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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

DENIS O'BRIEN and DIGICEL GROUP LTD,

Plaintiffs,

v.

DONALD MACALLISTER,

Defendant.

CASE NO. SACV12 - 01965 JVS (ANx)

COMPLAINT (LIBEL, FALSE LIGHT, EXTORTION, INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE)

BY _____

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

2012 NOV -9 PM 12: 19

FILED

1 Plaintiffs Denis O'Brien and Digicel Group Ltd, for their complaint against
2 Defendant Donald MacAllister, allege as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action for libel per se and libel, false light, intentional
5 interference with prospective economic advantage and extortion, arising from an
6 intentional and continuing series of falsehoods that Defendant Donald MacAllister
7 knowingly and deliberately has made and continues to make in written statements
8 to numerous third parties. The purpose and effect of this pattern of misconduct is
9 to (a) expose Denis O'Brien to hatred, contempt, ridicule and disgrace, (b) threaten
10 that unless Mr. O'Brien pays Mr. MacAllister millions of dollars, Mr. MacAllister
11 will continue to attempt to wrongfully connect him to criminal conduct and/or
12 expose him to disgrace or contempt, and (c) interfere with the prospective
13 economic advantage to be gained by Mr. O'Brien and his company, Digicel.

14 **THE PARTIES**

15 2. Plaintiff Denis O'Brien is a leading Irish entrepreneur and
16 philanthropist. He has founded and led national and international communications
17 companies, and is currently the Chairman and owner of Digicel. He is and has
18 been a resident of Malta since 2006.

19 3. Plaintiff Digicel Group Ltd is a telecommunications company
20 incorporated in Bermuda and with its principal place of business in Kingston,
21 Jamaica. Digicel provides mobile services and other telecommunications services
22 in 31 markets in the Caribbean and Central and South America to more than
23 thirteen million wireless users. Its sister operation, Digicel Pacific Limited,
24 operates in six markets in the South Pacific. Digicel is currently preparing to enter

1 a competitive tender process to seek a license to provide mobile telecom services
2 to the people of Burma, a nation of 60 million people where less than two percent
3 of the population is reported to have mobile phones. This mobile telecom license
4 is a significant financial opportunity for Digicel.

5 4. On information and belief, defendant Donald MacAllister is and has
6 been at all relevant times a resident of Orange County, California.

7 **JURISDICTION AND VENUE**

8 5. This Court has jurisdiction over the subject matter of this action
9 pursuant to 28 U.S.C. § 1332. Pursuant to 28 U.S.C. § 1332(a)(2), this is a dispute
10 between “citizens of a State [Mr. MacAllister] and citizens or subjects of a foreign
11 state [Mr. O’Brien].” Moreover, consistent with 28 U.S.C. § 1332(a), the amount
12 in controversy is far in excess of \$75,000. Defendant MacAllister is actively
13 interfering with a billion-dollar business opportunity for Digicel. Moreover,
14 Defendant MacAllister has actively sought through his extortionate demands
15 millions of dollars from Mr. O’Brien, conduct that the suit seeks to enjoin.

16 6. Venue is proper in this Court pursuant to 28 U.S.C § 1391(b)(1)
17 because, on information and belief, defendant Donald MacAllister is and has been
18 at all relevant times a resident of Orange County, California. Moreover, venue is
19 proper pursuant to 28 U.S.C. § 1391(b)(2) because false statements set forth in this
20 Complaint, which damaged and are continuing to damage Plaintiffs O’Brien and
21 Digicel, were made, on information and belief, from Orange County.

22 **FACTS COMMON TO ALL COUNTS**

23 7. Defendant MacAllister is a cousin of Mr. O’Brien. In August 1972,
24 Mr. MacAllister’s mother (a sister of Mr. O’Brien’s father) was tragically killed in

1 a car accident with another passenger vehicle when Mr. MacAllister was nine years
2 old and when Mr. O'Brien was fourteen years old. Mr. MacAllister has written
3 extensively about his tumultuous youth, experience with various foster families,
4 anger and other personal problems. Mr. MacAllister has indicated that Mr.
5 O'Brien's family had always been kind and loving to him and his family, and tried
6 to adopt him after the aforementioned car accident. Mr. MacAllister apparently
7 would have liked to live with the O'Brien family, but was disallowed from doing
8 so by Mr. MacAllister's own abusive father.

9 8. Notwithstanding the foregoing, and although the fourteen year old Mr.
10 O'Brien was not present at or otherwise involved in the accident, Mr. MacAllister
11 in recent years has asserted that Mr. O'Brien and/or members of Mr. O'Brien's
12 immediate family failed to cooperate in the investigation of the accident and
13 improperly, in Mr. MacAllister's view, had subsequent business dealings with the
14 individual who drove the other vehicle. Mr. MacAllister also has written
15 extensively about his personal anger and sense of betrayal at these business
16 dealings.

17 9. Mr. O'Brien has established himself as a successful entrepreneur,
18 founding a mobile phone consortium and media holding company before launching
19 Digicel.

20 10. Mr. O'Brien supports numerous charities, including the Haiti Action
21 Network, which coordinates the work of approximately 80 relief organizations in
22 Haiti; Concern Worldwide, Ireland's largest aid and humanitarian agency; and the
23 Special Olympics. He is chairman and co-founder of Frontline, the international
24 foundation for the protection of human rights defenders. He established the

1 O'Brien Foundation in 2000 to identify and assist projects in Ireland and abroad
2 which aims to alleviate the effects of poverty in disadvantaged communities. In
3 2010, Mr. O'Brien was named goodwill ambassador for the city of Port-au-Prince
4 in Haiti by the mayor, in recognition of his efforts to rebuild Haiti and attract
5 foreign direct investment in the aftermath of the earthquake that year. Earlier this
6 year, Mr. O'Brien was honored by the Clinton Global Initiative with a Clinton
7 Global Citizen Award.

8 11. Mr. O'Brien has also provided significant financial support and
9 opportunity to his cousin, Mr. MacAllister and to Mr. MacAllister's siblings over
10 an extended period. In 2002, well after the original round of Digicel financing,
11 Mr. O'Brien permitted Mr. MacAllister to invest \$100,000.00 into Digicel as a
12 personal favor. As of Digicel's sale in 2007, Mr. MacAllister's investment had
13 grown in value to nearly \$1,500,000.00. Mr. MacAllister received the amount of
14 \$1,491,883.86 in March 2007 arising from the financial restructuring of Digicel.

15 12. Notwithstanding this support, and the huge success of the Digicel
16 investment Mr. O'Brien permitted Mr. MacAllister to make, Mr. MacAllister in
17 recent years began to demand enormous sums of money from Mr. O'Brien. Once
18 Mr. O'Brien rejected those demands, Mr. MacAllister began repeating them in
19 ever more shrill and irrational terms, and embarked on a plan to attempt to damage
20 Mr. O'Brien's reputation and Digicel's business, and to extort sums from Mr.
21 O'Brien, all as set forth in greater detail below.

22 13. In December 2009, Mr. MacAllister sought from Mr. O'Brien a
23 twenty-year "loan" of \$27,000,000.00, with the first two years interest free, the
24 stated purpose of which was to allow Mr. MacAllister to fund a start-up self-

1 storage business. In connection with the venture, Mr. MacAllister apparently
2 intended to pay himself a salary of at least \$89,000.00 per year.

3 14. In sending his proposal to Mr. O'Brien, Mr. MacAllister suggested
4 that the self-storage business would be a good opportunity for Mr. O'Brien to
5 diversify away from his telecom holdings. In the cover letter to the proposal, Mr.
6 MacAllister stated that he "respect[ed] [Mr. O'Brien's] business accomplishments
7 over the years," and proposed 90-minute quarterly meetings between Mr. O'Brien
8 and Mr. MacAllister for the explicit purpose of allowing Mr. MacAllister to
9 receive Mr. O'Brien's "business mentorship and advice" on the self-storage
10 venture.

11 15. In early 2010, Mr. O'Brien elected not to fund Mr. MacAllister's
12 business proposal. It was after Mr. O'Brien turned away the request for the
13 \$27,000,000.00 below-market "loan" that Mr. MacAllister begin his relentless
14 campaign of publicly spreading falsehoods about Mr. O'Brien while, at the same
15 time, making requests for money. Mr. MacAllister went so far as to write and self-
16 publish a manuscript in 2011 regarding, among other things, the death of his
17 mother, which includes a litany of false accusations about "Billionaire Denis
18 O'Brien" and seeks more than €108,000,000.00 from him for the MacAllister
19 family. In it, Mr. MacAllister alleges a far-reaching and "shocking" conspiracy to
20 cover up the true circumstances of his mother's death, all in order for the
21 individuals who tried to adopt him (i.e. the O'Brien family) to secure seed capital
22 from the other driver that their then fourteen-year-old son would later use to build
23 a business.

24

1 16. Mr. MacAllister’s demands for money from Mr. O’Brien did not stop
2 with the request for the \$27,000,000.00 below-market “loan” in 2010. In
3 particular, Mr. MacAllister brought suit in Bermuda against Mr. O’Brien and
4 Digicel in August 2011, seeking the return with interest of a purported second
5 investment of \$100,000.00 that Mr. MacAllister claimed to have made in Digicel
6 in 2003. No such investment was ever made. Mr. O’Brien is contesting the legal
7 action in Bermuda. Other than the initial filing of the lawsuit, Mr. MacAllister has
8 not taken any steps to proceed with the Bermuda litigation, though as set forth
9 below, he has repeatedly requested that Mr. O’Brien pay him supposedly in order
10 to resolve it.

11 17. In May 2012, Mr. MacAllister informed Mr. O’Brien that Mr.
12 MacAllister believed that Mr. O’Brien had a financial obligation toward himself as
13 well as twenty-seven other kin.

14 18. Mr. MacAllister has waged a campaign during 2012 of publicizing
15 false statements about Mr. O’Brien in no fewer than seven written emails
16 addressed to Irish, Burmese, and most recently Jamaican government officials and
17 media that are clearly false and defamatory, in an attempt to disparage Mr. O’Brien
18 and to damage the business of Mr. O’Brien and Digicel. This malicious campaign
19 intensified in August.

20 ***August/September 2012: Mr. MacAllister Makes***
21 ***False Statements to Journalists Concerning Mr. O’Brien***

22 19. On August 9, 2012, Mr. MacAllister forwarded Mr. O’Brien an email
23 sent to a Mr. Browne, on information and belief a well-known Irish print and
24 broadcast journalist, host of the television show “Tonight with Vincent Browne”

1 and writer for the *Irish Times*. In that email, Mr. MacAllister states that “100% of
2 Mr. Obriens [sic] wealth and power appear to be based on criminal actions starting
3 with those against my mother and myself which allowed him to acquire the assets
4 which form the basis of his fortune. Followed by his illegal payments to Mr.
5 Lowry to secure the Irish Mobile License over honest competing bidders.” Mr.
6 MacAllister also states in the email to Mr. Browne that he is “grateful for the
7 recent process in our discussions with the forty odd jurisdictions who appear to
8 have been victims of fraudulent acquisition of mobile licenses by Denis.”

9 20. On or around August 13 or 14, 2012, Mr. MacAllister forwarded Mr.
10 O’Brien an email sent to a Mr. Martin, on information and belief the leader of the
11 opposition Fianna Fail party in the Irish Parliament and Former Irish Minister for
12 Foreign Affairs. In that email, Mr. MacAllister notes that he looks forward to
13 seeing Mr. O’Brien arrested and prosecuted “for his crimes against the Irish
14 people,” and for “deceiving approximately forty additional jurisdictions. . . as to
15 the illicit source of the founding capital of Digicel, etc.”

16 21. On August 19, 2012, Mr. MacAllister forwarded Mr. O’Brien an
17 email sent to a Ms. Harris, on information and belief the editor of *The Sunday*
18 *Independent*, Ireland’s largest newspaper by circulation. In that email, Mr.
19 MacAllister tells Ms. Harris that he looks “forward to working in concert with
20 yourself. . . and the Attorneys General of Digicel’s licensing jurisdictions, to bring
21 an end to Denis Obriens [sic] crime spree against his relatives, the Irish People and
22 affected telecom licensing jurisdictions worldwide.”

23 22. In support of his assertions about Mr. O’Brien, Mr. MacAllister cites a
24 report written by Justice Michael Moriarty of Ireland, sitting as sole member of a

1 tribunal convened to examine the conduct of a former Irish Prime Minister (Mr.
2 Charles J. Haughey) and a former Government Minister (Mr. Michael Lowry)
3 during specified periods during their respective tenures in public office.

4 23. As part of its Terms of Reference, this Tribunal inquired into the
5 circumstances surrounding the awarding of a license for a second mobile phone
6 service in Ireland in May 1996. This licence was awarded to a consortium known
7 as Esat Digifone. Mr. O'Brien was the Chairman of Esat Digifone at the time of
8 the awarding of the license.

9 24. Despite the tribunal lasting from 1997 to 2011, on information and
10 belief no witness involved in conducting the process leading to the awarding of the
11 license for the second Irish mobile phone service stated that Mr. O'Brien engaged
12 in any corruption or wrongdoing in connection with the process. Mr.
13 MacAllister's description of this report fails to acknowledge that the tribunal itself
14 was not a court proceeding and that the report of Mr. Justice Moriarty was "legally
15 sterile," with no evidentiary value in court proceedings, in the words of Ireland's
16 own Supreme Court. Mr. MacAllister's deliberate mischaracterizations of Mr.
17 Justice Moriarty's report are designed to harm Mr. O'Brien.

18 25. In addition, on July 7, 2012, the Supreme Court of Ireland issued a
19 ruling permitting a civil case in which Mr. O'Brien is named among the
20 defendants, *Comcast Int. Holdings v. Minister for Public Enterprise & Ors*, to
21 proceed. The civil case, which had been filed in 2001 by persons and entities
22 associated with losing bidders for the mobile phone license that had been awarded
23 to Esat Digifone in 1996, was dismissed in 2007 by the Irish High Court for
24 "inordinate and inexcusable delay." The Supreme Court of Ireland, in its ruling of

1 July 7, 2012 and written decisions published October 17, 2012, allowed the civil
2 case to go forward notwithstanding the delay. As with Mr. Justice Moriarty's
3 report, Mr. MacAllister has mischaracterized the procedural ruling. He has taken a
4 decision allowing a civil case to proceed and suggested that (a) it constitutes a
5 substantive judgment of criminal conduct against Mr. O'Brien, (b) it allows a
6 criminal trial to take place, and (c) it provides for that trial to take place before the
7 Supreme Court of Ireland. None of these things is true. Again, Mr. MacAllister's
8 deliberate mischaracterizations of the Supreme Court of Ireland's ruling are
9 designed to harm Mr. O'Brien and Digicel.

10 ***October/November 2012: Mr. MacAllister Makes False Statements Concerning***
11 ***Mr. O'Brien to Burmese and Jamaican Government Officials And Requests***
12 ***Money From Mr. O'Brien***

12 26. Apparently upset that his false allegations against Mr. O'Brien have
13 not generated much press attention or caused Mr. O'Brien to agree to his demands
14 for money, Mr. MacAllister in recent months plainly has escalated his effort to try
15 to harm Mr. O'Brien and Mr. O'Brien's company, Digicel. Mr. MacAllister has
16 begun publicizing false allegations about them, targeting potential Digicel business
17 partners at the same time that he encourages Mr. O'Brien to "settle" the disputes
18 between Mr. MacAllister and Mr. O'Brien. Mr. MacAllister has volunteered to
19 Mr. O'Brien that he has contacted parties in approximately 40 jurisdictions in
20 which Digicel or other companies associated with Mr. O'Brien have or have had
21 telecommunications licenses, and Mr. MacAllister has stated that he is working to
22 have those licenses seized.

23 27. Mr. MacAllister recently has focused his dissemination of false and
24 malicious statements on a significant business opportunity Digicel and Mr.

1 O'Brien currently are pursuing in Burma, which has the potential to double
2 Digicel's existing customer base. Burma, a nation of 60 million people, is reported
3 to have the second-lowest mobile phone penetration in the world; less than two
4 percent of Burmese residents are reported to have access to mobile telecom
5 services. The Burmese government is currently preparing, for the first time, to
6 award mobile telecom licenses to foreign companies via a competitive tender
7 process. Digicel has publicly committed in excess of \$1 billion to expand and
8 improve Burma's mobile telecom systems if the company were to be awarded such
9 a license.

10 28. With full knowledge that Digicel is preparing to submit a tender offer
11 for a mobile phone license in Burma, Mr. MacAllister has directly and repeatedly
12 emailed officials of the Burmese government, as well as Senior Ministers of the
13 Irish government and Burmese and Irish media, to encourage them to reject any
14 Digicel license application, all with the intent of maliciously harming Mr. O'Brien
15 and Digicel and increasing the strength of his hand in any future "settlement"
16 negotiations with Mr. O'Brien.

17 29. In an October 17, 2012 email addressed to Daw Aung San Suu Kyi, a
18 member of the Burmese parliament and Chairperson of the opposition National
19 League for Democracy party, and apparently also sent to the office of the President
20 of Myanmar (Burma) and the official email address of the government-controlled
21 postal and telecommunications systems, Mr. MacAllister stated:

22 A. "Please allow competing bidders to comment on the fairness of
23 allowing a individual who is currently facing the negative findings of Irelands most
24 senior Judge regarding 'Denis Obrien making illegal payments to politicians to

1 secure Irelands Mobile License.” This statement creates the misleading
2 impression that an Irish court has found Mr. O’Brien guilty of a criminal charge.
3 Mr. O’Brien is not and has never faced or been found guilty of a criminal charge.

4 30. On October 20, 2012, in terms that had become increasingly bizarre,
5 Mr. MacAllister demanded that Mr. O’Brien “announce Monday morning in front
6 of Dublin Castle,” that Mr. O’Brien had “made a grave mistake against the People
7 and Nation of Ireland,” and that Mr. O’Brien should announce that he had
8 instructed his attorney to “immediately contact my relative Don MacAllister and
9 offer restitution for the damages and devastation my actions have wrought upon
10 their lives. And agree to immediately settle the pending lawsuit in Bermuda
11 brought by my relative Don MacAllister.”

12 31. In an October 23, 2012 email apparently sent to members of the
13 Burmese media, and copying two Irish journalists, an Irish government minister
14 and an Irish Senator, Mr. MacAllister stated:

15 A. “Irelands [sic] Supreme Court has now placed Burma telecom
16 license applicant Denis Obrien [sic] on trial for Criminal Bribery and Corruption.”
17 This statement is false. Mr. O’Brien is not and has never been on trial for any
18 criminal charge, much less a criminal charge being heard by the Supreme Court of
19 Ireland.

20 B. “It is also illegal under International Law for a [sic] individual
21 who is on trial for Criminal Bribery and Corruption in one Nation to participate in
22 a Telecom License competition in a second Nation at the same time.” This
23 statement suggests that Mr. O’Brien is on trial facing a criminal charge, which he
24 is not and has never been. Accordingly, the statement is false.

1 32. On October 27, 2012, despite taking no additional action in the
2 Bermuda litigation since its filing, Mr. MacAllister sent an email directly to Mr.
3 O'Brien, requesting that Mr. O'Brien "offer a settlement amount to settle the
4 lawsuit I have filed against you in Bermuda" and to resolve other grievances that
5 Mr. MacAllister has raised with Mr. O'Brien. Mr. MacAllister apparently
6 forwarded as part of that email an October 26 email sent to Daw Aung San Suu
7 Kyi, the aforementioned member of the Burmese parliament and Chairperson of
8 the opposition National League for Democracy party, and forwarded to an Irish
9 government minister, an Irish Senator, an Irish journalist and an American
10 journalist. In that email, Mr. MacAllister stated:

11 A. "Please consider requesting withdrawal of Denis Obrien's
12 application for a telecom license in Myanmar while Denis Obrien is on trial for
13 Criminal Bribery and Corruption in Ireland, before Ireland's Supreme Court."
14 This statement is false. Mr. O'Brien is not and has never been on trial for any
15 criminal charge, much less a criminal charge being heard by the Supreme Court of
16 Ireland.

17 33. In a November 1, 2012 email sent to Mr. O'Brien and apparently
18 copying, on information and belief, an Irish government minister and an Irish
19 Senator, Daw Aung San Suu Kyi, a U.S. State Department employee, and members
20 of the Irish and American media, Mr. MacAllister stated:

21 A. "I will now prepare to send a letter to the US Congress, the US
22 Senate and the US President informing them the largest contributor to the Clinton
23 Foundation who is now on trial for Criminal Bribery and Corruption before
24 Irelands [sic] Supreme Court has apparently asked US Secretary of State Clinton to

1 NOT report to Myanmar Law Enforcement and Authorities that the largest
2 contributor to her husbands [sic] Foundation is apparently attempting to apply for a
3 Telecom License in Myanmar while on trial for Criminal Bribery and Corruption
4 before Irelands [sic] Supreme Court.” This statement is false. Mr. O’Brien is not
5 and has never been on trial facing a criminal charge, much less a criminal charge
6 being heard by the Supreme Court of Ireland.

7 B. “It is a crime to apply for a Telecom License in Myanmar at the
8 same time as you are on Trial for Criminal Bribery and Corruption before Irelands
9 [sic] Supreme Court. Especially without providing ‘full and accurate disclosure’
10 of the fact you (and not your competing bidders) have been placed on criminal trial
11 before Irelands [sic] Supreme Court . . .” Again, this statement suggests that Mr.
12 O’Brien is on trial facing a criminal charge, which he is not and has never been.
13 The statement further suggests that Mr. O’Brien is being tried before the Supreme
14 Court of Ireland, which he is not. Accordingly, the statement is false.

15 34. On November 6, 2012, after receiving a letter from U.S. counsel to
16 Mr. O’Brien directing Mr. MacAllister to cease and desist from disseminating false
17 statements to third parties, Mr. MacAllister responded to assert in conclusory
18 fashion that his statements had not been false but once again proposed a
19 “settlement” with Mr. O’Brien regarding “all disputes between us.”

20 35. The following day, November 7, 2012, Mr. MacAllister sent an email
21 to, on information and belief, two members of the Burmese state-owned telecom
22 authority, copying Daw Aung San Suu Kyi, two members of the U.S. State
23 Department, an Irish government minister, an Irish Senator, and members of the
24 Irish and American media. In that email, Mr. MacAllister stated:

1 A. “Please consider requesting withdrawal of the Application by
2 Denis Obrien for a telecom License in Myanmar following the Oct. 18th ruling by
3 Irelands Supreme Court that Denis Obrien be placed on trial for corruption and
4 bribery charges which Irelands Mr. Justice Hardiman said represent “... BOTH a
5 civil wrong and a CRIMINAL offense.” This statement suggests that a Justice on
6 the Supreme Court of Ireland has concluded that Mr. O’Brien engaged in criminal
7 conduct. This is false. Mr. O’Brien has never faced or been found guilty of a
8 criminal charge, by the Supreme Court of Ireland or otherwise. Indeed, in a brazen
9 act of malicious deception, Mr. MacAllister excised from the quoted material the
10 critical phrase: “*if proven*” (emphasis in original), thus falsely converting an
11 allegation into a supposed conclusion. The statement is patently false.

12 36. Also on November 6, after receiving a letter from Irish counsel to Mr.
13 O’Brien similarly directing him to cease and desist from disseminating false
14 statements to third parties, Mr. MacAllister likewise responded to assert that his
15 statements had not been false and yet again proposed a “settlement” with Mr.
16 O’Brien regarding disputes between them. Thirty-six hours later, in an email sent
17 to a government official in Jamaica, which is Digicel’s largest market and where
18 the Digicel Group has its international headquarters, and copying, on information
19 and belief, members of the Burmese state-owned telecom authority, Daw Aung
20 San Suu Kyi, two U.S. State Department employees, an Irish government minister,
21 an Irish Senator, an Irish journalist and an American journalist, MacAllister stated:

22 A. “Please consider following the lead of Irelands Taoiseach and
23 calling for Jamaica to accept ‘in their entirety’ the adverse findings against Denis
24 Obrien by Irelands Sole Justice Michael Moriarty on March 22, 2011. And calling

1 for Jamaica to accept the unanimous ruling against Denis O'Brien on October 18th
2 by Ireland's [sic] Supreme Court. And review the legality and appropriateness of
3 Jamaica continuing to permit Denis O'Brien [sic] to be entrusted with Jamaica's
4 telecom license while he is on trial for charges Ireland's [sic] Mr. Justice Hardiman
5 said represent '...BOTH a civil wrong and a CRIMINAL offense.'" As noted
6 above concerning the similar statement sent by Mr. MacAllister on November 7,
7 2012, this statement suggests that a Justice on the Supreme Court of Ireland has
8 concluded that Mr. O'Brien engaged in criminal conduct. This is false. Mr.
9 O'Brien has never faced or been found guilty of a criminal charge, by the Supreme
10 Court of Ireland or otherwise. Again, Mr. MacAllister has deceptively excised
11 from the quoted material the critical phrase: "*if proven*" (emphasis in original),
12 thus falsely converting an allegation into a supposed conclusion by a Justice on the
13 Supreme Court of Ireland.

14 37. Regardless of Mr. MacAllister's difficult youth and the untimely
15 death of his mother, Mr. O'Brien and Digicel cannot allow him to harm their
16 interests by continuing to publicize false statements.

17
18 **FIRST CAUSE OF ACTION**
19 **(Libel Per Se - O'Brien)**

20 38. Mr. O'Brien restates and re-alleges the allegations set forth in
21 paragraphs 1 through 37 above and incorporates them by reference.

22 39. On November 1, 2012, Mr. MacAllister sent an email to Mr. O'Brien,
23 apparently copying an Irish government minister and an Irish Senator, a U.S. State
24 Department employee, and members of the Irish and American media.

1 40. In that email, Mr. MacAllister stated “It is a crime to apply for a
2 Telecom License in Myanmar at the same time as you are on Trial for Criminal
3 Bribery and Corruption before Irelands [sic] Supreme Court.”

4 41. This statement is false. Mr. O’Brien is not and has never been on trial
5 for any criminal charge in any jurisdiction, much less a criminal trial before the
6 Supreme Court of Ireland.

7 42. The email permitted its recipients to reasonably understand that the
8 statements referred to Mr. O’Brien, because he was identified by name.

9 43. The email permitted its recipients to reasonably understand that the
10 statements connected Mr. O’Brien to a crime, because the email states that Mr.
11 O’Brien is facing a criminal trial, and that he is committing a further criminal act
12 by applying for the mobile license.

13 44. Mr. MacAllister published this false and defamatory statement either
14 knowing that the statement was false, or having serious doubts about its truth.

15 45. Mr. O’Brien is entitled to general damages for harm to his property,
16 business, trade, profession, or occupation, expenses, harm to his reputation, and
17 shame, mortification, or hurt feelings caused by the defamatory statements in
18 accordance with proof at trial.

19 46. Mr. MacAllister acted with reckless, willful or callous disregard for
20 Mr. O’Brien’s rights and with malice, fraud or oppression, entitling Mr. O’Brien to
21 an award of punitive damages in accordance with proof at trial.

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SECOND CAUSE OF ACTION
(Libel Per Se - O'Brien)

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3 47. Mr. O'Brien restates and re-alleges the allegations set forth in
4 paragraphs 1 through 37 above and incorporates them by reference.

5 48. On October 27, 2012, Mr. MacAllister apparently sent an email to, on
6 information and belief, an Irish government minister, an Irish Senator, an Irish
7 journalist and an American journalist, forwarding an email he had apparently sent
8 on October 26, 2012 to Daw Aung San Suu Kyi.

9 49. In that email, Mr. MacAllister stated "Please consider requesting
10 withdrawal of Denis O'Brien's application for a telecom license in Myanmar while
11 Denis O'Brien is on trial for Criminal Bribery and Corruption in Ireland, before
12 Ireland's Supreme Court."

13 50. This statement is false. Mr. O'Brien is not and has never been on trial
14 for any criminal charge, much less a criminal charge being heard by the Supreme
15 Court of Ireland.

16 51. The email permitted its recipients to reasonably understand that the
17 statement referred to Mr. O'Brien, because he was identified by name.

18 52. The email permitted its recipients to reasonably understand that the
19 statements connected Mr. O'Brien to a crime, because the email states that Mr.
20 O'Brien is facing a criminal trial, and is on trial before the Supreme Court of
21 Ireland.

22 53. Mr. MacAllister published this false and defamatory statement either
23 knowing that the statement was false, or having serious doubts about its truth.
24

1 that Mr. O'Brien is facing a criminal trial before the Supreme Court of Ireland or
2 that the Supreme Court of Ireland has ruled that Mr. O'Brien be placed on trial for
3 criminal charges.

4 69. The October 17, 2012 email was sent to seven separate email
5 addresses.

6 70. The October 23, 2012 email was sent to five separate email addresses.

7 71. The October 27, 2012 email was sent to five separate email addresses.

8 72. The November 1, 2012 email was sent to eight separate email
9 addresses.

10 73. By publishing false statements that Mr. O'Brien is on trial for criminal
11 bribery and that he is on trial before the Supreme Court of Ireland, Mr. MacAllister
12 placed Mr. O'Brien into a false light that is highly offensive to reasonable people.

13 74. When Mr. MacAllister published these false statements, he either
14 knew that the statements were false and would place Mr. O'Brien into a false light,
15 or had serious doubts about their truth and their effect of placing Mr. O'Brien into
16 a false light.

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FIFTH CAUSE OF ACTION
(Civil Extortion – O’Brien)

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3 75. Mr. O’Brien restates and re-alleges the allegations set forth in
4 paragraphs 1 through 37 above and incorporates them by reference.

5 76. Beginning no later than 2011, Mr. MacAllister has waged a long
6 campaign of publicizing false statements about Mr. O’Brien in an attempt to
7 disparage Mr. O’Brien and to damage the business of Mr. O’Brien and Digicel,
8 and to make clear to Mr. O’Brien that the conduct will continue absent the
9 payment of money to Mr. MacAllister. In the course of this protracted campaign,
10 Mr. MacAllister has affirmatively indicated to Mr. O’Brien and to others that he
11 has been in contact with individuals in approximately 40 different markets where
12 Mr. O’Brien has business interests about the subject of Mr. O’Brien’s interests,
13 including the potential seizure of mobile licenses held by Digicel.

14 77. By coupling demands for money with evidence of statements that Mr.
15 MacAllister already had sent to individuals with direct responsibility for Digicel’s
16 business—statements that falsely assert that Mr. O’Brien is facing a criminal trial
17 in the Supreme Court of Ireland and has been found to have engaged in criminal
18 conduct by a Justice on the Supreme Court of Ireland—Mr. MacAllister has
19 impliedly threatened Mr. O’Brien that he will continue to spread lies about Mr.
20 O’Brien and to impute criminal conduct to him unless Mr. O’Brien pays him.

21 78. On October 27, 2012 and November 6-8, 2012, Mr. MacAllister sent
22 emails to Mr. O’Brien with the intent to use fear to induce Mr. O’Brien to pay Mr.
23 MacAllister money.
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1 79. As set forth above, the October 27, 2012 email is not Mr.
2 MacAllister's first demand that Mr. O'Brien pay him money. In December 2009,
3 Mr. MacAllister sought a below-market loan of \$27,000,000.00 from Mr. O'Brien.
4 In the cover letter to Mr. O'Brien, Mr. MacAllister stated "After many troubled
5 years, I believe that your agreement to the attached loan is the least I deserve for
6 the price I paid to make you successful. I feel my late mother would certainly
7 agree."

8 80. In 2011, Mr. MacAllister made a further demand for money from Mr.
9 O'Brien by bringing suit in Bermuda, seeking the return with interest of a
10 purported (and non-existent) second investment of \$100,000.00 that Mr.
11 MacAllister claimed to have made in Digicel in 2003.

12 81. In May 2012, Mr. MacAllister informed Mr. O'Brien that Mr.
13 MacAllister believed that Mr. O'Brien had a financial obligation toward himself
14 and approximately twenty-seven other family members. In his 2011 book, Mr.
15 MacAllister indicated that he believed that €108,900,000.00 should be "bestowed"
16 on the MacAllister family primarily by Mr. O'Brien. This is despite the fact that
17 Mr. O'Brien had already provided significant financial support to Mr. MacAllister
18 and his siblings over an extended period. Mr. O'Brien continues to provide
19 significant financial support on a monthly basis to the extended MacAllister
20 family.

21 82. In August 2012, Mr. MacAllister informed Mr. O'Brien that he had by
22 that point been in contact with "forty odd jurisdictions" from which Mr. O'Brien or
23 Digicel had obtained "mobile licenses," and that he was working to have those
24 licenses seized.

1 83. On October 20, 2012, Mr. MacAllister demanded that Mr. O'Brien
2 announce publicly that he would "offer restitution for the damages and devastation
3 my actions have wrought upon [Mr. MacAllister and his family's] lives. And
4 agree to immediately settle the pending lawsuit in Bermuda brought by my relative
5 Don MacAllister." This is the same lawsuit that Mr. MacAllister has never made
6 any attempt to prosecute.

7 84. The above-referenced October 27, 2012 email represents a further
8 attempt by Mr. MacAllister to demand additional money from Mr. O'Brien. In the
9 email, Mr. MacAllister requested that Mr. O'Brien "offer a settlement amount to
10 settle the lawsuit I have filed against you in Bermuda. And to settle your
11 exploitation of the wrongful killing of my mother to gain the basis for your
12 fortune."

13 85. As part of the October 27, 2012 email, Mr. MacAllister included some
14 of the emails he has sent to third parties that contain false statements. For
15 example, Mr. MacAllister included an October 26, 2012 email that Defendant sent
16 to Burmese parliament member Daw Aung San Suu Kyi, where he requests
17 withdrawal of Digicel's mobile license application in Burma "while Denis O'Brien
18 [sic] is on trial for Criminal Bribery and Corruption in Ireland."

19 86. Mr. MacAllister also included a copy of an October 25, 2012 email
20 that Mr. MacAllister sent to a "Juma" at a state.gov email address, where he states
21 he has "received information a crime is possibly being committed at this time
22 against the People of Myanmar (Burma), and states that Mr. O'Brien "is now being
23 placed on trial in Ireland for Criminal Bribery and Corruption of Ireland's Telecom
24 Minister."

1 87. Most recently, on November 7, 2012, one day after Mr. MacAllister
2 again proposed a “settlement” with Mr. O’Brien to Mr. O’Brien’s U.S. counsel,
3 Mr. MacAllister sent an email apparently to, on information and belief, two
4 members of the Burmese state-owned telecom authority, copying Daw Aung San
5 Suu Kyi in Burma, two members of the U.S. State Department, an Irish
6 government minister, an Irish Senator, and members of the Irish and American
7 media. Mr. MacAllister also copied Mr. O’Brien on that email. In the email, Mr.
8 MacAllister asks the Burmese telecom authority to consider requesting withdrawal
9 of Mr. O’Brien and Digicel’s application for a telecom license, “following the Oct.
10 18th ruling by Irelands [sic] Supreme Court that Denis Obrien [sic] be placed on
11 trial for corruption and bribery charges which Irelands [sic] Mr. Justice Hardiman
12 said represent ‘... BOTH a civil wrong and a CRIMINAL offense,’” having excised
13 the key “*if proved*” phrase from Justice Hardiman’s statement.

14 88. The following day, approximately thirty-six hours after Mr.
15 MacAllister had last proposed a “settlement” with Mr. O’Brien, Mr. MacAllister
16 sent an additional email to, on information and belief, a government official in
17 Jamaica, Digicel’s largest market, copying Daw Aung San Suu Kyi, two members
18 of the U.S. State Department, an Irish government minister, an Irish Senator,
19 members of the Irish and American media, and Mr. O’Brien himself. In similar
20 language to that used in his November 7, 2012 email, Mr. MacAllister asks the
21 Jamaican government official to consider reviewing “the legality and
22 appropriateness of Jamaica continuing to permit Denis Obrien [sic] to be entrusted
23 with Jamaica’s telecom license while he is on trial for charges Irelands [sic] Mr.
24 Justice Hardiman said represent ‘...BOTH a civil wrong and a CRIMINAL

1 offense,” once again having excised the key “if proved” phrase from Justice
2 Hardiman’s statement.

3 89. The pattern of behavior engaged in by Mr. MacAllister, pairing false
4 statements about Mr. O’Brien’s supposed criminal culpability and criminal trial
5 with requests to Mr. O’Brien for money, impliedly seek to coerce Mr. O’Brien into
6 paying Mr. MacAllister.

7 **SIXTH CAUSE OF ACTION**
8 **(Intentional Interference with Prospective Economic Advantage - Digicel)**

9 90. Digicel restates and re-alleges the allegations set forth in paragraphs 1
10 through 89 above and incorporates them by reference.

11 91. Digicel has an existing prospective business relationship with the
12 country of Burma. Digicel has presented a technical and commercial assessment
13 of the process for expanding Burma’s existing telecom network to the Burmese
14 government, and is now preparing to engage in a tender process for a mobile
15 telecom license. Digicel has already made substantial investments to further its
16 expected business relations with the country of Burma, including providing multi-
17 year sponsorships to Burmese sports associations, and is prepared to make an
18 initial investment of in excess of \$1 billion to improve Burma’s telecom
19 infrastructure. These efforts have resulted in brand awareness within Burma.
20 Digicel is well-positioned as a competitive candidate for a telecom license.

21 92. There is a significant probability of future economic benefit from a
22 business relationship between Digicel and Burma because the potential mobile
23 telecom market in Burma is extremely large. Burma has 60 million residents, less
24 than two percent of whom are reported to currently have access to mobile phone

1 and Internet services. Neighboring countries have usage rates varying from 57 to
2 100 percent, suggesting that a telecom license in Burma could result in Digicel's
3 acquiring tens of millions of new customers and potentially doubling the size of its
4 worldwide customer base.

5 93. Mr. MacAllister is improperly interfering with Digicel and Burma's
6 prospective business relationship by sending emails to Burmese government
7 officials falsely stating that Mr. O'Brien is on criminal trial before and that he has
8 been found by at least one Justice to have engaged in criminal conduct. Moreover,
9 Mr. MacAllister has requested assistance from the U.S. Department of State in
10 alerting Burmese government officials, falsely stating that Mr. O'Brien has been
11 placed on criminal trial in Ireland.

12 94. These false statements are intentionally designed to disrupt the
13 prospective business relationship by damaging the reputation of Mr. O'Brien and
14 Digicel at the time the government of Burma is preparing to consider a tender offer
15 by Digicel for a mobile telecom license.

16 95. Mr. MacAllister's false statements are independently wrongful
17 because they constitute libel.

18 96. Mr. MacAllister made the false statements with the intent to disrupt
19 the business relationship between Digicel and Burma.

20 97. It is foreseeable that making inflammatory statements falsely accusing
21 Mr. O'Brien of facing a criminal trial would result in harm to Digicel.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs pray for judgment as follows:

24 98. General damages in an amount to be proven at trial;

1 99. Punitive damages;

2 100. Injunctive relief, preventing Mr. MacAllister from repeating the
3 aforementioned falsehoods about Mr. O'Brien, and preventing Mr. MacAllister
4 from attempting to extort money from Mr. O'Brien;

5 101. Awarding Plaintiffs the costs of this action, including reasonable
6 attorneys' fees; and

7 102. Granting such other relief as this Court may deem just and proper.

8 Dated: November 8, 2012

Respectfully submitted,
DAVIS POLK & WARDWELL LLP

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By: 

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