294 (false statements that principal was racist and ran school like a plantation gave rise to claim for defamation); *Guerrero v. Carva* (N.Y. App. Div. 2004) 10 A.D.3d 105, 113 (allegations that employer engaged in discrimination and made racist remarks supported a claim for defamation); see also, *Masson v. New Yorker Magazine*, 501 U.S. 496, 510 (1991) (false attribution may result in injury to reputation and support claim for defamation because manner of expression or even fact that statement was made indicates negative personal trait or attitude the plaintiff does not hold).



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(7<sup>th</sup> Cir. 1982) 680 F.2d 527, 539, *cert denied*, 103 S.Ct. 1233 (1983) (malice found where “[the editor] conceived of a story line, solicited ... a writer with a known and unreasonable propensity to label persons or organizations as Communist, to write the article; and after the article was submitted, made virtually no effort to check the validity of statements that were defamatory.”); *Suzuki Motor Corp. v. Consumers Union of U.S., Inc.* (9<sup>th</sup> Cir. 2003) (evidence that defendant “rigged” its test to support conclusion that plaintiff’s vehicle rolled over too easily supported finding of malice).

Furthermore, the false and defamatory statements you have published on the Blog and in the Video may result in irreparable harm to my clients and their brand. Being branded a racist can be the kiss of death in the entertainment industry (or in just about any business). Thus, your statements falsely labeling my clients as racists further give rise to claims for intentional interference with contractual relations and prospective economic advantage, exposing you to millions of dollars in liability.

We demand that you immediately publish a full and complete correction and retraction of the false statements identified above on your blog in a manner as prominent and conspicuous as the false statements were originally published, as well as on all of your social media pages on which you have posted the Blog and/or the Video. We further demand that you immediately remove the Blog and the Video *completely* from your website and social media pages, including any mobile versions, and from any reader-accessible archives, and that you cease and desist and refrain from re-publishing the Article’s malicious, fabricated and highly defamatory Statements about my client. In addition, we demand that you publish a sincere apology to my clients.

Upon your removal of the unlawful content as set forth above, we demand that you thereafter immediately (i) update your website so that your server returns a “404 (Not Found)” or “410 (Gone)” http status with regard to the Article and related post pages, and than (ii) utilize the Google Webmaster search engine page removal tools in order to update search results to remove cached copies and display of the removed content and webpage. To facilitate the process, we include the link to the Google Webmaster removal tools information pages:  
<http://www.google.com/support/webmasters/bin/answer.py?hl=en&answer=164734>

Racism is a serious and enormously divisive problem in this country. My clients and their family are not racist and do not tolerate racism. Unless this matter is promptly resolved to my clients’ satisfaction, our firm has been instructed to take all necessary and appropriate action to enforce my clients’ rights. Your conduct exposes you to multi-million dollar liability in connection with my client’s claims for defamation, intentional interference with contractual relations and prospective economic advantage, infliction of emotional distress and related claims. You proceed at your peril.

Please govern yourself accordingly.

Ms. Michelle Brown

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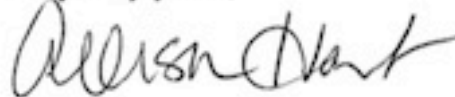
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This letter does not constitute a complete or exhaustive statement of all of my client's rights or claims. Nothing stated herein is intended as, nor should it be deemed to constitute, a waiver or relinquishment of any of my client's rights or remedies, whether legal or equitable, all of which are hereby expressly reserved.

Very truly yours,



ALLISON S. HART

For  
LAVELY & SINGER  
PROFESSIONAL CORPORATION

cc: Ms. Kim Zolciak-Biermann  
Ms. Brielle Biermann  
Mr. Kroy Biermann  
Martin D. Singer, Esq.

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*StraightFromTheA.com*