

IN THE CIRCUIT COURT OF SEVENTEENTH

JUDICIAL CIRCUIT OF FLORIDA  
IN AND FOR BROWARD COUNTY,  
FLORIDA

William J. Mitchell, individually

Plaintiff,

vs.

CASE NO:

Twin Galaxies, LLC.

Defendant.

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COMPLAINT FOR DEFAMATION

COMES NOW, PLAINTIFF William J. Mitchell, (hereinafter, "Mitchell"),  
proceeding pro se, hereby sues DEFENDANT, Twin Galaxies, LLC, for Defamation for  
making false damaging statements and alleges as follows:

**GENERAL ALLEGATIONS**

1. William "Billy" Mitchell is an individual residing in Florida. Recognized world-wide for his records in a number of video games, including Donkey Kong, Pac-Man, and others, Mitchell rose to national prominence in the 1980's when Life magazine included him in a photo spread of game champions. During the "golden age" of arcade video gaming in the 1980's, Mitchell became the nascent sport's most recognizable figure.

2. After a hiatus, Mitchell returned to gaming in the late 1990's. On July 3, 1999, Mitchell achieved the first perfect score of 3,333,360 points on the original Pac-Man. As a result, Pac-Man's

manufacturer, Namco, brought Mitchell to Japan for the Tokyo Game Show and named him the "Video Game Player of the Century."

3. In the 2000's, Mitchell achieved record-breaking, 1 million-plus scores on Donkey Kong, including performances of 1,047,200 (the King of Kong "tape") and 1,050,200 (the Mortgage Brokers score).

4. On June 21, 2006, based on these and other scores, MTV selected Mitchell as one of "The 10 Most Influential Video Gamers of All Time." In 2006, David Ramsey, writing for the Oxford American, described Mitchell as "probably the greatest arcade video game player of all time."

5. Mitchell has appeared in several documentaries on competitive gaming, including *Chasing Ghosts: Beyond the Arcade* (2007), *The King of Arcades* (2014), *Man vs Snake: The Long and Twisted Tale of Nibbler* (2015); and *The King of Kong: A Fistful of Quarters* (2007).

6. In addition to his video game activity, Mitchell is the owner of "Rickeys' Hot Sauce." He painstakingly built the company into a highly successful business, in part by trading on his fame as a video game record-holder.

7. Defendant Twin Galaxies, LLC is a Florida business entity with its headquarters at 335 N. Maple Drive, Ste. 380, Beverly Hills CA 90210. It is an organization and social media platform that facilitates interaction, achievement, recognition, and competition among those involved in the culture and activity of video games.

8. The predecessor of Twin Galaxies, Twin Galaxies Incorporated, was founded in 1981 by Walter Day. Day is widely considered the "godfather" of video-game scorekeeping, and is recognized as the inspiration for "Mr. Litwak," the beloved arcade owner in Disney's Wreck-It Ralph animated film about video gaming. In the early 1980's, Day began recording high scores that he found on games in arcades that he visited, and that same year opened his own arcade in Ottumwa, Iowa, naming it Twin Galaxies. In 1982, Day's database of records was released publicly as the Twin Galaxies National Scoreboard.

9. Twin Galaxies subsequently became known as the official video game scoreboard, arranging contests between top players and attracting international media attention for publicizing video-game stars. In the early 1980's, Twin Galaxies' status under Day's stewardship as the official scorekeeper was further enhanced by support from major video game publications, which published full-page high-score charts taken from Twin Galaxies' data.

10. In 1983, based on his reputation, Day became the official supplier of verified video game scores to Guinness World Records, the first time that Guinness World Records had ever recognized video games as a valid category. Beginning in 1984, the U.S. edition of Guinness World Records included video game scores certified by Twin Galaxies, with Day functioning as an assistant editor for the Guinness Book in charge of video-game scores. In 1998, Twin Galaxies' Official Video Game & Pinball Book of World Records was published, a 984-page book containing scores compiled since 1981. In 2008, Day's long-time work as a video game adjudicator and eSports pioneer inspired the creation of the Guinness World Records - Gamer's Edition.

11. In 2012, Day stepped down from Twin Galaxies, and subsequently sold it to Jace Hall in 2014, who announced himself as the new owner.

12. Defendants, Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues them by such fictional names and will ask leave of Court to amend this Complaint to show the true names and capacities when they have been ascertained.

13. Plaintiff is informed and believes and, based thereon, alleges that each of the Defendants designated as Does 1 through 50, inclusive, are in some way responsible for the injuries and damages sustained by Cross-Complainants herein.

14. Plaintiffs are informed and believe and, based thereon, allege that at all times mentioned here, Defendants, and each of them, were the agents, principals, partners, associations, joint venturers, and/or employees of each of the remaining co-Defendants, so that the Defendants, and each of them, were at all times acting within the course, purpose and scope of the agency, partnership, association,



conspiracy, joint venture, and/or employment, and that Defendants, and each them, were acting with the authorization, conspiracy, permission and/or consent of the remaining co-Defendants.

### **VENUE AND JURISDICTION**

15. This is an Action for Defamation (Libel Per Se) and damages in excess of \$15,000.00, exclusive of interest, costs and attorney's fees.

16. PLAINTIFF William Mitchell is an individual over the age of 18 who is sui juris and resides in Broward County, Florida.

17. DEFENDANT Twin Galaxies, LLC, is registered as a Florida Limited Liability Corporation, hence making this jurisdiction proper.

### **THE DEFAMATORY STATEMENTS**

18. Prior to 2018, Twin Galaxies had recognized Mitchell as the holder of several records on classic games.

19. Under the new ownership of Jace Hall, however, and in effort to generate publicity for Twin Galaxies, that abruptly changed. On April 12th, 2018, Twin Galaxies made a defamatory statement concerning Billy Mitchell's records and legacy, claiming that he cheated to achieve his Donkey Kong scores by not using original, unmodified hardware. Twin Galaxies' statement of that date claimed, in relevant part and with emphasis in the original:

... Twin Galaxies administrative staff has unanimously decided to remove all of Billy Mitchell's' scores as well as ban him from participating in our competitive leaderboards.

\* \* \*

[Mitchell's] taped Donkey Kong score performances of 1,047,200 (the King of Kong "tape"), 1,050,200 (the Mortgage Brokers score) that were historically

used by Twin Galaxies to substantiate those scores and place them in the database were not produced by the direct feed output of an original unmodified Donkey Kong Arcade PCB.

\* \* \*

From a Twin Galaxies viewpoint, the only important thing to know is whether or not the score performances are from an unmodified original DK arcade PCB as per the competitive rules. **We now believe that they are not from an original unmodified DK arcade PCB, and so our investigation of the tape content ends with that conclusion and assertion.**

\* \* \*

**With this ruling Twin Galaxies can no longer recognize Billy Mitchell as the 1st million-point Donkey Kong record holder.**

20. The statement is libelous in its face: it asserts that Mitchell did not achieve his record scores legitimately, i.e., through "the competitive rules" applicable to all players. Instead, it asserts that Mitchell achieved his record scores only by impermissibly and secretly shortcutting those rules. That is, Mitchell achieved the scores by "cheating" as Webster's dictionary defines cheating: to "violate rules dishonestly."

21. The implication that Mitchell's scores were dishonestly achieved is supported by the fact that Twin Galaxies imposed heavy sanctions on Mitchell, not only stripping him of his Donkey Kong score records, but also in other arcade games, such as Pac-Man, and banning him from ever submitting scores in the future to Twin Galaxies. Such a punishment, according to Twin Galaxies' own rulebook, is warranted for, among other things, "'Deliberate cheating or misrepresentation of any kind.'" See [https://www.twingalaxies.com/wiki\\_index.php?title=Policy:Activities-That-Can-Get-You-Banned-For-Life](https://www.twingalaxies.com/wiki_index.php?title=Policy:Activities-That-Can-Get-You-Banned-For-Life).

22. That the statement expressly accused Mitchell of cheating is further evidenced by the news commentary that followed. *Variety*, for instance, pulled no punches in describing Twin Galaxies' decision as follows (with emphasis added):

Famed high-score gamer Billy Mitchell, best known for his role in "The King of Kong: A Fistful of Quarters" documentary, was officially stripped of his "Donkey Kong" and other video game high scores and banned from submitting scores to the world's largest tracker of video game world records *following a decision that he cheated*, Twin Galaxies announced today.

See <https://variety.com/2018/gaming/news/king-of-kong-stripped-of-title-1202751358>.

23. In short, the statement accused a professional video game player of not achieving his records through fair means, removing his undisputed records from other games from the scoreboard, and banning him for life.

24. But in fact, the April 12, 2018 statement was made with knowledge of its falsity or with reckless disregard for its truth. The most cursory, unbiased investigation would have revealed beyond doubt that the record-breaking Donkey Kong scores were *not* played on emulation software in private places but were actually played on certified arcade boards *in front of hundreds of people*. To date, more than 25 of these witnesses have signed sworn affidavits testifying to their observation of Mitchell achieving his scores on arcade software.

25. But the investigation was not unbiased; it was pre-ordained. During its "investigation" into Mitchell's scores, Twin Galaxies under its new ownership did not act as an impartial arbiter, but rather as a biased observer intent on generating publicity and internet "clicks" by accusing Mitchell, the most visible of all video gamers, of cheating. Twin Galaxies performed a deliberately one-sided, biased investigation, with the sole goal of convicting Mitchell through its: 1) failing to contact key witnesses; 2) intentional disregarding evidence in favor of Mitchell; 3) deliberately burying evidence in favor of



Mitchell; 4) selecting an openly-biased third-party investigator; 5) refusing to provide equal evidentiary access to Mitchell, 6) failing to fact check information; and 7) failing to retract its defamatory statements.

26. In Twin Galaxies' investigation, new owner Jace Hall advised Mitchell that only “scientific” evidence would be considered, rejecting all witness testimony out of hand, no matter how credible. Specifically, Hall stated to Mitchell, “I don’t care what anybody says.” Even after Mitchell’s retraction demand, which provided dozens of sworn witness affidavits, Hall ignored them.

27. In any event, Hall’s “scientific evidence only – no witnesses” standard applied solely to testimony favoring Mitchell. Hall actively sought out and embraced any possible witness testimony against Mitchell, including that of former Twin Galaxies referee Robert Mruczek. On information and belief, Mitchell alleges that Mruczek retains high levels of animosity towards Mitchell and Walter Day due to Day's having banned him from the Twin Galaxies community for his unruly conduct.

28. Hall's refusal to consider eyewitness testimony was especially egregious when it came to Day, Twin Galaxies' legendary former owner, because it strongly favored Mitchell. As Day has stated in a sworn declaration:

#### 4. Biased Conduct

During the Twin Galaxies investigation, I had one phone conversation with Jace Hall. In this phone call, Hall’s biased and negative nature toward Billy Mitchell was very concerning. My statements based on my knowledge expressed in this letter were disregarded, and he moved forward with no regard for any information that didn't automatically paint Billy as guilty. Meanwhile, he apparently accepted witness testimony from former referees to help legitimize Billy’s tape from the questionable source. I find it unexplainable that my testimony as the founder and former owner is disregarded, while others, specifically the ones against Billy, are embraced.

29. Thus, Twin Galaxies relied on eyewitness statements from those against Mitchell but refused to consider eyewitness statements from those who supported Mitchell.

30. Twin Galaxies also performed textbook reckless disregard in its failure to interview its own former employee, Kimberly Mahoney, who performed on-site verification of Mitchell's records on behalf of Twin Galaxies.

31. In addition, despite his professed reliance on "science," Twin Galaxies disregarded hardware certification from the highest engineering authority, the Senior Engineer at Nintendo. Nintendo's Senior Engineer, Wayne Shirk, had certified the board used in the Mortgage Brokers' score as original Nintendo arcade hardware. But Twin Galaxies dismissed that fact as irrelevant, with Hall saying that he "didn't care" about the certification.

32. Further, Hall deliberately buried evidence in favor of Mitchell. Specifically, Hall actively worked to hide the videotapes of Mitchell's Pac-man record. Hall constantly claimed he "did not know" who owned the videotape, despite his on-line community continuously acknowledging the videotape as Mitchell's. On April 11, 2018, Mitchell texted Hall about his videotape, requesting that the investigation review it. Hall denied the request and proceeded to strip the record anyway. Hall also asked Guinness World Records to follow suit and, based on Hall's recommendation, it complied.

33. Moreover, Hall chose a biased "third-party" investigator, Chris Glede, to shepherd the investigation. Even before Twin Galaxies initiated its investigation, Gleed had already expressed approval for removing Mitchell's records, commenting that he already "wholeheartedly agreed" with conclusions against Mitchell and the removal of his records. Then, during the investigation, Gleed made no attempt to contact Mitchell or anyone associated with him, while making inflammatory remarks throughout the investigation, including asking Mitchell to "fess up" to cheating so that Gleed could stop his investigation.



## **FIRST CAUSE OF ACTION**

### **(Defamation, Slander, False and Unprivileged Publications)**

34. Mitchell realleges and incorporates paragraphs 1 through 31 as if set forth herein in full.

35. In its April 12, 2018, statement, Twin Galaxies called Mitchell a cheater who had established his records under false pretenses, or, at least, implied as much, so that any reasonable reader would understand that Twin Galaxies had called Mitchell a cheater who deserved punishment by stripping him of all his Twin Galaxies' records and banning him for life from submitting further records.

36. The statement was false. In fact, the records were established on arcade software witnessed by hundreds of people, who have submitted sworn affidavits that they witnessed Mitchell achieve these scores on arcade software.

37. Twin Galaxies made its defamatory statement with actual malice—i.e., with knowledge of its falsity, or, alternatively, with a reckless disregard for its falsity, and without privilege or justification.

38. Twin Galaxies' defamatory statement directly injured Mitchell by diminishing his reputation in both the video game profession and in his business, which has lessened his income.

39. In making its defamatory statement, Twin Galaxies acted with oppression, fraud, or malice as defined by California Civil Code section 3294 and engaged in highly reprehensible and despicable conduct warranting exemplary damages.

## **SECOND CAUSE OF ACTION**

### **(False Light)**

40. Mitchell realleges and incorporates paragraphs 1 through 40 as if set forth herein in full.

41. In its April 12, 2018, defamatory statement, Twin Galaxies accused Mitchell of cheating to establish his records, or, at least, implied as much. Any reasonable reader of the statement would

understand that Twin Galaxies had called Mitchell a cheater who deserved punishment by stripping him of all his Twin Galaxy records and banning him for life from submitting further records.

42. These statements were false. In fact, the records were established on arcade software witnessed by hundreds of people, who have submitted sworn affidavits that they witnessed these scores achieved on arcade software. The statement placed Mitchell in a false light that would be highly offensive to a reasonable person in Mitchell's position, and Twin Galaxies' statement caused Mitchell damage to his reputation and to his business.

43. Twin Galaxies made its April 12, 2018 statement with actual malice—i.e., with knowledge of its falsity, or, alternatively, with a reckless disregard for its falsity, and without privilege or justification.

44. Twin Galaxies acted with oppression, fraud, or malice and engaged in highly reprehensible and despicable conduct warranting exemplary damages.