

IN THE CIRCUIT COURT, 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2012-CA-023358-XXXX-MB
DIVISION: AG

JAMES TODD WAGNER, SUPERCAR
ENGINEERING, INC., a Florida
corporation,

Plaintiffs,

vs.

WARREN MOSLER, MOSLER AUTO CARE
CENTER, INC. ("MACC") a Florida corporation,
d/b/a Mosler Automotive,

Defendants.

**PLAINTIFFS' MOTION FOR SANCTIONS
AGAINST
DEFENDANTS AND DEFENDANTS'-COUNSEL
BASED UPON 4-YEAR PATTERN OF DECEPTION TO THE COURT
VIA 10 INSTANCES OF WRITTEN FILINGS AND VERBAL STATEMENTS
BOTH PRIOR TO AND DURING TRIAL**

Plaintiffs James Todd Wagner (Hereinafter, "James Wagner") and Supercar Engineering, Inc. (Hereinafter, "SEI"), file this "Motion For Sanctions Against Defendants and Defendants' Counsel Based Upon 4 Year Pattern of Deception To The Court Via Ten (10) Instances of Written Filings and Verbal Statements Both Prior to, and During Trial" and state:

INTRODUCTION

After 11 years of spoliated evidence and numerous Motions to Dismiss, Motions for Summary Judgment and interlocutory appeal, James Wagner arrived at his well-earned Day in Court. Deception both prior to, and during trial deprived him of a fair trial. While there is a Motion for New Trial as to Counts 9 and 3 pending, this motion addresses the separate issue(s) of sanctionable conduct.

This motion will describe in summary fashion, and then in detail, 10 separate deceptions of the Court by both Defendants and Defendants-Counsel, and their related destruction of fairness in this case. This motion is supported by a nearly 200 page Appendix which provides copies of exhibits, transcript excerpts and affidavit(s) which support the arguments herein.

“Deceptions” is the correct descriptor of the conduct complained of, as (unlike Defendants’ argument in a motion seeking sanctions against Plaintiff’s counsel which is based upon questions sought to ascertain or clarify Defendants’ position), the deceptions complained of herein are not “small slips” or complaints about “questioning style.” In each instance, the evidence reflects the intent to deceive was pre-meditated by either Defendants or their counsel, and when considered in some instances individually, and certainly as a whole, warrant a finding that the “Inequitable Conduct Doctrine” compels this Court to impose strong sanctions. The evidence includes, but is not limited to, initiating and “anchoring” a line of argument to this Court during a pivotal pre-trial Daubert hearing with what James Wagner can only characterize as “an outright lie.” Given the years of prior litigation that was presided over by a prior judge, the current Court could not have possibly known the repeated assertion was a lie. This Court’s belief of said lie, and the related exclusion of James Wagner’s expert, permeated the related arguments (mid-trial) and injected inherent unfairness in the trial proceedings. Said deception could not have done anything but biased the Court against Mr. Wagner’s claim as to Count 3 (*See*, Deception #1).

Looking at the body of deceptions described herein, Defendants’ deceptions at times:

A. Defy commonsense: “There is no evidence that phone records ever existed, . . .” (Mr. Weber, Pg 34, Line 7-8, at 1/20/2023 hearing on Plaintiffs’ prior motion for sanctions and/or adverse inference instruction to jury) – discussed within deception #3 herein; and/or

- B. Are made in such a skillful manner as to be persuasive: Note the skillful use of ellipses to omit crucial information in filings (and presented to the court as “undisputed fact”) - discussed within deception #6 herein; and/or
- C. Are outright lies: *See*, deception #1 herein related to falsifying that a prior “damages expert” had been excluded by a prior judge.

All the deceptions have been particularly destructive to James Wagner – given his small financial means in comparison to Defendants. Moakley v. Smallwood, 826 So. 2d 221, at 224 (Fla. 2002)(*citing*, Rolax v. Atlantic Coast Line R.R. Co., for the proposition that an attorney’s fee award may be justified because of disparate means – so long as a party acts in bad faith, vexatiously, wantonly, or for oppressive reasons). While it is axiomatic that the court may sanction parties, “. . . since 1920, this Court has recognized the inherent authority of trial courts to assess attorneys’ fees for the misconduct of an attorney in the course of litigation.” Id. at 224 (internal citations omitted).

Mr. Wagner would be remiss if he did not remind the Court of the “disparate financial/bargaining power” that permeated this case: **PL#101** email written by Mr. Mosler to James Wagner and his attorney, “Please advise him that if he doesn’t back off as of Monday, I’ll be directing both of my in house attorneys to go after him to the maximum degree...”. The deceptions complained of herein served their purpose in that they either dramatically drained Plaintiffs’ financial resources (and therefore, his ability to prepare for trial as he desired) by requiring weeks of work to debunk¹ the lies; or those lies were accepted by the court as true, and therefore made the proceedings demonstrably and patently unfair to James Wagner.

¹ Such as Defendants “List of Undisputed Facts” within Defendants’ Motion for Partial Summary Judgment [D.E. 717] - 80% of which were either false, hotly disputed, or parsed journalist testimony and presented it in such a manner as to assert the opposite of the true testimony. (*See*, Deception # 6 herein)

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The deceptions within this case are at times factually complex, but for initial purposes, they are listed:

LIST OF DECEPTIONS:

1. Lying to the Court (5 times) during a Daubert hearing about a fictitious “lost profits” expert.
2. Defense-Counsel “reversing” Mr. Mosler’s trial testimony during the motion for directed verdict.
3. Defendant-Mosler reversed his sworn testimony (and journalists’ testimony) about interviews.
 - a. Mosler continues to Spoliate his phone records to facilitate this deception of the jury.
 - b. Asserting to the Court: ***“There is no evidence that phone records ever existed”*** -absurd
4. Mosler reversed his 2016 depo-admission to trial-denial in 2023 trial on \$350k Trade Libel.
5. Presenting faulty Case Law (different class of Defendant) at MDV and pressuring a rapid ruling.
6. Changing depositions of Journalists and presenting the deceptions as “UNDISPUTED FACTS”.
7. Falsely recharacterizing a “Confidential Settlement Proposal” as a “Demand Letter” and suing.
8. Patently false string of “Statement of Facts” presented to the Appellate Court for Counterclaim.
9. Vigorously and repeatedly asserting that “no evidence” exists on Plaintiffs’ side; wildly untrue.
10. Defied Court-Order for over 5 years; then Mosler grossly under-reported financial situation.
 - a. Mr. Mosler planned to use this deception to minimize award for punitive damages.

The above list illustrates an extensive PATTERN of deception that permeated nearly everything spoken or written by Defendants after Mr. Weber replaced Mr. Reinblatt as counsel for Defendants.

SUMMARY OF DECEPTIONS AND OUTCOMES: VERBAL AND WRITTEN

1. **Verbal** lie (repeated 5 times during hearing) that Plaintiffs’ previous “Lost Profits” expert was excluded by the prior Judge, Judge Hafele.
 - a. RESULT: Exclusion of Plaintiffs’ actual Lost Profits expert Cinnamin O’Shell: Plaintiffs were not given opportunity to debunk the verbal false statements prior to ruling.
 - b. CLAIMING TRUTH: Mr. Weber emphatically exclaimed “**I can find the docket number for you, Judge!**” to assure the Court that he was telling the truth, after Plaintiff raised his hand in opposition to what Mr. Weber was asserting.
 - c. DEFENDANTS TOOK ADVANTAGE: Convincing the Court that since Plaintiffs no longer had an expert, they could not provide sale projections (damages) to the Jury. Mr. Weber then made an improper objection at trial that Mr. Wagner was “speculating” when he was ready, willing and able to testify as to the very same methodology Mr. Weber had asserted was the proper methodology for damage projections. The Court sustained the objection – while recognizing that business owners are qualified to testify in such matters – but presumably “buying” Mr. Weber’s unsupported argument that Mr. Wagner was merely speculating. **But See, Affidavit of James Wagner – Appendix “2:AA” at page 60 of separate Appendices filing.**

2. **Verbal** false statements to the Court during Motion for Directed Verdict which “reversed” what Mr. Weber’s own client, Mr. Mosler, had testified:
 - a. RESULT: Rapid exclusion of Count 3 from the Jury.
 - b. PROFIT MOTIVE: “Taking” the Contract described in Count 3 was the objective of Warren Mosler’s 26-month campaign of defamation against James Wagner.
 - c. EVIDENCE: There was no evidence supporting Mr. Weber’s assertion SEI had to pre-pay for vehicles that weren’t built and that MACC didn’t have the resources (employees) to build. There were 77 segments of testimony and 64 Exhibits supporting Plaintiffs position (Appendices “2:A” to “2:P” and Appendix “2:BB”).

- d. Steven Weber’s argument should not overcome the testimony of his own client:

Trial Testimony, Warren Mosler testifying pg 968 ln 23 – pg 969 ln 4

22 Q Where was the deposit requirement in

23 Plaintiffs' Exhibit 74 in evidence?

24 A Which one's that?

25 **Q *That's the Exclusive Distributorship of Mosler***

1 ***Products in China and Thailand. There was no***

2 ***requirement that Mr. Wagner put up any deposit for that,***

3 ***was there?***

4 **A No.**

- e. Defendants had 11+ prior years to present evidence of the “Pre-Pay Defense”, but they did not [because it had zero basis in fact/evidence/testimony].

3. **Verbal** reversal of prior sworn-admissions of speaking to journalists into AT TRIAL denying or claiming no memory of speaking to journalists. Mr. Weber buttressed his clients’ deceptions with his own false-statements to the Court that there was “no evidence” that the Spoliated evidence existed to prove Mr. Mosler was lying to the jury. Mr. Weber was referring to phone records, which obviously existed, and other key evidence for which there was multiple witness accounts of its existence.

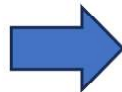
a. RESULT: Plaintiffs were refused an adverse inference for the jury to assume Warren Mosler made the phone calls to journalists.

b. DEFENDANTS TOOK ADVANTAGE by testifying “*I don’t recall the phone call*” to the jury repeatedly (there were several journalist phone calls).

4. **Verbal** testimony from Warren Mosler reversing his **2016 deposition testimony admitting that the journalist concluded Mr. Wagner was a con-artist from Mr. Mosler’s words**; to at trial outright-denying speaking to the journalist, Matt Farah, linked with the defamation.

Warren Mosler in 2016

What you just said is a true statement. He reached that conclusion after speaking to me.



Warren Mosler in 2023

I will deny I said that.

- a. RESULT: The fact that Count 3 was excluded mid-trial suggests that the Court believed what Defendant-Mosler had falsely testified at trial.
 - i. The profit-motivated defamation and trade libel drove away all potential buyers of the RaptorGTR (evidenced by RaptorGTR #001 not selling). Appendix 5:BB on page 131 of separate Appendices filing shows 5 Exhibits proving the profit motive behind Mr. Mosler's defamation of James Wagner.
 - ii. See Affidavit in support of this motion at Appendix 5:AAA on page 136 of Appendices which outlines and timelines the profit motive behind Mr. Mosler's 26-month-long campaign of defamation and trade libel.

Warren Mosler deposition #1 Feb 10, 2016 pg 203 ln 3 -12

3 Q. In the third line down in that article, it says,
4 "Speaking with Jalopnik, **Warren Mosler said, Wagner, quote,**
5 **goes around claiming he has a distributorship agreement,**
6 **but he's the distributor of nothing because we are not**
7 **producing a car.** He added, Wagner is a quote/unquote pest
8 and wants nothing to do with him.
9 Do you recall ever using those words?
10 A. I don't recall the specific words but they -- I
11 don't disagree with them. **I don't deny them. It looks**
12 **like the truth to me.**

- c. To the journalist for Car & Driver, Mr. Mosler makes similar statements about Mr. Wagner as stated to the Jalopnik journalist – specifically that Mr. Wagner’s company does not have a distributorship (it is now undisputed that at the time of speaking to Jalopnik Mr. Wagner’s company DID have an executed distributorship).
 - d. DECEPTION: A Motion for Directed Verdict, which is structured to only rely upon what was testified to at trial; yet Steven Weber made a statement of fact that Warren Mosler was only using hyperbole (exaggeration) about Mr. Wagner’s mental illness. There was ZERO testimony nor evidence even hinting to this, and *if there were such testimony – Plaintiffs would have cross-examined with extensive rebuttals to PROVE that Mr. Mosler intended to convey his statements as FACTS.*
5. **Verbal** false statements to the Court during Motion for Directed Verdict, pushing inappropriate Case Law (against a Media re-publisher vs a defamation source).
- a. RESULT: RAPID exclusion of Count 9: Plaintiffs were not given an opportunity to debunk the inappropriate Case Law prior to ruling.
 - b. NOTE: Steven Weber knew the Case Law was inappropriate, as he had previously attempted a Motion for Summary Judgement based on the same case law. In the prior attempt, Plaintiffs had opportunity to debunk the case-law in writing, thus the MSJ failed.
 - c. OPINION vs FACT: At trial, although Mr. Mosler remembered even minute details about nearly-everything; Mr. Mosler claimed full-amnesia about speaking to the journalists. **Mr. Mosler NEVER TESTIFIED that he was only exaggerating or speaking his opinions.** Further, the articles which directly quote Mr. Mosler never include Mr. Mosler qualifying his statements with “In my opinion, X/Y/Z”.
 - i. Furthermore, there were no exhibits presented which suggested that Mosler was speaking “opinions.”
 - ii. The journalists understood Mr. Mosler’s statements as factual, and published Mosler’s statements with grammar consistent with factual statements (see Affidavit of English/Philosophy PhD candidate James Roe).

- d. TESTIMONY: See Appendices “5:A” to “5:P” for testimony supporting that Warren Mosler’s defamation was both Malicious, and executed with a Profit Motive. This is on top of the statements being defamation per se.
 - e. EXHIBITS: See Appendices “5:AA” to “5:BB” for exhibits that illustrate MALICE (“AA”) and PROFIT MOTIVE (“BB”) for the defamation of Mr. Wagner.
 - f. AFFIDAVIT: Appendix “5:AAA” contains an affidavit that organizes trial testimony and exhibits into a concise timeline format in support of this Motion for Sanctions.
 - g. JURY RIGHTS: The jury is entitled to pass judgement on each Count of the Complaint, unless there is no reasonably credible evidence to support Plaintiffs’ position. **In this case, it is the reverse – there was zero evidence to support Defendants’ desire to take Counts 3 and 9 away from the jury [thus deception was employed]**. Deception delivered by Steven Weber both on the Case Law and the Non-Existent testimony led to the inappropriate removal of critical counts.
6. **Written** false statements presented to the Court as “**UNDISPUTED FACTS**”. Many of the “**UNDISPUTED FACTS**” were journalists’ deposition statements that Steven Weber parsed to reverse or alter the journalists’ intended meaning.
- a. RESULT: After weeks effort of debunking of these false-statements, Defendants’ Motion for Summary Judgement was denied.
 - b. If Plaintiffs hadn’t spent weeks debunking the numerous written deceptions, Plaintiffs likely would have lost the MSJ. If Plaintiffs hadn’t done this work: see “c” below:
 - c. The numerous deceptions in the MSJ were so skillfully assembled in writing, that if a reader believed the Officer of the Court was communicating with integrity - Defendants would have prevailed – via deception. The defendants’ failure in this regard makes the conduct no less sanctionable.

7. **Written** counterclaim (7 years into prosecution of this lawsuit) upon the notion that James Wagner “should have” signed away his \$100,000 deposit, SEI’s Intellectual Property, and SEI’s Exclusive Distributorships for \$100 in consideration. **Central to the grossly-frivolous Counterclaim was Mr. Weber falsely recharacterizing a “Confidential Settlement Proposal” as a “Demand Letter.”**

- a. This filing was something that Defendants’ prior counsel did not pursue; and is likely why prior counsel was replaced. The Counterclaim was filed within 3 months of Steven Weber replacing prior counsel.
- b. The Counterclaim was the definition of frivolous lawsuit, that complained that James Wagner was obligated to signed over the below immensely valuable properties/rights for \$100; and that because James Wagner didn’t sign over the below items he was guilty of tortious interference in an advantageous business relationship and liable for “millions.”

In truth, James Wagner/SEI were in no way obligated to give up:

- i. Wagner’s \$100,000 deposit
- ii. Wagner’s right to sue Mosler for defamation that had already occurred
- iii. SEI’s Intellectual Property
- iv. SEI’s Exclusive Distributorships
- v. SEI’s right to sue Mosler for trade libel that had already occurred

8. **Written** Counterclaim Appeal with false / obviously-disputed statements presented to the Appeals Court as “STATEMENT OF FACTS.”

- a. RESULT: After months effort of debunking these false-statements, Defendants’ Appeal was unsuccessful. **Again, the Defendants’ failure in this regard makes the conduct no less sanctionable.**

b. GROSSLY FRIVOLOUS: Mr. Wagner was countersued for “millions” for not signing away his \$100,000 deposit, Intellectual Property, and Exclusive Distributorships to Warren Mosler for the offer of \$100 in consideration.

9. **Verbal** false statements that “there is no evidence of _____”, which were patently false. As an Officer of the Court, “arguments” cannot be patently-false-statements that Defendants hope to slip past the Judge. *If the Judge didn’t remember the below testimony from Mr. Wagner on-the-spot; Defendants would have instantly won (via deception).*

Trial Transcript pg 1924 ln 13 – 21

12 MR. WEBER: We said that the comment is true
13 because -- and plaintiff has failed to provide
14 evidence that the comment is false. There is no
15 evidence presented that --

16 THE COURT: So the testimony I heard from
17 Mr. Wagner was that it had already passed those
18 emission standards. I do see a conflict in the
19 light most favorable to the moving party. That's
20 denied on those grounds.

21 What's the next one?

a. NOTE: In addition to the Court’s memory (above), there were government-issued documents and emails that also stated the vehicle passed emissions, yet Steven Weber emphatically claimed there was “no evidence”.

b. Extensive array of Steven Weber deceptively claiming “no evidence” exists, is in Appendix “9”. *This appendix also includes proof that the evidence did exist.*

10. While the Punitive Damages aspect of this case is not relevant at this time (because of the Directed Verdict Order as to count 9), Mr. Wagner is compelled to mention that since punitive damages were relevant to that point, he was forced to expend a large amount of time and money dealing with many misrepresentations as to Mr. Mosler's net worth and financial disclosure: After Mr. Mosler defied a Court Order² to provide Punitive Damages discovery from 2017 until 2022. Only when trial was imminent, did Mr. Mosler finally disclose information which Mr. Wagner asserts was both highly suspect, and materially incomplete – based upon Mr. Wagner's personal knowledge of Mr. Mosler's business – and then when Mr. Wagner sought depositions to challenge same, Mr. Mosler's company(ies) asserted "unavailability" – thus completing the "discovery stiff-arm."

Given the confidential nature of Mr. Mosler's finances, a "confidential hearing" may be needed to show the court the absurdity of the documents provided and offensiveness of the related claims – as well as the related cost needed to prepare to argue same at trial.

² The order was never revoked, only ignored.

DETAILED ANALYSIS OF DECEPTIONS 1 – 10

DECEPTION #1:

Manner of conveyance: LIVE (During Daubert hearing) – as to whether or not Ms. Cinamin O’Shell could testify as to SEI’s lost profit damages.

Analysis: Stating to the Court that Plaintiffs had a previous “lost profits” expert who was excluded by the previous Judge, Judge Hafele. Mr. Weber LED with this false statement of fact, and repeated the false statement 5 times to push the Court to believe him. Mr. Weber finished his deceptive persuasion via emphatically shaking a sheaf of papers and exclaiming, **“I can find the docket number for you, Judge!”**

There was no previous “lost profits” expert, and Plaintiffs challenge Mr. Weber produce the docket number that he was referring to.

A summary of the false-statements are below. **Appendix “1”** contains full details of the statements of fact that Steven Weber delivered to the Court.

Mr. Weber brazenly continued with the deception **emphatically repeating the deception 5 TIMES**, to persuade the Court that he was telling the truth.

Mr. Weber initiated his statements to the Court with this deception, indicating that the deception was pre-mediated.

Cinnamin O’Shell Exclusion Hearing, MR. WEBER (pg15 ln 17-25)

- 14· · · · ·MR. WEBER:· Okay· All right· Next will be
- 15· · · · our motion to exclude Cinnamin O'Shell, Plaintiff's
- 16· · · · damages witness.
- 17· · · · ·Now, our first grounds for that motion is that
- 18· · · · they are presenting Ms. O'Shell as a witness to
- 19· · · · testify as to lost profits in Count III of their

20. . . . Sixth Amended Complaint. Count III is a breach of
21. . . . contract claim, and nowhere in that claim did they
22. . . . mention the word lost profits, and so after years
23. . . . of litigation, and **after we actually got their**
24. . . . **first lost profits expert excluded** when they sought
25. . . . loss profits under their defamation claim...

Cinnamin O'Shell Exclusion Hearing, MR. WEBER (pg16 ln 6 - 8)

6. . . . This is something that they're manufacturing almost .
7. . . . ten years later **because Judge Hafele excluded their** .
8. . . . **last lost profits expert.**

Cinnamin O'Shell daubert Hearing, MR. WEBER (pg25 ln 3 - 10)

3.The HCA case, which is a 2016-case, which I .
4. . . . provided to Your Honor, clearly explains the .
5. . . . difference, and when a lost profits claim is as .
6. . . . general damages versus special damages and must be .
7. . . . pled. There is **no dispute** that special damages .
8. . . . must be pled, according to the rule. .
9.**Now, they again had their initial damages**
10. . . . **expert excluded.**

Cinnamin O'Shell Daubert Hearing, MR. WEBER (pg26 ln 11 - 16)

11. . . . Yes, there is a motion directed at the pleadings

12. . . . right now.

13. But there is prejudice. I mean, this case has

14. . . . been going on for ten years. We got a new expert,

15. . . . **their second damages expert, in fact, because Judge**

16. . . . **Hafele excluded their first damages expert.**

Cinnamin O'Shell Daubert Hearing, MR. WEBER (pg29 ln 13 - 19)

13. MR. WEBER: 2019. In July of 2019, the last

14. . . . time this case was set for trial, Your Honor, Judge

15. . . . Hafele excluded Plaintiff's damages expert, and now

16. . . . five years later, this is a new damages expert on a

17. . . . new count because **Judge Hafele excluded their last**

18. . . . **lost profits expert.** So they're manufacturing this

19. . . . lost profits claim.

DECEPTION #2:

Manner of conveyance: LIVE + WRITTEN (with no allowance for written response).

Analysis: Despite the testimony of Mr. Mosler (that he/MACC “fronted” the cost to build a car and that no payments were due until the car was manufactured (at which time the car would be “sold” and then “exported,”), Defense counsel “changed the contract terms” (and explanation given by his own client about how Defendants interpreted the same contract) **by making the firm assertion to the court that Plaintiffs had to pre-pay for vehicles before the vehicles were even built.** This is absurd and based on Mr. Weber’s own definition of the word “supply”; which is **in opposition to testimony by Defendant-Mosler** (*See*, Appendix, 2:N – wherein Mr. Mosler responds to a question about MACC supplying vehicles by equating “supply” with “produce”).

Trial Testimony, Warren Mosler testifying pg 968 ln 23 – pg 969 ln 4

- 22 Q Where was the deposit requirement in
23 Plaintiffs' Exhibit 74 in evidence?
24 A Which one's that?
25 **Q *That's the Exclusive Distributorship of Mosler***
1 ***Products in China and Thailand. There was no***
2 ***requirement that Mr. Wagner put up any deposit for that,***
3 ***was there?***
4 **A No.**

NOTE: In manufacturing jargon, a “deposit” is a partial pre-payment for a product that is of high cost³ that takes a long time to produce. To further clarify this and other definitions of manufacturing jargon (likely unfamiliar to the Court), James Wagner is filing an affidavit (*See*, Appendix “2:AA”).

³ The 2012 Mosler RaptorGTR with a wholesale cost of \$329,000 less 13% distributor discount qualifies as a “high cost” item. MACC would need approximately 9 months to build just one RaptorGTR, if it had sufficient employees to do so (and the testimony reflects it did not). Thus, ***the TWO additional RaptorGTRs that MACC was contractually-required to build prior to December 31, 2011 were a physical impossibility for MACC, and as Plaintiff has asserted, MACC breached its distributorship agreement by not building (and not even attempting to “supply” them to SEI as contractually required.***

The above testimony is Defendant-Mosler stating definitively that not even a deposit is required before the RaptorGTRs are built. Thus there is no basis for Mr. Weber to “FACTUALLY ASSERT” repeatedly that the contract required SEI to pre-pay for vehicles prior to the vehicles being built to completion and supplied to SEI.

Plaintiffs were given **85 seconds per page** to read the 32-page MDV then attempt to verbally respond to Mr. Webber’s motion which had zero basis in trial testimony⁴.

The below testimony from Defendant-Mosler, President of Defendant-MACC, confirms that MACC had insufficient employees to build vehicles. Warren Mosler had laid off 80% of MACC manufacturing staff immediately after Christmas 2010 with zero warning and zero severance: See Affidavit in Appendix “2:AA” specifically on page 62.

This lay-off action was just 6-weeks after Warren Mosler signed the Exclusive Distributorships in China and Thailand that contractually-required MACC to build 3 MACC vehicles for SEI in calendar year 2011.

Trial Transcript, Warren Mosler testifying pg 871 ln 15 – pg 872 ln 3

15 Q And China is James Wagner as well, correct?
16 A Yeah.
17 Q Okay. And Russia, correct?
18 A Russia, yeah.
19 Q And Thailand?
20 A And Thailand.
21 Q Okay. So you recognized -- *you individually,*
22 *on behalf of Mosler Auto Care Center, recognized*
23 *Mr. Wagner as a distributor of Mosler vehicles, correct?*
24 A Well, here it was a -- it was contact -- you
25 know, who to contact. And if an inquiry came in, who
1 would handle it.
2 **Again, there's only four or five guys in the**
3 **shop with no cars,** so it's a pretty ambitious website.

⁴ Plaintiffs’ objection and request for overnight preparation were denied.

Of the “four or five guys in the shop”, two were administrative who did not take part in actual assembly of the vehicles. **Each vehicle consumed approximately 6000 man-hours to produce**; thus 3 assembly-employees **could produce only one vehicle per year**. The one vehicle MACC built in calendar year 2011 was the single 2012 Mosler RaptorGTR #001 that SEI purchased from MACC.

It was deception for Steven Weber to factually assert to the Court that the only reason MACC didn't build the contractually-required 3 vehicles was that SEI didn't “pre-pay” for the vehicles.

- 1) MACC could not physically build the vehicles to fulfill its obligations.
- 2) MACC-President testified that no deposit was required prior to MACC building the vehicles.

Defense Counsel maximized the time-pressure by not only being the only party able to provide a written document, but also by controlling the verbal argument by frequently interrupting Plaintiffs' counsel's rebuttals. For this Count 3, Defendants got in 672 words of oral argument, wherein *Plaintiffs were only allowed 390 words*.

The rapid ruling was in error because the Court was deceived. Defense Counsel utilized time-pressure and interruptions to disallow Plaintiffs ability debunk the deceptions and mis-statements.

KEY ELEMENTS OF STANDARD OF REVIEW IN DEFENDANTS' MTN DIRECTED VERDICT

“The Court should **not grant** a motion for directed verdict when the evidence, viewed in the *light most favorable to the non-moving party*, shows that **a jury could not reasonably differ** about the existence of a material fact”

The Court may grant MDV when all evidence and inferences support movants and **“there is no evidence to rebut it”**.

The Court may grant MDV “Where evidence is not in conflict and there is **no evidence** adduced that could in law support a verdict for the nonmoving party.”

NOTE: Approximately 220 pages of this 250-page Motion for Sanctions contains *evidence before the jury* that Steven Weber **forcefully** [and falsely] claimed to the Court was “no evidence”. The Court apparently believed Mr. Weber, as an Officer of the Court.

During the Directed Verdict hearing wherein Plaintiffs were given **85 seconds per page** to read / comprehend / prepare (Trial By Surprise), Steven Weber vigorously asserted SUBSTITUTE TESTIMONY. Worse, Mr. Weber constantly interrupted Plaintiffs-Counsel’s desperate attempts to rebut the *surprise* “**PRE-PAY THEORY**” that had no basis in testimony nor record evidence.

A proper Directed Verdict approach would have been to discredit all of the 50+ items of sworn testimony and written exhibits; because so long as ONLY ONE item of evidence remains the issue must remain with the jury.

Defendants-Counsel had an impossible task given the volume of beneficial evidence before the jury, thus Steven Weber PASSIONATELY deceived the Court into believing a nonsense and fabricated “Pre-Pay Defense” (that had 0% basis in testimony nor exhibits). Counsel-Fabricated-Testimony theory is that SEI was falsely required to:

1. Pre-pay \$329,000 x 2 = \$658,000 for 2 vehicles that **MACC had NO ABILITY to supply.**
2. Pre-pay \$658,000 for vehicles that **Mosler stated he would not sell to SEI** [if they existed].

C. Forfeit of Exclusive Distribution Rights

- 1) SEI will forfeit its Exclusive Distribution Rights in China and Thailand immediately upon failure to perform any of Terms 2-6 in Paragraph A, provided that MACC has fulfilled its obligation to supply vehicles as described in Paragraph B.
- 2) If SEI forfeits its Exclusive Distribution Rights in China and Thailand, SEI will be allowed to sell any vehicles that are already completed and being offered for sale in China and Thailand on a non-exclusive basis.

“PROVIDED” is the operative term in this Paragraph-C. Counsel’s Substitute-Testimony was necessary for Defendants to overcome this key word. MACC didn’t have the manpower nor will to supply the required 3 vehicles to SEI. In fact, Warren Mosler informed Mr. Wagner that MACC was REFUSING TO SELL ANYTING to SEI...in email form (PL# 23) and testified to by MACC (Appendix 2:D on page 25 of Appendices).

Although there was extensive record evidence (see **Appendices 2:A, B, C, D, E, F, G, H, I, J, K, L, M, N, O**); Steven Weber’s VIGOROUS statements that convinced the Court that the only reason MACC didn’t build the contractually-required 3 vehicles was that SEI didn’t pre-pay for non-existent vehicles that MACC didn’t even have employees to build...led to the instant-win for Defendants. When arguing Defendants’ (fraudulent) position, Defense counsel never once acknowledged, or distinguished the actual testimony (of his own client) which was contrary to his argument.

At the bare minimum, there was evidence in conflict; therefore the issue goes to the Jury.

The jury found that Warren Mosler committed Trade Libel which cut the value of the 2012 Mosler RaptorGTR in half (from \$700,000 to \$350,000). This exact same trade libel had a monumental impact on SEI’s ability to sell the other 2 RaptorGTRs in 2011. Defense-Counsel’s PASSION-speech and interruptions swamped out the sworn testimony and truth.

Additional testimony samples, that the jury would have referenced to find for Plaintiffs (only one needs to be valid or in conflict in order to deny Defendants’ MDV):

Trial Transcript, Warren Mosler Testifying pg 927 ln 1 - 5

- 1 Q Okay. There's no way that the car could have
- 2 been exported ***until after it was finally manufactured,***
- 3 correct?
- 4 **A I don't know.** You know, we imported cars that
- 5 weren't complete. **I don't know.**

Trial Transcript, Warren Mosler Testifying pg 928 ln 21 - 24

21 Q Are we still debating whether Mosler Auto Care
22 Center was producing Raptor cars?

23 **A Well, we never produced it. Nothing -- they**
24 **were never produced. There was no production.**

Trial Transcript, Warren Mosler Testifying pg 928 ln 21 - 24

1 Q Okay. Then we have "Forfeit of exclusive
2 distribution rights." ***You never declared Supercar***
3 ***Engineering in breach of this agreement, did you?***

4 **A I don't have a recollection of doing that.**

DECEPTION #3a: Mr. Weber verbally stating to the Court that he had “discovered” the 18,500+ pages of evidence that Warren Mosler had been Spoliating for over 5 years. Mr. Weber made this false statement of fact in attempt to absolve Mr. Mosler of wrongdoing [hiding evidence].

Mr. Weber’s written response to Plaintiffs Motion for Sanctions for Spoliation of evidence filed on June 30, 2019 states on page 1; his argument - “The Motion should be denied because (1) Defendants properly produced documents after they became aware of them and have not acted in bad faith or disregard for the Court’s authority in doing so;”

- a. Mr. Weber’s written response to Plaintiffs Motion for Sanctions for Spoliation of evidence filed on June 30, 2019 states on page 2; “In preparing for trial, the undersigned counsel received on June 9, 2019, emails from Mosler’s email account that appeared to be responsive to prior requests for production and that had not been produced...the undersigned worked with Defendants to locate additional emails of Mosler that might be responsive to discovery requests.”
 - i. Mr. Mosler’s Court-Ordered 2nd deposition on the topic of evidence Spoliated for over 5 years indicates that Mr. Mosler’s in-house attorney, Ms. Quo is who produced the 18,500 pages of emails. The timing of Ms. Quo’s “**Discovery**” (June 9, 2019) is **just 17 days after Alan Simon divulged that he had given responsive documents to Defendants “Years Ago”**. Those documents were withheld from Plaintiffs; and only upon being busted for withholding did Warren Mosler then have someone assemble-send the documents which had been in Mr. Mosler’s email the entire time.
- b. Effectively, Steven Weber made every effort to disguise the truth that Warren Mosler had the emails all along. Mr. Mosler’s gameplan had been to withhold the evidence while filing numerous Motions to Dismiss and Motions for Summary Judgement. Mr. Weber was not forthcoming to the Court, but instead chose to “shield” his wealthy client from implication of wrongdoing.

- c. Steven Weber continued to deceptively “shield” Warren Mosler from implication of wrongdoing during the January 20, 2023 Hearing on Plaintiff’s Motion for Sanctions. Instead of stating the truth that Defendants produced documents 5-years-late; Mr. Weber stated that HE-HIMSELF produced the documents.

Plaintiffs Motion for Sanctions Hearing, STEVEN WEBER speaking pg 28 ln 6 – 7

6 . . . case, they produced many documents. Be that as it .
7 . . . may, **I produced these documents in 2019.**

- d. **When asked to testify about who actually discovered the 18,500 pages of evidence and when, Steven Weber elected to claim attorney-client privilege.**

Plaintiffs Motion for Sanctions Hearing pg 35 ln 4 – 5 and pg 35 ln 25 – pg 36 ln 3

4 MR. ZAPPOLO: Well, here is the dilemma that I .
5 . . . have, Your Honor. I took the depositions that Judge .
6 . . . Hafele allowed me to take. .
7 Both the witnesses, Ms. Jill Wagner and Mr. .
8 . . . Mosler, both gave very scattered hairy, I don't know, .
9 . . . I gave it to the lawyers, I must have -- they must of
10 . . . had it, somebody must of had it such responses.
11 **The only person that I actually know that**
12 . . . **actually had these 18,000 pages of documents is Mr.**
13 . . . **Weber. Mr. Weber has never explained to the Court**
14 . . . **where he got them, why he got them**, why he turned
15 . . . them over to me, or anything like that.
25 THE COURT: Okay. I guess all I will say is .
1 . . . this. Are you asserting attorney/client? .
2 **MR. WEBER: We're going to assert .**
3 . . . **attorney/client privilege.**

DECEPTION #3b: Steven Weber states definitively to the Court that there is “no evidence” to support the assertion that phone records existed. This is a direct statement of “fact” to the Court that is blatantly untrue: **everyone with a phone has phone bills / records.**

Plaintiffs Motion for Sanctions Hearing STEVEN WEBER pg 34 ln 7 – 10

7· · · · · **Phone records of Defendant MACC.** There is **no** ·
8· · · **evidence** that phone records ever existed, that they ·
9· · · were purged, that they were destroyed, ***that they were***
10· · · ***withheld.***

Warren Mosler Deposition #1 Feb 10, 2016 pg 79 lns 1-5

1 Q. Lew Lee told you that Lew Lee was sending in
2 \$100,000?
3 A. Right.
4 Q. And that was told to you by phone or by e-mail?
5 A. **By phone.**

Warren Mosler Deposition #1 Feb 10, 2016 pg 208 ln 17 – pg 209 ln 2

17 Article continues, "The agreement," and then a quote.
18 "He goes around claiming he has a distributorship
19 agreement. He's a distributor of nothing, because we're
20 not producing a car, close quote. "Warren Mosler tells
21 me," me being Mr. Hardigree, "in a phone call on Friday."
22 And that Friday would have to be the Friday preceding
23 November 21, 2011.
24 **Did you in fact have a phone call** with Mr. Hardigree
25 on the Friday preceding November 21, 2011?
1 **A. I certainly can't deny that I did.** I just don't
2 have specific recollection of the name.

Warren Mosler Deposition #2 August 19, 2020 pg 94 ln 2 – 6

2 Q. All right. You recall though don't you that
3 **Mr. Wagner requested your phone records** for the
4 relevant time periods so that we could ascertain when 5 you in
fact spoke with Mr. Lee, correct?

6 **A. Yeah, I'd forgotten about that. Yeah.**

Warren Mosler Deposition #2 August 19, 2020 pg 95 ln 2 – 5

2 Q. Okay. **But you don't recall giving anyone**
3 **instruction to recover your phone records for use in**
4 **this lawsuit, correct?**

a. **A. Correct.**

DECEPTION #3c: Steven Weber states definitively to the Court that there is **“no evidence”** to support the assertion that MACC **“Build Books”** **existed**. This is a direct statement of fact to the Court that is untrue and can be proven untrue.

Plaintiffs Motion for Sanctions Hearing, STEVEN WEBER speaking pg 32 ln 18 – 24

18· · · · · In the motion they refer to certain documents
19· · · · · that were withheld and never produced.· **There is no**
20· · · **evidence that such documents existed** were withheld,
21· · · or destroyed, and **there is no evidence still**.
22· · · · · They make **wild speculation** throughout the motion
23· · · as to what documents could have existed and what the
24· · · documents could have shown.

Plaintiffs Motion for Sanctions Hearing, STEVEN WEBER speaking pg 33 ln 18 – pg 34 ln 1

18· · · · · **Build books.** Ms. Wagner was questioned about
19· · · build books during the spoliation hearing.· There is
20· · · no new testimony about **build books** that I have seen.
21· · · And Ms. Wagner's testimony from the spoliation
22· · · hearing doesn't confirm that the **build books** existed,
23· · · or that they were destroyed, which is contrary to
24· · · Plaintiff's entire argument.· Furthermore, there is
25· · · **no evidence** that these **build books** are of any
1· · · importance to the Plaintiff's prima facie case.

- **FIRST PROOF OF DECEPTION in “Deception #3c”: SPOILIATION HEARING THAT WAS APPROX. 2 YEARS PRIOR TO MR. WEBER’S STATEMENTS:**

Spoliation Motion Hearing, JILL WAGNER testifying pg 27 ln 8 - 14

8 Now, do you remember there being records; such

9 as, when Mosler built a car, were there books that

10 tracked where the parts came from, et cetera?

11 A I wish we were that high tech. I mean, we

12 knew where the parts came from. But tracking the

13 progress of the car, I guess we were -- **I think Todd**

14 **put out some build books.**

- **SECOND PROOF OF DECEPTION in “Deception 3c”: WARREN MOSLER 2ND COURT-ORDERED DEPOSITION ATTENDED BY MR. WEBER:**

Warren Mosler Deposition #2 Aug 19, 2020 Pg 200 ln 4 – 201 ln 7

4 Q. Do you remember any type of documentation that
5 the people in the shop had to keep as far as checking
6 off when, for example, when an engine was sent out to be 7
worked on; and then brought back; and when the engine
8 was installed in a chassis; and when new tires were put
9 on that chassis; and when it went to paint; and when it 10
went to the body shop; and when it had its glass put in;
11 and all those types of things?

12 A. No.

13 Q. Do you remember any documentation required for
14 that?

15 A. No, there -- there wasn't.

16 Q. **There was nothing like a list of things that**
17 **had to be done in order to build a car?**

18 A. Yeah, there might have been. You know, the
19 guys in the shop might have had their own lists of what
20 they put in, but they -- they were -- that -- that's the
21 level it was done at. It wasn't passed down from the
22 top down. That was done from the bottom.

23 Q. So, each of the guys in the shop just kind of did
24 whatever they wanted? Because Jill Wagner, and I'm
25 -- and I'm not trying to trick you, **Jill Wagner**
1 **testified about their being cells** --

2 A. Yeah.

3 Q. -- at one point within Mosler --

4 A. Yeah.

6 Q. -- in order to make things more efficient.

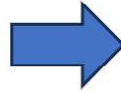
6 A. Yeah. **I think Todd or somebody set that up.** I wasn't

7 there at the time when they set that up.

DECEPTION #4: For visualization purposes the following is the change in Warren Mosler's sworn testimony (*over the course of 7 years*) in attempt to cover up the harm he intentionally did to Mr. Wagner's life and career. **IMPORTANTLY, Warren Mosler has never attempted to have his damaging statements retracted**, indicating Mr. Mosler wants Mr. Wagner to suffer.

Warren Mosler in 2016

What you just said is a true statement. He reached that conclusion after speaking to me.



Warren Mosler in 2023

I will deny I said that.

Warren Mosler Depo Feb. 10, 2016 Pg 218 ln 10 - 17

10 Q. Well, the problem is he reached that conclusion

11 after speaking with you; correct?

12 MR. REINBLATT: Objection.

13 BY MR. ZAPPOLO:

14 A. That's what he, you know -- you can -- I guess,

15 it doesn't mean, you know, what you just said is a true

16 statement. He reached that conclusion after speaking to

17 me.

***** Phone records were being *Spoliated* from 2014 through the 2023 trial, hindering impeachment*****

Trial Transcript, Warren Mosler Testifying in 2023 pg 2318 ln 16 - 25

16 Q Okay. And by the way, you can't confirm or
17 deny whether or not you said those -- whether you
18 confirmed that to Mr. Farah, correct?

19 **A I will deny I said that. I can't confirm -- I**
20 **don't recall the conversation, but I did not say that.**

21 Q You don't recall the conversation, but you
22 deny that you said that?

23 **A Yes.**

24 Q And even though Mr. Farah says that you did?

25 **A That's correct.**

DECEPTION #5: What Mr. Weber DOESN'T ASSERT is equally as deceptive as what he does assert. **Mr. Weber OMITTS informing the Court of the key fact that his Case Law was for an entirely different class of Defendant: a Media Outlet**, a re-publisher of defamation.

Even though the Court repeatedly (numerous times) communicated that it didn't believe the issue could be taken from the jury, Mr. Weber pushed and pushed asserting that the Case Law is appropriate – and inserts HIS OWN interpretation of the bounds of the Case Law (to only be the article itself).

Steven Weber used the **Trojan Horse** of a Motion for Directed Verdict ('MDV') to inappropriately coerce the Court into hearing a Motion for Determination (based on ERRANT Case Law), AND encouraging the Court to **not allow Plaintiffs any time** to assemble a written response. Mr. Weber also ***pushed the Court to go forward after Plaintiffs objections*** via asserting "Mr. Zappolo should be prepared"....even though no human could be prepared in such a short amount of time.

- a. Plaintiffs were given 45 minutes to read a **32-page** MDV before the hearing began, and rulings on the 10 Counts came out ***very quickly*** on a MDV that the Court read ***very quickly***.

Trial Transcript, MDV evening the Court Speaking pg 1892 ln 19 – 20

19 THE COURT: I'm having a -- I read this like
20 an hour ago ***very quickly***.

Trial Transcript, MDV evening hearing pg 1904 ln 25 – pg 1905 ln 4

25 MR. WEBER: Yup. And, Your Honor, once you
1 read this whole article in context, it cannot be
2 defamatory. There are multiple --
3 **THE COURT: Is that for me or is that for the**
4 **jury?**

Trial Transcript, MDV evening hearing pg 1905 ln 23 – pg 1906 ln 1

23 THE COURT: But again, I think in the light
24 most favorable -- even if I read it, you know, and
25 **let's say that I were to agree with you, wouldn't**
1 **that still go to the jury?**

Trial Transcript, MDV hearing: Mr. Weber speaking pg 1906 ln 5 - 10

5 MR. WEBER: As a matter of law -- it's a legal
6 issue. It's not a factual issue. It's a legal
7 issue of whether it's defamatory. So Your Honor
8 will decide whether it's defamatory as a matter of
9 law. And once it's not defamatory -- even if it's
10 derogatory, it doesn't mean it's defamatory.

Trial Transcript, MDV evening hearing pg 1906 ln 17 - 18

17 THE COURT: **But couldn't they come to a**
18 **different conclusion?**

Trial Transcript, MDV evening, Court speaking pg 1906 ln 25 – pg 1907 ln 1

25 THE COURT: **Do you have a case that says I can**
1 **take that away from the jury?**

Trial Transcript, MDV evening, Court Speaking pg 1907 ln 14 – 16

14 **I just want to make sure that**
15 **before I read the article this is indeed something**
16 **I can take away from them.**

Trial Transcript, MDV evening, Court Speaking pg 1908 ln 4 – 9

_4 THE COURT: Yeah, I don't want to know about
5 punitive damages. **I want you to give me the**
6 **authority** that says that the court can read this
7 entire article, make a determination and **that I can**
8 **take it away from the jury.**
9 **Because I'm inclined to think I can't, ...**

Trial Transcript, MDV evening pg 1908 ln 4 – 9

2 THE COURT: Skupin vs. Hemisphere **Media** Group.
3 It's not a long opinion.
4 MR. WEBER: It begins, "**Commentary or**
5 **opinion.**" Does Your Honor, see that?

- i. Given the imposed time pressure, **the Court had to rely on the veracity and honesty** of the Officers of the Court making verbal arguments and presenting Case Law.

 - ii. **Only Defendants were allowed to present Case Law.**
- d. Fundamentally, Defendants wanted Plaintiffs with both of Plaintiffs arms tied behind his back. As an Officer of the Court, Mr. Weber KNEW that only one side being allowed access to case law or prepare a written response was wrong. As an Officer of the Court, Mr. Weber knew that his disguised Motion for Directed Verdict was being used as a Trojan Horse.
- e. There was a clear pre-meditation to the deception, and use of a Motion for Directed Verdict as a Trojan Horse to bury an untimely-brought “Motion for Determination”.

DECEPTION #6: Mt. Weber has filed Motions for Summary Judgement (mostly targeting Count 9 – Defamation against James Wagner. Mr. Weber’s MSJ lists forty-five (45) “Undisputed Facts”, thirty-four (34) of which are **very-obviously disputed**, yet Mr. Weber asserts them as being agreed-upon, undisputed by Plaintiffs.

- a. The assertions are stated as FACTUAL, yet they are deceptions to the Court: if Plaintiffs had not spent **weeks unwinding/debunking the deceptions** (in writing) – Defendants would certainly have achieved their goal of eliminating Count 9 via deception.
- b. Mr. Weber went as far as to CUT OUT key parts of questions in depositions to manipulate the Court into believing the testified answer is the OPPOSITE of what the witness was truly conveying. In Plaintiffs’ view, this is highly unethical and an intentional abuse of the legal system, wherein an Officer of the Court is taking definitive steps IN WRITING to **twist plain facts into their reverse** to prevail.
- c. It undoubtedly took extensive time and effort to so finely manipulate the deposition transcript instead of simply “cut-paste”; this indicates a pre-mediated deception by Defendants.

Appendix “6” contains the extensive and expensive filings that Plaintiffs had to make in order to combat Mr. Weber’s Unethical filings, which include what James Wagner has described as “perjury in writing”. If Plaintiffs did not spend the time and money to refute these fraudulent filings, Defendants could have prevailed.

The most unethical and egregious of the “UNDISPUTED FACTS” (listed shorthand as UDF#___) are below; taken as snips from Plaintiffs’ response to D.E. 717. **The italics are Mr. Weber’s filing**, and the standard-font below is Plaintiff’s response.

40. Mosler wrote in his MSJ paragraph 40: "The author of the article testified that he was "intending to convey...that [SEI] was doing aftermarket work on the MT900s and that [SEI] named the modified car the RaptorGTR." Exhibit F at DMSJ0902" ('UDF40')

I very strongly dispute Mosler's UDF40.

UDF40 is highly inaccurate and misleading. Below is the whole (relative) content of what Benjamin Greene testified to, rather than Mosler's snippet/UDF40 that includes "... " and "[SEI]", while omitting context of what was being asked of Greene.

Benjamin Greene deposition Feb 12, 2016 pg 19 lns 3 – 14

Q. Now, your suggestion in that line is that Mosler itself was not calling the car the Raptor GTR? Isn't that what you intend to convey?

A. Yes.

Q. Okay. So you were intending to convey to the people that read your article that **based upon your interaction with the Mosler Automotive Center, Inc, that Mosler produced a car called the MT900S and that Supercar Engineering, Inc. was doing some aftermarket work on the MT900S, and then that Supercar Engineering, Inc., named the modified car a Raptor GTR, correct?**

A. That's correct.

32. Mosler wrote in his MSJ paragraph 32: *"Multiple non-party commenters to the online discussion stated, based on the documents provided by Wagner himself, that the 'certificates refer to the original Mosler MT900 BEFORE Todd Wagner pimped it into a 'RaptorGTR/CubeyGTR'" and that the RaptorGTR had not yet passed emissions, and was not then certified for public sale. Id. at DMSJ0077, DMSJ0078."* ('UDF32')

I dispute Mosler's UDF32 as intentionally misleading to the Court.

Mosler's UDF32 is perhaps the most intriguing one in his Motion for Partial Summary Judgement. It includes comment by whom I believe the jury will find to be Mr. Mosler's lawyer, Alan Simon, (several times) ANONYMOUSLY ("racer-esq") with (fake) "insider-information" to amplify the effects of the defamatory comments now sued upon.

"racer-esq" commented first at 8:27pm on the same day as the launch of the 2012 Mosler RaptorGTR. Mosler was quick to amplify the effects of his defamation by making it seem that 'insiders' agreed with what Mr. Mosler was telling journalists. **This 'racer-esq' is also aware (and seemingly upset) that the RaptorGTR was on 'The Car Show' that aired 6 weeks before this launch.** Factually, the RaptorGTR didn't perform as well as expected due to the scorching heat in the desert at high noon on a fresh, jet-black asphalt airplane runway.



That's funny, the footage did look familiar.

On one hand Mosler should be pissed, because this music video is humiliating, and because this car, described as coming from Mosler, ran so poorly on your show. On the other hand at least the Mosler name is getting out, and any "Cubey GTR" sales will start with them having to buy a car from Mosler.

That was nice of Dan Neil to volunteer to break dance for them.

The next day (November 16, 2011), the same things that Mosler is spreading around to journalists is being spread around by 'racer-esq'.



The certificates appear to refer to the original Mosler MT900, BEFORE Todd Wagner pimped it into a "Raptor GTR"/"Cubey GTR".

Here is some more information about the real Mosler and MT900.

http://en.wikipedia.org/wiki/Mosler_MT900

http://en.wikipedia.org/wiki/Mosler_Automotive



- 1) Do you currently work for Warren Mosler?
- 2) Are the "Cubey GTR" modifications that you made to the Mosler MT900 authorized by Warren Mosler?
- 3) Has Warren Mosler authorized you to use his Mosler brand to market your tuner version of the MT900?
- 4) Did SpeedTV authorize you to use its "The Car Show" video segments in the above music video?

6. *Mosler wrote in his MSJ paragraph 6: "Between 2010 and 2012, Wagner tried unsuccessfully, multiple times, to raise the funds necessary to purchase MACC. Exhibit E at DMSJ0798 ¶ 9." ('UDF6')*

I dispute Mosler's UDF6.

First, I had investors ready to purchase MACC several times. While it is true that I have testified about at least one investor "backing out" due to Mosler's intent upon having me indemnify what I have characterized as an insurance fraud (see below), it is also true that my father, James Dennis Wagner ('JDW') who provided the \$100,000 down payment on my behalf (that is also sued upon) was always willing to invest the necessary funds to complete the purchase. He will testify to this fact (as I believe he already has).

Second, Mosler blocked the purchase of MACC stock/assets on three separate occasions:

1) Mosler secretly sold the 'crown jewels' (3 finished vehicles) out of the deal to purchase MACC for \$1,000,000;

2) once I discovered the secret gutting of the deal Mosler agreed to a reduced price of \$500,000 and when I attempted to close, Mosler claimed to change his mind about selling MACC because he wanted his son, Jacob Mosler (hereinafter 'Jacob'), to run MACC;

3) Mosler blocked a third and final attempt for me to purchase MACC for \$650,000 by unilaterally forcing a '**Poison Pill**' – what I have characterized as Mosler's personal-lawyer's insurance fraud. Within the 3rd purchase attempt, Mosler demanded that the new owner of MACC accept liability for any claims stemming from Alan Simon's collection of roughly 2000% of what he paid of the original purchase price on a 2004

Mosler MT900s that was known to have been built illegally¹ and had a known fire hazard risk that Mosler refused to fix (Mr. Simon paid 11,000 for the car, and insurance paid him \$220,000.00). My complaining about the 'Poison Pill' is attached as EXHIBIT "P3" (Wagner Trial ID 1704-1705).

The only form of Purchase Agreement that Mosler would agree to for the 3rd purchase attempt was one that showed no assets whatsoever being purchased. Due to Defendant's unilateral demands, **the only thing that I knew for certain that I would be buying for \$650,000 was the liability associated with Alan Simon's illegally-built, burned-down 2004 Mosler MT900s.**

Immediately after Alan Simon collected the insurance payout, MACC issued a Factory Recall to fix the known fire hazard in the other MACC-produced vehicles, EXHIBIT "P4" (Wagner Trial ID 2396). It is my belief that neither Mosler nor MACC have informed Alan Simon's Insurance Company about the known fire hazard nor the post-insurance-payout Recall. I sought the name of the Alan Simon's Insurance Company as part of Production for this Lawsuit, but that information was not turned over to me for over 5 years, which put the disclosure past the statute of limitations for Insurance Fraud.

21. Mosler wrote in his MSJ paragraph 21: "Wagner disclosed to the author of the article that he had already purchased for himself the "final Mosler supercar to be built." i.d. at DMSJ0062" ('UDF21')

I dispute Mosler's UDF21.

Mosler is **attempting to distort** the facts by bringing the present-status reversed back in time to the moment that SEI purchased the 2012 Mosler RaptorGTR.

The chronological sequence of events are: 1) Mosler and MACC's board of directors wanted a twinturbo model for MACC 2) MACC paid for the EPA Certification effort including catalyst temperature testing 3) Mosler/MACC signed a distributorship that bound MACC to build a minimum of 3 cars per year for SEI to sell over a 25-year span **4) Savvas Savopolous came into the picture once the VERY VALUABLE Certification had been achieved and wanted to buy MACC – but only if SEI surrendered it's Intellectual Property and Distributorships** 5) Mosler/MACC made a raft of mis-statements to wreck the launch of SEI's distributorship of the RaptorGTR 6) MACC made it clear to SEI that MACC would not build any more RaptorGTR vehicles, **EXHIBIT "P13"**, thus it came to be that the vehicle SEI already owned 'became' the final RaptorGTR.

24. Mosler wrote in his MSJ paragraph 24: "Mosler does not remember making this statement. Exhibit E at DMSJ0798 ¶ 8." ('UDF24')

First, although I can't directly verify Mosler's internal memory, there are several examples of Deposition testimony which put Mr. Mosler's claimed memory loss as to these events at issue:

I have been present at all of the journalists' depositions in this case, and have witnessed the journalist's responses to questions about whether or not they spoke to Mosler. I have summarized some of the responses below.

a. Matt Farah deposition Dec 12, 2017 pg 53 ln 18 – pg 54 ln 6

Q Okay. And then when we flip forward, you actually had conversations with Mr. Mosler; correct?

A Yes, I did have a conversation with Mr. Mosler -- one.

Q Okay. And he said -- and he confirmed that the twin-turbo conversion to the Raptor GTR Mosler 900s will not pass emissions and is not certifiable for public sale; correct?

A That -- yeah. I mean, again, I don't recall some of the more specific details of that conversation, but **if I wrote that, that's what he told me at the time. My memory would have been very fresh then, so I would say that if I said it, then I would stand by it now.**

b. Clifford Atiyeh depo DATE pg 12 ln 2 – pg 13 ln 7

Q. All right, thank you. We blew it up just so it's easier to read.

Plaintiff's Exhibit number 3

begin with the words Weill Mosler, is that referring to Warren Mosler?

A. Yes.

Q. And then it says 63, that was his age at the time, correct?

A. Yes.

Q. All right. And then it says jockeys between three other full-time gigs, economist, hedge fund manager and three-time independent and democratic political candidate. He recently lost his latest congressional bid in the Virgin Islands, with a hyphen, he blames himself for not having the type of personality that sells cars. **The phrase, the type of personality that sells cars, is in quotes, was that a quote attributed by you to Mr. Mosler?**

A. Yes.

Q. Okay, and the information that you got in that section of this article, that was information that was conveyed to you by Mr. Mosler, correct?

A. Yes.

Q. Do you remember where Mr. Mosler was when you and he had the conversation where he conveyed the information?

A. The Virgin Islands.

c. Clifford Atiyeh depo DATE pg 32 ln 19 – pg 13 ln 17

Q. You said that you spoke directly to Warren Mosler, is that correct?

A. Yes.

Q. Prior to preparing to draft this article, had you spoken to Warren Mosler for any other reason?

A. No.

Q. Did you speak to Warren Mosler on the phone or was it in person?

A. It was on the phone.

Q. How did you get his phone number?

A. I contacted his company.

Q. Which company was that?

A. The Mosler Automotive Company, whatever it was called.

Q. Do you recall who you spoke to there?

A. I had e-mailed the company directly.

Q. Okay. And someone there gave you Mr. Mosler's telephone number?

A. Mr. Mosler contacted me directly.

31. Mosler wrote in his MSJ paragraph 31: "Wagner is the source of the discussion relating to emissions and certifications for public sale of the RaptorGTR because Wagner entered the online discussion and provided documents purporting to be the certificates for the RaptorGTR. Exhibit A at DMSJ0075, DMSJ0077." ("UDF31")

I very strongly dispute Mosler's UDF31.

Mosler is attempting to state that since I **responded to the defamation to defend** BOTH Mosler and the RaptorGTR via providing proof that the ALREADY PUBLISHED DEFAMATION was untrue; that I was the "source" of the "discussion". I could not disagree more. Factually, this is a "timing non-sequitur." I did not initiate the conversation, I was only trying to mitigate the damages after the defamatory statements were made.

I have never ever in my lifetime of being a childhood car enthusiast to present seen a new vehicle launched and a journalist query whether or not a particular vehicle would pass emissions or not. It is reasonably presumed that the manufacturer has an EPA Certificate at the time the vehicle is launched – or the manufacturer is near the end of the certification process.

Without question, the facts of this case support the assertion that the "source" of the discussion on RaptorGTR emissions and viability as a commercially-sold product originated from Warren Mosler and his wholly-owned company, MACC - that the RaptorGTR wasn't a official Mosler product, but was rather an aftermarket kit being marketed by SEI.

28. Mosler wrote in his MSJ paragraph 28: "Mr. Farrah testified that the only thing Mosler ever said to him was that "Mr. Wagner did not work for him, was not representing [MACC], and that the RaptorGTR was not his product," *Id.* at DMSJ1129 at 66:12-20." ('UDF28')

I dispute Mosler's UDF28.

First, **Mosler has inserted the word ONLY** into what Mosler claims is Matt Farah's testimony. This mis-statement of testimony is borne out in Matt Farah's 84-page deposition transcript. For brevity, I will not list all of Matt Farah's testimony regarding what Warren Mosler told him, but rather direct the Court to Defendants' DMSJ1064-1148.

Second, in their Motion for Partial Summary Judgement, Defendants define the capitalized 'Mosler' to be Warren Mosler. I believe that Defendants are intentionally conflating Mr. Farah's testimony that states "Mosler" [meaning Mosler Auto Care Center (MACC)] in the context of Mr. Farah's testimony] with Warren Mosler himself. Warren Mosler chose the term ('Mosler') to mean himself in his MSJ, and that has been carried forward in my affidavit. This conflagration could mislead the court into believing that

45. Mosler wrote in his MSJ paragraph 45: "Mosler was not involved with the video, did not provide and funds towards the video, and did not have a creative part in the video. Exhibit G at DMSJ0965 at 52:11-53:P10." ('UDF45')

I dispute Mosler's UDF45.

Mosler signed an Exclusive Distribution Agreement, "EXHIBIT P1", on behalf of his wholly-owned company, MACC, that bound SEI to present the RaptorGTR to at least one press outlet in China & Thailand. On two other occasions, Mr. Mosler had benefitted from the production of music videos featuring MACC's vehicles, and there was no indication that Mr. Mosler had changed his stance on valuing the exposure his vehicles received through music videos. Furthermore, the MACC Bill of Sale, "EXHIBIT P10" states that the RaptorGTR was to be used to promote MACC. Mosler & MACC thus involved themselves in the production of the music video by demanding that the RaptorGTR be used to gain exposure for both MACC and its product, the 2012 Mosler RaptorGTR.

DECEPTION #7: Adding to the summary-description in this Motion, the Counterclaim was not only brought outside the statute of limitations, but it was also grossly-frivolous. Key segments of Counterclaim are in **Appendix “7”**.

The frivolousness of the Counterclaim is best illustrated via analogy:

The analogy is a Mansion-owner (Mr. Mosler) wants to sell his mansion, but the potential buyer (Savvas) will only buy the mansion if the fishing-shack next door is included in the deal. Mr. Mosler approaches the fishing-shack owner (Mr. Wagner), and offers him \$100 for his waterfront shack. *Mr. Wagner counters with \$200,000; and in response: **Mr. Mosler threatens [THREE SEPARATE TIMES] that Mr. Wagner will be sued into bankruptcy unless Mr. Wagner accepts \$100 for all of his property.***

Mr. Wagner is quite intimidated as he knows that Mr. Mosler and Savvas are both quite wealthy (owners of private jets) and are capable of following-through on their threat. Thus, Mr. Wagner grudgingly cuts the price in half to \$100,000.

Mr. Mosler is very angry at Mr. Wagner, and will only be satisfied if Mr. Wagner is left with nothing. **Thus, Mr. Mosler FOLLOWS-THROUGH ON HIS THREAT, and sues Mr. Wagner for not accepting the \$100 offer.** Mr. Weber willingly filed this grossly-frivolous lawsuit in violation of his Bar Oath, and continued unabated even through interlocutory appeal.

As a reminder – this was a grossly-frivolous counterclaim that could only serve to drain Plaintiffs (Counter-Defendants) of financial resources. The full array of falsehoods presented to the Appellate Court are in **Appendix “7”**. Selected example of how Defendants deceived the Court is below: *Defendants statements are in italics; proof of falsehood/deception is in bold.*

Deception 7a: From ‘Counter-Plaintiffs’ Reply to Affirmative Defenses on page 2:

“The Counterclaim is based on the allegation that Plaintiffs request for return of the \$100,000.00 non-refundable deposit was unlawful, improper and unjustified tortious interference. The \$100,000.000 non-refundable deposit was provided as part of Plaintiffs’ failed purchase attempt and was used to fund MACC’s continued operations until the closing of any sale, and Wagner and SEI maliciously tortiously interfered with Savvas Savopolous’ (‘Savvas’) exclusive opportunity to purchase MACC’s assets by improperly demanding return of the \$100,000.00 non-refundable deposit, even though Wagner and SEI knew that they had no legal right to make any such demand for its return.”

NOTE: The underlining above was included in Defendants’ filing.

FIRST PROOF OF DECEPTION in “Deception 7a”:

- Defendants factually state that the \$100,000 deposit was *“used to fund MACC’s continued operations until the closing of any sale”*. Defendant-Mosler withheld evidence for over 5 years that would reveal the truth about what became of Wagner’s \$100,000 deposit, and it was that it went into Mr. Mosler’s private jet....not the funding of MACC in any way.

Warren Mosler deposition #2 (after production of spoliated evidence) pg 113 ln 11 – 16

11 Q. So, you took \$100,000 that was wired from Mr.
12 Wagner --
13 A. Right.
14 Q. -- and \$400,000 from a line of credit and you
15 put it into a company that owned a plane that you owned,
16 correct?
17 A. Yes.

- Defendants’ objective in deceiving the Court was to make the Court believe that the \$100,000 was consumed via Mr. Wagner’s request that the money be used to fund MACC’s ongoing operations in anticipation of Mr. Wagner’s purchase.

SECOND PROOF OF DECEPTION in “Deception 7a”:

- **Defendants factually state that “Wagner and SEI knew that they had no legal right to make any such demand for its return”.** That REVERSES what Warren Mosler had offered: that any deposit from Wagner would be refundable if Wagner did not close on the purchase and MACC assets were sold to someone else. This was a very simple offer-and-acceptance; and THE JURY AGREED via awarding Wagner \$150,000 in damages.
- Key proof of the deception withheld by Mosler for over 5 years is that Warren Mosler made his Vice President of Global Operations aware of the agreement regarding the \$100,000 deposit. This previously-withheld evidence became Plaintiffs Trial Exhibit #57:

From: "Warren Mosler" <warren.mosler@gmail.com>
To: "Jill Wagner" <JWagner@moslerauto.com>
CC:
Date: 5/2/2011 4:56:03 PM
Subject: Fwd: Signing the Asset Purchase Agreement

----- Forwarded message -----
From: Warren Mosler <warren.mosler@gmail.com>
Date: Mon, May 2, 2011 at 4:55 PM
Subject: Re: Signing the Asset Purchase Agreement
To: "J. Todd Wagner" <mt900supercar@gmail.com>

On Mon, May 2, 2011 at 3:55 PM, J. Todd Wagner <mt900supercar@gmail.com> wrote:
I'll ask if they are willing to pay 200k for that car.

So I understand you fully, the 100,000k gives is 3 months of exclusivity (as opposed to 4 months), and becomes refundable upon the following circumstances:

A) MSI does not close within the 3 months; and

no

B) Another party purchases the MACC assets after the 3 month period.

yes

Am I understanding correctly?

Todd

The facts are not on the side of Defendants; therefore Defendants chose the path of deception of the Trial-Court, Appellate-Court, and Jury. Deception pervades every recent filing of Defendants.

Additional deceptions associated with the Counterclaim are in Appendix “7”.

Upon having the Counterclaim dismissed, Warren Mosler utilized even worse tactics (in writing): filing a brief that included numerous deceptive **“STATEMENT OF CASE FACTS”** *which nearly went as far as to claim “Plaintiffs also contend that Defendants should prevail.”* (see DECEPTION #8)

DECEPTION #8: WRITTEN Counterclaim Appeal with false / obviously-disputed statements presented to the Appeals Court as “**STATEMENT OF CASE FACTS**”. Defendants had a separate law firm assist Steven Weber in making this filing, but the it is clear the falsehoods were fed to the outside firm by Defendants and most likely their trial counsel.

- **RESULT**: After months effort of debunking these false-statements, Defendants’ Appeal was unsuccessful, but Plaintiffs lost roughly 2 years of time.
- **GROSSLY FRIVOLOUS**: Mr. Wagner was countersued for “millions” for not signing away his \$100,000 deposit, Intellectual Property, and Exclusive Distributorships to Warren Mosler **for the offer of \$100 in consideration**.
 - Defendants go overboard to claim Wagner’s attempt to get his \$100,000 back from Mr. Mosler was “malicious” “improper” “tortious” “torpedo”. Nothing could be further from the truth, and the Jury agreed.

PROOFS OF DECEPTION OF APPELLATE COURT: *Defendants statements are in italics; proof of falsehood/deception is in bold.*

Deception 8a: From Defendants’ ‘STATEMENT OF CASE FACTS’ in their Appellate brief

Defendants factually state: “The purpose of the \$100,000 non-refundable deposit was to cover MACC’s ongoing business expenses, such as payroll, during the negotiations for the sale of MACC (R:3284).”

PROOF OF DECEPTION in Deception 8a:

Warren Mosler deposition #2 (after production of spoliated evidence) pg 113 ln 11 – 16

- 11 Q. So, you took \$100,000 that was wired from Mr.
12 Wagner --
13 A. Right.
14 Q. -- and \$400,000 from a line of credit and you
15 put it into a company that owned a plane that you owned,
16 correct?
17 A. Yes.

- Within the production that Defendants Spoliated for over 5-years is proof that *MACC was profitable* during the time period associated with the lawsuit. Zero need for funding.

- DEF5784 is below:

From: ["Jill Wagner" <jwagner@moslerauto.com>](mailto:jwagner@moslerauto.com)
 To: ["Warren Mosler" <warren.mosler@gmail.com>](mailto:warren.mosler@gmail.com)
 CC: ["Todd Wagner" <twagner@moslerauto.com>](mailto:twagner@moslerauto.com)
 Date: 5/12/2010 4:04:21 PM
 Subject:
 Attachments: [MACC projections April 2010 \(2\).xls](#)

Warren,

I made an error of omission. I forgot to include the value for the race chassis and spares and shipping of both that we covered in the preceding 16 months. When added into the totals we actually had a profit of \$25,161!! (We had projected a \$368,000 loss.) Spreadsheet attached.

Thank you,
 Jill Wagner
 GM and VP of Global Operations
 Mosler Automotive
 Phone: 561-842-7829
 Fax: 561-845-3237

- MACC's Projections for May 2010 through My 2011 show a \$500k profit (DEF5786)

	A	B	C	D	E	F
1	Current Average Monthly Cash Flow Analysis					
2	(Race and Street car production combined)					
3						
4						
5	Projected Monthly Sales Income vs Monthly Expenses Starting May 1, 2010					
6				Upgrade Labor &		
7	Month	Chassis Sold	Sales Price	C36 Lease Income	Monthly Expenses	Notes:
8	1	C26 White Breck/C18 Silver	200,100	4500	180,000	China Build Cars
9	2	C65 Silver '09	214,000	4500	180,000	
10	3	C64 Yellow '09	214,000	4500	180,000	First Saudi Arabia Car
11	4	C35 Orange '04	210,000	4500	240,000	supercharged 2004
12	5	C57 Ramsey turbo	123,250	4500	240,000	Price net of \$185,000 trade-in
13	6	C08 First Ramsey	205,000	4500	240,000	
14	7	C62 Bare Carbon	274,920	4500	240,000	C62 Bare Carbon Dubai
15	8	C30 Nurburgring	300,000	4500	240,000	
16	9	C50 Photon	329,700	4500	240,000	This chassis could sell earlier depending upon Nurburgring success
17	10	C63 White German	205,000	4500	240,000	
18	11	First Thailand Chassis	300,000	4500	240,000	
19	12	Second Thailand Chassis	300,000	4500	240,000	
20					2,700,000	
21	MACC will build an estimated 3 race car chassis worth 3 x \$85,000 = \$255,000 and supply \$30,000 worth of race spares during 2010.					
22						
23	Estimated total income over next 12 months:		3,214,970	* 3 Race car chassis and parts are included here (but booked as loan to Mosler Europe)		
24	Estimated normal expenses over next 12 months:		2,700,000			
25	Projected Net Income (Loss) over proceeding 12 months:		514,970			

- Defendant-Mosler had every opportunity to present “proof” of any losses or that the Wagner’s \$100,000 deposit was “consumed”; but Defendants didn’t even approach the topic. Obviously, Mr. Mosler didn’t approach the profit-loss topic, because there was a profit.

- **Ironically, a large part of the profit was from Warren Mosler's 2011 action to SECRETLY sold-off the 3 finished vehicles that Mr. Wagner's \$100,000 deposit was intended to purchase.**

Deception 8b: Excessive repetition of a contested feature of the case as a FACT.

- It is a form of deception to repeat a concept over and over and over again to subtly make the reader believe that the statement is true. It is HOTLY contested whether or not the \$100,000 deposit was refundable or non-refundable. Instead of describing the \$100,000 deposit as "Deposit" or "\$100,000 deposit"; Defendants write "\$100,000 non-refundable deposit" 6 times inside their "CASE FACTS"...indicating to the Court that it is a FACT that the \$100,000 is non-refundable. This is false, as the jury agreed.
 - The Appellate Court must rely on the veracity of the lawyers involved. Thus, this 7-times-repeated quasi-deception rises to the level of a full-blown Deception of the Appellate Court.
 - **The fact that the attempted Deception proved ineffective at both the trial and appellate levels renders it no less sanctionable.**

The 6 repetitions of “\$100,000 non-refundable deposit” in “STATEMENT OF FACTS”:

1. never completed (R:2710-13). The purpose of the \$100,000 non-refundable deposit was to cover MACC’s ongoing business expenses, such as payroll,
2. agreed in writing that Wagner’s \$100,000 deposit was non-refundable
3. a purchase price and a \$100,000 non-refundable deposit (R:3285).
4. Wagner’s father loaned Wagner \$100,000 for the non-refundable deposit
5. things, wrongfully demanding repayment of the \$100,000 non-refundable deposit (R:3288-89). Wagner and SEI lacked any justification for this
6. his \$100,000 non-refundable deposit. Thus, Mosler and MACC’s

DECEPTION #9: September 14, 2023: Repeatedly and emphatically stating to the Court during the Motion for New Trial Hearing that there was **no evidence** for [every issue Plaintiff brought up]. This was Mr. Weber’s standard statement-of-fact answer; **delivered by Mr. Weber as factual absolute**.

- a. The 11-day trial contained 259 elements of Exhibit evidence, which the Jury evaluated and ruled on. In every category that the jury was allowed to issue a verdict on, they made awards to Plaintiffs; clearly evidence existed.
- b. Plaintiffs contend that if the Jury were allowed to issue a verdict on Count 3 (Exclusive Distributorships in China and Thailand) and Count 9 (Defamation against James Todd Wagner from the statement of Warren Mosler “He’s Nothing. He’s got some severe mental problems. He goes around saying he has everything, but he has nothing.”), that the Jury would also rule in Plaintiffs favor.
- c. All of the issues interrelate, and illustrate a PATTERN of **both Malice** [justification] and **Profit/Greed Motive** for the numerous harmful ACTIONS including a 26-month-long campaign of both public [**to journalists**] and secretive [**to business partners and potential employers**] defamation.
- d. A lengthy list of material-evidence (**that does exist**), which Mr. Weber stated repeatedly doesn’t exist is in **Appendix “9”**, **Appendices “2:A” – “2:N”**, **Appendices “5:A – “5:P”**.
- e. The 111 pages of testimony segments in Appendices 6 & 8 that contain **160 segments of testimony** directly-relevant to Count 3 and Count 9. Mr. Weber STRONGLY asserted that all this evidence is “**no evidence**”.

DECEPTION #10: Dramatic under-reporting of Warren Mosler’s net worth to diminish potential Punitive Damages award.

Given the confidentiality order that is in place, Plaintiffs merely call to the court’s attention that Mr. Mosler has woefully underreported his net worth, and failed to provide appropriate documentation that would prove same. Therefore, Plaintiffs ask that if a rehearing/retrial is granted as to count 9 (for which punitive damages may be awarded), Plaintiffs be granted a hearing in order to compel proper financial disclosure(s) from either Mr. Mosler, and/or any of his numerous companies; and that Mr. Mosler be sanctioned for his conduct and the fees/costs necessary to “right” his deceptive reporting.

WHEREFORE, Plaintiffs request that Defendants and Defense-Counsel be sanctioned and ordered to pay reasonable attorney’s fees and costs incurred by Plaintiffs for having to deal with the above-referenced deceptions. As for Deception related to Mr. Mosler’s worth, Plaintiff respectfully requests that before any rehearing/retrial as to count 9 (if granted), Plaintiffs be granted a hearing in order to compel proper financial disclosure(s) from either Mr. Mosler, and/or any of his numerous companies, and award appropriate fees/costs for having to deal with these issues. Given the obvious economic disparity between Plaintiffs and Defendants, sanctions should be payable promptly.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April, 2024, pursuant to Fla. R. Jud. Admin. 2.516, a true copy of the foregoing document is being electronically filed and thereby e-served via Florida e-Portal on all counsel/parties affiliated with this case in the manner specified within the e-portal changes effective June 20, 2014. (Note: Alternate e-mail addresses on the e-portal will be “checked” for service, and anyone affiliated with this case but not registered on the e-portal will be served in the manner specified by the aforementioned Rule.) Persons served: Steven Weber, Esq., steve@weberlawpa.com; service@weberlawpa.com.

ZAPPOLO LAW, P.A.
Attorneys for WAGNER and SEI

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SCOTT W. ZAPPOLO
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IN THE CIRCUIT COURT, 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2012-CA-023358-XXXX-MB
DIVISION: AG

JAMES TODD WAGNER, SUPERCAR
ENGINEERING, INC., a Florida
corporation,

Plaintiffs,

vs.

WARREN MOSLER, MOSLER AUTO CARE
CENTER, INC. ("MACC") a Florida corporation,
d/b/a Mosler Automotive,

Defendants.

_____ /

**APPENDIX TO
PLAINTIFFS' MOTION FOR SANCTIONS
AGAINST
DEFENDANTS AND DEFENDANTS-COUNSEL
BASED UPON 4-YEAR PATTERN OF DECEPTION TO THE COURT
VIA 10 INSTANCES OF WRITTEN FILINGS AND VERBAL STATEMENTS
BOTH PRIOR TO AND DURING TRIAL**

<u>Deception</u>	<u>Pages</u>
1.....	2-4
2.....	5-71
3.....	72
4.....	No Appendix
5.....	73-141
6.....	142-187
7.....	188-189
8.....	190-192
9.....	193-198
10.....	No Appendix

Appendix “1”: Transcript segments of Daubert Hearing where Mr. Weber stated a prior “lost profits” expert was excluded by the prior judge, Judge Hafele.

1) *Mr. Weber is aware that Ms. O'Shell is testifying about COUNT III, not Defamation, Count IX.*

Count III Business Valuation Expert Witness Exclusion Hearing Pg 15 In 17 – pg 16 In 2:

MR. WEBER:

Now, our first grounds for that motion is that they are presenting Ms. O'Shell as a witness to testify as to lost profits in Count III of their Sixth Amended Complaint. Count III is a breach of contract claim, and nowhere in that claim did they mention the word lost profits, and so after years of litigation, **and after we actually got their first lost profits expert excluded** when they sought loss profits under their defamation claim, **now they have come back and are asserting lost profits for Count III, breach of contract.**

2) *Mr. Weber reinforces the “lost profits”, which is something a business generates, as the proper description of the expert Excluded by Judge Hafele. The REPITITION on this topic, indicates an INTENT to deceive and use this deception to win.*

A person working for a living earns WAGES, not profits...the expert that Mr. Weber worked hard to exclude was to testify about what money James Wagner (personally) would have earned in wages: nothing whatsoever to do with SEI's Distributorship Lost Profits. There is a clear difference that everyone who has had a job understands. Mr. Weber intentionally mis-stated the facts to deceive a new-to-the-case judge who can't have memorized what each Count within the Complaint refers to.

Count III Business Valuation Expert Witness Exclusion Hearing Pg 16 In 3 – 8:

BY MR. WEBER:

Well, first, that Count III breach of contract doesn't mention lost profits for consequential damages anywhere in the Sixth Amended Complaint. This is something that they're manufacturing almost ten years later **because Judge Hafele excluded their last lost profits expert.**

- 3) *Clearly linking the previously-excluded expert to this one – as if they were addressing the exact same topics / damages....and even stating both as being “lost profits” AGAIN.*

Count III Business Valuation Expert Witness Exclusion Hearing Pg 25 In 3 – 10:

BY MR. WEBER:

The HCA case, which is a 2016-case, which I provided to Your Honor, clearly explains the difference, and when a lost profits claim is as general damages versus special damages and must be pled. There is no dispute that special damages must be pled, according to the rule. **Now, they again had their initial damages expert excluded.**

- 4) *And again “a new expert to replace the excluded one”*

Count III Business Valuation Expert Witness Exclusion Hearing Pg 26 In 13 – 16:

BY MR. WEBER:

But there is prejudice. I mean, this case has been going on for ten years. We got a new expert, their second damages expert, **in fact, because Judge Hafele excluded their first damages expert.**

- 5) *COURT had limited knowledge of the case: Mr. Weber knew the **new Judge was vulnerable to manipulation** through “sleight of hand/words” that are knowingly wrong and REPEATED multiple times.*

Count III Business Valuation Expert Witness Exclusion Hearing Pg 27 In 20 – 22:

BY THE COURT:

I'm thinking about what I've heard in this case so far, and what I think I know about the case, and try to figure out –

- 6) *Mr. Weber's assertions were questioned; and Mr. Weber repeated the "lost profits" falsehood. A date of July 2019 is given about the exclusion. Weber made the exclusion happen. Mr. Weber: "They shouldn't be allowed to amend".*

Count III Business Valuation Expert Witness Exclusion Hearing Pg 28 In 5 – 19

MR. ZAPPOLO:

I just -- I'm not sure what Counsel is talking about with his argument that somebody was already excluded or something. We have had an expert excluded, a different one that I recall. I'm not saying he's not correct, I'm just not sure who he's speaking of. Mr. Weber, can you enlighten me who you're talking about so I can address that?

MR. WEBER:

2019. In July of 2019, the last time this case was set for trial, Your Honor, Judge Hafele excluded Plaintiff's damages expert, and now five years later, this is a new damages expert on a new count **because Judge Hafele excluded their last lost profits expert.** So they're manufacturing this lost profits claim.

1. *In the above, Weber begins the backpedaling process. He drops "Lost Profits" expert (in describing Cinnamin O'Shell), and replaces it with "damages" expert. Plaintiffs believe that Mr. Weber is getting worried about being "outed" for lying to the judge.*
2. *Mr. Weber never takes the time to explain to the Court that in the first four instances, Mr. Weber was intentionally misleading the new Judge, Judge Delgado.*

Table of Contents for Deception #2 Appendices (due to volume)

Appendix "2:A": The signed CHINA AND THAILAND Distributorship that both parties were co-scrivener on.

Appendix "2:B": Defendants contractual breaches and how ***trade libel was also a breach.***

Appendix "2:C": MACC's policy of building vehicles FIRST, then requesting payment.

Appendix "2:D": MACC's steadfast refusal to sell even in-stock spare parts to SEI.

Appendix "2:E": Warren Mosler was involved in RaptorGTR development and certification.

Appendix "2:F": ***"Terminate Todd" scheme*** to force SEI out of its CHINA AND THAILAND Distributorship rights.

Appendix "2:G": ***"Buyer Beware" notice*** on MACC's website to thwart SEI's sales efforts.

Appendix "2:H": Pltffs Exh #82 showing that Warren Mosler believed SEI retained rights.

Appendix "2:I": Warren Mosler testimony that SEI retained its CHINA AND THAILAND Distributorship rights.

Appendix "2:J": Warren Mosler sold off the 3 vehicles that I had a \$100,000 deposit on.

Appendix "2:K": Trade Libel was intentionally committed for a Profit Motive.

Appendix "2:L": Warren Mosler testifying that Asian press launch satisfied paragraph A(4)

Appendix "2:M": MACC is physically unable to fulfill contractual production requirements.

Appendix "2:N": All instances wherein the word "supply" is spoken by any witness.

Appendix "2:AA": Affidavit of James Todd Wagner in support of this Motion for Sanctions.

Appendix "2:BB": Exhibits that support a finding in favor of Plaintiffs on Count 3: Exclusive Distributorships in China and Thailand.

Appendix "2:A": The signed CHINA AND THAILAND Distributorship that both parties were co-scrivener on.

Trial Transcript, James Todd Wagner in cross-examination pg 1372 ln 22 – pg 1373 ln 5

22 Q Let's look at this email, November 16, 2010.

23 ***So Mr. Mosler says "with a few changes attached," he's***

24 ***referring to changes to the distributorship agreement,***

25 ***right?***

1 A Yes. Yes, this is --

2 Q And so now --

3 **A Mr. Mosler is a co-scrivener --**

4 Q Hold on.

5 **A -- on the distributorship agreement.**

- Following is Plaintiffs' Trial Exhibit #74 (Plaintiffs' internal number 290)

MOSLER

A U T O M O T I V E

EXCLUSIVE DISTRIBUTORSHIPS OF MOSLER PRODUCTS IN CHINA AND THAILAND

16 November 2010

This Agreement between Mosler Auto Care Center DBA Mosler Automotive ("MACC") and Supercar Engineering, Inc ("SEI") grants 25-year exclusive distribution rights in China and Thailand for all MACC-designed vehicles to SEI on the terms below.

A. Terms of the Exclusive Distributorship

- 1) The Exclusive Distributorship Term is 25 years from the date of this Agreement.
- 2) SEI must purchase of Chassis 32 ("C32") for \$92,605 as previously agreed. Prior to the date of this Agreement, SEI has paid \$66,882.28 on C32. A contract is in place requiring SEI to pay for the remainder of price of C32 in equal payments over the next 15 months.
- 3) C32 must be exported to Thailand or China within 18 weeks after C32 has been completed by MACC. Expected completion date is Jan. 15, 2011.
- 4) C32 must be presented to at least one press outlet in Thailand and China.
- 5) Beginning calendar year 2011; SEI must purchase at least three (3) MACC vehicles to be marketed (approximately 1 vehicle every 120 days), in the Thailand/China distribution territory in every calendar year of the Exclusive Distributorship Term.
- 6) Each vehicle must be paid for in full prior to export and delivery to SEI from MACC from the United States or any other location.

B. Supply of MACC vehicles to SEI

- 1) Beginning calendar year 2011 until the end of the Exclusive Distributorship Term, MACC agrees to supply SEI with a minimum of three (3) MACC vehicles in every calendar year.
- 2) Vehicle list prices are \$329,000+options for MT900s/Raptor body vehicles with 7.0L V8 engine and 6-speed manual transmission. \$389,000+options for Photon (3.5" narrower) body vehicles with 7.0L V8 engine and Hewland sequential transmission. Prices are fixed for orders placed prior to Dec. 31, 2012. Prices subject to change thereafter.

**2391 OLD DIXIE HIGHWAY • RIVIERA BEACH, FL 33404
561-842-2492 • FAX-561-845-3237**

561 845-3237

MOSLER A U T O M O T I V E

C. Forfeit of Exclusive Distribution Rights

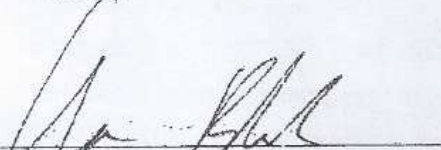
- 1) SEI will forfeit its Exclusive Distribution Rights in China and Thailand immediately upon failure to perform any of Terms 2-6 in Paragraph A, provided that MACC has fulfilled its obligation to supply vehicles as described in Paragraph B.
- 2) If SEI forfeits its Exclusive Distribution Rights in China and Thailand, SEI will be allowed to sell any vehicles that are already completed and being offered for sale in China and Thailand on a non-exclusive basis.

D. Distributor Discount

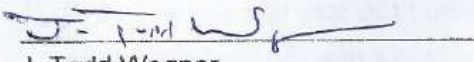
- 1) While SEI has exclusive distributorship rights, SEI will purchase vehicles from MACC at a price that is 13% lower than the list price on each vehicle.
- 2) When SEI becomes a non-exclusive distributor, SEI will purchase vehicles from MACC with a discount off of list price on each vehicle that is the greatest of 13% or the discount that may be granted to other distributors of MACC-designed products in China or Thailand.

E. Miscellaneous

- 1) This Agreement is entered into in Florida and is governed by Florida law.
- 2) This Agreement will be binding upon all future MACC designs and future owners of MACC assets.


 Warren Mosler
 Owner
 Mosler Automotive (Mosler Auto Care Center)

02/17/2010
 Date


 J. Todd Wagner
 President
 Supercar Engineering, Inc.

11/18/200
 Date

Appendix “2:B”: Defendants undermined sales efforts (which would have resulted in purchases from MACC)

- **Testimony relating to how Trade Libel against the RaptorGTR eliminated SEI’s ability to selling RaptorGTR vehicles through the CHINA AND THAILAND Distributorship. The jury awarded \$350,000 for Trade Libel against RaptorGTR #001.**

Trial Transcript, James Todd Wagner testifying pg 1787 ln 7 – 18

7 Q *With respect to 18 weeks after the chassis was*
8 completed --

9 A Yes.

10 Q -- what happened in the interim?

11 A In the interim, **Mr. Mosler told the whole**
12 **world that their car was fake, that it didn't have a**
13 **distributorship, my company didn't have a**
14 **distributorship. And all these journalists concluded**
15 **the fact, because they heard it from the big man,** that
16 the car that I was promoting -- promoting through a
17 distributorship was illegitimate and fake and I was a
18 conman. **So my world exploded.**

Trial Transcript pg 1787 ln 23 – pg 1787 ln 15

23 Q With respect to MACC -- MACC's production of
24 vehicles, what, if anything, had **Mr. Mosler told the**
25 **journalists during that same -- in that same 18-week**
1 **period?**

2 A He told the journalists they're not producing
3 a car.

4 Q Okay.

5 A A car, a car.

6 Q So --

7 A And the 18 weeks didn't expire until
8 approximately Christmastime. **So well before the**
9 **expiration of the 18 weeks, Mr. Mosler, you know, bombed**
10 **the whole thing.**

11 Q He told you he wasn't -- they weren't
12 producing cars, right?

13 A **And that the RaptorGTR is a fake, I don't have**
14 **a distributorship, I mean, everything. He just**
15 **essentially, like, just nuked it.**

Trial Testimony, Matt Farah (Journalist) pg 1096 ln 17 - 24

17 Q Okay. ***What was your purpose in contacting***
18 ***Warren Mosler?***

19 A **He was the only person at the time who I**
20 **thought could confirm whether or not the RaptorGTR was a**
21 **genuine Mosler product...**

22 Q Was a genuine Mosler product -- can you please
23 continue?

24 A **... or not.**

25 Q Okay. So with respect to the November 17TH
1 posting, did you contact Mr. Mosler, or did he contact
2 you?

3 A There -- I got Mr. Mosler's phone number and I
4 called him.

Trial Testimony, Matt Farah (Journalist) pg 1103 ln 23 – pg 1104 ln 10

13 Q Okay. And then when we flip forward, ***you***
24 ***actually had conversations with Mr. Mosler, correct?***

25 **A Yes, I did have a conversation with**
1 **Mr. Mosler -- one.**

2 Q Okay. And he said -- and ***he confirmed that***
3 ***the twin-turbo conversion to the RaptorGTR Mosler 900S***
4 ***will not pass emissions and is not certifiable for***
5 ***public sale, correct?***

6 A That -- **yeah.** I mean, again, I don't recall
7 some of the more specific details of that conversation,
8 but **if I wrote that, that's what he told me at the time.**
9 **My memory would have been very fresh then, so I would**
10 **say that if I said that, then I would stand by it now.**

Trial Transcript, James Todd Wagner testifying pg 1156 ln 10 – 22

10 Q Within Exhibit Number 40, "The Truth About
11 Cars" article where ***Mr. Mosler stated the car will not***
12 ***pass emissions and is not certifiable for public sale,***
13 ***was that a true statement or false statement?***

14 **A That's a false statement.**

15 Q Okay. How do you know that's a false
16 statement?

17 **A Well, because we have the EPA certification.**

18 Q Okay. And what about if someone were to say
19 "Oh, yeah, you might have EPA certification, but it
20 was -- it won't pass emissions"? What do you say to

21 that?

22 **A** No.

Trial Transcript, James Todd Wagner testifying pg 1151 ln 22 – pg 1153 ln 15

23 Q Okay. Explain to the jury how you – how SEI

24 believes MACC breached the agreement.

25 A Well, I mean, fundamentally, it made it

1 impossible to sell the cars by saying the car's a fake

2 and all of the stuff we've heard.

3 I mean, how can I go off and sell a

4 \$700,000 car when the owner of the company is saying

5 it's a fake and people concluding from that that I'm a

6 con artist?

7 If I tell them that this is, you know, the

8 next Mosler product and then they call the owner and he

9 says it's a fake, of course they're going to assume that

10 I'm trying to con them.

11 Q Okay.

12 A And that's what they did.

13 Q So based upon that, did – well, when did MACC

14 fail to manufacture or supply cars to SEI?

15 A Well, the entire time they didn't make

16 anything –

17 Q Okay.

18 A -- after this one.

19 Q Now if someone were to ask you "Did you have

20 orders for cars?" what would your response be?

21 A I had orders – people ready, lined up, but

22 then the launch happened and Mosler just, you know,

23 knocked it on its face and then they were like no way.

24 Even – you know, you heard Abby through the
25 speakers. I mean, she – you know, I met with some of
1 these people, not all of them. Like Dr. Sabahi, I met
2 him. And this was a hot commodity. The car looked
3 great. It was exotic.

4 I mean, it sounded like they were driving a
5 fighter jet. It was (audible noise) because the turbo
6 was right there, so it's spinning in the atmosphere. It
7 was just a sensory experience unlike anything that I've
8 ever driven before.

9 Q Okay.

10 **A And it just got annihilated.**

11 Q Now, you say that the car got annihilated –
12 well, you said “it,” I apologize. So what were you
13 referring to when you said “it got annihilated”?

14 **A Well, the RaptorGTR and its image at the**
15 **launch, it just got destroyed.**

Trial Transcript, Abby Cubey testifying pg 1790 ln 13 – 22

7 Q Okay. Were you aware of your -- your business
8 partner you said Dr. Sabahi. Were you aware of any
9 attempts that he was making to be involved in the
10 purchase of Mosler Automotive?

11 A Yes.

12 Q And what do you recall about that?

13 **A The Mosler Automotive car. Yes. He wanted to**
14 **buy the car.**

15 Q Okay. Are you aware of whether he wanted to
16 try and buy the company as well?

17 A There was a discussion. Yes.

18 Q And what came of that discussion?

19 **A He backed out because of the -- the stuff**
20 **that's out there.**

21 Q When you say the stuff that's out there, what
22 do you mean?

23 A There was a -- I believe there was an article
24 about a burnt engine. I don't know exactly. I don't
25 recall all of that, but this is just basing on what I
1 remember. And the -- what -- **what it says out there**
2 **that it's -- the car was fake, it wasn't Mosler, and**
3 **then he called me, and that's -- and he said that I will**
4 **not pursue.**

5 ***Q When you say it was -- the car was fake and it***
6 ***was not Mosler, it was not a Mosler car?***

7 **A Yes, I mean you can see it's all over the**
8 **Internet.**

Trial Transcript, James Todd Wagner in redirect pg. 1790 ln 13 – 22

13 Q Okay. So you had these potential investors.
14 And you also had potential buyers of vehicles, didn't
15 you?

16 A Yes.

17 ***Q Okay. What happened to the interest of those***
18 ***people once the articles came out?***

19 **A Disappeared, disappeared.**

20 Q Okay.

21 **A No one's gonna buy a \$700,000 car when the**
22 **owner of the company says it's a fake.**

Trial Transcript, James Todd Wagner in cross-examination pg 1708 ln 9 – 25

9 Q And you wrote “the publication simply took the
10 article down, but there are reprints of this all over
11 the web now.” *You’re referring to the Benjamin Greene*
12 *article?*

13 A Yes. And the holistic aspect of that the
14 Mosler RaptorGTR is a fake. They even took the word
15 Mosler and put a strike-through in it to kind of like,
16 you know, drive home the point that I’m saying this is a
17 Mosler but, hey, the factory says it’s not, and they
18 believed the factory. They think I’m lying.

19 Q And it wasn’t anybody from MACC who put the
20 strike-through that Mosler word in the article, correct?

21 A The journalist –

22 Q The journalist did that, correct?

23 A -- concluded that that was an appropriate
24 thing to do based upon talking to Mr. Mosler and the
25 MACC factory.

Trial Transcript, James Todd Wagner testifying pg 1247 ln 6 – 18

6 I've worked my whole life for my reputation.
7 You know, friends who I was going to do business with
8 didn't want to do business with me.

9 Q Okay. Now --

10 A It's sort of humiliating, you know.

11 Q -- I want to talk to you -- shift gears a
12 minute *about the defamation to the car.*

13 You've -- *there's been repeated testimony*
14 *about a \$700,000 price tag for the 2012 RaptorGTR,*
15 *correct?*

16 A Yes.

17 Q *Okay. What did it ultimately sell for?*

18 A \$300,000.

- Below testimony indicates that MACC was in breach of the CHINA AND THAILAND Distributorship's paragraph B(1) ["supply" of vehicles to SEI]. This breach contractually eliminated any possibility of SEI losing its "exclusivity" in China and Thailand [see paragraph C(1)].

Trial Transcript, Warren Mosler testifying pg 928 ln 21 – pg 929 ln 6

21 Q Are we still debating whether Mosler Auto Care
22 Center was producing Raptor cars?

23 A Well, we never produced it. Nothing – they
24 were never produced. There was no production.

25 Q So SEI – so Mosler Auto Care Center didn't
1 produce any Raptor vehicles?

2 A You know, Todd built a prototype and that was
3 the only one that ever got built.

4 Q Okay. Now that's – those prices –

5 A Or the demonstrator, whatever you want to call
6 it.

Trial Transcript, Warren Mosler testifying pg 757 ln 22 – pg 758 ln 5

22 Q Well, that's what you meant when you said "We
23 could build you one, a new one." ***You were going to***
24 ***build a new Photon for him, right?***

25 **A Well, a new car for him.**

1 Q Okay.

2 A If he wanted a Photon, I would have had to –
3 I would have either talked him out of it or **figure out**
4 **how to do that before the end of the year. I don't know**
5 **if I could have done that.**

Trial Transcript, James Todd Wagner in cross-examination pg 1662 ln 1 – 11

1 Q The only – let's go to A-5. A-5 states
2 "Beginning calendar year 2011, SEI must purchase at
3 least three MACC vehicles to be marketed (approximately
4 1 vehicle every 120 days) in the Thailand/China
5 distribution territory in every calendar year of the
6 exclusive distributorship term," correct?

7 A Yes, this says that.

8 Q After SEI signed this document, the only car
9 that SEI purchased from MACC was the RaptorGTR, right?

10 A That is correct. **None else were available for**
11 **purchase.**

Trial Transcript, James Todd Wagner in cross-examination pg 1728 ln 5 – 8

5 Q -- RaptorGTR was the ***only one ever produced,***
6 ***right?***

7 **A The 2012 RaptorGTR is the only one that MACC**
8 **produced, yes.**

Trial Transcript, James Todd Wagner in redirect pg 1787 ln 23 – pg 1788 ln 3

23 Q With respect to MACC – MACC's production of
24 vehicles, ***what, if anything, had Mr. Mosler told the***
25 ***journalists during that same – in that same 18-week***
1 ***period?***

2 **A He told the journalists they're not producing**
3 **a car.**

Trial Transcript pg 1787 ln 16 – pg 1787 ln 7

16 Q So with respect to your claim that Mosler --
17 you understand that Mosler is taking -- MACC is taking
18 the position that you breached because you didn't buy
19 cars, right?

20 A Right.

21 Q What is your counter-position with respect to
22 those facts?

23 **A The contract says they have to produce the**
24 **cars.**

25 Q Okay. And –

1 **A If they don't produce the cars, there's no**
2 **breach function.**

3 ***Q And what had Mr. Mosler told the world about***
4 ***whether or not they were producing any?***

5 **A Not producing cars.**

6 ***Q And what did you interpret that as?***

7 **A** **That I didn't have the ability to buy one.**

- **Below testimony confirms Warren Mosler selling off the 3 used MACC vehicles (Chassis 08, Chassis 36, and Chassis 38) that *SEI had put a \$100,000 deposit down on.***

Trial Transcript, Warren Mosler testifying pg 757 ln 10 – 17

10 Q Okay. “Or we can make a new one in Florida

11 which will take the rest of the year” –

12 A Yeah.

13 Q -- “or would you want a ***preowned one*** that

14 could be rebuilt to your specs as desired”?

15 A Yeah.

16 Q Now, do you know whatever came of that?

17 **A** **He took a standard MT900 base model.**

Trial Transcript, James Todd Wagner in cross-examination pg 1418 ln 5 – 24

5 Q Even though you allege that you had an
6 agreement with Mr. Mosler to purchase MACC’s assets by
7 this date on May 2, 2011, you continued negotiating and
8 sending asset purchase agreements to Mr. Mosler,
9 correct? Yes or no?

10 A This, what you’re showing on the screen, was
11 never renegotiated. So there are two things: One is
12 how the \$100,000 deposit is refundable. That was never
13 changed. We had an agreement for him to sell the whole
14 company for \$1 million, but he sold off \$600,000 of
15 assets during my exclusivity period.

16 So then after that, after I discovered it –

17 he kept it secret from me – I came back and said “Hey,
18 you just sold off all of the assets.”

19 Q It was a secret. Nobody knew; is that right?

20 A Nobody knew. He didn’t tell me. So now this
21 is the whole analogy I was saying before. He takes the
22 deposit for you to buy a car and then you go to buy the
23 car and there’s no engine in the car and you’re like
24 “Hey, where’s the engine?”

Trial Transcript, James Todd Wagner in redirect pg 1762 ln 18 – pg 1763 ln

18 Q What were our – what were the three price
19 negotiating points again?

20 **A So first it was \$1 million for three finished**
21 **cars and all the tooling, the jigs, the molds, et**
22 **cetera, all the – and the spare parts.**

23 Q Okay.

24 A Spare chassis to build cars.

25 **Then the second time, the three finished cars**

1 **are gone.** So now it’s just the jigs, the molds, the
2 parts and chassis, those things, and that was 500,000.
3 Then Mr. Mosler blocked that by saying he wanted his son
4 to run the company.

5 And shortly thereafter, Mr. Mosler and his son
6 launched another totally illegal car after the RaptorGTR
7 called the MT900 SP Photon.

Trial Testimony, Warren Mosler testifying pg 756 ln 23 – pg 757 ln 17

22 Q And that didn't mean he was going to buy one.

23 ***You were going to give him one, right?***

24 A Right.

25 Q Okay. And then he wrote back at 9:15 a.m.,
1 like right away –

2 A Yeah.

3 Q -- "Seriously – do you have any available
4 now?" And you wrote back at 9:22 –

5 A Yeah.

6 Q -- "The only Photon is the one in the UK. You
7 can have it after it runs on Top Gear if you want."

8 What is Top Gear?

9 A It was a car show or something in the UK.

10 Q Okay. "Or we can make a new one in Florida
11 which will take the rest of the year" –

12 A Yeah.

13 Q -- "or would you want a preowned one that
14 could be rebuilt to your specs as desired"?

15 A Yeah.

16 Q Now, do you know whatever came of that?

17 **A He took a standard MT900 base model.**

Trial Transcript, James Todd Wagner testifying pg 1537 ln 17 – 22

17 You know, my exclusivity extended until
18 September 29th. **It was breached because Mr. Mosler sold**
19 **off the three finished cars.** He did that, and he
20 actually testified about that. One of them went to
21 Thomas Olofsson. We never knew that until now, but it's
22 just unreasonable in every way.

Trial Transcript, James Todd Wagner testifying pg. 1798 ln 2 - 6

2 Q Okay. Now, what, if anything, do we know
3 happened to assets of Mosler Auto Care Center *between*
4 *June 29th and September 1st, 2011?*

5 A Mr. Mosler sold off the crown jewels, the
6 three finished cars.

Appendix “2:C”: MACC’s corporate policy (tracking the Distributorship Agreement) of building vehicles FIRST, then requesting payment.

Trial Transcript, Warren Mosler testifying pg 733 ln 5 – 12

5 Q Mr. Mosler, before we took the break you had
6 testified, I believe, a couple of times that ***the Photon***
7 ***that you were building was strictly for your own use,***
8 ***correct?***

9 A Correct.

10 Q Okay.

11 **A Well, I’d say it never got sold** anyway. I
12 still have the car.

Trial Transcript, Warren Mosler testifying pg 837 ln 10 – 12

10 Q You didn't have a Certificate of Conformity
11 for a Photon, did you?

12 **A No.**

Trial Transcript, Warren Mosler testifying pg 757 ln 6 – 25

6 Q -- “The only Photon is the one in the UK. You
7 can have it after it runs on Top Gear if you want.”

8 What is Top Gear?

9 A It was a car show or something in the UK.

10 Q Okay. “Or we can make a new one in Florida
11 which will take the rest of the year” –

12 A Yeah.

13 Q -- “or would you want a preowned one that
14 could be rebuilt to your specs as desired”?

15 A Yeah.

16 Q Now, do you know whatever came of that?

17 A He took a standard MT900 base model.

18 **Q Okay. Now when you were going to build him**

19 **one in Florida that would take the rest of the year, you**

20 were going to build him a Photon, right?

21 A This is a hypothetical, right?

22 **Q Well, that's what you meant when you said "We**

23 **could build you one, a new one."** You were going to

24 build a new Photon for him, right?

25 **A Well, a new car for him.**

Appendix "2:D": MACC's steadfast refusal to sell even in-stock spare parts to SEI.

Trial Transcript, James Todd Wagner testifying pg 1787 ln 15 – pg 1788 ln

15 **Q Okay. Now, with respect to S -- the paragraph**
16 **5, beginning calendar year 2011, SEI must purchase at**
17 **least three MACC vehicles, if in the latter part of 2011**
18 **SEI had in fact tried to purchase three MACC vehicles --**

19 **A They would have said no.**

20 Q Okay.

21 **A He made it clear to me that they won't sell to**
22 **me, period.**

23 Q Well, at that point, how did side glass come
24 into your thought process?

25 A Well, one of the problems I was -- so, common
1 in the cars is --

2 Q No, what -- just focus on the question, okay?

3 A Sorry.

4 **Q *As you're thinking about whether or not MACC***
5 ***is going to sell you cars, what knowledge did you have***
6 ***about MACC's willingness to sell to you?***

7 **A They weren't even going to sell me a piece of**
8 **side glass.**

Trial Transcript, Sylvia Klaker testifying pg 410 ln 20 – pg 410 ln 1

19 Q Okay. Yet you -- when Mr. Wagner wrote to you
20 on November 1, 2012, "The side glass breaking should be
21 covered under warranty," you wrote back, "The warranty
22 you reference is void and **be advised that MACC will not**
23 **sell to you.**"

24 So who concluded that the warranty was void?

25 A All I know is that it was on the Bill of Sale

1 that there was no warranty on that vehicle.

Trial Testimony, James Todd Wagner testifying pg 1187 ln 17 – pg 1188 ln 10

17 Q Okay. I just want to be sure for this jury,
18 though, you're not actually -- that's not a claim for
19 this jury to consider about the glass, is it?

20 A Correct. Correct.

21 Q Okay.

22 A But it's worthwhile saying **they refused to**
23 **give it to me unless I signed a full release giving up**
24 **my \$100,000 to Mr. Mosler, which is absurd.**

25 Q Okay. To the point would they -- when you
1 offered to -- did you ever --

2 When, if ever, did you ever offer to buy that
3 glass?

4 A Yes. I said, "If you don't want to honor the
5 warranty, I'll just buy it," and they wouldn't allow me
6 to buy the glass.

7 Q Okay. Now did you ask him for a price or
8 anything like that?

9 **A All they said -- Sylvia, who was here earlier,**
10 **said "Be advised MACC will not sell to you."**

Appendix “2:E”: Warren Mosler was involved in RaptorGTR development and certification.

Trial Transcript, Warren Mosler testifying pg 687 ln 4 – 25

4 Q That’s ***the 2012 RaptorGTR*** while it’s in

5 progress of being built, correct?

6 **A Right.**

7 Q And the way we can identify that very quickly

8 from this rearview picture of it or rear-end picture of

9 it is the single taillights, correct?

10 **A That would be consistent with the car, sure.**

11 ***Q Okay. And we know that this is built in the***

12 ***Mosler shop –***

13 **A Yes.**

14 Q -- because we can recognize the background and

15 that very particular checkered floor on the right top

16 corner, correct?

17 **A Yeah. Absolutely.**

18 Q And on the left-hand side there, that scoop –

19 **A Yeah.**

20 Q -- that’s a turbo air intake being worked on,

21 correct?

22 **A Yes.**

23 Q Okay. So as we discussed, I’m pointing up on

24 the screen now the single taillight, the turbo scoop –

25 **A Right.**

Trial Transcript, Warren Mosler testifying pg 682 ln 11 – 17

11 Q **Okay. So the RaptorGTR –**

12 A Yeah.

13 Q -- did that follow the process of the second

14 page of Exhibit 1171?

15 A **I think it came into the country as a nearly**

16 **complete car, so I don't know if that follows this thing**

17 **or not.**

Trial Transcript, Warren Mosler testifying pg 847 ln 13 - pg 848 ln

13 Q Okay. Now that was Mr. Wagner telling you and

14 several others on March 7, 2011 about using the Raptor

15 and RaptorGTR in advertising for the Mosler Challenge,

16 right?

17 A Yes, yes.

18 Q Okay. And you understood that that's what was

19 going to happen, correct?

20 A Oh, yeah.

21 Q Okay. So you understood that ***you were holding***

22 ***out to the world on the Internet that the RaptorGTR was***

23 ***a Mosler product, correct?***

24 A **We were -- the goal was to preserve the**

25 **tradename** because it was going to expire, and so we

1 looked at the rules and I was -- again, I work in

2 financial markets all day and people in the shop, Todd

3 and others, were saying what we got to do is have some

4 kind of minimum exposure somewhere enough to keep the

5 trademark, and how do we do this and who can we get to

6 do it?

8 Q So the model covered is the **RaptorGTR**?

9 **A Yes.**

10 Q You didn't have a Certificate of Conformity
11 for a Photon, did you?

12 A No.

13 Q You didn't have a -- well, did you have a
14 Certificate of Conformity for a MT900 for 2012?

15 A No.

16 Q Now this document says that its effective date
17 was August 12, 2011. Do you remember receiving an email
18 from Mr. Wagner on or around that time informing you
19 that he received this Certificate of Conformity?

20 A Yeah, I've seen it going through the
21 documents.

22 **Q Okay. Do you remember what your response was?**

23 **A I think I was very pleased when he received**
24 **it.**

25 Q Okay. **Would the phrase "good job" --**

1 **A Yes, definitely. It was a huge effort.**

Appendix “2:F”: “Terminate Todd” scheme to force SEI out of its China and Thailand Distributorship rights.

Trial Transcript, Warren Mosler testifying pg 2310 ln 19 – pg 2311 ln 11

19 Q So **about a month after Mr. Wagner gets the**

20 **certification**, you are in discussions with

21 Mr. Savopoulos --

22 A Yes.

23 Q -- about buying the company, correct?

24 A Yes.

25 Q All right. And Mr. Savopoulos wanted you to

1 **terminate Todd**, right?

2 A Well, what are you pointing to here?

3 Q The second page.

4 A The second page?

5 Q At the top.

6 A Oh. I would need you to -- yes.

7 Q Okay. He wanted you to **terminate Todd** --

8 **A Yes.**

9 Q -- **try to get Todd to transfer the Raptor name**

10 **to the company** --

11 **A Yes.**

Trial Transcript, Warren Mosler testifying pg 1272 ln 14 – pg 1273 ln 24

14 Q When you say you were busted, what do you

15 mean?

16 **A Broke.**

17 Q Okay.

18 A I had no -- nothing. I had no job, no -- I

19 was -- so Mr. Mosler knew that and they -- after,
20 essentially, like beating the daylight out of me and
21 I'm on the ground, he's like "Here, sign this."

22 Q What was that?

23 A That **Termination and Release Agreement where**
24 **I'd have to sign away my intellectual property, my**
25 **exclusive distributorship**, which I had two -- I'm only 1 suing on one, but I had two -- and my
\$100,000 in return

2 for \$100. And Mosler said, "You should sign it in
3 exchange for me not sending my two attorneys after you
4 to sue me for anything."

5 Oh, and then there's an email, which I think
6 is in the record, where it says, like, "**Any pressure you**
7 **can put.**"

8 Q Okay.

9 A So Mr. Savvas Savopoulos, they know each other
10 from the private jets. They fly private jets to D.C.
11 and things like that. So he says to Mr. Mosler "Any
12 pressure you can put?" And I didn't know all this stuff
13 was happening. All this stuff was going on behind my
14 back.

15 Q Now --

16 A **But I actually got a phone call from**
17 **Mr. Mosler and he just tells me, "Hey, Todd, you know,**
18 **you're outmatched here. I won't do it, but Savvas is**
19 **the type of guy who will sue you for anything and then**
20 **you'll have to hire a lawyer for \$400 an hour to defend**
21 **yourself until you're broke. That's the way things work**
22 **in America.**

23 So at that point I was obviously very

24 intimidated ...

Trial Transcript, James Todd Wagner testifying pg 1156 ln 23 – pg 1157 ln

23 Q Okay. Who did the -- who handled that whole
24 process?

25 **A The EPA certification?**

1 Q Yes.

2 A My company did, SEI.

3 Q Okay. So who's in the best position to know?

4 A My company is. I am.

5 Q Okay. Did anyone ever ask you whether it
6 would pass emissions?

7 A No.

8 Q Okay.

9 **A I mean, Mosler was happy about it. There's an**
10 **email that says "Good job."**

11 Q Okay.

12 **A So that's why I was so perplexed. I was so**
13 **perplexed at the time. I was like "You said good job**
14 **and now this?"**

15 I couldn't, at the time, like, conceptualize
16 why and I still am struggling with that a decade later,
17 but I think I know why now.

Trial Transcript, James Todd Wagner testifying pg 1514 ln 1 – 5

1 A This is for the certification of the 2012

2 RaptorGTR, yes.

3 **Q And Mr. Mosler replied "Good job," right?**

4 **A** **Yes, he was happy. That's why I was so**
5 **surprised all this stuff went down later on.**

Trial Transcript, James Todd Wagner testifying pg 1203 ln 9 – pg 1205 ln 16

9 Q Okay. But that document goes on to say “It is
10 nonetheless an interesting balance and well-researched.”
11 Between that and the duPont REGISTRY article – which is
12 in evidence, correct?

13 A Yes.

14 Q Okay. On the same topic, I’d imagine that
15 potential – what’s that word?

16 **A** **Marks.**

17 Q Okay.

18 **A** **As in like a con.**

19 Q And then it’s crossed out and then it says
20 “Customers for the RaptorGTR will find all the
21 information they need,” right?

22 A Yes.

23 Q So –

24 **A** **So this journalist has concluded, from seeing**

25 all this stuff that Mr. Mosler – you know, all these
1 for MACC.

2 Q And as a distributor for MACC and/or as a –

3 A As an engineer doing consulting work for other
4 people.

5 Q Okay.

6 **A** **I mean, who’s going to hire me? Who’s going**
7 **to hire me when they think I’m a con artist and it’s in**
8 **all these major publications all over the Internet?**

9 At the time, when you searched "Todd Wagner,"
10 I was number one. Even though there's a famous guy
11 named Todd Wagner who knows Mark Cuban, I was the number
12 one hit on all this stuff.

13 Q You know that how?

14 A Because I checked it out. I searched myself
15 and I was like oh, jeez. Like the top, like, three
16 things are this stuff.

Trial Transcript, James Todd Wagner in redirect pg 1812 ln 1 - 16

1 Q Okay. Now, on November 8th, Benjamin Greene
2 wrote to Ms. Wagner: My name is Benjamin Greene. I
3 work for the Dupont Registry.

4 The Dupont Registry is that picture of -- that
5 article with the picture of the Mustang on the front,
6 right?

7 A Yes. It's a Camaro, I think.

8 Q A Camaro, okay. Whatever.

9 "I hear you'll be unveiling a new car on
10 11/11/11 and wanted to see if you could provide us with
11 details or information."

12 And Ms. Wagner's response was?

13 A "Hi, Benjamin. That is a rumor."

14 **Q *So a week before the global launch that you***
15 **were doing of the 2012 RaptorGTR, someone at Mosler --**

16 **A Is shutting it down.**

25 Q What do you know about the comments that were

1 made to at least one journalist as far as timing to when

2 the launch was done?

3 **A He said that he found out about the whole con**

4 **yesterday**. So he's writing on the day of the launch

5 saying that he found out about the con yesterday, the

6 day before the music video came out. **So it had nothing**

7 **to do with the music video with Mr. Mosler.**

Appendix "2:G": "Buyer Beware" notice on MACC's website to thwart SEI's sales (and related purchases from MACC) efforts.

Trial Transcript, Sylvia Klaker, MACC employee testifying pg 310 ln 8 – 12

8 Q And because Supercar Engineering didn't agree
9 and go along and change the VIN number and MSO, MACC
10 posted a "Buyer Beware" notice on its website, didn't
11 it?

12 **A There is a "Buyer Beware" notice posted.**

Trial Transcript, Sylvia Klaker, MACC employee testifying pg 311 ln 17 – 23

17 Q Who, if anyone, instructed you to draft that
18 notice?

19 A I believe Alan Simon.

20 Q Okay. *So Mr. Simon instructed you to draft*
21 *the "Buyer Beware" notice and have it posted on the*
22 *website, correct?*

23 **A Yes.**

Trial Transcript, Warren Mosler testifying pg 931 ln 1 – 4

13 Q Okay. But what was your intent if you -- did
14 you allow --

15 A Them to change the VIN?

16 Q -- them to change the VIN?

17 A No, I didn't. Because they never signed the
18 document that let me buy the company, they just took
19 control of it after threatening to do that so I wouldn't
20 be able to buy the car.

21 Q "To do that," you're indicating the blowup of

22 the --

23 A "Buyer Beware" notice.

24 Q -- "Buyer Beware" notice?

25 **A** **Imagine buying a car, a supercar like this,**

1 **and then the manufacturer puts a "Buyer Beware" notice**

2 **on their website.** It is cuckoo-for-cocoa-puffs and it

3 just is part of this **deception**, this monumental -- **it's**

4 **a monumental con.**

Appendix “2:H”: Pltffs Exh #82 showing that **despite his attorney’s arguments at trial to the contrary; Warren Mosler believed SEI retained rights**. This is dated **4 days after** the Motion claims that SEI breached due to not exporting Chassis 32.

From: "Warren Mosler" <warren.mosler@gmail.com>
To: "Evelyn Richards" <erichards007@gmail.com>
CC:
Date: 1/20/2012 4:19:05 PM
Subject: Re: Inventory, Vehicles and moving forward!

Yes, if you haven't already

<sent from mobile device>

Warren Mosler
President, Valance Co.
5013 Chandler's Wharf
Christiansted, St. Croix
USVI 00820
www.moslereconomics.com

On Jan 20, 2012, at 4:13 PM, Evelyn Richards <erichards007@gmail.com> wrote:

Just to clarify, I am sending \$50K to Savvas?

Forwarded conversation

Subject: Re: Inventory, Vehicles and moving forward!

From: Warren Mosler <warren.mosler@gmail.com>
Date: Mon, Jan 2, 2012 at 8:03 PM
To: Savvas Savopoulos <savvas@savopoulos.com>
Cc: Evelyn Richards <erichards@valance.us>

Evelyn, cc'd, will send it to you as directed. Please work with her, thanks!
It was \$50,000?

sorry it didn't work out!!!

i talked to todd. he has backed off, but won't sign anything



warren

On Mon, Jan 2, 2012 at 8:35 PM, Savvas Savopoulos <savvas@savopoulos.com> wrote:
Warren,

I'm glad its working out for you. For the deposit, if you would kindly send it to Diane Colabella made out to me I'd appreciate it.

Thanks.

S

From: Warren Mosler <warren.mosler@gmail.com>
Date: Mon, 2 Jan 2012 12:58:45 -0600
To: Martin Short <rollcentre@gmail.com>
Subject: Re: Inventory, Vehicles and moving forward!

On Mon, Jan 2, 2012 at 2:30 PM, Martin Short <rollcentre@gmail.com> wrote:
Hey mate.

HNY and all that!
thanks and same!

forget you celebrate it over there...

Had a very fattening time here.....would have very much preferred a St Croix New Year but there you go.
Missed you!!!

Whats the score with this one? See below.
he and his buddy are the next buyers. claim to have \$ to me this week or next.
will keep you posted. Todd scared off Savvas who would have been the far better choice, but that's the way it goes.

Regards : Martin Short CEO Mosler Europe / Rollcentre Racing

(M) +44 (0) 7973560327 (T) +44 (0) 1480 498640/464052 (F) +44 (0) 1480 462984

rollcentre@gmail.com martin@rollcentre.com martin@mosler.co.uk

www.mosler.co.uk www.rollcentre.co.uk www.moslerchallenge.nl

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Begin forwarded message:

From: "Jeffrey M. Reiss" <techwizwonder@gmail.com>

Date: 2 January 2012 15:46:05 GMT

To: Martin Short <rollcentre@gmail.com>

Subject: **Inventory, Vehicles and moving forward!**

Martin,

Happy New Year! I hope you enjoyed it with your family and friends.

Michael and I are excited to be moving forward once again. We have been cleared by Warren to start planning for the Super Car Super Show in Palm Beach on January 22nd. We plan to have a deposit in on the company and move forward with closing ASAP. We have begun due diligence now that we have been given access to the facilities again.

I am planning to go in and get a more realistic inventory of parts and cars early this week so we can better plan/ assess how fast we can get to production.

Could you please provide me with a list of all MT's that are in the UK? Completed, or in progress. Also, I have an XL that I will attach. It began long ago, sourced from what was provided by Jill. I also have the XL I found on line that I think your team made for the GT3 Race Car.

I would like to develop concise parts / part number list that can be cross referenced and unified for the race and street MT alike. I have not been provided too much up till now as to the part numbering system used previously and I do not know if any of the parts have permanent markings or tags displaying their part number.

DEF009167

Since it has been quite some time since I turned a wrench on an S or R, I am not 100% certain what parts remain the same for both, and what is currently on the R only.

Any help you can provide in reference to chassis numbers, their locations, if they are completed or incomplete, color, race or streeteetera would be great. We still do not know exactly how many vehicles were produced, how many were street and how many were race.

If I remember correctly, there were 100 flat Tek-lam chassis ordered when the MT project was started. They were issued #00 -#99..... But I think this was lost, lost track of or changed? I plan to count exactly what is in the facilities this week. I say this because when we started, we numbered the chassis in order as far as I can remember. But now I am told that the car that Todd left in Thailand is chassis "69"... and Jill refers to another as Chassis 101 or 105.

As soon as the accusation is completed, I plan to start using the updated parts numbering plan with different types of permanent orsemi- permanent markings. I also plan to use permanent labels for each chassis from now on and hopefully issue them in order of production.

I worked on my flight to try and match up your parts list with the one I have developed based upon Jill's.

I will work to finish this today now that I have a proper computer.

Jeffrey

Jeffrey M. Reiss
Mostler Holdings, Inc.
President- COO
[561-352-9993](tel:561-352-9993)
13138 Odyssey Lake Way
Orlando, FL 32826

Because we fear becoming the next Greece, we continue to turn ourselves into the next Japan

'The 7 Deadly Innocent Frauds'

<http://www.moslereconomics.com/2009/12/10/7-deadly-innocent-frauds/>

"The most important book ever written" - Elizabeth O'Tool, Jan 8, 2011

The 1998-2001 budget surplus was the longest surplus since the 1927-1930 surplus. Coincidence?

The financial sector is a lot more trouble than it's worth.

www.moslereconomics.com

<http://twitter.com/wbmosler>

Valance Company, Inc.

5043 Chandlers Wharf, Suite 2

Christianssted, USVI 00820

Office phone: [340 692 7710](tel:3406927710) (fax 7715)

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Appendix "2:I": Warren Mosler testimony that SEI retained its China and Thailand Distributorship rights.

Trial Transcript, Warren Mosler testifying pg 931 ln 1 – 4

- 1 Q Okay. Then we have "Forfeit of exclusive
- 2 distribution rights." You never declared Supercar
- 3 Engineering in breach of this agreement, did you?
- 4 **A I don't have a recollection of doing that.**

Warren Mosler deposition in St. Croix, USVI Feb 10, 2016 pg 120 ln 17 – 18

- 17 Q. Did MACC ever terminate any distributorship?
- 18 A. Not that I recall.

Appendix “2:J”: Warren Mosler sold off the 3 used vehicles that Plaintiffs had a \$100,000 deposit on (which would have been the only cars available for purchase).

Trial Transcript, James Todd Wagner in redirect pg 1762 ln 18 – pg 1763 ln

18 Q What were our – what were the three price
19 negotiating points again?

20 **A So first it was \$1 million for three finished**
21 **cars and all the tooling, the jigs, the molds, et**
22 **cetera, all the – and the spare parts.**

23 Q Okay.

24 A Spare chassis to build cars.

25 **Then the second time, the three finished cars**
1 **are gone.** So now it’s just the jigs, the molds, the
2 parts and chassis, those things, and that was 500,000.
3 Then Mr. Mosler blocked that by saying he wanted his son
4 to run the company.

5 And shortly thereafter, **Mr. Mosler and his son**
6 **launched another totally illegal car** after the RaptorGTR
7 **called the MT900 SP Photon.**

Trial Transcript, James Todd Wagner in cross-examination pg 1551 ln 16 – pg 1552 ln 9

16 Q Well, let me put it this way: You knew that
17 you didn’t have any exclusive right to purchase MACC
18 three months after the \$100,000 deposit ***on June 29th***,
19 correct?

20 **A I had an exclusive right to buy the company**
21 **with all of the assets that were still there, the three**
22 **cars included, for \$1 million.**

23 Q Yet you were willing to be the fall-back

24 position even if the other guys couldn't come through,
25 right?

1 **A So Mr. Mosler breached that by selling off the**
2 **three cars**, so that changes the sort of landscape for
3 what it's going to take to sort of bring it to
4 profitability.

5 And as I mentioned to you guys before, I was
6 **happy being a distributor. I would get my \$100,000**
7 **back. I'd be an exclusive distributor in China,**
8 **Thailand, Saudi Arabia, and I would make a boat load of**
9 **money doing that and have a lot of fun.**

Trial Transcript, James Todd Wagner in redirect pg 1762 ln 18 – pg 1763 ln

1 So Warren Mosler offered that I would get my
2 money back if someone else bought the company. I
3 confirmed it with him. We agreed to that. Mr. Mosler
4 forwarded that distinct and clear agreement to his vice
5 president, Jill Wagner, to show that, okay, the two
6 officers of MACC know this is **the deal regarding the**
7 **\$100,000 deposit.**

8 **And then on the other side, we had the actual**
9 **documentation for buying MACC, a million dollars for**
10 **three finished cars** and a whole bunch of tooling and
11 things like that, **but then Mr. Mosler sold off the three**
12 **finished cars** -- *or I guess he said gave them away*, he
13 said, for one of them.

14 Q Okay. I want --

15 A But that didn't change this.

16 Q Okay.

17 A He breached this, but it did not change the

18 refundability of my \$100,000 deposit.

Trial Transcript, James Todd Wagner testifying pg 1173 ln 17 – pg 1174 ln 24

17 Q Okay. Now Mr. Mosler testified that there
18 were a lot of different negotiations and different
19 permutations of the purchase attempts by you or your
20 companies. Is that true?

21 A I think that's a bit misleading. It also
22 tries to – it tries to meld – the agreement about the
23 ***\$100,000 deposit was clear.***

24 Q Okay.

25 A It was that. We agreed that I was going to
1 buy it for \$1 million and it included X number of
2 assets. If I wanted to pay 4 million, I'd have the
3 building as well. So that was the deal: **1 million for**
4 **the company, including several – three finished cars**
5 and then the building. But then ***during my exclusivity***
6 ***period he sold off three of the cars without telling me.***

Trial Transcript, James Todd Wagner in redirect pg 1762 ln 1 – 17

1 Q Okay. All right. Now, did there come back to
2 another time that you were dealing with Mr. Mosler
3 again?

4 A Well, that was actually -- Sylvia Klaker was
5 the third one. So the second one was between those two.

6 **So after Mr. Mosler had secretly sold off the**
7 **three finished cars and I discovered it, I was like,**
8 **okay, you know, of course it was done. I mean, he had**

9 **already -- the cars were gone.** I go, I still would like
10 to buy the company.

11 So he said, okay, how about \$500,000, which
12 was actually, you know, I think, more, effectively, than
13 the original offer because **the three finished cars,**
14 **although they were used cars, they were worth more than**
15 **500,000 collectively.**

16 Q Okay.

17 A So that was a sweeter deal for Mr. Mosler.

Appendix "2:K": Trade Libel committed for a Profit Motive

Trial Testimony, James Todd Wagner in cross-examination pg 1156 ln 7 - 19

12 Now you were worried that if Savvas bought the
13 company, that you would no longer be a part of MACC,
14 weren't you?

15 A **I was concerned that he would try and rip off**
16 **my distributorship, which is what he eventually**
17 **attempted to do**, or Mr. Mosler encouraged him to do.
18 I'm not sure exactly who did what, but I was concerned
19 he wasn't going to honor the distributorship that I had
20 already invested in.

Trial Testimony, James Todd Wagner in cross-examination pg 1156 ln 7 - 19

7 Q Okay. Let's scroll up.

8 You wrote "No sales pending." No sales in the
9 entire company as of February 23, 2011, right?

10 A Yes. The original MT900 was -- had run its
11 course at this point. And the Corvette taillights had
12 always -- they had always been an issue from the
13 beginning. Even Mike Vietro, who's a Corvette dealer,
14 begged Mr. Mosler to get rid of the Corvette thing if he
15 could.

16 MR. WEBER: Okay. Mark this next document as
17 195.

18 THE WITNESS: So **the Raptors would make it**
19 **profitable.**

Trial Testimony, James Todd Wagner in cross-examination pg 1801 ln 19 – pg 1802 ln 4

19 Q On June 29th, 2011, how much did you think
20 that agreement to purchase -- the ability to purchase
21 MACC's assets was worth?

22 A How much do I think the ability -- I think
23 it's actually worth more than the \$5 million in total
24 here.

25 Q Okay.

1 **A I think there's a lot of money to be made with**
2 **the RaptorGTR.**

3 Q Okay. So --

4 **A Mr. Mosler could have made 50 million.**

Trial Testimony, James Todd Wagner in cross-examination pg 1186 ln 21 – pg 1187 ln 12

21 Q Putting aside this email, ***you understood that***
22 ***Savvas Savopoulos did not want you involved in MACC if***
23 ***he purchased MACC, correct?***

24 A I didn't know that. I mean, that's misstating
25 anything. He didn't reply back here. And,
1 fundamentally, Mr. Mosler trades hundreds of millions of
2 dollars and has to honor his agreements. I thought for
3 sure Mr. Mosler would honor his agreements, his written
4 agreements.

5 **He put his hand signature on it that the**
6 **distributorship would be binding upon the new owner.**

7 The new owner here was going to be Savvas; so,
8 Mr. Mosler, I was wondering why didn't you simply honor
9 your agreements? **There would have been no issue**
10 **whatsoever if he just honored his agreements. We all**
11 **could have made money together.** It would have been
12 delightful.

Trial Testimony, James Todd Wagner testifying pg 1178 ln 14 – 21

14 So then I said, "Hey, Mosler, Mr. Mosler,
15 let's do a win-win scenario. Your son can have a
16 distributorship in the U.S.A. and I'll pay
17 \$150,000 more," and he agreed to that. I called it a
18 win-win proposal.

19 We could have done this together. We could
20 have done this together, you know that, right? All this
21 time we could have done this --

Trial Testimony, James Todd Wagner in cross-examination pg 1551 ln 16 – pg 1552 ln 9

16 Q Well, let me put it this way: You knew that
17 you didn't have any exclusive right to purchase MACC
18 three months after the \$100,000 deposit on June 29th,
19 correct?

20 A I had an exclusive right to buy the company
21 with all of the assets that were still there, the three
22 cars included, for \$1 million.

23 Q Yet you were willing to be the fall-back
24 position even if the other guys couldn't come through,
25 right?

1 A So Mr. Mosler breached that by selling off the
2 three cars, so that changes the sort of landscape for
3 what it's going to take to sort of bring it to
4 profitability.

5 And as I mentioned to you guys before, I was
6 happy being a distributor. I would get my \$100,000
7 back. I'd be an exclusive distributor in China,
8 Thailand, Saudi Arabia, and I would make a boat load of
9 money doing that and have a lot of fun.

Appendix "2:L": Warren Mosler testifying that Asian press launch satisfied paragraph A(4)

Trial Testimony, Warren Mosler testifying pg 986 ln 19 – pg 987 ln 18

19 Q Right. The launch was on November 15, 2011,

20 correct?

21 A That's the date of this article.

22 Q Right. But that was the date of the launch of

23 the 2012 RaptorGTR, wasn't it?

24 A It could be.

25 Q Okay. And Mr. Wagner, through Supercar

Page 987

1 Engineering, had already had it released out through the

2 Asian news service, correct?

3 A Somebody did.

4 Q And that was a requirement of his distribution

5 contract that we discussed earlier, wasn't it?

6 A Oh, I don't know. I'd have to look into that.

7 This is the first I've heard of that, that this would

8 fit that requirement.

9 Q Okay. Let's look at Exhibit 74, **paragraph A4:**

10 ***"Chassis 32 must be presented to at least one press***

11 ***outlet in Thailand and China" --***

12 A Yeah.

13 Q -- right?

14 **A Yeah.**

15 ***Q And so that's what Supercar Engineering and/or***

16 ***Mr. Wagner was doing with Exhibit Number 86, which is in***

17 ***evidence, correct?***

18 **A I understand your position.**

Appendix “2:M”: MACC is physically unable to fulfill contractual production requirements (so MACC prohibited SEI’s purchase).

Trial Transcript, Warren Mosler testifying pg 871 ln 15 – pg 872 ln 3

- 15 Q And China is James Wagner as well, correct?
16 A Yeah.
17 Q Okay. And Russia, correct?
18 A Russia, yeah.
19 Q And Thailand?
20 A And Thailand.
21 Q Okay. So you recognized -- *you individually,*
22 *on behalf of Mosler Auto Care Center, recognized*
23 *Mr. Wagner as a distributor of Mosler vehicles, correct?*
24 A Well, here it was a -- it was contact -- you
25 know, who to contact. And if an inquiry came in, who
1 would handle it.
2 **Again, there's only four or five guys in the**
3 **shop with no cars,** so it's a pretty ambitious website.

NOTE: Two of the “four or five” were administrative staff who had no part in actual construction of vehicles.

Trial Transcript, James Todd Wagner in cross-examination pg 1730 ln 5 – 7

- 5 Q The Raptor takes **six to nine months to**
6 **produce, correct?**
7 A **Yeah, that's about right.**

NOTE: Per above; 6 to 9 months is if the MACC factory was sufficiently staffed to build the vehicles, which it was not. As of August 12, 2011 (when the EPA granted the Certificate of Conformity), there were no additional RaptorGTR vehicles in the build process and **zero possibility MACC could fulfill its contractual obligations.**

Appendix “2:N”: All instances wherein the word “supply” is spoken by any witness

Trial Transcript, Sylvia Klaker testifying pg 250 ln 17 – pg 251 ln 7

17 Q Okay. And could you explain to the jury how
18 those Certificates of Origin for a vehicle were prepared
19 at Mosler Auto Center?

20 A We would get information from the front office
21 that we needed to prepare a Certificate of Origin and
22 they would **supply** the VIN number and the information
23 that needed to go on the certificate and we would type
24 it up.

25 Q I'm sorry, you said someone would **supply** the
1 information?

2 A I said the front office.

3 Q Okay. Who at the front office?

4 A Administration would be Jill Wagner.

5 Q Okay. How were those Certificates of Origin
6 created as between a computer program or a typewriter?

7 A Typewriter.

Trial Transcript, Warren Mosler testifying pg 927 ln 15 – pg 929 ln 14

15 Q Okay. I'll move on then.
16 "Beginning calendar year 2011, SEI must
17 purchase at least three MACC vehicles to be marketed,
18 approximately one vehicle every 20 days in the
19 Thailand-China distribution territory, and every
20 calendar year of the exclusive distributorship

21 territory."

22 A Right.

23 Q And then "Each vehicle must be paid for in
24 full prior to export and delivery to SEI from MACC from
25 the United States or any location."

1 ***Now those were what SEI had to do, right?***

2 **A The terms of the exclusive distributorship.**

3 ***Q Right. But another set of terms was supply of
4 MACC vehicles to SEI?***

5 **A Right.**

6 Q Beginning in calendar year -- you understand
7 what a calendar year is, right?

8 A Yes.

9 Q Starting in January and ending in the end of
10 December, right?

11 A Correct.

12 Q Okay. "Beginning calendar year 2011 until the
13 end of the exclusive distributorship term for 25 years,
14 ***MACC agrees to supply SEI with a minimum of three MACC
15 vehicles in every calendar year.***"

16 That was what MACC agreed to, correct?

17 **A That's what it says, yeah.**

18 Q Okay. Now vehicle list prices were 329,000
19 plus options for MT900S/Raptor body vehicles.

20 A Uh-huh.

21 Q Are we still debating whether Mosler Auto Care
22 Center was producing Raptor cars?

23 A Well, **we never produced it. Nothing -- they
24 were never produced. There was no production.**

25 Q So SEI -- *so Mosler Auto Care Center didn't*
1 *produce any Raptor vehicles?*

2 A You know, Todd built a prototype and that was
3 the only one that ever got built.

4 Q Okay. Now that's -- those prices --

5 A Or the demonstrator, whatever you want to call
6 it.

7 Q The prices are for a 7.0 liter V8 engine and
8 6-speed manual transmission. And then it goes on to say
9 \$389,000 plus options for a Photon.

10 That was the other car that Mosler Auto Care
11 Center was anticipating selling to the public, wasn't
12 it?

13 A Yeah, I was hoping to sell anything. If
14 people wanted to buy Consuliers, I would sell them.

Trial Transcript, Warren Mosler testifying pg 931 ln 5 – pg 929 ln 14

5 Q You just declared that this contract is void
6 because Mosler Auto Care Center wasn't producing any
7 vehicles, right?

8 A I didn't say the contract was void because of
9 that.

10 Q Okay.

11 A I don't believe.

12 Q What was the -- do you remember the
13 phraseology you used?

14 A You'd have to --

15 Q When speaking with any -- I'm asking you if
16 you recall the phrases that you used in describing to
17 any journalist whether or not Supercar Engineering had a
18 contract for distribution.

19 A I don't recall making those kind of statements
20 to any journalist, no.

21 Q Okay. "SEI will forfeit its exclusive
22 distribution rights in China and Thailand immediately
23 upon failure to perform any of the terms 2 through 6 in
24 paragraph A, ***provided that MACC has fulfilled its***
25 ***obligation to supply vehicles*** as described in paragraph
1 B."

2 ***Since MACC didn't supply any vehicles, that***
3 ***paragraph can't come into effect, can it?***

4 A Why not?

5 Q Well, it says provided how -- provided, right?

6 A Yeah.

7 Q So the requirement for paragraph 1 to act as a
8 forfeit of SEI's distribution rights would be that MACC
9 has fulfilled its obligation to supply vehicles.

10 A Well, a couple of things. **Todd was in charge**
11 **of sales and production**, so he's on both sides of this.
12 You know, and we didn't produce anything because we
13 didn't sell anything. If **he** had any **orders**, **he** would
14 **have built the cars and delivered them**.

15 Q Supercar Engineering was an independent
16 contractor for the company, right?

17 A Supercar Engineering was, yeah.

Trial Transcript, Sylvia Klaker testifying pg 376 ln 7 - 14

7 By the way, ***did there ever come a time when***
8 ***James Wagner wanted to view the factory after he left***
9 ***there?***

10 A I don't remember. He was in and out a lot.

11 Q Okay. You don't have any recollection of him
12 ever being denied access to the factory?

13 A Oh, yes, I do remember. **At one point we did**
14 **tell him he was not allowed on the property.**

Trial Testimony, Jonathan Frank (supercar dealer) testimony pg 1038 ln 20 – pg 1039 ln 22

20 Q Your experience in the industry requires you
21 to deal with automobile scarcity, doesn't it?

22 A Yes.

23 Q Okay. And automobile scarcity, based upon
24 your experience, can be caused by such things as what?

25 A Scarcity?

1 Q Yes.

2 A **Supply** and demand. Unbelievably, you know,
3 COVID has created a big problem, which thank God that's
4 over.

5 Q Have you -- what about Ferrari? How do they
6 manufacture their cars?

7 A I'm sorry, what's the question?

8 Q How does Ferrari manufacture their cars?

9 A How do they manufacture?

10 Q Yes, their cars. How are their cars made?

11 Are they made in like a big, huge factory?
12 A Oh, yes. Yes, of course.
13 Q Okay. And do they have any specialty vehicles
14 that are manufactured by hand?
15 A Yes, they do.
16 Q Okay. And do the vehicles that are
17 manufactured by hand, do those go for a premium?
18 A Yes.
19 Q Okay. Do you know whether Mosler Auto Care
20 Center factory or shop was doing things with a factory
21 setup or more hands-on, by hand?
22 A More hands-on.

Trial Transcript, James Todd Wagner testifying pg 1151 ln 3 – pg 1152 ln 18

3 I mean, ***how can I go off and sell a***
4 ***\$700,000 car when the owner of the company is saying***
5 ***it's a fake and people concluding from that that I'm a***
6 ***con artist?***
7 If I tell them that this is, you know, the
8 next Mosler product and then they call the owner and he
9 says it's a fake, of course they're going to assume that
10 I'm trying to con them.
11 Q Okay.
12 A And that's what they did.
13 Q So based upon that, did -- well, when did MACC
14 fail to manufacture or **supply** cars to SEI?
15 **A Well, the entire time they didn't make**
16 **anything --**
17 Q Okay.
18 A -- after this one.

23 Q And you had drafted this document, right?

24 A **Mr. Mosler and I drafted it together back and**

25 **forth several times.** I believe the final version is

1 version 4.

2 Q Which came from you to Mr. Mosler, right?

3 A Yes. The final version was approved by

4 Mr. Mosler and sent to him and he signed it.

5 Q Now let's look at paragraph C, term 1.

6 You see in paragraph C, term 1, where it says

7 "SEI will forfeit its exclusive distribution rights in

8 China and Thailand immediately upon failure to perform

9 any of terms 2 through 6 in paragraph A, provided that

10 MACC has fulfilled its obligation to **supply** vehicles as

11 described in paragraph B," correct?

12 A Yes.

13 Q Okay. So let's go back to paragraph A. Now

14 paragraph A, term 2, refers to chassis 32. That's the

15 RaptorGTR car at issue in this case, correct?

16 A Yes, it is.

Appendix "2:AA": Affidavit of James Todd Wagner in support of this Motion for Sanctions:

Manufacturing Jargon used in the *'Exclusive Distributorships in China and Thailand'* contract.

IN THE CIRCUIT COURT, 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2012-CA-023358-XXXX-MB
DIVISION: AG

JAMES TODD WAGNER, SUPERCAR
ENGINEERING, INC., a Florida
corporation,
Plaintiffs,

vs.

WARREN MOSLER, MOSLER AUTO CARE
CENTER, INC. ("MACC") a Florida corporation,
d/b/a Mosler Automotive,
Defendants.


_____ /

**AFFIDAVIT OF JAMES TODD WAGNER ON MANUFACTURING JARGON AND LAWS IN
SUPPORT OF PLAINTIFFS' MOTION FOR SANCTIONS AGAINST DEFENDANTS AND
DEFENDANTS'-COUNSEL**

I, James Todd Wagner, am providing this Affidavit in support of the Motion for Sanctions against Steven Weber and Defendants. This affidavit focuses on issues related to Count 3: Exclusive Distributorships in China and Thailand. Information in this affidavit is also relevant to several other elements of the lawsuit and Steven Weber's and Defendants' written and verbal statements to the Court. Most topics of the lawsuit are interrelated.

I testified about the below elements. I am submitting this affidavit to clarify the technical elements of my testimony on Supercar manufacturing, which I believe the Court may have misunderstood.

The Exclusive Distributorship in China and Thailand ('Contract') was signed by both parties on November 16, 2010 by my company, Supercar Engineering, Inc. ('SEI') and Warren Mosler's company, Mosler Auto Care Center, Inc. ('MACC').



- 1) Definition of “deposit” in manufacturing jargon: A partial pre-payment of the price of an item prior to the item being built.
- 2) Definition of “produce” in manufacturing jargon: To weld, assemble, glue, and perform all necessary operations to bring raw materials to a completed form that is ready to supply to a buyer. The word “build” is often interchanged with (considered a synonym of) “produce”.
- 3) Definition of “supply” in manufacturing jargon: To build / produce a product to the point of completion, and readiness for legal sale.
- 4) I witnessed Mr. Mosler’s trial testimony, which indicated he held the same definition of “supply”. **It is clear to me that Mr. Mosler is implying that MACC could not supply anything to SEI, because MACC didn’t produce anything. This is logical and correct.**

Trial Transcript, Warren Mosler testifying pg 928 ln 12 – pg 929 ln

12 Q Okay. "Beginning calendar year 2011 until the
 13 end of the exclusive distributorship term for 25 years,
 14 MACC agrees to supply SEI with a minimum of three MACC
 15 vehicles in every calendar year."

16 ***That was what MACC agreed to, correct?***

17 **A That's what it says, yeah.**

18 Q Okay. Now vehicle list prices were 329,000
 19 plus options for MT900S/Raptor body vehicles.

20 A Uh-huh.

21 Q Are we still debating whether Mosler Auto Care
 22 Center was producing Raptor cars?

23 **A Well, we never produced it. Nothing -- they
 24 were never produced. There was no production.**

25 Q So SEI -- so ***Mosler Auto Care Center didn't***
 1 ***produce any Raptor vehicles?***

2 **A You know, Todd built a prototype and that was**
 3 **the only one that ever got built.**

SM

- 5) I attest that all MACC vehicle business followed the below sequence:
- a. MACC would **build** a vehicle, until it is finished and ready to **supply** to a distributor.
 - b. The distributor **paid** for the completed vehicle.
 - c. The Mosler Product is lastly either **delivered** inside USA or **exported** outside of USA.
- 6) I attest that Warren Mosler and I were co-scriveners on the Contract, and that MACC was physically unable to fulfill the Paragraph B of the Contract due to Warren Mosler laying off 80% of the workforce (without warning nor severance) *during Christmas 2010*.

B. Supply of MACC vehicles to SEI

- 1) Beginning calendar year 2011 until the end of the Exclusive Distributorship Term, MACC agrees to supply SEI with a minimum of three (3) MACC vehicles in every calendar year.
- 2) Vehicle list prices are \$329,000+options for MT900s/Raptor body vehicles with 7.0L V8 engine and 6-speed manual transmission. \$389,000+options for Photon (3.5" narrower) body vehicles with 7.0L V8 engine and Hewland sequential transmission. Prices are fixed for orders placed prior to Dec. 31, 2012. Prices subject to change thereafter.

**2391 OLD DIXIE HIGHWAY • RIVIERA BEACH, FL 33404
561-842-2492 • FAX-561-845-3237**

- 7) I witnessed Steven Weber verbally stating to the Court that SEI had to buy a MACC vehicle in March of 2011 and June of 2011. **It would have been a violation of federal law for SEI to have done so.**
- a. I was not allowed to testify at the JNOV hearing, and the hearing occurred too rapidly for me to react to all of false verbal assertions coming from Mr. Weber.

8) I attest that I was co-scrivener for the Contract, which included the below Paragraph C.

C. Forfeit of Exclusive Distribution Rights

- 1) SEI will forfeit its Exclusive Distribution Rights in China and Thailand immediately upon failure to perform any of Terms 2-6 in Paragraph A, provided that MACC has fulfilled its obligation to supply vehicles as described in Paragraph B.
- 2) If SEI forfeits its Exclusive Distribution Rights in China and Thailand, SEI will be allowed to sell any vehicles that are already completed and being offered for sale in China and Thailand on a non-exclusive basis.

9) I attest that MACC informed me that MACC was unable to build vehicles, thus there was NO PATHWAY wherein SEI would lose its Exclusivity in the region of China and Thailand.

10) I knew that someone would purchase MACC; so I was content to wait until the new owner re-hired workers and re-started production.

11) I attest that Warren Mosler's trial testimony makes it clear that (contrary to Mr. Weber's argument) BOTH PARTIES understood the Contract in the same manner: ***no prepayment of any kind*** was required prior to MACC building/producing vehicle to supply to SEI.

Trial Testimony, Warren Mosler testifying pg 968 ln 23 – pg 969 ln 4

22 Q Where was the deposit requirement in

23 Plaintiffs' Exhibit 74 in evidence?

24 A Which one's that?

25 Q ***That's the Exclusive Distributorship of Mosler***

1 ***Products in China and Thailand. There was no***

2 ***requirement that Mr. Wagner put up any deposit for that,***

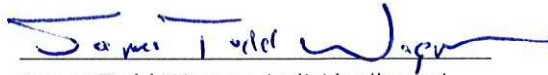
3 ***was there?***

4 A **No.**

12) I attest that as co-scrivener of the Contract, the plain language is that the **ONLY THING SEI COULD POSSIBLY LOSE** was "Exclusivity" in the distribution region; **not** access to the entire contract and the 3 Mosler vehicles per year at the stated 13% discount.

a. Steven Weber deceived the court via **force of personality** to take the entire contract away from the jury for a made-up "prepayment" reason that Mr. Weber **forcefully asserted – contrary to the trial testimony and actual intent of the contract.**

FURTHER AFFIANT SAYETH NAUGHT.



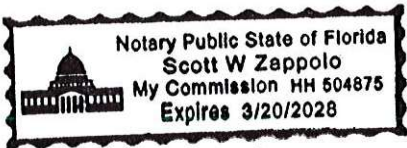
James Todd Wagner, individually and
As Authorized Agent for Supercar Engineering, Inc.

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me, the undersigned authority, by means of physical presence or online notarization, on this day personally appeared JAMES TODD WAGNE, in his individual capacity an well as authorized agent of SUPERCAR ENGINEERING, INC. who is personally known to me or produced a Florida Drivers License who executed the foregoing instrument, attesting that the facts herein are true and who did take an oath.

SWORN TO and SUBSCRIBED before me this 25th day of April, 2024.

NOTARY PUBLIC, State of Florida



(SEAL)



Scott W. ZAPPOLO

(Print Name)

My Commission No: HH 504875



Appendix “2:BB”: Exhibits that support a finding in favor of Plaintiffs on Count 3: Exclusive Distributorships in China and Thailand (listed in order of importance and relevance).

PL# 74 - Signed Exclusive Distributorships in China and Thailand

PL# 62 - Environmental Protection Agency Certificate of Conformity for 2012 RaptorGTR

PL# 83 – While Mr. Wagner had exclusivity from his \$100,000 deposit; Warren Mosler sent news of the 2012 Mosler RaptorGTR EPA Certificate of Conformity to Savvas and the two men began the scheme to eliminate Mr. Wagner from benefitting from his invention.

PL# 114 – Warren Mosler informing Savvas that there was ***“serious money in selling 100 cars per year, which shouldn’t be that hard to do.”***

PL# 117 - **“Terminate Todd”** email regarding the scheme to eliminate SEI as a Distributor and take his invention, the 2012 Mosler RaptorGTR twin-turbo powertrain.

PL# 9 - **“Buyer Beware”** threat of notice posted on MACC’s website targeting SEI’s RaptorGTR #001.

PL# 10 - Actual screenshot of MoslerAuto.com home page **“Buyer Beware”** notice prominent in red.

PL# 108 – Early in the 26-month-long campaign of Defamation, Wagner didn’t know that it was Warren Mosler doing the Trade Libel (**“Terminate Todd”** scheme). Mr. Wagner stated to Benjamin Greene that he wanted to **“....clear my and Warren Mosler’s name.”**

Wagner was defending Mosler, while Mosler was destroying Wagner.

PL# 2- After investigating Certification further, MACC Vice President reported to Warren Mosler that the 2012 Mosler RaptorGTR was covered by a Certificate of Conformity -> Mosler responded by doing nothing (refusing to mitigate the damage being done to SEI).

PL# 23 - MACC stating that MACC will not sell Mosler Products to SEI (while distributorship is in force).

“Be advised MACC will not sell to you.”

PL# 24 – EXTORTION: MACC had captured and changed the VIN on 2012 Mosler RaptorGTR to a 2009 MT900; and was both refusing to return the vehicle AND charging \$35/day “storage” until SEI signed the “Acknowledgement” document that Warren Mosler wanted.

PL# 25 - Sylvia Klaker, MACC manager, confirming the extortion and penalties for non-compliance.

PL# 40 - “The Truth About Cars” online article containing Warren Mosler’s **JURY-CONFIRMED trade libel** against the RaptorGTR #001 that was marketed through the Exclusive Distributorship.

PL# 41 – Journalist, Benjamin Greene, is convinced by MACC that RaptorGTR is a fake Mosler.

PL# 75 – Journalist, Matthew Hardigree, for Jalopnik convinced by Mosler that SEI doesn’t have a distributorship nor right to market Mosler products.

PL# 42 – Journalist, Jack Baruth, is convinced by Dupont Registry (Benjamin Greene journalist) and Jalopnik (Matthew Hardigree journalist), that Warren Mosler was telling the truth that the 2012 Mosler RaptorGTR is fake product being promoted by a con-artist. **Thus is Warren Mosler’s capability in making the world believe something that is patently false.**

PL# 80 - Refused “Termination and Release” agreement: attempt to terminate SEI’s Distributorships.

PL# 101 - **Threat** to sue Mr. Wagner if SEI doesn’t sign away rights to Exclusive Distributorships for \$100.

PL# 82 - Admission by Warren Mosler that SEI retained distributorship rights as of January 2012.

DEF# 105 - **Requested mitigation** press release that Warren Mosler **rejected**

DEF# 107 - Requested mitigation press release that Warren Mosler **rejected (and laughed about)**

PL #3 - RaptorGTR vehicle in-build within the MACC factory; Warren Mosler admitted it was accurate.

PL #4 - Press Release drafted by MACC Vice President about 2012 RaptorGTR with single-tail-lights.

Mosler commanded that it not be released; it would mitigate the damage being done to SEI.

PL #5 - MACC invoice shows that Exclusive Distributorships being bought part-in-parcel with RaptorGTR

PL#27 - Sylvia Klaker confirming is was not her speaking to Matt Farah [it was Warren Mosler per Farah]

PL# 28 – MACC attempting Extortion again, this time by withholding one-of-a-kind side glass from SEI.

Side glass was safety-necessary for SEI to sell the RaptorGTR #001 per the Distributorship.

PL# 29 - Another demand for safety-critical side-glass; rebuffed and extortion demands repeated.

PL# 30 – Sylvia Klaker, with no valid analysis, simply claims all distributorships invalid because Savvas wants to buy MACC without any distributors retaining their contractual rights. All kept secret.

PL# 91 – Third party complaining about the finished MACC vehicles that Mr. Wagner had put a \$100,000 deposit on. Those vehicles (to be bought within the Exclusive Distributorship) were sold off by Warren Mosler without informing SEI.

PL #31 - Hassan Abboud's 2004 Mosler MT900s dated 2007; proving that the vehicle was built illegally.

Warren Mosler actively promoted illegal vehicles, yet actively DESTROYED VALUE of fully-legal 2012 Mosler RaptorGTR. This proves profit motive for breach of Distributorship.

PL# 34 - Hassan Abboud's 2004 Mosler MT900s deposit receipt dated August 3, 2007.

PL# 36 - Hassan Abboud's 2004 Mosler MT900s financing document dated Sept 10, 2007.

- PL# 43** - Affidavit of Clifford Atiyeh that Warren Mosler was the source of his information.
- PL# 48** - Engine for the “2011” Mosler Photon has an engine that isn’t certified (not legal).
- PL# 49** – Dyno results for the modified, illegal 2011 Mosler Photon engine. This illustrates the enormous hypocrisy that Warren Mosler attacked the fully-legal 2012 Mosler RaptorGTR.
- PL# 51** – Photon press release sent to the press as if the vehicle were a legally-built Mosler product.
- PL# 54** – Phabulous Photon article, wherein Warren Mosler chopped out the section about SEI’s RaptorGTR before sending it to his friends.
- PL# 60** - Warren Mosler tells the eventual buyer of MACC assets (Ian Grunes) that Mr. Wagner is “arguably legally insane.” This was done for the purpose of persuading Mr. Grunes not to supply vehicles to Mr. Wagner’s company.
- PL# 61** - Magazine advertisement by Warren Mosler comparing illegal 2004 MT900 to Ferrari Enzo.
- PL# 62** - Freedom of Information Act documents that show MACC only had EPA Certificates of Conformity for 2004, 2009, and 2012 model years. 2012 model year was for the RaptorGTR.
- PL# 63** - “Raptor” and “RaptorGTR” trademarks being protected at Warren Mosler’s request.
- PL# 64** - Mosler Challenge racing website with words “Brought to you by the 2012 Mosler RaptorGTR”.
- PL# 65** – Warren Mosler writing “nice!!!” in response to seeing Mosler Challenge website (see PL# 64)
- PL# 66** - China and Thailand distributorships in MACC website showing J. Todd Wagner as contact.
- PL# 67** – After “Terminate Todd” plan started, Mosler removed J. Todd Wagner from MACC website.

PL# 70 - Mosler wants a press release to denigrate Wagner compared the upcoming \$700,000 Mosler RaptorGTR to \$2,000,000 Pagani Huayra; and this was published (overshadowing the Photon)

PL# 72 – MACC’s “Case Study” with Siemens software featured the Mosler RaptorGTR (prior to “Terminate Todd” profiteering scheme).

PL# 79 – “Acknowledgement” document that Mosler used Extortion to pressure Wagner to sign.

PL# 81 - Savvas’s request for Mosler to put “Pressure” on Wagner to sign the “Termination and Release” document (PL# 80). Mr. Mosler complied by threatening Wagner with being sued into bankruptcy if he didn’t bend the knee.

PL# 86 – SEI presents the 2012 Mosler RaptorGTR in China and Thailand via PR Newswire Asia.

PL# 87 - Warren Mosler and MACC Vice President blocking SEI from showing 2012 RaptorGTR.

PL# 92 - Warren Mosler indemnifying RPI (buyers of MACC), so they wouldn’t supply vehicles to SEI.

PL# 94 - Automobile Magazine article illustrating the high prices and volumes of hyperexotic vehicles.

PL# 95 - Auto-By-Tel Magazine article showing the RaptorGTR as the HIGHEST power-to-weight vehicle.

PL# 98 - Warren Mosler email that 2500hp Mosler LandShark is “bogus, but hopefully good PR”.

PL# 99 - SEI is fine with exchanging RaptorGTR MSO for one that doesn’t state the vehicle has a California emissions system. Mosler refuses, because that solution wouldn’t Terminate Todd.

PL# 100 - Per Savvas’ request, a full summary of SEI’s distributorships around the world and in USA.

PL# 101 - Warren Mosler’s threat to stick both of his in-house attorneys on Wagner if he doesn’t sign.

PL# 104 - Clifford Atiyeh confirming the “indeed harsh” statements [of fact] were from Warren Mosler.

PL# 105 - Wagner sending Distributorship and RaptorGTR MSO documents to Mr. Atiyeh after the defamatory article was published, in order to prove that Mr. Wagner was stating the truth.

PL# 110 - Secretly subverting SEI’s attempts to launch the 2012 Mosler RaptorGTR (to Dupont Registry)

PL# 111 - Financial projections for SEI’s Exclusive Distributorship incorporated into a business plan.

PL# 112 - Warren Mosler attempting to sidestep responsibility for Trade Libel to journalist Matt Farah.

PL# 115 - Photon press release showing \$389,000 base price and China and Thailand as sale markets. Importantly, 12-months for delivery is communicated. ***This illustrates that MACC physically could not supply the contractually-required two more RaptorGTR vehicles in year 2011.***

Appendix “3”: Mr. Weber’s false assertions that there is **“no evidence”** that Spoliated phone records and build books existed; and *proof of the record evidence EXISTING*.

- **INSTANCE #1**: false assertion that **“No Evidence”** exists to support Spoliation claim

Plaintiffs Motion for Sanctions Hearing MR. WEBER pg 34 In 7 – 10:

7. **Phone records of Defendant MACC.** There is **no**
8. . . . **evidence that phone records ever existed**, that they
9. . . . were purged, that they were destroyed, ***that they were***
10. . . . ***withheld.***

INSTANCE #2: false assertion that **“No Evidence”** exists to support Spoliation sanctions claim

Spoliation Sanctions Hearing, Mr. Weber speaking pg 32 In 18 – 24:

18 In the motion they refer to certain documents
19 that were withheld and never produced. There is **no**
20 **evidence** that such documents existed were withheld,
21 or destroyed, and there is **no evidence still.**

22 They make wild speculation throughout the motion
23 as to what documents could have existed and what the
24 documents could have shown.

18,500 pages of evidence which “appeared” more than 5 years after the evidence was requested; this mountain of evidence is falsely asserted to be **“no evidence.”**

The fact that the evidence was only produced by Mr. Mosler 3-weeks after his attorney, Alan Simon, admitted that the evidence existed when posed with the reality that his computer was going to be searched is asserted as **“no evidence.”**

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Appendix "5:A": Testimony that Warren Mosler's defamation was malicious.

Appendix "5:B": Warren Mosler discussing defamatory statements, but never states that he was communicating his opinion.

Appendix "5:C": Mr. Mosler's true opinion (positive) of James Wagner (head engineer).

Appendix "5:D": Warren Mosler outright denying or denying memory of being interviewed by journalists (numerous journalists).

Appendix "5:E": Warren Mosler refused to mitigate or fix defamatory articles.

Appendix "5:F": Deposition proof that Warren Mosler did speak to the journalists.

Appendix "5:G": Testimony about PROFIT MOTIVE (Greed) behind the defamation.

Appendix "5:H": **Pressure** and **Threats** applied to Mr. Wagner to coheres signing away Intellectual Property, Exclusive Distributorships, and rights to have \$100,000 returned.

Appendix "5:I": SEI's Property that Mr. Mosler was attempting to obtain via pressuring Mr. Wagner to sign the "Termination and Release".

Appendix "5:J": Warren Mosler upset that Mr. Wagner doesn't get on-board with building cars illegally, and **wants to "duct tape" Mr. Wagner's mouth shut.**

Appendix "5:K": Warren Mosler upset when **Mr. Wagner refused to "play ball" with the \$220,000 insurance fraud** attempt shortly after the secret "Terminate Todd" initiated.

Appendix "5:L": Warren Mosler Laughing about Mr. Wagner's mitigation request/attempt.

Appendix "5:M": Awareness that James "Todd" Wagner was **being Mutilated** by the defamation; yet Warren Mosler refused to mitigate the damage.

Appendix "5:N": \$100 offer to take SEI's Intellectual Property and Distributorships.

Appendix "5:O": Damages from defamation (beyond defamation per se that was pled)

Appendix "5:P": Warren Mosler depo about not producing Phone Records [to journalists]

Appendix "5:Q": Affidavit of James Todd Wagner in support of this Motion for Sanctions.

Appendix "5:AA": List of Exhibits relating to Warren Mosler's MALICE against Mr. Wagner.

Appendix "5:BB": List of Exhibits relating to Mr. Mosler's PROFIT MOTIVE for defamation.

Appendix "5:A": Testimony that Warren Mosler's defamation was malicious, and was executed for a Profit Motive [damaging SEI into losing distributorship exclusivity]

Trial Testimony, James Todd Wagner in cross-examination pg 1718 ln 21 – pg 1719 ln 15

21 Q Now this next sentence -- this is the sentence
22 in the article that you and SEI are suing Mr. Mosler
23 over in this article, correct? ***It reads "He's nothing.***
24 ***He's got some serious mental problems,' Mosler said.***
25 ***He's out there billing himself as everything and he***
1 ***doesn't have anything."*** Do you see that?

2 A Yep. "He's nothing. He's got some serious
3 mental problems." **That is definitively defamation.**

4 Q You don't know what the "He's nothing" means,
5 right?

6 A It means I'm nothing. That's what it means.
7 It means I'm nothing.

8 Q But you don't know what that means?

9 A Yeah, I do.

10 Q You would be speculating as to what that
11 means, right?

12 **A If I told somebody they're nothing, I would**
13 **think it means they're dirt. They're stupid. They have**
14 **no idea what they're doing. They're worthless. That's**
15 **what it means.**

Trial Transcript, James Todd Wagner testifying pg 1808 ln 19 – pg 1809 ln 2

19 Q Okay. So this is what you were talking about
20 earlier when ***you were saying you were confused, et***
21 ***cetera***, and you thought there's no way Warren Mosler was

22 saying these things?

23 **A** Exactly. I mean, he wrecked his own company

24 just to wreck me. That is so far outside the realm of

25 normal life existence I could possibly think of. I just

1 couldn't -- that was two days after the launch, that

2 email.

Trial Testimony, James Todd Wagner in cross-examination pg 1718 ln 21 – pg 1719 ln 15

14 Q Well, you wrote -- you described the mentally

15 ill portion as "He's got some serious mental problems."

16 That part, right? That's the part you're complaining

17 about, correct?

18 A Holistically. When I say holistically, two

19 things: **"He's nothing. He's got some serious mental**

20 **problems."** You put those two things together and it's

21 **way worse than just one singular comment.**

22 Q Now --

23 A He's actually going out of his way to sort of

24 buttress that whole "He's nothing, but he's got serious

25 mental problems." **And of course no one is going to hire**

1 **someone when they read something like that about them,**

2 **especially, you know, for something in a management**

3 **level.** No way.

- **Hassan Abboud (Saudi Arabia & United Arab Emirates potential partner)**

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 479 ln 23 – pg 480 ln 6

23 Q Okay. And you talked about buying cars

24 before. As a person who buys cars and supercars and

25 things, how important is "Car and Driver" in your life?

1 A Oh, "**Car and Driver**" has been around for a
2 **long time. It is very important.**

3 Q Okay. And what, if anything, do you rely upon
4 "Car and Driver" for?

5 A **Reviews, what they do, and their comments** and
6 so on.

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 482 ln 21 – pg 483 ln 12

21 Did you ever have a conversation with James
22 Todd Wagner ***about exporting vehicles?***

23 **A Yes, sir.**

24 Q Okay.

25 A I did.

1 Q Explain to the jury what you and Mr. Wagner
2 were talking about.

3 A Well, when they were developing this **new**
4 **vehicle with the twin-turbo and so on, he wanted to**
5 **introduce it to the Middle East. And I have a lot of**
6 **connections in Saudi Arabia and United Emirates,** so I
7 reached out to my friends over there and they were
8 willing to show the car over there.

9 Q How do you have connections in the United Arab
10 Emirates?

11 A I have family there. I grew up there. **I was**
12 **born there.**

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 483 ln 18 – pg 484 ln 5

18 Q ***Famous, rich, anything like that that would***
19 ***help in the car distribution.***

20 A Well, I don't know if this is really
21 politically correct, but I knew Osama bin Laden's
22 friends and so on.

23 Q Okay. People with -- what level of money did
24 they have?

25 **A They have a lot of money,** banks and so on and so on, yes.

2 Q Okay. ***Did these people buy exotic toys?***

3 **A Yes, they did.**

4 ***Q Things like supercars?***

5 A Yeah. **A lot of princes and so on** and so on.

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 484 ln 18 – pg 485 ln 15

18 Q -- in ***"Car and Driver"***?

19 A Yes, I did.

20 Q Okay. Do you remember the last time you read
21 it was?

22 A It was a long time ago.

23 Q Okay. I want to take you back to when you
24 first saw this article, okay --

25 A Yes.

1 Q -- in ***"Car and Driver."*** ***What was your initial***
2 ***reaction?***

3 **A I was concerned because there was a few things**
4 **in here that reflected on Todd,** you know, and I ended up
5 reaching out to a couple of friends of mine about it,
6 you know, to see because I'm fixing to do business with

7 him, you know, in the Middle East and I didn't want to
8 look really bad, especially when the article starts
9 stating that he was a scammer and so on and so on.

10 Q Okay. ***So your personal experience was that***
11 ***seeing this article gave you pause in doing business***
12 ***with James Todd Wagner, right?***

13 A **Yes, it did.**

14 Q Even though you had known him --

15 A Correct.

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 486 ln 18 – 21

18 Q Nevertheless, when you read the words "***He's***
19 ***nothing. He's got some serious mental problems,*** Mosler
20 ***said,***" what was your reaction?

21 A **I didn't want to do business with him.**

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 488 ln 2 – 17

2 Q Okay. Did you get the feeling that, when you
3 read the whole article in its entirety, that that one
4 line ***about Mr. Wagner, "He's nothing, he's got serious***
5 ***mental problems"*** -- ***did that -- did that say "Oh, well,***
6 ***out of the whole article, that's just a minor thing"***?

7 A **No. No, it's a serious thing when somebody**
8 **says something like that,** you know. I mean, to me,
9 it's -- I mean, a gentleman has been working with the
10 owner for a while and so he should know him better, and
11 if he stated that he is not capable of, you know, doing
12 the business, then I got to -- then I got to think about

13 that. I got to think about if I want to do business
14 with this guy.

15 Q *So even if you read the whole article, that*
16 *line sticks out, right?*

17 A It does.

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 488 ln 21 – pg 489 ln 3

21 A Oh, yeah.

22 Q *Did you interpret that as an off-the-cuff*

23 comment, something like someone would just say like at a
24 cocktail party "Oh, he's crazy," something like that?

25 A No.

1 Q Did you interpret that that way?

2 A That's jokingly around, yes, but not putting

3 it in writing, no.

Abby Cubey

Trial Transcript, Abby Cubey testifying pg 596 ln 10 – 25

10 Q Okay. All right. I'd like to ask you some
11 questions about after the -- after the video about that
12 same time. **Were you trying to assist Mr. Wagner in**
13 **effectuating sales of the RaptorGTR?**

14 A Absolutely. Yes.

15 Q Okay.

16 A I've got -- I've got potential buyers actually
17 and that -- the sad part is because of the articles that
18 came out, they backed off.

19 Q Okay. Can you tell me about any particular

20 buyers that you can recall?

21 A Sheikh of Kuwait. I have another one that's
22 basically was my partner then in my health care business
23 and then --

24 Q Just for clarification Sheikh of Kuwait.

25 A Sheikh of Kuwait.

Trial Transcript, Abby Cubey testifying pg 610 ln 18 – pg 611 ln 1

18 Q You mentioned that you and your mother and
19 father were interested in investing \$500,000 to purchase
20 MACC. What were the terms under which you would invest
21 \$500,000 to purchase MACC?

22 **A To be the exclusive distributor. I want -- to**
23 **work basically with James Wagner to distribute cars in**
24 **Asia.**

25 Q When were you going to invest the \$500,000?

1 **A 2012.**

Trial Transcript, Abby Cubey testifying pg 599 ln 9 – 21

9 Q Okay. Were you and/or any of your family
10 members ever interested in investing in the company?

11 **A Yes. We were going to invest half a million**
12 **dollars. Yes.**

13 Q Okay. Who is we?

14 A Me, my mom. My family overall.

15 Q Okay. And did your family have the means to
16 invest that much money?

17 A Yes.

18 Q Okay. And what happened to your desire to
19 invest in the company?

20 A It -- it's -- out of all the bad press there,
21 I mean, we can't do it. It's just not good for us.

Trial Transcript, Abby Cubey testifying pg 600 ln 23 – pg 601 ln 5

23 Q And when did you, your mother, and father
24 determine not to invest \$500,000 for the purchase of
25 MACC?

1 A After reading all the stuff that's online.

2 Yes.

3 Q And when was that?

4 A The same year. 2012, I believe or '13. I'm
5 not sure.

Trial Transcript, Abby Cubey testifying pg 596 ln 10 – 25

3 Q What articles are you referring?

4 A That the James Wagner's car is fake. It's not

5 Mosler.

Warren Mosler

Trial Transcript, James Todd Wagner testifying pg 1212 ln 14 – 24

14 Q How did you interpret that as to his demeanor
15 towards you on that day?

16 A Obviously he was pissed. Instead of letting
17 me get the money back, he wanted to pocket it because he
18 was pissed, I'm presuming. Of course I didn't agree to
19 this, but he still made a run at it.

20 And it seems pretty clear now since I haven't
21 gotten it back for 12 years that it was his intent for

22 me to never get it back. **And the thing that is so**
23 **ridiculous about this is he doesn't need money, he just**
24 **wants my suffering.**

Trial Testimony, James Todd Wagner in cross-examination pg 1690 ln 20 – pg 1691 ln 9

20 Q And then you wrote "To be fair, many
21 journalists only made side mention of Matt's comments or
22 simply decided to not write anything at all." Meaning
23 that they -- these other journalists, who got excited
24 about the possible scandal and who wrote about you and
25 the car -- *some of them didn't even mention Matt's*
1 *comments in the article, correct?*

2 A Yes. **They were getting their own information**
3 **directly from Mr. Mosler** and the MACC factory, **but I**
4 **wasn't aware of that. This is me trying to figure out**
5 **what's going on and being deceived all along the way and**
6 **trying to mitigate the disaster that came out believing**
7 **that Mr. Mosler wouldn't do this --**

8 Q And then you wrote --

9 A -- **but I was wrong.**

Trial Testimony, James Todd Wagner in cross-examination pg 1694 ln 2 - 7

2 Q Now you claim that statement right here
3 personally affected you, correct?

4 **A The train wreck, the train wreck of my whole**
5 **life and my dreams, everything, yeah.** I mean, that
6 really mega affected me, and it still does now. **When I**
7 **read this stuff, it still, like, takes me out.**

Appendix “5:B”: Warren Mosler discussing defamatory statements, but never states that he was communicating his opinion.

- Also are where Mr. Mosler has the opportunity to claim “it was my opinion”, but he doesn’t state that. Instead, Mr. Mosler focuses on disclaiming having made the statements at all.

Mr. Mosler’s testimony strategy is to try and say “It wasn’t me.” rather than explain his words. Mr. Mosler’s choice of this deceptive testimony is because he recognizes how defamatory his words were. **He chose them to be defamatory, and he chose not to make any retractions.**

WARREN MOSLER NEVER TESTIFIES: “I told the journalist that it was just my opinion.”

What matters is what was COMMUNICATED: that is what causes the damage. The excuses (that can’t be validated) made at trial don’t fix the damage.

If defamers simply had to express “it was just my opinion” or “I meant it in a casual way” AFTER-THE-FACT to escape liability, **all the defamation laws are rendered useless.**

Trial Testimony pg 813 In 25 – pg 815 In 10

25 Q A Ford vehicle -- but its contract -- as we

1 sit here today, you will not acknowledge that the 2012

2 RaptorGTR was manufactured by Mosler Auto Care Center?

3 A It's too vague of a statement for me to

4 acknowledge it. I have to be precise. Everything I've

5 written for 30 years gets examined by people and, you

6 know, I haven't been called out in over 30 years because

7 I'm very careful about what I say.

8 Q Okay. You're very careful about what you say?

9 A Yes.

10 Q Especially when you speak to journalists,

11 right?

12 A Yeah.

13 Q *Okay. So saying he's got serious mental*

14 *problems --*

15 A Yeah.

16 Q -- *that was thought out by you, wasn't it?*

17 MR. WEBER: Objection, assumes facts not in
18 evidence.

19 THE COURT: Overruled.

20 THE WITNESS: Okay. Number one, I don't
21 recall the conversation. I don't recall saying
22 that. This is a statement that he attributed to
23 me. He doesn't even remember me saying it. If you
24 look at his testimony, he was asked if I said it,
25 he said "Well, I attribute it to Mosler."

1 BY MR. ZAPPOLO:

2 Q And you were here when we read the entire
3 transcript, right?

4 A Yeah.

5 Q Well, when we read the portions of the
6 transcript and he said --

7 A Yeah.

8 Q -- "If I put it in there, he said it" or words
9 to that effect, right?

10 A No. He said he attributed it to me.

- **None of the many articles) include the qualifier "in the casual sense".**

Trial Testimony, Warren Mosler testifying pg 815 ln 23 – pg 817 ln 1

23 Q True or false --

24 A Here we go.

25 Q -- at the time that those statements were
1 attributed to you --

2 A Yeah.

3 **Q -- about Mr. Wagner having serious mental**
4 **problems, you believed James Todd Wagner had serious**
5 **mental problems?**

6 A Okay. Again, in the casual sense of those
7 words, if you -- I believed that much, and I still do.

8 Q Okay. Now when you say "serious mental
9 problems," you mean he's insane, right?

10 A You're telling me what I mean, or are you
11 going to ask me what I mean?

12 **Q I just said you mean he's insane, right?**

13 **A No.**

14 Q No? Okay. Did you ever tell anyone that
15 **Mr. Wagner was arguably legally insane?**

16 A I remember using that casually in an email to
17 a potential buyer.

18 Q Okay. I'll show you what's marked as
19 Plaintiff's Exhibit 802. Is that the email you're
20 referring to?

21 A Yes.

22 (Thereupon, Plaintiffs' Exhibit 802 was marked
23 for identification.)

24 BY MR. ZAPPOLO:

25 **Q And those are your words on that paper, right?**

1 **A Yes.**

- **If this became a precedent for defamation defenses, then no one would be protected from defamation given how easy it would be to escape liability.**

Trial Testimony pg 822 ln 17 – pg 823 ln 21

17 Q In fact, the Clifford Atiyeh document -- that
18 article came out on about November 15th of 2012,
19 correct?

20 A I don't remember the exact date, but it sounds
21 right.

22 Q Okay. So that would only be about roughly 7
23 months --

24 A 7 months.

25 Q -- right?

1 A Yes.

2 Q Okay. Now at this point when you're talking
3 about someone having serious mental issues, and in your
4 email 802 you coupled it with "he has nothing," that's
5 another phrase that turned up somewhere else in one of
6 the articles, correct?

7 A Yes.

8 Q Okay. And then you said "Wagner has serious
9 mental issues and is arguably legally insane." So is it
10 just coincidence that your words were the same words
11 that were used in articles about Mr. Wagner?

12 MR. WEBER: Objection, speculation.

13 THE COURT: Sustained.

14 BY MR. ZAPPOLO:

15 Q Now, who is the person that 802 -- excuse me,
16 Exhibit Number 60, which is in evidence -- is directed
17 to?

18 A Ian Grunes.

19 Q Okay. And who is Mr. Grunes?

20 A He was involved in the purchase of my
21 inventory at the end of the -- when I sold it.

Appendix "5:C": Mr. Mosler's true opinion (positive) of James Wagner (7- year head engineer).

Trial Testimony, Warren Mosler testifying pg 925 ln 25 – pg 926 ln 12

25 Q Okay. You knew, however, that James Todd
1 Wagner wanted to market supercars in China and Thailand,
2 correct?

3 A Yes.

4 Q And did you have any discussions with him
5 about why he wanted to go half a world away to sell
6 cars?

7 **A I was just happy he wanted to do it --**
8 anything to sell a car. **I liked working with Todd. We**
9 **worked well together. Very good creativity.**

10 Q So he was creative, but mentally ill?

11 A Well, you keep doing this, okay? I didn't say
12 mentally ill.

Trial Testimony, Warren Mosler testifying pg 837 ln 16– pg 838 ln 1

16 Q Now this document says that its effective date
17 was August 12, 2011. Do you remember receiving an email
18 *from Mr. Wagner on or around that time informing you*
19 *that he received this Certificate of Conformity?*

20 A Yeah, I've seen it going through the
21 documents.

22 Q Okay. Do you remember what your response was?

23 **A I think I was very pleased when he received**
24 **it.**

25 Q Okay. Would the phrase "good job" --

1 **A Yes, definitely. It was a huge effort.**

Appendix "5:D": Warren Mosler Trial Testimony DENYING speaking to journalists, as opposed to Warren Mosler ADMITTING he did speak to journalists in deposition.

Trial Testimony, Warren Mosler testifying pg 2318 ln 12 - 25

12 Q It says 2012 Mosler -- I'm sorry, 2012 Mosler

13 RaptorGTR, correct?

14 A In the interest of time, I'll take your word

15 for it.

16 Q Okay. And by the way, you can't confirm or

17 deny whether or not you said those -- whether you

18 confirmed that to Mr. Farah, correct?

19 **A I will deny I said that. I can't confirm** -- I

20 don't recall the conversation, but I did not say that.

21 Q You don't recall the conversation, but *you*

22 *deny that you said that?*

23 **A Yes.**

24 ***Q And even though Mr. Farah says that you did?***

25 **A That's correct.**

Trial Testimony, Warren Mosler testifying pg 940 ln 11 – pg 941 ln 2

11 Q Okay. Now there's a quote there: Quote, he

12 goes around claiming he has a distributorship agreement.

13 He's a distributor of nothing because we're not

14 producing a car, Warren Mosler tells me in a phone call

15 on Friday, correct?

16 A Correct.

17 Q All right. Now when you said "claiming he has

18 a distributorship agreement," you could have phrased
19 that -- well, let me back up.

20 You said those words to Mr. Hardigree during a
21 phone call, didn't you?

22 A I don't recall the phone call at all or saying
23 anything to him, so he's attributing those to me.

24 Q Okay. You're not denying that you said that
25 to this jury, are you?

1 **A I can't confirm or deny it.** I don't remember
2 the conversation.

Trial Testimony, Warren Mosler testifying pg 944 ln 11 - 16

11 Q The quote, in fact, part of the documentation
12 (for the sale of Mosler) is that Todd is not involved,
13 says Mosler.

14 ***You can't confirm or deny whether you said***
15 ***that or not, correct?***

16 **A I can't.**

Trial Testimony, Warren Mosler testifying pg 927 ln 8 - 14

8 Q "Chassis 32 must be presented to at least one
9 press outlet in Thailand and China." And he did that,
10 didn't he?

11 **A I don't remember,** but, again, that was his --

12 Q Do you remember an AAP News Wire? You
13 responded to it?

14 **A AAP News Wire? I don't remember that name.**

First Proof of Warren Mosler Perjury: Below, Warren Mosler testified **THE EXACT OPPOSITE** in deposition. Lying about speaking to the journalist was key to Mr. Mosler's defense. Below is where Mr. Mosler testified truthfully in deposition (*February 10, 2016*).

Warren Mosler Depo #1 pg. 218 ln 10 - 17

10 Q. Well, the problem is **he reached that conclusion**
11 **after speaking with you**; correct?

12 MR. REINBLATT: Objection.

13 BY MR. ZAPPOLO:

14 A. That's what he, you know -- you can -- I guess,
15 it doesn't mean, you know, **what you just said is a true**
16 **statement. He reached that conclusion after speaking to**
17 **me.**

Second Proof of Warren Mosler Perjury: Deposition testimony of Matt Farah, the key journalist whom Mr. Mosler convinced that James Todd Wagner was a con-artist, who had no distributorship with Mosler Automotive.

Matt Farah Deposition pg 53 ln 18 – pg 54 ln 6

18 Q Okay. And then when we flip forward, you
19 actually had conversations with Mr. Mosler; correct?

20 A Yes, I did have a conversation with
21 Mr. Mosler -- one.

22 Q Okay. And he said -- and he confirmed
23 that the twin-turbo conversion to the Raptor GTR
24 Mosler 900s will not pass emissions and is not
25 certifiable for public sale; correct?

1 A That -- yeah. I mean, again, I don't
2 recall some of the more specific details of that

3 conversation, but if I wrote that, *that's what he*
4 *told me* at the time. My memory would have been very
5 fresh then, so I would say that if I said it, then I
6 would stand by it now.

Third Proof of Warren Mosler perjury. Warren Mosler testimony indicating that he did speak to Matt Farah, and implying that what was written is a memorialization of what Mr. Mosler stated to Matt Farah.

Trial Transcript, Warren Mosler testifying pg 881 ln 9 - 12

9 Q Did you -- did you tell Mr. Farah that
10 Mr. Wagner was not a distributor of Mosler products?

11 A I don't know. If you've got that document,
12 let me read it and see what I actually told him

Fourth Proof of Warren Mosler perjury. Throughout the trial, except in occasional slip-ups where the truth came out; Mr. Mosler repeatedly claimed amnesia about the interviews with journalists. Four different journalists published ostensibly the same content with written statements that they received the information from Mr. Mosler. It is a statistical impossibility that four completely independent journalists would publish the exact same thing out-of-the-blue. Mr. Mosler knows that what he stated was false and severely damaging to Mr. Wagner; thus Mr. Mosler committed perjury to thwart justice.

Warren Mosler Deposition #1 Feb 10, 2016 pg 208 ln 17 – pg 209 ln 2

17 Article continues, "The agreement," and then a quote.
18 "He goes around claiming he has a distributorship
19 agreement. He's a distributor of nothing, because we're
20 not producing a car, close quote. "Warren Mosler tells
21 me," me being Mr. Hardigree, "in a phone call on Friday."

22 And that Friday would have to be the Friday preceding
23 November 21, 2011.

24 **Did you in fact have a phone call** with Mr. Hardigree
25 on the Friday preceding November 21, 2011?

1 **A. I certainly can't deny that I did.** I just don't
2 have specific recollection of the name.

Warren Mosler Deposition #2 August 19, 2020 pg 95 ln 2 – 5

2 Q. Okay. **But you don't recall giving anyone**
3 **instruction to recover your phone records for use in**
4 **this lawsuit, correct?**

5 A. **Correct.**

Warren Mosler Deposition #1 February 10, 2016 pg 197 ln 10 - 25

10 Q. ***Now Mosler says, "Wagner is claiming, claiming to***
12 ***be the official Mosler distributor despite their agreement***
13 ***being moot from lack of production."***

14 In fact -- well, did you say that to the author of
15 Exhibit No. 29, Now Mr. Wagner is claiming to be the
16 official Mosler distributor?

17 **A. I don't recall using -- saying it in that many**
18 **words.** In those words.

19 Q. Did you ever tell this author of Exhibit No. 29
20 that the agreement was moot for lack of production?

21 A. You know, I might have said something along the
22 lines of, you know, if I was -- if I had been questioned
23 about the agreement, **I would have said, well, there are no**
24 **cars anyway, so what difference does it make. I could have**
25 **said that.**

4 Q. Well, *you said it's moot.*

5 **A. The answer to that question is yes.**

6 Q. And that's what happened here; right?

7 **A. Being moot does not mean it was terminated.**

8 That's a different word.

9 Q. Okay.

10 **A. I'm just saying it didn't matter.** There were no
11 cars, so why does it matter if he can distribute no cars or
12 not for all practical purposes.

13 Q. You think the ability to distribute future cars
14 was worth something?

15 **A. I didn't say -- I didn't say it wasn't worth**
16 **anything. I just said it was moot.** It doesn't mean it's
17 not worth something.

3 Q. In the third line down in that article, it says,
4 "Speaking with Jalopnik, Warren Mosler said, Wagner, quote,
5 goes around claiming he has a distributorship agreement,
6 but he's the distributor of nothing because we are not
7 producing a car. *He added, Wagner is a quote/unquote pest*
8 *and wants nothing to do with him.*

9 **Do you recall ever using those words?**

10 A. I don't recall the specific words but they -- I
11 don't disagree with them. **I don't deny them. It looks**
12 **like the truth to me.**

Appendix "5:E": Warren Mosler refused to mitigate or fix defamatory articles.

Trial Testimony, Warren Mosler pg 942 ln 6 – 15

6 Q No. Let's go down to the paragraph below.

7 "Mosler wants nothing to do with Wagner, whom
8 he calls a pest." You did refer to Mr. Wagner, when
9 speaking to Mr. Hardigree, as a pest, correct?

10 A Okay. One more time, that's what it says
11 here. That's what he's saying I said. I don't have a
12 recollection of saying it, so...

13 **Q *Where's your email to Mr. Hardigree saying***
14 ***"You misquoted me. I never called Mr. Wagner a pest"?***

15 **A There isn't one.**

Trial Transcript, James Todd Wagner testifying pg 1209 ln 14 – pg 1210 ln 7

14 Q All right. And what did Jill write about what
15 is printed?

16 A She writes "**What is printed just continues to**
17 **mutilate Todd over and over and will make it virtually**
18 **impossible for him to gain employment.**"

19 Q Okay. Now ***did you ever have any exchange with***
20 ***Mr. Mosler about trying to correct what was out there*** in
21 this, you know --

22 **A Numerous times.**

23 Q -- to try to mitigate the damage that was
24 being done?

25 A Yeah, I didn't know it was him. I thought for
1 sure it wasn't him. I was actually talking to him and
2 saying, "Hey, let's fix this. Let's put a press release

3 out there. This is some misunderstanding."

4 You know, he knew he did it, but he kept
5 secretly -- you know, **he was slyly trying to dissuade me**
6 **from doing that because he wanted -- he wanted the pain**
7 **to stick.**

Trial Testimony, James Todd Wagner in cross-examination pg 1604 ln 4 – 23

4 Q Now, following all of those articles, you
5 wrote to Mr. Mosler because you believed there was a
6 misunderstanding in light of the video because there are
7 two RaptorGTRs, right?

8 A Yes. **I couldn't believe Mr. Mosler would be,**
9 **you know, carpet-bombing his own company, so I figured**
10 **there must be some misunderstanding with the journalist.**
11 *I had no idea what was going on.*

12 Q And --

13 A It took me a long time to figure it out.

14 Q And you believed that the journalists could
15 misunderstand because there were two RaptorGTRs,
16 correct?

17 A That was one of my --

18 Q Yes or no?

19 A -- theories as a possibility, which is why I
20 **ran it by Mr. Mosler so that we could mitigate the**
21 **damage in case there was a misunderstanding, but**
22 **Mr. Mosler refused to do any mitigation whatsoever.** He
23 let all the damage stick --

4 Q The person wrote "This is truly fascinating.
5 Do you guys ever post on a message board where someone
6 got caught in a lie? This is like that, but 10 million
7 times more epic. I'm at a loss for words." Do you
8 agree with that comment?

9 **A** **No. I didn't lie, but the whole world was**
10 **believing that I was a con artist** because Mr. Mosler is
11 **persuasive and everyone thinks he's going to tell the**
12 **truth, but he wasn't,** and we outlined that here.

13 Everyone knew the RaptorGTR was a legitimate
14 Mosler product, and he and **everyone working for him were**
15 **all unilaterally saying it wasn't.** My company was a
16 distributor, but **they were believing him and making the**
17 **conclusion that I'm lying and I'm a con artist.**

2 Now, Mr. Wagner, do you see the comment from
3 ***raceresq*** November 16th at 2:26 p.m.?

4 A Yes. I read that as **racer esquire.**

5 ***Q*** ***And it says "The certificates appear to refer***
6 ***to the original Mosler MT900, before Todd Wagner pimped***
7 ***it*** into a, quote, RaptorGTR, close quote, Cubey GTR."
8 Do you agree with that comment?

9 **A** **No, absolutely not. The certificate was for**
10 **the 2012 RaptorGTR.** And this person, who is most likely
11 **Mr. Mosler's attorney started piling on here**

NOTE: *The actual screen name used was "racer-esq."*

Appendix "5:G": Testimony about **PROFIT MOTIVE** (*Greed*) behind the defamation.

Trial Testimony, James Todd Wagner in cross-examination pg 1555 ln 9 - 18

9 Q -- Savvas. As of September 2011, you were
10 aware that Savvas was back to attempting to purchase
11 MACC, correct?

12 **A After my company achieved the RaptorGTR**
13 **certification**, Mr. Mosler sent that to everybody and
14 **they all wanted to come back because that's what made**
15 **the company valuable** and, in my view, that seemed a
16 little *underhanded*. He didn't tell me he was doing
17 that. **He did that all behind my back, just like**
18 **everything else was behind my back.**

Trial Transcript, James Todd Wagner in cross-examination pg 1585 ln 7 – 13

7 Q Well, let me show you this document. This is
8 Exhibit 415.

9 A I would be delighted for Savvas to buy it if
10 **Mr. Mosler and Savvas honored their agreements**. That's
11 all they had to do, honor their written agreements. And
12 there's *numerous emails where I'm saying "Hey, Warren,*
13 *just honor your agreements," and he's like "No" –*

Trial Transcript, James Todd Wagner in cross-examination pg 1586 ln 12– pg 1587 ln 12

21 Q Putting aside this email, you understood that
22 Savvas Savopoulos did not want you involved in MACC if
23 he purchased MACC, correct?

24 A I didn't know that. I mean, that's misstating
25 anything. He didn't reply back here. And,
1 fundamentally, Mr. Mosler trades hundreds of millions of
2 dollars and has to honor his agreements. I thought for
3 sure Mr. Mosler would honor his agreements, his written
4 agreements.

5 **He put his hand signature on it that the**
6 **distributorship would be binding upon the new owner.**
7 The new owner here was going to be Savvas; so,
8 **Mr. Mosler, I was wondering why didn't you simply honor**
9 **your agreements?** There would have been no issue
10 whatsoever if he just honored his agreements. **We all**
11 **could have made money together. It would have been**
12 **delightful.**

Trial Testimony, James Todd Wagner in cross-examination pg 1608 ln 14 – 25

14 Q You inferred in this case a motivation behind
15 this document, correct?

16 A The motivation is very clear. **It wants to**
17 **take SEI's exclusive distributorships, take its**
18 **distributorships in one-third of U.S.A., several states**
19 **including Florida; wants to take my intellectual**
20 **property and wants to give a full release to Warren**
21 **Mosler to absolve him of the defamation, to absolve him**
22 **of the trade libel, and to allow him to keep my \$100,000**
23 **forever. That's what this does. It essentially takes**
24 **everything away from me for 100 bucks.** That's what it
25 does, it does exactly that.

Trial Testimony, James Todd Wagner in cross-examination pg 1609 ln 25 – pg 1610 ln 3

25 Q -- you attached a Word document to the email.

1 Let's go to the first page, please.

2 **A Yes. During this time Mr. Mosler was**
3 **threatening me.**

Trial Testimony, James Todd Wagner in cross-examination pg 1613 ln 1 - 10

1 **Q And then Mr. Mosler wrote "Todd, just read it.**
2 **My suggestion is you should agree to not be involved in**
3 **Mosler in exchange for any liability for what you've**
4 **done."**

5 And then you wrote "Hi, Warren. Can you get
6 rid of the articles? The \$100,000 was referring to the
7 money my father sent in."

8 Now, by that, you're referring to the money
9 that Lew Lee had put in through you, correct?

10 **A No.**

Trial Testimony, James Todd Wagner in cross-examination pg 1638 ln 15 – pg 1639 ln 7

15 Q And you didn't agree -- can we go back to the
16 prior email?

17 You didn't agree to have SEI's chassis 55
18 converted back to 2009 spec either, did you?

19 A I would be willing to do that at the -- I
20 was -- at the time --

21 *Imagine, like, beating someone to death and*
22 *holding a gun over their head and saying "Okay. Would*

23 *you agree to this so I don't kill you?"* That's

24 basically what was going on here.

25 **This guy wanted to capture all of the value of**
1 **the RaptorGTR for himself and in order to do that, he**
2 **needed to wipe me off the board.** And he did it secretly
3 **behind the scenes** and then made me think it was all my
4 fault. **And I'm being threatened** and all this stuff and
5 he's, you know, **this mega powerful dude and I'm broke.**

6 Q It's a conspiracy, right?

7 A It's him and all of his paid people.

Trial Testimony, James Todd Wagner in cross-examination pg 1642 ln 13 – 24

13 Q Let's scroll down.

14 A But **the car is a 2012 RaptorGTR** --

15 Q Hold on, Mr. Wagner.

16 A -- as the Bill of Sale says.

17 Q And then --

18 A **Here, they want to strip that away so that**
19 **they can have the RaptorGTR certification all to**
20 **themselves** and I get nothing. That is the overarching
21 plan being executed here by Mr. Mosler and all of his
22 longtime employees, who have been paid and owe their
23 whole livelihood to this man. They're doing everything
24 they will --

2 Now, Mr. Wagner, do you see the comment from
3 raceresq November 16th at 2:26 p.m.?

4 **A Yes. I read that as racer esquire.**

5 **Q And it says "The certificates appear to refer**
6 **to the original Mosler MT900, before Todd Wagner pimped**
7 **it into a, quote, RaptorGTR, close quote, Cubey GTR."**

8 Do you agree with that comment?

9 **A No, absolutely not. The certificate was for**
10 **the 2012 RaptorGTR. And this person, who is most likely**
11 **Mr. Mosler's attorney started piling on here, is trying**
12 to say that it's something else, which is what all of
13 those people are doing.

Appendix "5:H": Pressure and Threats applied to Mr. Wagner to coheres signing away Intellectual Property, Exclusive Distributorships, and rights to have \$100,000 returned.

Trial Transcript, Warren Mosler testifying pg 974 ln 2 - 15

2 Q Okay. Now, Mr. Savvas Savopoulos wrote to you
3 on December --

4 Actually, the first thing is James Wagner
5 said, on December 10, 2011, that a reply would be sent
6 out early next week. And the response from
7 Mr. Savopoulos to you was "*Doesn't sound like he,*"
8 *meaning James Todd Wagner, "is happy. Any pressure you*
9 *can put?"*

10 **A Yeah.**

11 Q Remember earlier I asked you in front of this
12 jury whether or not you had been asked to *put any*
13 *pressure on James Todd Wagner to give up his rights?*

14 **A Right. Remember I asked if you had any**
15 **documentation, so here it is.**

Trial Transcript, Warren Mosler testifying pg 974 ln 2 - 15

21 Q Nevertheless, would you agree that your friend
22 Savvas Savopoulos asked you to *put pressure on James*
23 *Todd Wagner --*

24 A Yeah.

25 Q -- *to sign the documentation giving up those*
1 *rights for \$100, correct?*

2 **A Yes. Yes, that's the way he is.**

3 Q So as part of Mr. Savopoulos' nonrefundable
4 deposit --

5 A Yeah.

Trial Testimony, James Todd Wagner testifying pg 1222 ln 22 – pg 1223 ln 4

22 I want to

23 ask you: Back then, in December of 2011, ***did Mr. Mosler***

24 ***ever tell you that he'd be suing you?***

25 **A** **Yes.** Yes, he did. As part of this sort of

1 theme, **he called me and said he's going to sue me into**

2 **bankruptcy** and all of this for everything. He did

3 something like that. **He threatened to stick his two**

4 **in-house lawyers on me,** something to that effect.

NOTE: On the transcript, "stick" is errantly shown as "sick".

Trial Testimony, James Todd Wagner testifying pg 1229 ln 22 – pg 1223 ln 4

17 Q Now up until that point ***you had been dealing***

18 ***with Mr. Mosler's lawyers for years,*** hadn't you?

19 A You mean ***Alan Simon?***

20 **Q** **Yes.**

21 A Yes.

22 Q Okay. And then we have the -- ***what you***

23 ***characterized as a threat: "Please advise him,"*** meaning

24 ***you, "if he doesn't back off as of Monday, I'll be***

25 ***directing both of my in-house attorneys to go after him***

1 to the maximum degree allowed by law and for as long as

2 it takes to bring him to justice."

3 So that's what you were referring to earlier,

4 correct?

5 **A** **Yes, and he sent it to me.** So he didn't just

6 send it to my lawyer, he made sure that I saw the

7 threat.

23 Q Okay. "Is the type of guy who will sue you
24 for anything. What you'll have to do is hire an
25 attorney for \$400 an hour and defend yourself until
1 you're broke. That's the way things work in America,"
2 correct?

3 A Yes.

4 Q Okay.

5 **A And one thing Mr. Mosler said at the beginning**
6 **of this, I didn't put here, was he said "You're**
7 **outmatched here." He's the guy with the private jet and**
8 **I'm the guy who's nothing.**

9 Q Okay. Now, with respect to -- by the way,
10 with respect to "outmatched," are you affiliated with
11 any companies recently that have that name or use that
12 mark?

13 **A Yes. I founded a company called**
14 **Outmatched.org.**

3 A I have been blessed with a very strong mind.
4 I can solve very complex problems very easily, and I
5 gave that mind to him for seven years. And so **I have**
6 **invented a way to help people who can't afford a lawyer**
7 **to fight back against guys who they're outmatched**
8 **against.**

Appendix “5:1”: SEI’s Intellectual Property that Mr. Mosler was attempting to obtain via pressuring Mr. Wagner to sign the “Termination and Release”.

Trial Transcript, Warren Mosler testifying pg 691 ln 14 – 19

14 Q Okay. Now was that a *novel configuration* for
15 a place to put turbochargers on vehicles at that time?

16 A I hadn't seen it.

17 Q Okay. *That was an idea that Mr. Wagner came*
18 *up with, wasn't it?*

19 **A Yes.**

Trial Transcript, Warren Mosler testifying pg 692 ln 1 - 4

1 Q *Now those turbochargers in the back venting*
2 *straight out like that, they gave the car a very*
3 *distinctive sound, didn't it?*

4 A I never heard it run, but **I'm sure it did.**

Trial Transcript, Warren Mosler testifying pg 964 ln 6 - 16

6 Q -- still saying that he or Supercar
7 Engineering still had the \$100,000 deposit, correct?

8 **A** Yeah. In the previous sentence, when he says
9 **"Without question, your company would be worthless now**
10 **without my effort,"** these are other efforts other than
11 what he just described that have been unpaid. Efforts
12 to sell the company that he discussed earlier, he felt
13 he was doing me a good service with his efforts to sell
14 the company. Maybe he was, but that was --

15 Q *Certification was a big deal, wasn't it?*

16 A It was a big deal for him, yeah.

Trial Testimony, James Todd Wagner in cross-examination pg 1324 ln 6 – pg 1325 ln 2

6 So this is 2010. This is one whole year
7 before the events we were discussing with -- you know,
8 up until now in the case. This is a whole year earlier.

9 So in 2011, so Mr. Savopoulos came back -- so
10 Mr. Savopoulos left here. He said he didn't want to buy
11 MACC because of the tax evasion on the gas guzzler
12 taxes, the fact that MACC had been building illegal cars
13 the whole time and whatever liability was attached to
14 that, and -- I think those were the two main issues.

15 So then my company achieved the EPA
16 certification on the 2012 RaptorGTR and Mr. Mosler
17 immediately -- even though I had a deposit in place and
18 three months of exclusivity during that time, Mr. Mosler
19 then sent that information to Savvas to attract his
20 interest. So he attracted Mr. Savvas' interest as a
21 competitor to me while I had the \$100,000 deposit in
22 place and three months of exclusivity -- let me finish,
23 okay.

24 Q We're not there yet, Mr. Wagner.

25 A I'm finishing answering your question, okay.

Page 1325

1 Q I don't think you are.

2 A I am. I am. This is next, right now.

Appendix “5:J”: Warren Mosler upset that Mr. Wagner doesn’t get on-board with building cars illegally, and thus Mr. Mosler wants to “duct tape” Mr. Wagner’s mouth shut.

Trial Transcript, Warren Mosler testifying pg 712 ln 25– pg 713 ln 9

25 Q Okay. Now you were trying to save weight when
1 you were building cars, correct?

2 A Right.

3 Q All right. ***One of the ways to save weight was***
4 ***to put smaller catalytic converters on the car, correct?***

5 **A That would save weight, yeah.**

6 Q And you did that, didn't you?

7 **A I put as small as I could put on it that would**
8 **still be U.S. legal** if we were going to use them for --
9 you know, sell them to somebody to drive on the road.

Trial Transcript, Warren Mosler testifying pg 714 ln 20 - 25

20 Q All right. Well, let's rephrase that a little
21 bit. ***Who's ultimately responsible for the vehicles that***
22 ***leave the Mosler Auto Care Center --***

23 **A I am.**

24 Q -- facility? ***You personally?***

25 **A Yeah.** I've never blamed anybody else.

Trial Transcript, Warren Mosler testifying pg 715 ln 4 – pg 716 ln

4 ***Q And at one point James Todd Wagner came to you***
5 ***and told you --***

6 A Yeah.

7 Q -- *the catalysts are too small, these cars*
8 *aren't legal, correct?*

9 A I don't recall, but I'll take your word for
10 it.

11 Q Okay. Do you ever recall him telling you that
12 you can't use long tube headers because that's not what
13 the EPA testing was done with?

14 A I don't know the context, so I can't answer
15 that.

16 Q Do you ever remember Mr. Wagner telling you
17 that the flywheels were supposed to be 20 -- let me see.

18 **MR. WEBER: 25.8 pounds.**

19 BY MR. ZAPPOLO:

20 Q -- 25.8 pounds and you were building cars that
21 had lighter flywheels and therefore they were not
22 compliant with EPA standards?

23 A Yeah, I remember a flywheel discussion. That
24 sounds right, but I don't remember the details.

25 Q Okay. And that conflicted with your
1 methodology or your intended way to build cars lighter,
2 right?

3 **A Always.**

Trial Transcript, Warren Mosler testifying pg 761 ln 25 – pg 762 ln 24

25 Q *Now after that article came out did you tell*
1 *anyone that James Wagner needed to have his mouth*
2 *wrapped in duct tape?*

3 **A Well, I must have** or you wouldn't have asked

4 the question, so...

5 Q Okay. Well, do you recall that?

6 A I don't recall that, no.

7 Q I'm showing you what's been marked as 1359B.

8 A Yes.

9 (Thereupon, Plaintiffs' Exhibit 1359B was
10 marked for identification.)

11 BY MR. ZAPPOLO:

12 Q Same question: Is there any reason to believe
13 that that's not a true and correct copy of your email,
14 sir?

15 A That's a true and correct copy of my email.

16 Q Okay. And if you look down at the bottom of
17 the first page, the second line up from the bottom, on
18 the right-hand side --

19 A Oh, yeah, yeah.

20 Q -- does that refresh your recollection as to
21 whether you ever told anyone that Todd, Mr. Mosler --
22 or, excuse me, *Mr. Wagner needs his mouth wrapped in*
23 *duct tape?*

24 **A Yeah, it looks like I did say that.**

Trial Testimony, James Todd Wagner in cross-examination pg 1307 ln 17 – pg 1308 ln 23

17 Q Now 117 is an email from you to Savvas
18 Savopoulos and this one's subject is "Certification."
19 Do you see that?

20 A I do.

21 Q And you wrote "All documents attached must be
22 kept confidential," right?

23 A Yes.

24 Q Now, you wrote "The important certification
25 documents for our vehicle are attached," right?

1 A Correct. Yes.

2 Q And then you wrote at the bottom, "Please call
3 (no email, please) with any questions regarding the
4 attached documents."

5 **A Yes. You see Mr. Mosler is cc'd on this.**

6 Q So people sometimes don't want things in email
7 because they're afraid of what might come up, right?

8 **A Oh, I'm not afraid of what might come up here.**

9 Q Oh, you're not?

10 A No, no.

11 Q Okay.

12 **A But he should be.**

13 Q Okay. So tell me, why didn't you want
14 Mr. Savopoulos to respond with email questions regarding
15 these documents?

16 A So my company was contracted to help
17 Mr. Mosler and his company. **It was clear to me that**
18 **Mr. Mosler knew his cars were being built illegally, and**
19 **he didn't want that being leaked out. That was**
20 **Mr. Mosler's desire, and you saw that earlier here.**

21 **He tried everything to shuck and jive and not**
22 **admit he had been building illegal cars this whole time.**

23 So my company was doing as it was asked.

21 Q Okay. So this is another email from Savvas
22 Savopoulos to you, and **Mr. Savopoulos writes "Todd,**
23 these are just the certificates. I need the supporting
24 **data/submission plus the 2004 info," right?**

25 A Yes.

1 Q So Mr. Savopoulos had received what you sent
2 him and he's asking you for more information, right?

3 A Yes, he is. The 2004 information was all held
4 by Alan Simon, the fellow whose 2004 car burned to the
5 ground, so I believe he got that information from him.

6 And in addition, **what he received from**
7 **Mr. Alan Simon was the gas guzzler taxes that MACC was**
8 **supposed to pay** and Alan -- Mr. Mosler told -- he
9 told -- **Mr. Mosler told me that Alan Simon was going to**
10 **pay the gas guzzler taxes, but Alan Simon never did, so**
11 **that was tax evasion on behalf of MACC.**

12 Savvas Savopoulos found out about that and
13 that's one thing that upset him and why he backed away
14 from buying during this time, it was the **tax evasion** on
15 **the gas guzzler taxes for the 2004 Mosler MT900S**
16 vehicles.

Appendix "5:K": Warren Mosler upset when **Mr. Wagner refused to "play ball" with the \$220,000 insurance fraud** attempt shortly after the secret "Terminate Todd" initiated.

Trial Testimony, James Todd Wagner testifying pg 1178 ln 22 – pg 1179 ln 12

22 Q Please stay focused over here.

23 A Okay. So he agreed to that, and I'm like

24 "Great, let's do it." **But then Alan Simon, who did the**

25 **insurance fraud and burnt the car there, tried to get me**

1 ***to pump it up*, which I thought was really unethical. I**

2 **didn't do it.**

3 When I didn't comply with the insurance

4 pump-up request, they stripped me off of the website as

5 a distributor. Now all this --

6 Q Now there are emails in evidence about that?

7 A Emails in evidence about that, so --

8 Q Emails about removing you from the website?

9 A They didn't tell me. **It was all done in**

10 **secret behind my back**. All of this stuff was all

11 secret. You know, why not step up and be a man and just

12 tell me, you know.

Trial Transcript, James Todd Wagner testifying pg 1183 ln 6 – 25

6 Q Okay. So if there's some documentation that

7 refers to a Connecticut dealer, is that you?

8 A Right. Yes.

9 Q Whether or not you were a Connecticut dealer?

10 A Yes.

11 Q Okay.

12 A So he calls me up. At this point I remember
13 very clearly, it was much shorter, **he said, "I only got**
14 **\$190,000 and he told me he was a distributor from**
15 **Connecticut, and you have a Connecticut phone number so**
16 **I know it was you."** And I'm on the phone thinking like,
17 bro, you got \$1,000 more than MSRP for a car that's
18 used, that's built illegally, and it's actually seven
19 model years old for 5800 miles and you're screaming at
20 me about it? I couldn't bloody believe it.

21 Q Okay.

22 A And then it was like the very next day they
23 stripped me off the website behind my back.

24 Q Okay.

25 A The very next day.

Trial Transcript, James Todd Wagner in cross-examination pg 1627 ln 22 - 23

22 So, I was a serious buyer. He didn't want me
23 to buy it. He didn't want me to succeed in the wake of
24 his failure.

Appendix "5:L": Warren Mosler **Laughing** about Mr. Wagner's mitigation request/attempt

Trial Testimony, Warren Mosler testifying pg 2274 ln 21 – pg 2275 ln 15

21 Q Okay. Now you recall Defendants' Exhibit 107

22 in evidence was discussed with you, right?

23 A I'd have to see it. I don't know it by

24 number.

25 Q Well, okay. And I'm putting it up on the

1 screen for you, okay?

2 A Okay.

3 Q That's the December 1, 2011 email?

4 A Yeah.

5 **Q *You might recall because you were laughing in***

6 ***front of the jury when you discussed it with your***

7 ***attorney.***

8 **A Okay.**

9 Q Okay. And ***in this email Mr. Wagner was still***

10 ***concerned about being maligned, wasn't he?***

11 A Where are you pointing to?

12 Q Well, in that email --

13 A Yeah. Where in that email?

14 Q The general gist of this email --

15 **A Oh, the general gist? Okay.**

Trial Testimony, Warren Mosler testifying pg 2276 ln 16 – pg 2276 ln 4

16 Q Right.

17 -- is that he was trying to turn the situation

18 into something good, right? ***He wanted to clear up***

19 ***misunderstandings*** --

20 A Yeah.

21 Q -- without pointing fingers?

22 A Yeah. Yes.

23 Q ***And help convey how amazing the Mosler chassis***
24 ***is, right?***

25 **A I agree, that's what he was trying to do.**

1 Q And before this email he had written you an
2 email, a conciliatory email, an apologetic email, hadn't
3 he?

4 A It could be read that way, **yes.**

Trial Testimony, Warren Mosler testifying pg 2276 ln 16 – pg 2276 ln 4

5 Q Okay. Well, **let's read it** because it's

6 attached as part of Exhibit 107.

7 Last page. "Hi, Warren. This morning I

8 decided to go to church and spend some time praying and

9 thinking. I hadn't been in quite a while. While

10 praying about this situation, the one thing that kept

11 coming to me was to forget about my anger and

12 justification and just say I'm sorry. So setting aside

13 all circumstances and events outside of my control, I'm

14 sorry for the mistakes I've made. When I first came to

15 work for you almost eight years ago, your dream was my

16 dream. I truly put my heart and soul into everything

17 and tried my best to create a great product. I hope

18 some day we can put the past behind us and shake hands

19 to part ways peacefully, Todd."

20 A Yeah.

Appendix “5:M”: Warren Mosler informed about the **Mutilation** damage being done by the defamation that is being spread via the Internet.

Trial Testimony, James Todd Wagner testifying pg 1208 ln 9 – pg 1209 ln 5

9 **Q** *Were you aware of anyone ever advising*
10 *Mr. Mosler of the damage that was being done to you and*
11 *your ability to gain employment?*

12 A Yes. I think Jill, who was his vice president,
13 said that what's being printed continues to mutilate me.

14 Q I'm showing you what's been marked as
15 Plaintiffs' 1202. Do you recognize that document?

16 A Yes, I do.

17 (Thereupon, Plaintiffs' Exhibit 1202 was
18 marked for identification.)

19 BY MR. ZAPPOLO:

20 Q Are you a recipient of that document?

21 A Yes, I was.

22 Q Do you have any reason to believe it's not a
23 true and correct copy of the email that you received on
24 or about that time period?

25 A No.

1 MR. ZAPPOLO: At this point, Your Honor, I'd
2 like to move Plaintiffs' 1202 into evidence.

3 MR. WEBER: No objection.

4 THE COURT: Madam Clerk, what number is it?

5 THE CLERK: 96, Your Honor.

Appendix "5:N": \$100 offer to take SEI's Intellectual Property and Distributorships.

Trial Transcript, Warren Mosler testifying pg 967 In 2 – 16

2 Q Under number 1, the **consideration** or what was
3 being paid to James Todd Wagner to sign this Termination
4 and Release Agreement was what?

5 **A \$100.**

6 Q Okay. And **what was being terminated there?**

7 **A "Any and all contracts, agreements,**
8 relationships, options, arrangements, obligations or
9 commitments, whether oral or written, inclusive or
10 noninclusive, of any kind" -- do you want me to read the
11 whole thing?

12 Q No, you don't need to, but basically he was --
13 **if he would have signed this, he was agreeing to the**
14 **termination of all agreements, including the**
15 **distribution contract, correct?**

16 A Hold on. **Yeah, I suppose.**

Trial Transcript, Warren Mosler testifying pg 969 In 10 - 18

10 Q It was also asking SEI and James Todd Wagner
11 **to give up intellectual property** rights, correct?

12 **A Yeah,** if there were any.

13 Q Okay. **And moral rights, artists' rights,**
14 **intellectual property rights, trademarks,** correct?

15 **A Yeah, anything.** You know, if there are any,
16 they would be given up with this. It doesn't say there
17 are any, it just says if there are any, then he'd give
18 them up. It's pretty standard language.

25 Q And then there was **language that included a**
1 **release.** "Hereby absolutely, unconditionally,
2 irrevocably, and fully released forever discharging
3 **covenant not to sue the company** in any of its past,
4 present, or future parent entities, divisions,
5 affiliates, subsidiaries, related business entities,
6 **stockholders, equity holders, directors,"** et cetera,
7 right?

8 A That's what he said.

9 Q Any and all claims, as broad as possible?

10 A Yes.

11 Q **So for \$100 --**

12 A Yeah.

13 Q **-- Mr. Savvas Savopoulos expected James Todd**
14 **Wagner to give up all of his claims to everything in the**
15 **world: The \$100,000 deposit, the defamation claims,**
16 **everything in the world, correct?**

17 MR. WEBER: Objection, assumes facts not in
18 evidence.

19 THE COURT: Overruled.

20 THE WITNESS: Okay. You use the word
21 "expected." This isn't something where you
22 expected him to do anything.

23 BY MR. ZAPPOLO:

24 Q When you draft a document for someone to sign,
25 you don't expect that they're going to sign it?

1 A Well, they might expect -- you just said --
2 not to expect him to sign it, you just said it expected

3 him to give all this up.

4 Q That's what the document would have done had

5 James Todd Wagner signed it, correct?

6 **A It's an offer, okay. He offered \$100 in**
7 **return for signing this.**

8 Q Right. And just on the balance here?

9 A Yeah.

10 **Q *I'll give you \$100 if you'll give up your***
11 ***claims to \$100,000 --***

12 **A Yeah.**

13 **Q *-- if you'll give up your claims to be a***
14 ***distributorship --***

15 **A Yeah.**

Appendix "5:O": Damages from defamation (beyond defamation per se)

Trial Transcript, James Todd Wagner testifying pg 1114 ln 2 – pg 1116 ln 6

2 And then after

3 all this stuff exploded, **I needed to get a job and there**

4 **was so much defamation about me online under the name**

5 **"Todd Wagner," that I -- even with my credentials, that**

6 **I thought were fairly good, I couldn't get a job,** and --

7 Q Okay. Now after you began -- then you said

8 you started using the name "James." What other

9 issues -- what other things did you do with respect to

10 trying to find a job?

11 A Well, I changed my name to "James" on my

12 resume, which is still my first name, and I did get some

13 interviews. Then I -- in one particular instance it was

14 for a jet engine sales position. When he called me back

15 and said "Are you Todd?" I was like "Yeah."

16 So apparently he had called the Mosler factory

17 and they gave him a -- you know, a dump about me and so

18 I didn't get that job, and then I took the next step of

19 taking Mosler off of my resume entirely.

20 Q Okay. ***And after you changed*** -- you went back

21 ***to using the name "James" and/or when you started using***

22 ***the name "James" and you took Mosler Auto Care Center***

23 ***off your resume, what happened with respect to your job***

24 **search?**

25 **A I got a job within two weeks --**

1 Q Okay.

2 A -- in Connecticut.

3 Q And why did you take a job in Connecticut?

4 **A I was desperate at that point.** I mean, I was

5 just broke and needed something and this -- I had to

6 jump on it.

20 Q **Okay. How much is your name worth?**

21 A It's worth everything. **I've worked my whole**
22 **life to have a reputation and have a career.** I have
23 worked my whole life to have a career.

24 And even, like, when **I went back for some of**
25 **my Yale reunions** I had, you know, "James" on my thing,
1 you know, trying to recreate my --

2 Q When you say "thing," you mean your nametag?

3 A **My nametag. Nametag. And they're like**
4 **"What's going on?" And then, you know, kind of explain**
5 **that, you know, I'm going by James now.**

6 I've worked my whole life for my reputation.
7 You know, friends who I was going to do business with
8 didn't want to do business with me.

9 Q Okay. Now --

10 A **It's sort of humiliating,** you know.

- **Hassan Abboud (Saudia Arabia & United Arab Emirates planned partner)**

18 Q Nevertheless, when you read the words **"He's**
19 **nothing. He's got some serious mental problems,' Mosler**
20 **said,"** what was your reaction?

21 A **I didn't want to do business with him.**

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 488 ln 2 – 17

2 Q Okay. Did you get the feeling that, when you
3 read the whole article in its entirety, that that one
4 line *about Mr. Wagner, "He's nothing, he's got serious*
5 *mental problems" -- did that -- did that say "Oh, well,*
6 *out of the whole article, that's just a minor thing"?*

7 **A No. No, it's a serious thing when somebody**
8 **says something like that**, you know. I mean, to me,
9 it's -- I mean, a gentleman has been working with the
10 owner for a while and so he should know him better, and
11 if he stated that he is not capable of, you know, doing
12 the business, then I got to -- then I got to think about
13 that. **I got to think about if I want to do business**
14 **with this guy.**

15 Q *So even if you read the whole article, that*
16 *line sticks out, right?*

17 **A It does.**

Trial Testimony, Hassan Abboud (supercar buyer) testifying pg 488 ln 21 – pg 489 ln 3

21 A Oh, yeah.

22 Q *Did you interpret that as an off-the-cuff*
23 **comment**, something like someone would just say like at a
24 cocktail party "Oh, he's crazy," something like that?

25 **A No.**

1 Q Did you interpret that that way?

2 A That's jokingly around, yes, but **not putting**
3 **it in writing, no.**

- **Abby Cubey (China planned partner)**

Trial Transcript, Abby Cubey testifying pg 596 ln 10 – 25

10 Q Okay. All right. I'd like to ask you some
11 questions about after the -- after the video about that
12 same time. **Were you trying to assist Mr. Wagner in**
13 ***effectuating sales of the RaptorGTR?***

14 A Absolutely. Yes.

15 Q Okay.

16 A I've got -- **I've got potential buyers actually**
17 **and that -- the sad part is because of the articles that**
18 **came out, they backed off.**

19 Q Okay. Can you tell me about any particular
20 buyers that you can recall?

21 A Sheikh of Kuwait. I have another one that's
22 basically was my partner then in my health care business
23 and then --

24 Q Just for clarification Sheikh of Kuwait.

25 A Sheikh of Kuwait.

Trial Transcript, Abby Cubey testifying pg 610 ln 18 – pg 611 ln 1

18 Q You mentioned that you and your mother and
19 father were interested in investing \$500,000 to purchase
20 MACC. What were the terms under which you would invest
21 \$500,000 to purchase MACC?

22 **A To be the exclusive distributor. I want -- to**
23 **work basically with James Wagner to distribute cars in**
24 **Asia.**

25 Q When were you going to invest the \$500,000?

1 **A 2012.**

Trial Transcript, Abby Cubey testifying pg 599 ln 9 – 21

9 Q Okay. Were you and/or any of your family
10 members ever interested in investing in the company?

11 **A Yes. We were going to invest half a million**
12 **dollars. Yes.**

13 Q Okay. Who is we?

14 A Me, my mom. My family overall.

15 Q Okay. And did your family have the means to
16 invest that much money?

17 A Yes.

18 ***Q Okay. And what happened to your desire to***
19 ***invest in the company?***

20 **A It -- it's -- out of all the bad press there,**
21 **I mean, we can't do it. It's just not good for us.**

Trial Transcript, Abby Cubey testifying pg 600 ln 23 – pg 601 ln 5

23 ***Q And when did you, your mother, and father***
24 ***determine not to invest \$500,000 for the purchase of***
25 ***MACC?***

1 **A After reading all the stuff that's online.**

2 Yes.

3 Q And when was that?

4 A The same year. 2012, I believe or '13. I'm
5 not sure.

Trial Transcript, Abby Cubey testifying pg 596 ln 10 – 25

3 Q What articles are you referring?

4 **A That the James Wagner's car is fake.** It's not
5 Mosler.

8 Q So what other investors had you been speaking
9 with?

10 A **Abby Cubey's family in Asia**, they would be
11 perfect partners to be investors. If they invested,
12 they also have contacts for selling the cars in Asia.
13 **So it was perfect because Asia was a totally new market**
14 **for Mosler**. They didn't have any of their Corvette
15 taillight stigma or anything.

16 Q What kind of business did the Cubey family
17 have?

18 A It was R33 performance or something. **They had**
19 **a big exotic car dealership.**

21 A Yeah.

22 **Q *What types of cars did they sell?***

23 **A Lamborghinis, Ferraris, Bugattis, Koenigsegg.**

24 All the big boys.

- **Warren Mosler**

14 Q How did you interpret that as to his demeanor
15 towards you on that day?

16 A Obviously he was pissed. Instead of letting
17 me get the money back, he wanted to pocket it because he
18 was pissed, I'm presuming. Of course I didn't agree to
19 this, but he still made a run at it.

20 And it seems pretty clear now since I haven't
21 gotten it back for 12 years that it was his intent for
22 me to never get it back. **And the thing that is so**
23 **ridiculous about this is he doesn't need money, he just**
24 **wants my suffering.**

20 Q And then you wrote "To be fair, many
21 journalists only made side mention of Matt's comments or
22 simply decided to not write anything at all." Meaning
23 that they -- these other journalists, who got excited
24 about the possible scandal and who wrote about you and
25 the car -- *some of them didn't even mention Matt's*
1 *comments in the article, correct?*

2 A Yes. **They were getting their own information**
3 **directly from Mr. Mosler** and the MACC factory, **but I**
4 **wasn't aware of that.** This is me trying to figure out
5 what's going on and being deceived all along the way and
6 trying to mitigate the disaster that came out believing
7 that Mr. Mosler wouldn't do this --

8 Q And then you wrote --

9 A -- **but I was wrong.**

2 Q Now you claim that statement right here
3 personally affected you, correct?

4 **A The train wreck, the train wreck of my whole**
5 **life and my dreams, everything, yeah.** I mean, that
6 really mega affected me, and it still does now. **When I**
7 **read this stuff, it still, like, takes me out.**

Trial Testimony, James Todd Wagner in cross-examination pg 1695 ln 8 - 21

8 Q And you told -- you wrote, "I told Benjamin in
9 no uncertain words that Benjamin's misunderstandings are
10 a results of Matt's failure in 'journalism.' And
11 furthermore, *I asked him to help me clear my and Warren*
12 *Mosler's name," correct?*

13 A Absolutely. Yes.

14 Q And you wrote "I asked Benjamin to simply wait
15 to write anything until I get things sorted out." Do
16 you see that?

17 **A Yes. I wanted to clear Warren Mosler's name.**
18 **I thought he was being damaged, but he was the one doing**
19 **it.**

20 Q And you wrote --

21 **A That's what's so astonishing about all this.**

Trial Testimony, James Todd Wagner in cross-examination pg 1699 ln 18 – 23

18 **So all of this precipitated from Mr. Mosler**
19 **and the people who work for him all stating the same**
20 **thing, that the RaptorGTR is a fake and I'm not a**
21 **distributor,** so they all -- everyone -- *all these*
22 *journalists believed what he's saying, they think I'm a*
23 *con artist.*

1 Q Now one of the things *you're claiming is that*

2 *the comments allegedly attributed to Mr. Mosler*

3 *prevented you from getting a job, correct?*

4 **A It made it extraordinarily difficult.**

5 **Q *But you testified that once you took MACC off***

6 *your resume, you got a job within two weeks; isn't that*

7 right?

8 A That's correct.

9 Q Because once you took MACC off your resume,

10 potential employers stopped calling MACC, correct?

11 A Correct.

12 Q And they stopped speaking to Sylvia Klaker,

13 who was answering their phones, right?

14 **A Sylvia Klaker does answer the phones and**

15 **deliver whatever messages Mr. Mosler wants her to**

16 **deliver.**

Appendix "5:P": Warren Mosler depo about not producing Phone Records [to journalists].

Warren Mosler Deposition #2 August 19, 2020 pg 94 ln 2 – 10

2 Q. All right. You recall though don't you that
3 **Mr. Wagner requested your phone records** for the
4 relevant time periods so that we could ascertain when
5 you in fact spoke with Mr. Lee, correct?

6 **A. Yeah, I'd forgotten about that. Yeah.**

7 Q. Okay. Did you produce such records?

8 A. I don't recall.

9 Q. You had access to your phone records, didn't you?

10 A. **I -- I wouldn't know how to access phone records.**

Appendix “5:AA”: Exhibits that illustrate Warren Mosler’s **MALICE** in defaming James Wagner

PL#55 – Email to a government official that Mr. Wagner’s **mouth should be wrapped in duct tape**.

PL#53 – Published article on Mr. Mosler’s illegal Photon, which **ENRAGED Warren Mosler** because the upcoming RaptorGTR (Mr. Wagner’s vision) was included at the end of the article as a teaser.

PL#70 – Warren Mosler’s **Press Release draft written in ANGER** when buzz about Mr. Wagner’s vision (RaptorGTR) trumped Mr. Mosler’s automotive vision (ultralight and illegally-built Photon).

PL#62 – Government documents proving that Warren Mosler had been building vehicles illegally (2004 MT900s, 2009 MT900s, and 2011 Photon); and Mr. Wagner attempted to get Mr. Mosler to stop violating clean air laws.

PL#75 – Published article with Warren Mosler describing James Todd Wagner as **“a pest”**.

PL# 7 & 67 – ***Retaliation for Mr. Wagner’s refusal to be complicit in INSURANCE FRAUD*** on an illegally-constructed Mosler vehicle. Warren Mosler immediately stripped my name off of the Distributor page of MACC’s MoslerAuto.com website.

Appendix “5:BB”: Exhibits that about Warren Mosler’s **PROFIT MOTIVE** in defaming Wagner

PL# 62 – Mr. Wagner’s invention; powertrain for 838hp 2012 Mosler RaptorGTR was approved by the Environmental Protection Agency. This powertrain resulted in the highest power-to-weight hyperexotic on the planet in 2011, and resulting profit potential of \$500,000/car x 25 cars/year = **\$12,500,000/year**.

PL# 117 - **“Terminate Todd”** scheme initiated ONE-MONTH after Mr. Wagner’s invention was approved. The scheme was **executed via defamation** to force Mr. Wagner into financial ruin and **INTIMIDATE Mr. Wagner into surrendering his Intellectual Property and Exclusive Distributorships**.

PL# 80 – After the defamation had its desired effect of making SEI’s RaptorGTR #001 unsaleable due to Mr. Wagner being portrayed as a Con-Artist peddling a fake product, Mr. Mosler demanded that Mr. Wagner sign this “Termination and Release” to surrender SEI’s property to Mr. Mosler.

- a. Warren Mosler called Mr. Wagner shortly after PL#80 was sent and ***threatened that Mr. Wagner would be sued into bankruptcy, if Mr. Wagner didn’t sign.*** [TR P 1207 L5 – P 1208 L8]

PL#101 – Threat to sue Mr. Wagner for millions unless he signs away SEI’s Intellectual Property and Distributorships; and gives Mr. Mosler a full release (**to surrender the \$100,000 deposit to Mr. Mosler**)

PL# 39 – Published interview with journalist, Clifford Atiyeh, where Warren Mosler falsely communicated that SEI didn’t have “anything”; meaning no Distribution rights and no Intellectual Property ownership. This was done knowing it would be published online for potential buyers of MACC to see. Mr. Mosler was **attempting to sell MACC for \$3,375,000** at the time, and ***needed to sell SEI’s Intellectual Property, the EPA Certification for the 2012 Mosler RaptorGTR, into the sale.***

- a. Also in this interview, Mr. Mosler **attempted to deceive consumers** into purchasing his ***illegally-built 2011 Mosler Photon*** (for \$479,000), INSTEAD of SEI’s 2012 Mosler RaptorGTR.

Appendix “5:CC”: Remaining Exhibits related to Count 9, Defamation Per Se, that the Jury could have looked to in order to find for Plaintiffs.

PL# 3 - RaptorGTR being built inside the MACC factory; proves Mosler was lying about this clear-fact while defaming Wagner

PL# 4 – 838hp RaptorGTR with “single tail lights” release drafted by MACC VP; but refused by Mosler. This release would have mitigated defamation damage against Wagner.

PL# 9 - Mosler’s attorney threatens “Buyer Beware” notice against RaptorGTR if Wagner doesn’t surrender SEI’s 2012 Mosler RaptorGTR.

PL# 14 - Mosler lying to one of Wagner’s potential business partners that Wagner “snapped”.

PL# 16 - Mosler’s attorney explaining the fire damage associated with \$220,000 insurance fraud, that Mosler wanted Wagner to absorb within his purchase of MACC. Wagner refused this fraud.

PL# 19 – Mosler factually-states to Wagner’s potential business partner: ***“A brief interview with him will assure you he’s truly mentally disturbed as will a conversation with anyone who knows him”***

From: "Warren Mosler" <warren.mosler@gmail.com>
To: mark@scorpionmotorsports.com
CC: "Sylvia Klaker" <sklaker@moslerauto.com>
Date: 11/20/2012 1:52:19 PM
Subject: Re: Factory Follow-up

On Mon, Nov 19, 2012 at 6:14 PM, <mark@scorpionmotorsports.com> wrote:
Warren,

Before I begin, thank you for the opportunity to view the factory.

That being said, I have many follow-up questions and I will try to get them out in short order so you do not get too tired of hearing from me.

1) Please tell me who Supercar Engineering, Inc. is, and the full nature of their interaction with your company as well as any inconnection involving intellectual property, claims to intellectual property, ect...

No actual interconnection at this point in time and I'll sign a 'hold harmless' to protect you against any actions he might take.

A brief interview with him will assure you he's truly mentally disturbed as will a brief conversation with anyone who knows him. Unfortunately he 'snapped' a few years ago and is fundamentally irrational now.

PL# 21 - MACC Vice President explaining that MACC did profit from the project taken from Wagner.

PL# 22 - Wagner informing Mosler that the **“Root cause of the public attacks on me”** is the false information that someone in power at MACC was feeding to the press.

PL# 27 - Sylvia Klaker, who answers phones at MACC, confirms that it was not her speaking to press.

PL# 32 - Private investigator documents showing that “Lew Lee” is a fake name used by a con-artist.

PL#33 - Secondary investigator documents that “Lew Lee’s” possible real name is Ralph T.A. Lew-Lee.

PL# 38 - Photo of Hassan Abboud’s 2004 Mosler MT900s that was illegally-constructed in 2007. Mosler encouraged build of illegal vehicles, yet attacked Wagner’s LEGAL 2012 RaptorGTR.

PL# 40 - ‘The Truth About Cars’ article wherein Mosler lied to Matt Farah, resulting in Mr. Farah concluding that James Todd Wagner was a con-artist peddling a fake Mosler product.

PL# 42 – Journalist, Jack Baruth, is convinced by Dupont Registry (Benjamin Greene journalist) and Jalopnik (Matthew Hardigree journalist), that Warren Mosler was telling the truth that the 2012 Mosler RaptorGTR is fake product being promoted by a con-artist. **Thus is Warren Mosler’s capability in making the world believe something that is patently false.**

PL# 43 - Affidavit of Clifford Atiyeh, journalist for Car & Driver Magazine, confirming it was Warren Mosler who communicated the defamatory statements to him during an interview that was initiated by Mr. Mosler himself.

PL# 44 - One of the many instances of Car & Driver defamatory article spreading across the Internet.

- PL# 48** - Details on illegal 2011 Mosler Photon engine, which illustrates hypocrisy of RaptorGTR attack.
- PL# 49** - Dyno results (additional horsepower to defeat legal vehicles) in illegal 2011 Mosler Photon.
- PL# 52** - Car & Driver Lightning Lap article: illegally-built 2011 Photon defeated vehicles whose constructors adhered to clean air laws.
- PL# 54** - Phabulous Photon article wherein an angry Warren Mosler chopped out the section that foretold of the upcoming RaptorGTR. Mosler sent the modified article text to people who might purchase the illegal vehicle. One of them, Thomas Olafsson, purchased an illegal 2004.
- PL# 56** - Angry Warren Mosler makes an attempt to change Mr. Wagner's \$100,000 refundable deposit to "Forfeitable". This attempt was rejected, but Mosler's future ACTIONS illustrate his intent was to steal the money from Mr. Wagner.
- PL# 60** - Warren Mosler tells the eventual buyer of MACC assets (Ian Grunes) that Mr. Wagner is "arguably legally insane." This was done for the purpose of persuading Mr. Grunes not to supply vehicles to Mr. Wagner's company.
- PL# 74** - The signed Exclusive Distributorships that Warren Mosler USED DEFAMATION in attempt to force SEI out of. Defamation was used as a tool for a \$500,000/car profit motive.
- PL# 81** - After beating Wagner up with defamation didn't result in Mr. Wagner surrendering his Intellectual Property and Distributorships; Mr. Mosler threatened that Wagner would be "sued for anything" until bankruptcy. Mr. Mosler FOLLOWED-THROUGH on this unethical threat.

PL# 96 - MACC VP states to Mosler, ***“what is printed continues to mutilate Todd over and over and will make it virtually impossible for him to gain employment.”*** In response, Mosler does NOTHING to mitigate the damage that Mosler has done to Wagner. **No remorse.**

PL# 103 - After the Car & Driver “Final Days of Mosler” article, which was about ¾ through the 26-month Campaign of Defamation; Wagner sent numerous documents to the journalist to prove that what Warren Mosler had said in his interview was false and harmful.

PL# 104 - Clifford Atiyeh confirms that the harsh comments quoted in the “Final Days of Mosler” article were directly from Warren Mosler [via the call Mosler made to the journalist].

PL# 108 - Within the first month of the 26-month Campaign of Defamation against Wagner; Wagner had no idea that Warren Mosler was capable of such a crime. Thus, Wagner thought it was some outside party creating the disaster. In response, Wagner wrote to journalist Benjamine Greene: ***“I will provide you with all of the documentation that will prove that myself and my company are in the right. Once I provide you with the proof, I very much hope you will help me clear my name and Warren Mosler’s name.”***

Appendix "5:AAA": Affidavit of James Todd Wagner in support of this Motion for Sanctions.

IN THE CIRCUIT COURT, 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2012-CA-023358-XXXX-MB
DIVISION: AG

JAMES TODD WAGNER, SUPERCAR
ENGINEERING, INC., a Florida
corporation,

Plaintiffs,

vs.

WARREN MOSLER, MOSLER AUTO CARE
CENTER, INC. ("MACC") a Florida corporation,
d/b/a Mosler Automotive,

Defendants.

**AFFIDAVIT OF JAMES TODD WAGNER ON SUMMARY OF EVIDENCE IN TIMELINE
FORMAT IN SUPPORT OF PLAINTIFFS' MOTION FOR SANCTIONS AGAINST
DEFENDANTS AND DEFENDANTS'-COUNSEL**

I am submitting this affidavit to clarify the sequence of events that I experienced firsthand, testified to at trial, and/or witnessed Warren Mosler testifying to at trial. The purpose of this affidavit is to place the evidence into an easily-understandable timeline format.

Defendants' actions against me constituted a ***26-month-long*** campaign of Malice that evolved into a Malice + Profit Motive set of actions after SEI's invention opened up an enormous profit opportunity. Defendants' "set of actions" included ***Insurance Fraud, Blackmail, Extortion, and Defamation.***

This affidavit includes information about how the defamation affected me personally, and my wholly-owned company, Supercar Engineering, Inc. ("SEI").

After the widely-spread defamation, I changed my name from "Todd" to James in order to obtain a job. The timeline below references me as "Todd"; including "Terminate Todd".



I spoke with several of the “defamation recipients” after the defamation was published. In EVERY CASE, those people made it clear to me that Mr. Mosler was PERSUADING them to BELIEVE that I’m unstable / have severe mental problems / arguably legally insane / mentally disturbed.

There was no “heated debate” with Mr. Mosler blurting something out. I believe the facts reflect a premeditated (unrelenting) CAMPAIGN to financially destroy me, so that Mr. Mosler could take my RaptorGTR 838hp powertrain invention and all distribution for himself.

An example is Mr. Mosler telling a potential business partner of mine to have a “**brief conversation with anyone who knows him**” to confirm that I’m mentally ill. The exact EMAIL (not a heated debate) states: ***“A brief interview with him will assure you that he’s truly mentally disturbed as will a brief conversation with anyone who knows him.”***

When Mr. Mosler read those words to the jury, **he didn’t say** “it was just my opinion”.

Timeline of Events linked to 26-month-long defamation campaign against me:

December 2006 – February 2011: All of the vehicles MACC built (2004 & 2009 Mosler MT900s) were built illegally; illegal in several ways that are important to U.S. clean air laws. [PL#62], [TR P 1217 L 20 – P 1218 L 3], [TR P 1308 L 13-23]

Nov 16, 2010: Warren Mosler signs Exclusive Distributorships in China and Thailand with SEI; with the requirement that MACC supply (build for sale) 3 Mosler vehicles for SEI. [PL#74]

Christmas 2010: Warren Mosler *laid off 30 employees with no warning* . MACC was then unable to fulfill its contractual obligations to SEI (to supply 3 vehicles in 2011). [TR P 871 L 21 – P 872 L 3]

May 5, 2011: Fabulous Photon article that ***enraged*** (based upon what he said to me) Warren Mosler was published online. Most readers thought the article was fabulous. *The Photon was illegally built.* [PL#53] ,[TR P1210 L 8-22]



May 6, 2011: In anger over the fabulous Photon article, Warren Mosler writes to a government official that **“Todd, now a consultant, *needs his mouth wrapped in duct tape.*”** [PL#55], [TR P 761 L 25 – P 762 L 24]

June 3, 2011: Spontaneous “buzz” from online articles about the upcoming RaptorGTR (that didn’t mention the illegally-built Photon) ***further enraged*** (based upon my conversation with him wherein he threatened I would be sued into bankruptcy) Warren Mosler against me. **MALICE.** [PL#70], [TR P 909 L 20 – P 910 L 21]

August 12, 2011: ***My invention*** (twinturbo powertrain with post-catalytic-converter turbos) was awarded EPA Certificate of Conformity in the 2012 Mosler RaptorGTR. ***\$500,000 per car profit.*** [PL#62], [TR P 1140 L 9 – P 1141 L 6]

September 14, 2011: The SECRET **“Terminate Todd”** scheme between Warren Mosler and his friend / potential business partner, Savvas Savopoulos was initiated. **PROFIT MOTIVE.** [PL#117]

October 3, 2011: Warren Mosler’s attorney attempted to engage SEI in an ***insurance fraud*** scheme to pump-up the value of a 2004 Mosler vehicle that was built illegally in 2008. [PL#7]

October 19, 2011: Warren Mosler’s attorney called me, and SCREAMED at me for not obeying his instructions to state to the insurance adjuster. ***I had refused to be complicit in the fraud.*** [TR P 1183 L 12-25]

October 20, 2011: ***Warren Mosler retaliated*** against me, by taking my name off of the Mosler Website that listed me as a distributor in China, Thailand, Saudi Arabia, U.A.E., Florida. [PL#67]

Nov 14, 2011: ***Warren Mosler told a Media Outlet*** who had test-driven the RaptorGTR that the vehicle wasn’t an official Mosler product, that I was not representing Mosler [as a distributor], and that the



2012 Mosler RaptorGTR would not pass emissions and wasn't certifiable for sale. [PL#40], [TR P 1812 L 25 – P 1813 L 7], [TR P 2319 L 20 – P 2320 L 2]

Nov 15, 2011: **The Global Launch of the 2012 Mosler RaptorGTR** presented the vehicle to numerous press outlets in China, Thailand, Saudi Arabia, U.A.E., India, and USA.[TR P 2319 L 8-24]

Nov 15 – 21, 2011: Warren Mosler secretly spoke to numerous journalists relaying the same false statements that he made a day before the launch. ***The journalists BELIEVED Mr. Mosler;*** and thus numerous articles were published online **CONCLUDING that I was a con-artist.**

- **PROFIT MOTIVE:** Force SEI into bankruptcy, so that SEI's Intellectual Property and Exclusive Distributorships could be taken for \$0.
- Articles spreading Mr. Mosler's false statements: [PL#40], [PL#41], [PL#42], [PL#75]

Nov 21, 2011: Jalopnik article is published quoting Warren Mosler stating to the journalist, **“Mosler wants noting to do with Wagner, whom he calls a pest.”** [TR P 943 L 6 -15], [PL#75]

Nov 17, 2011 – March 9, 2012: I asked Mr. Mosler and his paid employees to help mitigate the damage being done to me, but I was rebuffed every time. **MALICE.** [TR P 1209 L 10 – P 1210 L 7]

December 1, 2011: I receive the **“Termination and Release”** document, wherein Warren Mosler wants to TAKE my Intellectual Property, my Exclusive Distributorships, and my \$100,000 deposit 100% for himself – and pay me \$100. [PL#80], [TR P 966 L 11 – P 970 L 12], [TR P 1208 L 2-8]

December 10 - 19, 2011: **I receive multiple threats (3)** from both Warren Mosler, and via his Vice President that if I don't sign the “Termination and Release”, **I will be sued into bankruptcy.**

- **PROFIT MOTIVE:** Intimidate me into surrendering my \$100,000 deposit
- **PROFIT MOTIVE:** Intimidate me into surrendering my company's Invention (I.P.)
- **PROFIT MOTIVE:** Intimidate me into surrendering my company's Exclusive Distributorship

STU

- Evidence: [TR P 1207 L 5 – P 1208 L 8], [TR P 1222 L 17 – P 1223 L 4], [PL#101]

November 20, 2012: Warren Mosler *states in an email* to a potential business partner of mine, “**A brief interview with him [me] will assure you he’s truly mentally disturbed as will a brief conversation with anyone who knows him.**” [TR P 377 L 5 – 19], [PL#19]

- a. Plaintiffs didn’t receive this email until 9-months after Defendants had defeated a Spoliation Hearing via Defendants Vice-President stating to the Court 4 times that the principals of MACC primarily conducted communications **via PHONE** (and that she didn’t remember emails). This email was produced June 2019.

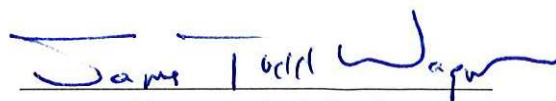
13) PROFIT MOTIVE: Deceive a potential buyer of MACC that SEI held no Intellectual Property rights to the RaptorGTR powertrain, and that SEI had no distributorship rights.

July 5, 2013: As part of Mr. Mosler’s efforts to sell MACC assets to RP High Performance; Mr. Mosler states in email to the President of RP, “**Wagner has serious mental issues and is arguably legally insane**”. [TR P 1794 L 11 – 25], [PL#60]

14) PROFIT MOTIVE: Deceive the buyer of MACC into believing that SEI held no Intellectual Property rights to the RaptorGTR powertrain, and that SEI had no distributorship rights.

The culmination of the 26-month campaign of defamation against me (May 6, 2011 til July 5, 2012) was that MACC assets were sold to RP High performance under. Indemnification by Warren Mosler so that RP didn’t have to honor the Exclusive Distributorship in China and Thailand. Warren Mosler has not returned my \$100,000.

FURTHER AFFIANT SAYETH NAUGHT.



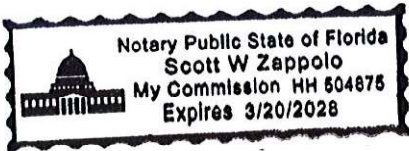
James Todd Wagner, individually and
As Authorized Agent for Supercar Engineering, Inc.



STATE OF FLORIDA
COUNTY OF PALM BEACH

Before me, the undersigned authority, by means of physical presence or online notarization, on this day personally appeared JAMES TODD WAGNE, in his individual capacity as well as authorized agent of SUPERCAR ENGINEERING, INC. who is personally known to me or produced a Florida Drivers License who executed the foregoing instrument, attesting that the facts herein are true and who did take an oath.

SWORN TO and SUBSCRIBED before me this 25th day of April, 2024.



NOTARY PUBLIC, State of Florida

A handwritten signature in blue ink that reads "Scott W. Zappolo". The signature is written over a horizontal line.

(SEAL)

Scott W. ZAPPOLO

(Print Name)

My Commission No: HH 504875

A small, handwritten mark or signature in blue ink, possibly initials, located in the bottom right corner of the page.

Appendix “6”: Full Affidavit that debunked the Defendants’ deceptive “UNDISPUTED FACTS” in their Motion for Summary Judgement toward Count 9. For brevity, exhibits to Affidavit are omitted.

Filing # 163083112 E-Filed 12/14/2022 11:47:12 PM

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FLORIDA.

CASE NO.: 502012CA023358XXXXMBAG

JAMES TODD WAGNER, SUPERCAR
ENGINEERING, INC., a Florida
Corporation Plaintiffs,

vs

WARREN MOSLER, MOSLER AUTO
CARE CENTER, INC., a Florida
Corporation, d/b/a Mosler Automotive,
and ALAN RICHARD SIMON.
Defendants.

/

**AFFIDAVIT OF JAMES TODD WAGNER IN OPPOSITION TO
PLAINTIFFS’ [D.E. 717] MOTION FOR PARTIAL SUMMARY JUDGEMENT**

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

ON THIS DAY, before me, the undersigned officer duly authorized to administer oaths and take acknowledgements in the State of Florida, personally appeared JAMES TODD WAGNER, who, being duly sworn upon his oath, deposes and says:

1. My name is James Todd Wagner (hereinafter “Wagner”). I am over the age of twenty-one (21) years and as Plaintiff in the above captioned suit, I have personal knowledge of the facts herein.

2. I am the President of Supercar Engineering, Inc. (hereinafter “SEI”), a Florida Corporation which is also named as Plaintiff in the above captioned suit.

**RESPONSE TO DEFENDANT'S CLAIMED "UNDISPUTED FACTS"
(Hereinafter, "UDF #")**

3. I agree with Defendant's 'Undisputed Facts' numbered 1, 2, & 3 as shown in their Motion for Summary Judgement, **except for** that claimed 'Undisputed Fact #3' in Mosler's Paragraph 3 ('UDF3') states "... a distributorship". Mosler's use of the word "a" may be misleading, as Mosler executed two Exclusive Distributorships and one non-stocking distributorships for SEI (**for a total of three SEI distributorships**). Exclusive Distributorship #1 is for China and Thailand, **EXHIBIT "P1"** (Wagner 2nd Supplemental Production 1087-1091). Exclusive Distributorship #2 is for Saudi Arabia and the United Arab Emirates. The non-stocking distributorship is for Alaska, Arkansas, Arizona, Colorado, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, Massachusetts, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming (Wagner Prod to MACC's 1st RFP 366-368). The term "non-stocking distributorship" came from Alan Simon, attorney for Warren Mosler and Warren Mosler's wholly-owned company, Mosler Auto Care Center, Inc. ('MACC'). To date, SEI has not received notice from MACC that any of the three distributorships are no longer in force.
4. Warren Mosler ('Mosler') wrote in his Motion for Partial Summary Judgement ('MSJ') in paragraph 4: "By early 2010, Mosler was no longer interested in manufacturing supercars and began a three-year process of finding a buyer for MACC. Exhibit C at DMSJ0000453 at 227:12-228-4." ('UDF4')

I dispute Mosler's UDF4.

First, in DMSJ453, Mosler is testifying about a document he executed with a person(s) who go by the pseudonym 'Lew Lee'. The date on the document that Mosler is discussing in his deposition that is being referenced in UDF4 is June 29, 2011; not "early 2010" (as th motion erroneously states). Within

that area of inquiry, Mosler describes 'Lew Lee' as a con-artist, and I agree with that description. See, Deposition of Warren Mosler at DMSJ 0700 of Mtn.

Second, Mosler signed an Exclusive Distribution agreement between SEI and MACC on November 17, 2010. This Exclusive Distributorship agreement, **EXHIBIT "P1"** binds MACC to building at least 3 Mosler vehicles for SEI to distribute for each of the forgoing 25 years. EXHIBIT "P1" Section B Paragraph 1) states **"Beginning calendar year 2011 until the end of the Exclusive Distributorship Term, MACC agrees to supply SEI with a minimum of three (3) MACC vehicles in every calendar year."**

5. *Mosler wrote in his MSJ paragraph 5: "By November 12, 2011, MACC had no orders for its supercars and stopped producing vehicles. Exhibit D at DMSJ0527 at 69:11-24; Exhibit E at DMSJ0798 ¶ 4."* ('UDF5')

I dispute Mosler's UDF5.

First, the date of the article that Mosler references (DMSJ0798) is 6 days after the Global Launch of the 2012 Mosler RaptorGTR; not 3 days before the launch. This distinction is important to understanding the timeline of events, and Mosler's claimed-date for the article is a CRITICAL error. **The error is so critical as to render its use dubious.** The error is repeated several times in Mosler's MSJ.

Second, MACC was still employing two production employees more than a year after Mosler's claimed end of MACC of production. Mosler gave a statement to a journalist from Car & Driver Magazine, Clifford Atiyeh, that MACC is down to 2 employees at the time of the article. The article written by Clifford Atiyeh is attached as **EXHIBIT "P2"** (Wagner Trial ID 1878-1886).

6. Mosler wrote in his MSJ paragraph 6: "Between 2010 and 2012, Wagner tried unsuccessfully, multiple times, to raise the funds necessary to purchase MACC. Exhibit E at DMSJ0798 ¶ 9." ('UDF6')

I dispute Mosler's UDF6.

First, I had investors ready to purchase MACC several times. While it is true that I have testified about at least one investor "backing out" due to Mosler's intent upon having me indemnify what I have characterized as an insurance fraud (see below), it is also true that my father, James Dennis Wagner ('JDW') who provided the \$100,000 down payment on my behalf (that is also sued upon) was always willing to invest the necessary funds to complete the purchase. He will testify to this fact (as I believe he already has).

Second, Mosler blocked the purchase of MACC stock/assets on three separate occasions:

1) Mosler secretly sold the 'crown jewels' (3 finished vehicles) out of the deal to purchase MACC for \$1,000,000;

2) once I discovered the secret gutting of the deal Mosler agreed to a reduced price of \$500,000 and when I attempted to close, Mosler claimed to change his mind about selling MACC because he wanted his son, Jacob Mosler (hereinafter 'Jacob'), to run MACC;

3) Mosler blocked a third and final attempt for me to purchase MACC for \$650,000 by unilaterally forcing a '**Poison Pill**' – what I have characterized as Mosler's personal-lawyer's insurance fraud. Within the 3rd purchase attempt, Mosler demanded that the new owner of MACC accept liability for any claims stemming from Alan Simon's collection of roughly 2000% of what he paid of the original purchase price on a 2004

Mosler MT900s that was known to have been built illegally¹ and had a known fire hazard risk that Mosler refused to fix (Mr. Simon paid 11,000 for the car, and insurance paid him \$220,000.00). My complaining about the 'Poison Pill' is attached as **EXHIBIT "P3"** (Wagner Trial ID 1704-1705).

The only form of Purchase Agreement that Mosler would agree to for the 3rd purchase attempt was one that showed no assets whatsoever being purchased. Due to Defendant's unilateral demands, **the only thing that I knew for certain that I would be buying for \$650,000 was the liability associated with Alan Simon's illegally-built, burned-down 2004 Mosler MT900s.**

Immediately after Alan Simon collected the insurance payout, MACC issued a Factory Recall to fix the known fire hazard in the other MACC-produced vehicles, **EXHIBIT "P4"** (Wagner Trial ID 2396). It is my belief that neither Mosler nor MACC have informed Alan Simon's Insurance Company about the known fire hazard nor the post-insurance-payout Recall. I sought the name of the Alan Simon's Insurance Company as part of Production for this Lawsuit, but that information was not turned over to me for over 5 years, which put the disclosure past the statute of limitations for Insurance Fraud.

7. *Mosler wrote in his MS.I paragraph 7: "When Wagner was unable to complete his purchase of MACC, the relationship between Mosler and MACC, on one side, and Wagner and SEI, on the other, soured and Wagner interfered with a credible buyer's purchase of MACC. Exhibit C at DMSJ0321 at 95:4-6." ('UDF7')*

I dispute Mosler's UDF7.

¹ Mosler will dispute this allegation – but I have the documentation to substantiate this allegation as fact.

Mosler's deposition transcript which is being referenced in UDF7 speaks about Savvas Savopolous, so that is presumed to be the buyer Mosler is claiming Wagner interfered with. At this time, Mosler wished for Wagner to sign a 'Termination and Release' agreement (hereinafter "TRA"), EXHIBIT "P5" (DEF7860-7869). This TRA requested Wagner to sign over SEI's Exclusive Distributorship, sign over SEI's Intellectual Property associated with the RaptorGTR, and for Wagner to give Mosler a Full Release that would enable Mosler to keep Wagner's \$100,000 deposit via prohibiting Wagner from suing to get the \$100,000 back. **In return for all of this, Mosler offered Wagner \$100.**

Mosler would not budge from this position, therefore I did not sign; Mosler responded by calling me on the phone and threatening, "You're outmatched here. I won't do it, but Savvas is the type of guy who will sue you for anything, then you have to hire a lawyer for \$400 per hour to defend yourself until you're broke. That's the way things work in America." – or words to that effect.

Mr. Savopolous had flown down to Florida in his private jet twice to tour the MACC facilities, so I was definitely intimidated by Mosler's threat. Approximately 7 years into the prosecution of Plaintiff's lawsuit, Mosler counter-sued me for not signing this TRA. Mr. Mosler lost this claim upon a motion for judgment on the pleadings, and the order was confirmed on appeal.

Further evidence that I did not interfere with Savvas Savopolous's attempted purchase of MACC is in an email which wished for Mr. Savopolous to be successful. Said email titled "Working Together," and is attached hereto as EXHIBIT "P6" (Wagner Production to 4th RFP 3687).

8. *Mosler wrote in his MSJ paragraph 8: "On December 18, 2012, Plaintiffs commenced this case against Defendants. See DE 4. Since then, Plaintiffs amended their complaint six times: in April 2014 (see DE 35); twice in October 2014 (see DE 47, 48); in February 2015 (see 58); in 2017 (see 239); and in 2019 (see DE 481)." ('UDF8')*

I agree with the content of Mosler's UDF8, but wish to point out some pertinent facts that were left out of Mosler's statement. Defendants' drove the first two Amendments via first complaining that the Complaint was too complex, then upon Plaintiffs simplifying the Complaint the Defendants complained that the Complaint was too simplified. The most recent Amendments were due to Defendants withholding +/- 18,000 pages of evidence for more than 5 years, including withholding all the way through a Spoliation Hearing wherein the Vice President of MACC convinced the Court that the email evidence did not exist. Once this 'Document Dump' was processed, additional relevant information was incorporated into the Complaint via two Amendments inclusive of Amendment for Punitive Damages.

9. *Mosler wrote in his MSJ paragraph 9: "The sole count at issue in this Motion is Count X of Plaintiffs' Sixth Amended Complaint alleging Defamation Per Se in connection with four alleged statement, set forth below." ('UDF9')*

I dispute Mosler's UDF9.

Mosler's statement states (or at least implies) that the Defamation Count is restricted to Defamation Per Se. The Count IX (not Count X) complains of Defamation Per Se, **and if not per se then per quod**. Furthermore, the wording of Defendant's set of 'Undisputed Facts' appears to include Defendant's Paragraphs 10-45 as via using the words "set forth below". **I dispute that Mosler's Paragraphs 10-45 are all "Undisputed Facts".**

10. Mosler wrote in his MSJ paragraph 10 under the heading "The RaptorGTR and Music Video Advertising the Car": "The last car that MACC produced was the vehicle sold to SEI. Exhibit D at DMSJ0527 at 69:11-24; Exhibit E at DMSJ0798 ¶ 8." ('UDF10')

I dispute Mosler's UDF10.

Although, I believe that the 2012 Mosler RaptorGTR was the last vehicle that MACC produced, but I have no direct knowledge of when MACC ceased building vehicles. **I am disputing UDF10, because in MSJ paragraph 11, Mosler is making the untrue statement that the vehicle being described in Paragraph 10 is a "MT900S" (as opposed to a "2012 RaptorGTR")(the year of production is important for various reasons related to the legality of sales).**

To negate the "vehicle" confusion that I believe Mr. Mosler is attempting to create, I will henceforth use the official MACC vehicle designations as they appear on the Environmental Protection Agency's ('EPA') Certificates of Conformity for the specific vehicles: 1) 2004 MT900S, 2) 2009 MT900S, and 3) 2012 RaptorGTR. According to the EPA, MACC only has Certificates of Conformity for these three models that are legal to build. Specifically the 2004 Mosler MT900S ('2004 MT900S') was legal to build from January 1, 2003 until December 31, 2004. The 2009 Mosler MT900S ('2009 MT900S') was legal to build from January 1, 2008 until December 31, 2009. The 2012 Mosler RaptorGTR ('RaptorGTR') was legal to build from January 1, 2011 until December 31, 2012. Freedom of Information Act response from the EPA is attached as **EXHIBIT "P7"**.

11. Mosler wrote in his MSJ paragraph 11: "Thereafter, SEI made several modifications to the MT900S, changed the car to an aftermarket package for the MT900S, and rebranded the modified car as the RaptorGTR. Exhibit D at DMSJ0649 at 191:18-192:4; Exhibit F at DMSJ1020 at 107:20-108:3." ('UDF11')

I dispute Mosler's UDF11.

First, Mosler is putting forth a hotly contested issue as an "Undisputed Fact", and this position has been Mosler's justification for at least part of the defamation. Long after the lawsuit was filed, Mosler and several of his paid employees began claiming under oath that the RaptorGTR that SEI purchased from MACC was "modified" by SEI after purchase, yet when deposed, none of these people had any idea of what modifications were made nor when they were purportedly made. **The "modification" storyline evidence all post-dates the defamatory statements.** Interestingly, within Mosler's MSJ, he references his own testimony at DMSJ0649 wherein even he admits he doesn't know what alleged "modifications" were made.

Second, at different times during the course of the events leading to this lawsuit, Mosler has alternatively claimed 1) The RaptorGTR that was sold to SEI was modified into a CubeyGTR by SEI and 2) The MT900S that was sold to SEI was modified into a RaptorGTR by SEI. No witness that has verbally supported Mosler's "modification" assertion or can identify what the modifications were or when the modifications took place². Neither I nor SEI ever modified the 2012 RaptorGTR I any way after purchase and before the defamatory statements were made.

There is no written evidence to support the "modification" theory. If there were any such evidence, Defendants' would be highlighting it.

Third, the concept of the RaptorGTR being modified didn't come up at all in Warren Mosler's first deposition in February 2016, even though the RaptorGTR was discussed extensively. I have been deposed several times, and have resolutely asserted the fact that SEI purchased the RaptorGTR from MACC as a 838hp twin-turbo as it was Certified by the Environmental

² Alan Simon did give vague testimony in this regard, but he could not testify definitively, and I absolutely refute his generalized assertions about modifications to the 2012 RaptorGTR.

Protection Agency. Modifications to a new vehicle reduce the value of the vehicle from a collectability point of view, therefore SEI had zero incentive to do such a thing.

12. Mosler wrote in his MSJ paragraph 12: "Neither MACC nor Mosler had any involvement in the modifications or rebranding of the vehicle Id. The RaptorGTR belonged to SEI. Exhibit G at DMSJ1020 ay 19:7-14." ("UDF12')

I dispute Mosler's UDF12.

It is unclear as to what "rebranding" that Mosler is describing here; at different times Mosler and/or people paid by Mosler has claimed each of 1) The RaptorGTR was modified by SEI into a CubeyGTR and 2) The 2009 MT900S was modified by SEI into a RaptorGTR. In any case, SEI did no such rebranding. The vehicle that SEI purchased from MACC was a 2012 Mosler RaptorGTR. **MACC took costly steps to ensure the RaptorGTR brand was protected via their trademark attorney prior to sale of the RaptorGTR to SEI, EXHIBIT "P8" (DEF11091) and EXHIBIT "P9" (DEF8795-8796).**

13. Mosler wrote in his MSJ paragraph 13: "SEI and Wagner decided to announce the modified RaptorGTR as its own product through the release of an online music video. Exhibit G at DMSJ0963 at 50:23-51:1" ("UDF13')

I dispute Mosler's UDF13.

First, it is unclear what Mosler is referring to by "modified RaptorGTR." As this case has progressed, Mr. Mosler has claimed BOTH that SEI modified a 2009 MT900S and also that SEI modified the 838hp RaptorGTR into a 1200hp CubeyGTR. Neither of Mosler's assertions are accurate, but the words "modified RaptorGTR" could possibly mean either of those two (factually incorrect) scenarios.

Second, Mosler's UDF13 states that the vehicle launched via an online music video was "modified"; as illustrated in Paragraph 11 – this is false. Mosler's UDF13 further states that SEI announced the RaptorGTR "as its own product" – this is also false. Mosler generates this particular UDF13 based upon the following segment of my deposition (see Mosler's DMSJ0963):

Q. Okay. This article on Page 4 that follows into that is regarding a video, is that correct?

A. Um, it is an extensive press release, one element of which is music video.

I cannot extrapolate what I testified (above) to into Mosler's UDF13.

14. Mosler wrote in his MSJ paragraph 14: "Neither MACC nor Mosler had any involvement in the making or release of the music video, and the RaptorGTR was being presented as an SEI car. Exhibit G at DMSJ0965 at 52:11-53:10" ("UDF14")

I dispute Mosler's UDF14.

First, MACC required use of the 2012 Mosler RaptorGTR to promote MACC in the Bill of Sale, **EXHIBIT "P10"**. Furthermore, **SEI's Exclusive Distributorship in China and Thailand ('ED-C&T') Distributorship'), EXHIBIT "P1", contractually obligated SEI to present the RaptorGTR to at least one press outlet in China and Thailand.** Having a singer with Chinese heritage was chosen to further the reach of the launch of the RaptorGTR in China. Section A, Paragraph 4 of the ED-C&T states, **"C32 must be presented to at least one press outlet in Thailand and China."**

Second, the music video and launch were performed in furtherance of the desires of Warren Mosler and MACC to have MACC be promoted internationally. This contractual requirement by Warren Mosler for MACC is evidence of Mr. Mosler's intent that the music video be made for production of MACC vehicles. Furthermore, Warren Mosler doesn't state "Mosler is not involved in the music video." Mosler stated in response to the Asian article, "Mosler is not involved in this. (signed) Warren Mosler"

The "factual backdrop" (which is well supported by documents and testimony in this case) of the defamation is that Warren Mosler wanted to sell MACC to Savvas Savopolous, and unbeknownst to me (at the time) - Mr. Savopolous would only buy MACC if SEI's Intellectual Property and Exclusive Distributorship came as part of the deal. Thus, SEI would no longer have any right to be involved in the Mosler supercar business. **Warren Mosler is quoted in the November 21, 2011 Jalopnik article (not November 12 as the Mosler motion suggests) as stating, "In fact, part of the documentation [for the sale of Mosler] is that Todd (me) is not involved," says Mosler (DMSJ054).** This article was published 6 days after the Global Launch of the 2012 Mosler RaptorGTR.

The true fact is that Mosler was a fan of his vehicles being in music videos and shared the prior-generated music videos with his kids and friends. There are emails in this case to support this assertion. As already stated, Mosler/MACC stipulated in the 2012 Mosler RaptorGTR Bill of Sale that the vehicle be used to promote MACC. Furthermore, the Exclusive Distributorship in China & Thailand required that the vehicle be presented to press outlets in those countries. The music video was one element of the launch; something to create buzz over the new model and expose the brand to a wider audience that what had in the past failed to generate significant sales. Mosler's past marketing efforts achieved very limited exposure, so a

unique approach creating synergies with a Chinese recording artist for the launch of a new supercar in China made sense to me.

Mosler's UDF14 further states that "the RaptorGTR was being presented as an SEI car". This statement is vague and ambiguous, but to clarify SEI (as an authorized distributor) was presenting the **MOSLER** RaptorGTR. Mosler points to his DMSJ0965 for justification for his UDF15; that reference is deposition of myself (DMSJ0965):

Q Okay. Did you have any - strike that. Were you involved in the video in any way?

A Um, Supercar Engineering provided the RaptorGTR to be a prop in the video, yes.

I am unable to extrapolate the above testimony into Mosler's UDF14.

15. Mosler wrote in his MSJ paragraph 15: "The music video was a flop and attracted negative publicity. See, eg., Exhibit A at DMDJ0052." (UDF15)

I dispute Mosler's UDF15.

First, as of today the music video garnered nearly 1.5 million views. According to my Google searches on the topic, fewer than 0.5% of videos on YouTube garner more than 1 million views.

Second, the same article that Mosler references for his UDF15 also states, "In a weird way, his goal to launch the car with a viral video was semi-successful in that it's been viewed almost 40,000 times in the past five days and written up on numerous popular automotive websites." (DMSJ0058)

16. Mosler wrote in his MSJ paragraph 16: "As of 2012, the RaptorGTR did not have a CARB emissions certification. Exhibit J at DMSJ1173." ('UDF16')

I dispute Mosler's UDF16.

First, Defendants are mis-labeling 'CARB' by adding adjectives that don't exist in the automotive industry jargon. CARB, which stands for California Air Resources Board, **issues an Executive Order; not an emissions certification.** The CARB Executive Order **allows an EPA-Certified vehicle** to be REGISTERED/TITLED in California, provided that California has accepted the OBD II system of that vehicle. Any vehicle with a United EPA Certificate of Conformity can be SOLD in any State and driven anywhere in the United States of America. Expensive vehicles sold to California residents are often titled in Montana, Alaska, or other states simply for the purpose of avoiding paying the 13% California sales tax. These out-of-state registered vehicles can be owned, garaged, parked, and driven in California without restriction.

Second, it is important to point out that although the MACC is in possession of a 2004 MT900S CARB Executive Order, it is factually incorrect to assert that the 2004 MT900S vehicles can legitimately be titled in California. Each 2004 MT900S was built illegally with respect to CARB in the following ways:

- i. Each was completed after the 2004 MT900S Executive Order ('2004 XO') had expired, in the case of Alan Simon's 2004 MT900S, it was completed more than 3 years after the 2004 XO had expired.
- ii. CARB required a 26 pound flywheel be installed for the 2004 MT900S vehicles to be considered CARB-compliant; none were because Mr. Mosler was focused on ultralight weight as key performance differentiator.
- iii. The 2004 EPA Certificate of Conformity, which is required as a prerequisite for the 2004 XO was achieved via testing a 2004 MT900S

equipped with a 2004 General Motors ('GM') Chevrolet Corvette ZO6 engine and accompanying exhaust manifold and catalyts. NONE of the 2004 MT900S vehicles had either the GM exhaust manifolds (which were short, heavy, heat shrouded, and restricted power output) NOR the GM catalyts (which were heavy and restricted engine power output).

- iv. The 2004 EPA Certificate of Conformity was similarly time-limited to builds only up until December 31, 2004. Once the EPA Certificate of Conformity had expired, the CARB XO automatically was invalid.

Alan Simon managed the MACC certification effort for the 2004 MT900S, and was well aware (as he discussed with me) that the vehicle he purchased from MACC for \$11,000 was built illegally, was illegal to drive on public roads, and had a had a known high fire risk. During our conversations, I accused Mr. Simon of Insurance Fraud (and I wrote about his request that I help him amplify his return by another \$130,000). Warren Mosler initially withheld document Production in this case related to these issues and only recently produced it.

The acts related to what I have characterized as insurance fraud occurred in October 2011. Warren Mosler via his attorney, Alan Simon, demanded unequivocally that if I purchased MACC in early 2012, I had to accept the subjugated insurance fraud liability associated with Mr. Simon's illegally-built, illegally-insured 2004 MT900S vehicle. **Intriguingly, Mr. Mosler claims that the illegally-built 2004 MT900s and illegally-built 2009 MT900S vehicles are Official Mosler Products; whereas the 2012 Mosler RaptorGTR, which was legally built in August 2011 within the constraints of the EPA Certificate of Conformity is NOT an Official Mosler Product.**

17. Mosler wrote in his MSJ paragraph 17: "On or about November 15, 2012, an article was published in Car and Driver Magazine's website titled "The Final Days of Mosler: One Supercar Left to Move, Company for Sale ("Online Article"), Exhibit A at DMSJ0060; Exhibit H at DMSJ1038 at 9:5-24" ("UDF17")

I agree with Mosler's UDF17.

18. Mosler wrote in his MSJ paragraph 18: "In the Online Article, a non-party author wrote: "He's nothing. He's got some serious mental problems." Mosler said. "He's out there billing himself as everything and he doesn't have anything." Exhibit A at DMSJ0062. This is the first statement that is at issue in the Defamation Per Se claim. Id. At DMSJ0018 ¶ 59(a)." ("UDF18")

I agree with Mosler's 'UDF18', but wish to clarify that Count IX also includes per quod in the event that defamation per se is not found, and that while the non-party author wrote the article, the journalist directly attributes the quoted language to Warren Mosler (the original speaker of the defamatory statements).

19. Mosler wrote in his MSJ paragraph 19: "This statement follows the description of a tumultuous relationship between the parties and was presented as a story "that is the stuff of soap operas." Exhibit A at DMSJ0062." ("UDF19")

I dispute Mosler's UDF19.

The content of the article was generated from interviews from both Warren Mosler and James Todd Wagner. The impression of 'tumult' PRIOR TO the defamatory events was NOT communicated by the journalist. The entire story from Warren Mosler was published to the journalist in one phone call wherein a long sequence of defamatory statements including the **Mosler's quoted inference that Wagner was trying to EXTORT \$100,000 from Mosler** "in return for agreeing not to sue the new owner" [of MACC]. That statement/implication was a manipulation of the true facts that Mosler agreed to

return Wagner's \$100,000 deposit upon someone else purchasing the assets of MACC – but Mosler made clear indication in email that he was renegeing on that written refundability agreement. The deposit refundability agreement email is attached as EXHIBIT "P11", and the email from Mosler wherein he sidesteps the direct question of whether or not Wagner will get his \$100,000 deposit back if Savvas Savopolous buys is attached as EXHIBIT "P12".

Mosler's one-on-one interview with the journalist, Clifford Atiyeh, included numerous elements of defamation against Wagner – but no explanation was given to justify the defamation. **Regarding Mosler's statement of implying extortion, Mr. Mosler is referring to Wagner's refusal to sign 'Termination and Release' agreement that would strip SEI of valuable assets and allow Mosler to never-refund Wagner's \$100,000 refundable deposit.** To date, Mosler hasn't given a reasonable explanation as to why I should be REQUIRED to sign such an abominable deal.

20. Mosler wrote in his MSJ paragraph 20: "The Online Article refers to a distributorship agreement and discloses that the distributorship agreement was "moot from lack of production." i. at DMSJ0062." (UDF20)

I dispute Mosler's UDF20.

Mosler is inaccurately attempting to couch the statement that the distributorship as a logical determination by the journalist, but that is wrong. **The statement "moot from lack of production" is a direct quote from Mosler, not a factual determination from the journalist.** The notion that the distributorship agreement was "moot from lack of production" is disputed by Plaintiffs – **there was/is no exit clause for MACC simply deciding not to produce vehicles for SEI. The distributorship agreement(s) required MACC to produce vehicles and were binding upon MACC asset purchasers.**

21. Mosler wrote in his MSJ paragraph 21: "Wagner disclosed to the author of the article that he had already purchased for himself the "final Mosler supercar to be built." i.d. at DMSJ0062" ('UDF21')

I dispute Mosler's UDF21.

Mosler is **attempting to distort** the facts by bringing the present-status reversed back in time to the moment that SEI purchased the 2012 Mosler RaptorGTR.

The chronological sequence of events are: 1) Mosler and MACC's board of directors wanted a twinturbo model for MACC 2) MACC paid for the EPA Certification effort including catalyst temperature testing 3) Mosler/MACC signed a distributorship that bound MACC to build a minimum of 3 cars per year for SEI to sell over a 25-year span **4) Savvas Savopolous came into the picture once the VERY VALUABLE Certification had been achieved and wanted to buy MACC – but only if SEI surrendered it's Intellectual Property and Distributorships** 5) Mosler/MACC made a raft of mis-statements to wreck the launch of SEI's distributorship of the RaptorGTR 6) MACC made it clear to SEI that MACC would not build any more RaptorGTR vehicles, **EXHIBIT "P13"**, thus it came to be that the vehicle SEI already owned 'became' the final RaptorGTR.

All of the data and proof of the above sequence of events are supported by various documents and testimony and will be presented to the triers of fact at trial. Many/most of the documents and transcripts are already in the (voluminous) court file.

22. Mosler wrote in his MSJ paragraph 22: "The article also states that MACC hasn't sold a car in two years (Id. At DMSJ0062)." ("UDF22")

I cannot dispute Mosler's 'Undisputed Fact #22', but it is worth mentioning that the "final car" that Mosler was describing to the journalist within the Online Article was not the 2012 Mosler RaptorGTR but the illegally-produced 2010 Mosler Photon, which was produced without any emissions certification work nor any useable rear crash test data due to a **radically different rear subframe that was ultralight and had a dangerously slim interface between the rear subframe and the carbon tub directly behind the passengers.** This dangerously-engineered ultralight rear subframe combined with a rigid magnesium gearbox that was used as mounting points for the suspension results in what I believe to be an unethical safety hazard for the occupants who could become an integral part of the crash structure.

Warren Mosler's depo #1 Feb 10, 2016 pg 194 ln 7 – pg 196 ln 4

Q. But Mr. Phillip added -- changed the subframe on the car?

A. The rear subframe.

Q. Yes. And the rear subframe is different on the MT900S Photon to the other MT900S's; correct?

A. Correct.

Q. And he was doing so in order to increase the efficiency of the car as it moved around the track; correct?

A. No.

Q. What was he doing that for? Why would he change it?

A. It reduced the weight of the subframe. It was a lighter weight subframe.

Q. And that helps the car to move around the track faster; right?

A. Yeah, among other things.

Q. Okay. Now, he also in so doing -- let me back up. Were the original MT900S's in 2004, did they go through any crash worthiness testing?

A. Yeah, to the best of my knowledge, unless somebody lied to me.

Q. And the crash worthiness testing for the MT900S was done so that you could sell them on the -- for use on the public highways; correct?

Now, when Mr. Phillip changed the subframe on the MT900S Photon, all of the prior crash worthiness testing was no good; correct?

A. All of it?

Q. Well, at least with respect to anything related to the rear of the car?

A. Yeah. But, again, it's self-certification, so.

Q. But there were no new tests done on the 900S Photon for crash worthiness once that subframe change was made, were there?

A. No.

Q. And Mr. Wagner called that to your attention, didn't he?

A. I don't recall that.

Q. You don't recall him talking about the changes in the subframe?

A. That they --

Q. As not having been tested?

A. And therefore?

Q. And therefore the car was potentially not safe?

A. He -- you know, he might have. I don't have any specific recollection of that.

23. Mosler wrote in his MSJ paragraph 23: "The article ends by commenting about the probability that MACC may be headed to the graveyard. *Id.* at DMSJ0064." ('UDF23')

I only dispute Mosler's UDF23 by noting that more commentary than stated within the motion is included toward the end of the article (which may or may not be relevant to these proceedings).

24. Mosler wrote in his MSJ paragraph 24: "Mosler does not remember making this statement. Exhibit E at DMSJ0798 ¶ 8." ('UDF24')

First, although I can't directly verify Mosler's internal memory, there are several examples of Deposition testimony which put Mr. Mosler's claimed memory loss as to these events at issue:

I have been present at all of the journalists' depositions in this case, and have witnessed the journalist's responses to questions about whether or not they spoke to Mosler. I have summarized some of the responses below.

a. Matt Farah deposition Dec 12, 2017 pg 53 ln 18 – pg 54 ln 6

Q Okay. And then when we flip forward, you actually had conversations with Mr. Mosler; correct?

A Yes, I did have a conversation with Mr. Mosler -- one.

Q Okay. And he said -- and he confirmed that the twin-turbo conversion to the Raptor GTR Mosler 900s will not pass emissions and is not certifiable for public sale; correct?

A That -- yeah. I mean, again, I don't recall some of the more specific details of that conversation, but **if I wrote that, that's what he told me at the time. My memory would have been very fresh then, so I would say that if I said it, then I would stand by it now.**

b. Clifford Atiyeh depo DATE pg 12 ln 2 – pg 13 ln 7

Q. All right, thank you. We blew it up just so it's easier to read.

Plaintiff's Exhibit number 3

begin with the words Weill Mosler, is that referring to Warren Mosler?

A. Yes.

Q. And then it says 63, that was his age at the time, correct?

A. Yes.

Q. All right. And then it says jockeys between three other full-time gigs, economist, hedge fund manager and three-time independent and democratic political candidate. He recently lost his latest congressional bid in the Virgin Islands, with a hyphen, he blames himself for not having the type of personality that sells cars. **The phrase, the type of personality that sells cars, is in quotes, was that a quote attributed by you to Mr. Mosler?**

A. Yes.

Q. Okay, and the information that you got in that section of this article, that was information that was conveyed to you by Mr. Mosler, correct?

A. Yes.

Q. Do you remember where Mr. Mosler was when you and he had the conversation where he conveyed the information?

A. The Virgin Islands.

c. Clifford Atiyeh depo DATE pg 32 ln 19 – pg 13 ln 17

Q. You said that you spoke directly to Warren Mosler, is that correct?

A. Yes.

Q. Prior to preparing to draft this article, had you spoken to Warren Mosler for any other reason?

A. No.

Q. Did you speak to Warren Mosler on the phone or was it in person?

A. It was on the phone.

Q. How did you get his phone number?

A. I contacted his company.

Q. Which company was that?

A. The Mosler Automotive Company, whatever it was called.

Q. Do you recall who you spoke to there?

A. I had e-mailed the company directly.

Q. Okay. And someone there gave you Mr. Mosler's telephone number?

A. Mr. Mosler contacted me directly.

I have also been present for **Warren Mosler's two depositions**; the first deposition was while Mr. Mosler still had not produced the +/- 18,000 pages of evidence that became the source of the Spoliation Hearing; Defendants prevailed in that hearing. The second deposition was court-ordered after the

document-dump had occurred (after Alan Simon divulged that he had sent responsive documents to Defendants "years ago").

- a. Matt Farah, journalist for 'The Car Show' and commentator on 'The Truth About Cars'. Warren Mosler admits that Matt Farah came to conclusion that Mr. Wagner was a con-artist after speaking with Mr. Mosler. Warren Mosler's February 2016 deposition on page 218 lines 16-17: "**...what you said is a true statement. He reached that conclusion after speaking to me.**"
- b. Matt Hardigree, journalist for Jalopnik. In response to question about whether or not Mr. Mosler spoke with the journalist, Mr. Mosler testified in deposition on page 209 lines 1-2: "**I certainly can't deny that I did.** I just don't have specific recollection of the name [of the journalist].
- c. Clifford Atiyeh, journalist for Car & Driver. Admission on page 198 lines 15-16: "I didn't say – I didn't say it wasn't worth anything. **I just said it was moot.** It doesn't mean it's not worth anything."

Second, there is no reasonable probability that 5 different journalists all hallucinated **hearing the same general storyline** that they attribute to Warren Mosler. These journalists in their publications all claim to be in DIRECT touch with Warren Mosler either on the phone (Matt Farah, Benjamin Greene, Matt Hardigree, Clifford Atiyeh), or through LinkedIn (Jack Baruth).

- a. Matt Farah
- b. Jack Baruth
- c. Benjamin Greene
- d. Matt Hardigree
- e. Clifford Atiyeh

25. Mosler wrote in his MSJ paragraph 25: *"The second statement at issue appears as an online comment to an article. Exhibit A at DMSJ0069, DMSJ0078. Specifically on November 17, 2011, in the comment thread, under an online article from The Truth About Cars magazine, non-party Matt Farah comments: "I spoke with Warren Mosler today, who confirmed that the Twin-Turbo conversion to the "RaptorGTR" Mosler MT90s will not pass emissions and is not certifiable for public sale." Id. at DMSJ0078."* ('UDF25')

I agree with Mosler's UDF25, but wish to add that there was additional relevant reporting within the comments section of this article from Matt Farah, who is a journalist for 'The Car Show' and 'Road & Track' magazine. One of the several elements of reporting by Matt Farah withing the 'The Truth About Cars' article was that the production crew from the TV program, 'The Car Show', also spoke to Warren Mosler (before Mr. Farah spoke to Mr. Mosler).

26. Mosler wrote in his MSJ paragraph 26: *"Mr. Farah testified that he only ever personally spoke to Warren Mosler once. Exhibit I at DMSJ1126 at 63:6-8"* ('UDF26')

I agree with Mosler's UDF26.

27. Mosler wrote in his MSJ paragraph 27: *"Mr. Farah testified that "[he][doesn't] recall some of the more specific details of that conversation." Id. at DMSJ1117 at 54:1-3."* ('UDF27')

I dispute Mosler's UDF27.

Although Mosler has written a PORTION of Matt Farah's answer accurately, Mosler has strategically omitted key information: Mosler has

omitted the remainder of the sentence – and that is the element of the sentence that contains the relevant message that Mr. Farah was trying to convey. The entire answer from Matt Farah's deposition (DMSJ1117 pg 54 lns 1-6) reads:

"That - yeah. I mean, again, I don't recall some of the more specific details of that conversation, **but if I wrote that, that's what he told me at the time. My memory would have been very fresh then, so I would say that if I said it, then I would stand by it now.**"

28. Mosler wrote in his MSJ paragraph 28: "Mr. Farrah testified that the only thing Mosler ever said to him was that "Mr. Wagner did not work for him, was not representing [MACC], and that the RaptorGTR was not his product," *Id.* at DMSJ1129 at 66:12-20." (UDF28')

I dispute Mosler's UDF28.

First, Mosler has inserted the word ONLY into what Mosler claims is Matt Farah's testimony. This mis-statement of testimony is borne out in Matt Farah's 84-page deposition transcript. For brevity, I will not list all of Matt Farah's testimony regarding what Warren Mosler told him, but rather direct the Court to Defendants' DMSJ1064-1148.

Second, in their Motion for Partial Summary Judgement, Defendants define the capitalized 'Mosler' to be Warren Mosler. I believe that Defendants are intentionally conflating Mr. Farah's testimony that states "Mosler" [meaning Mosler Auto Care Center (MACC)] in the context of Mr. Farah's testimony] with Warren Mosler himself. Warren Mosler chose the term ('Mosler') to mean himself in his MSJ, and that has been carried forward in my affidavit. This conflagration could mislead the court into believing that

Matt Farah gave conflicting testimony regarding speaking to Warren Mosler once [and only once] – which is not true.

29. Mosler wrote in his MSJ paragraph 29: "Mosler submitted evidence that disclaims ever making the statement at issue. See Exhibit E at DMSJ0796 ¶ 4." ('UDF29')
I dispute Mosler's UDF29.

The "evidence" that Mosler is claiming to be providing in UDF29 is only his own unproveable and self-serving argument that "he can't recall." **Plaintiffs could prove that the phone calls to journalists took place, if Defendants had produced their phone records as requested.**

Plaintiffs have been requesting Mr. Mosler' phone records for over 8 years (since 2014), yet Defendants have not produced their phone records. This is part of the basis for the "Motion for Sanctions for Withholding Evidence for Years" which I understand will be heard at the same time as the motion for partial summary judgment.

For clarity, the fact is that testimony suggests that the car show producer had the first conversation and then two days later, Matt Farah had the confirming phone call.

Warren Mosler's deposition #2 dated Sept 18, 2020 page 94 line 2 – page 95 line 5:

Q. All right. You recall though don't you that Mr. Wagner requested your phone records for the relevant time periods so that we could ascertain when you in fact spoke with Mr. Lee, correct?

A. Yeah, I'd forgotten about that. Yeah.

Q. Okay. Did you produce such records?

A. I don't recall.

Q. You had access to your phone records, didn't you?

A. I -- I wouldn't know how to access phone records.

Q. You don't know how to get copies of your own old phone bills?

A. No. I would direct my staff to do it, but I --

Q. Okay.

A. -- I wouldn't do it myself.

Q. Would you direct your staff to recover your phone records from the time period of June 2011?

A. I don't recall. I mean, I might have. I certainly didn't not direct them. I didn't tell them not to do it, so --

Q. But you don't -

A. I wouldn't have any reason not to - I wouldn't have any reason not to do it.

Q. Okay. **But you don't recall giving anyone instruction to recover your phone records for use in this lawsuit, correct?**

A. Correct.

30. Mosler wrote in his MSJ paragraph 30: "As of 2012, the RaptorGTR did not have a CARB emissions certification. Exhibit J at DMSJ1173." ('UDF30')

I dispute Mosler's UDF30.

There is no such thing as "CARB emissions certification". There is however, a California Air Resources Board Executive Order ('CARB EO').

The CARB EO is issued if a vehicle passes two components: 1) Environmental Protection Agency Certificate of Conformity ('EPA Certificate') and 2) CARB's specialized version of On Board Diagnostics ('OBD II') approval.

The EPA Certificate also includes two components: 1) Emissions testing and 2) OBD II approval process, abet one that is less-extensive than the CARB version. The Federal OBD II allowed approval given that Mosler adopted both the GM Engine, GM catalysts, GM sensors, and GM Engine Control Unit, computer. CARB, however, is very difficult and costly for low-volume car manufacturers who don't have access to the ECU's source data and coding. **The primary take-away is that there is no separate 'emissions testing' required by CARB, it is an adoption of the Federal emissions test results.** Thus, a CARB Executive Order always comes after the EPA Certificate.

Vehicles that have an EPA Certificate of Conformity may be driven everywhere within the United States. Thus the only 'plus' that a CARB Executive Order gives is the ability to **TITLE** the vehicle in California or one of the other 12 states that require a CARB Executive Order to **TITLE** the vehicle. Being in the Supercar industry, I have observed that it is common for exotic and expensive vehicles purchased in high-tax states to title the vehicles in no-tax states such as Alaska and Montana. Even in relatively low-tax Florida, supercar events will frequently have exotic cars with Montana license plates.

Regarding automotive jargon, it is industry norm to shorten CARB Executive Order to simply 'CARB'. Technically 'CARB' is a California state organization, not a certificate/order in any case. In Defendant's DMSJ1173, I write in an email to Warren Mosler and others, "*...full disclosure to the buyer that the car doesn't have CARB and therefore can't be **titled** in California nor other states requiring CARB.*" What I meant here was that the 2012 Mosler

RaptorGTR doesn't have a California Air Resources Board Executive Order, and therefore can't be **titled** in California; **there is no restriction whatsoever to the RaptorGTR being sold to a resident of California, garaged in California, and driven in California.**

31. *Mosler wrote in his MSJ paragraph 31: "Wagner is the source of the discussion relating to emissions and certifications for public sale of the RaptorGTR because Wagner entered the online discussion and provided documents purporting to be the certificates for the RaptorGTR. Exhibit A at DMSJ0075, DMSJ0077." ('UDF31')*

I very strongly dispute Mosler's UDF31.

Mosler is attempting to state that since I **responded to the defamation to defend** BOTH Mosler and the RaptorGTR via providing proof that the ALREADY PUBLISHED DEFAMATION was untrue; that I was the "source" of the "discussion". I could not disagree more. Factually, this is a "timing non-sequitur." I did not initiate the conversation, I was only trying to mitigate the damages after the defamatory statements were made.

I have never ever in my lifetime of being a childhood car enthusiast to present seen a new vehicle launched and a journalist query whether or not a particular vehicle would pass emissions or not. It is reasonably presumed that the manufacturer has an EPA Certificate at the time the vehicle is launched – or the manufacturer is near the end of the certification process.

Without question, the facts of this case support the assertion that the "source" of the discussion on RaptorGTR emissions and viability as a commercially-sold product originated from Warren Mosler and his wholly-owned company, MACC - that the RaptorGTR wasn't a official Mosler product, but was rather an aftermarket kit being marketed by SEI.

I mention above that I was attempting to defend both Mosler and the RaptorGTR, because at the beginning of this saga I couldn't bring myself to believe that Warren Mosler would be so damaging to his own company. It simply made no sense to me. I spent vast amounts of time trying to figure out the Who/What/Why. Eventually I did figure out that it was Warren Mosler himself, and the +/- 18,000 pages of documents that Mr. Mosler withheld from me for over 5 years will be used by me at trial in support of this factual assertion.

32. *Mosler wrote in his MSJ paragraph 32: "Multiple non-party commenters to the online discussion stated, based on the documents provided by Wagner himself, that the "certificates refer to the original Mosler MT900 BEFORE Todd Wagner pimped it into a 'RaptorGTR/CubeyGTR'" and that the RaptorGTR had not yet passed emissions, and was not then certified for public sale. Id. at DMSJ0077, DMSJ0078." ('UDF32')*

I dispute Mosler's UDF32 as intentionally misleading to the Court.

Mosler's UDF32 is perhaps the most intriguing one in his Motion for Partial Summary Judgement. It includes comment by whom I believe the jury will find to be Mr. Mosler's lawyer, Alan Simon, (several times) ANONYMOUSLY ("racer-esq") with (fake) "insider-information" to amplify the effects of the defamatory comments now sued upon.

"racer-esq" commented first at 8:27pm on the same day as the launch of the 2012 Mosler RaptorGTR. Mosler was quick to amplify the effects of his defamation by making it seem that 'insiders' agreed with what Mr. Mosler was telling journalists. **This 'racer-esq' is also aware (and seemingly upset) that the RaptorGTR was on 'The Car Show' that aired 6 weeks before this launch.** Factually, the RaptorGTR didn't perform as well as expected due to the scorching heat in the desert at high noon on a fresh, jet-black asphalt airplane runway.



That's funny, the footage did look familiar.

On one hand Mosler should be pissed, because this music video is humiliating, and because this car, described as coming from Mosler, ran so poorly on your show. On the other hand at least the Mosler name is getting out, and any "Cubey GTR" sales will start with them having to buy a car from Mosler.

That was nice of Dan Neil to volunteer to break dance for them.

The next day (November 16, 2011), the same things that Mosler is spreading around to journalists is being spread around by 'racer-esq'.

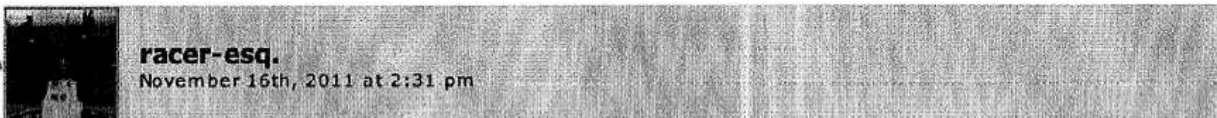


The certificates appear to refer to the original Mosler MT900, BEFORE Todd Wagner pimped it into a "Raptor GTR"/"Cubey GTR".

Here is some more information about the real Mosler and MT900.

http://en.wikipedia.org/wiki/Mosler_MT900

http://en.wikipedia.org/wiki/Mosler_Automotive



- 1) Do you currently work for Warren Mosler?
- 2) Are the "Cubey GTR" modifications that you made to the Mosler MT900 authorized by Warren Mosler?
- 3) Has Warren Mosler authorized you to use his Mosler brand to market your tuner version of the MT900?
- 4) Did SpeedTV authorize you to use its "The Car Show" video segments in the above music video?

In his deposition, although Alan Simon tries hard to obscure the fact that he went into the online discussion to buttress the defamation, his attestation is not strongly supported by his actual testimony under oath:

Alan Simon's deposition May 23, 2019 pg 30 – pg 31 ln 4

Q There's been talk of Racer-Esquire, was that you?

A No.

Q You have nothing --

A I've never heard my -- no one ever referred to me that -- that I know of.

Q You have never used the name Racer-Esquire?

A I don't think so.

Q Either in as a pen name or --

A As any kind of name.

Q Not in any way, shape, or form have you --

A I don't think so.

Q Let me finish my question, please, just to be clear. You have not used the name Racer-Esquire to describe -- as a moniker for yourself in any way, shape or form; correct?

A I don't recall doing it.

Q Okay. Is it possible that you have?

A Anything is possible.

Q Racer, hyphen, Esquire.

A Anything is possible.

33. Mosler wrote in his MSJ paragraph 33: "The article disclosed to the community "that Wagner wanted to sell the Raptor under the Mosler name if [Wagner's] attempted buyout of [MACC] was successful. It was not...". *Id.* at DMSJ0077" ("UDF33")

Mosler is again taking a snip of wording from the article and presenting it out of context as if it is a journalistic-conclusion, whereas it is simply what Warren Mosler told to Matt Farah. Matt Farah did not speak to me during the time Mr. Farah and his TV-show production team was having conversations with Warren Mosler around the time of the Global Launch of the 2012 Mosler RaptorGTR. The true facts (as set forth herein and within the depositions) reflect all the defamatory information came from Defendants, and I was

entirely unaware that the defamation was happening until it appeared online.
I will testify to this fact.

34. Mosler wrote in his MSJ paragraph 34: "The third statement at issue was published on November 22, 2011, in an article by the duPont REGISTRY Auto Blog, the non-party author wrote: "Mosler says the RaptorGTR is not one of its products and refused to comment further." Exhibit A at DMSJ0067" ('UDF34')

I dispute Mosler's UDF34.

As Mosler has done throughout his MSJ there is key information being withheld via Mr. Mosler leaving out context. Since the article is relatively short, I am pasting in the entirety of the article (DMSJ0067) below:

Supercar Engineering, Inc. (SEI), a Mosler distributor and run by ex-Mosler engineer J. Todd Wagner, has released an aftermarket package for the MT900S, which it is calling the RaptorGTR, promising Veyron-competing specs and performance. Mr. Wagner was married to Mosler Automotive's General Manager and Vice President of Operations Jill Wagner. Mosler says the RaptorGTR is not one of its products and refused to comment further; Mr. Wagner tells us that he is suing Mosler for libel and will be filling us in on all the details as soon as he is legally able. Obviously, the two do not share a good relationship.

Released with a promotional music video for some unknown artist called Abby Cubey, the 2012 Mosler-RaptorGTR features 838 hp from a twin-turbocharged 7.0-liter V-8 and a curb weight of just 2,580 pounds. SEI says RaptorGTR #001, formed from a Mosler MT900 owned by Mr. Wagner, will blast from zero to 60 mph in just 2.6 seconds and hit a top speed of 240 mph, nipping at the heels of the Veyron. The car's low weight also helps it come to a halt from 60 mph in only 95 feet—on par with a ZR1—and achieve 1.4gs of steady grip.

An exclusive set of 12 RaptorGTR cars will be dressed in a package commemorating the talents of the artist featured in the music video. The CubeyGTR will make 1,212 hp and cost an additional \$70,000 over the base car's \$700,000 asking price, but it should be good for runs up to 60 mph from a standstill in as little as 2.2 seconds.

We will let you know more about this train wreck in the happening as it unfolds. If you really must watch the video (it isn't great), it is included below.

35. *Mosler wrote in his MSJ paragraph 35: "Wagner himself publicly admitted, just days earlier on November 16, 2011, that the RaptorGTR was owned by SEI, not by MACC or Mosler. Id. at DMSJ0075." ("UDF35')*

I dispute Mosler's UDF35.

First, I dispute Mosler's use of the word "admitted" here as if it is admitting to a wrongdoing. It is a true statement that SEI, as a distributor of MACC, owned the 2012 Mosler RaptorGTR at the time of the launch of the RaptorGTR. **The fact that SEI owned the vehicle doesn't mean that SEI built (or modified) the vehicle.** The 2012 Mosler RaptorGTR is a MACC product that SEI purchased from MACC for the purpose of resale. If someone says they own a Ford Mustang, that doesn't mean they produced the Mustang.

Second, UDF35 states, ".....the RaptorGTR was owned by SEI, **not by MACC or Mosler.**" I never stated anything specifying that the RaptorGTR WASN'T owned by MACC nor Mosler. This assertion by Mosler is simply misleading.

36. *Mosler wrote in his MSJ paragraph 36: "The article explains that "ex-Mosler engineer J. Todd Wagner, has released an aftermarket package for the MT900S, which it is calling the RaptorGTR." Id. at DMSJ0067." ("UDF36')*

I lightly dispute Mosler's UDF36 due to implications of the word "explains" within the UDF36.

Mosler is yet again implying that a journalist, Greene, reached a conclusion after weighing TRUTHFUL information that was provided to the

journalist. This is FALSE. The journalist, Benjamin Greene, was fed false and defamatory information by Warren Mosler and likely other employees of MACC.

Greene spoke to parties whom Greene (apparently) believed to be truthful, namely Jill Wagner and Warren Mosler, and came to the conclusion that was published in the article. In other words, the journalists believed the defamatory statements that were coming from Defendants.

37. *Mosler wrote in his MSJ paragraph 37: "Mosler's alleged statement is that the aftermarket package, designed by SEI, is not one of MACC's products. Id. at DMSJ0067." ('UDF37')*

I dispute Mosler's UDF37.

UDF37 is a clever twist of words intended to make it appear that Mr. Mosler was defaming the "aftermarket package" that was never existent on the RaptorGTR. UDF37 is false.

The sequence of events relating to The Dupont Registry article is as follows:

- 1) Journalist, Greene, first received SEI's press release about the Global Launch of the 2012 Mosler RaptorGTR.
- 2) Greene contacted Mosler and the Vice President of MACC, Jill Wagner. Greene received the defamatory information from Mosler & MACC, and chose to believe the owner of the company over the man who sent him the press release on behalf of SEI.

a. Part of the defamatory information set communicated to Greene was the made-up storyline that the RaptorGTR is SEI's aftermarket package for the 2009 MT900S.

- 3) Greene contacted Wagner via email, and Wagner had already seen the other articles all proclaiming that the RaptorGTR was a fake. Wagner sent Greene a reply back that he was going to "Clear Mosler's name" and "this was going to be handled legally."
- 4) At the time, I had no idea that Warren Mosler was behind the defamation. I thought at the time that Matt Farah had initiated the defamation. At the time, I could not imagine that Warren Mosler would harm his own company so severely.... especially in light of the fact that the RaptorGTR is the only car MACC ever built for the USA that was actually compliant with clean air laws.
- 5) Greene mis-read my email and concluded that I was going to be suing Mosler (which I did not intend to do at the time). It seems that Greene so strongly believed that Warren Mosler and Jill Wagner were truthful, that I (as a prior-employee of MACC) was doing something underhanded and I was threatening to sue as an empty threat. I can't know for sure why Greene mis-read my straightforward email, but he did.
 - a. Part of the defamation set communicated to Greene by Mosler and his paid employees is that Wagner is a the former Head Engineer for MACC, and now NOT ASSOCIATED WITH MACC. My company owning an exclusive distributorship for MACC products is a definitive association with MACC.

- b. It is easy to see how Greene would conclude that Wagner was a liar, and trying to pull one over on him. The owner of Mosler Automotive and the Vice President of Mosler Automotive are both singing the same defamatory tune, which was all sourced from Mr. Mosler himself.
- c. Alan Simon bolstered the defamation in the 'The Truth About Cars' article.

38. Mosler wrote in his MSJ paragraph 38: "The author of the article testified that he does not recall who told him that the car was an aftermarket package offered by SEI. Exhibit F at DMSJ0900 at 10:1-5." ('UDF38')

I dispute Mosler's UDF37.

First, Greene testified he didn't know for certain whom told him about the RaptorGTR being not an official Mosler product, but rather an SEI aftermarket package, but he testified he knew that it was a 'Man at Mosler'. Since Mosler's UDF37 intentionally omits the relevant context, I will put in the sequence of Greene's deposition below. Based upon the employees and time line, there were only two men who Greene might have reached via contacting MACC: Warren Mosler or Dan Carvalho, who was a demoted production supervisor who was at the time working on repairing old Consulier GTP vehicles. Sylvia Klaker, who answered the phones at MACC had a tight relationship with Mosler, and knew that Mosler liked to handle press calls himself.

Benjamin Greene depo Feb 12, 2016 pg 8 In 25 – pg 9

Q. All right. If you were still working at duPont REGISTRY, what would you go to look at to see about your notes from the November 2011 time period?

A. I think my biggest thing would be to look at my emails to see when I contacted whom.

Q. Okay. Do you remember having any telephone conversations with anyone at Mosler?

A. Yes. I called Mosler, and then I emailed them.

Q. Okay. So Mosler -- well, all right. And do you recall speaking with anyone specifically at Mosler?

A. I spoke to a man on the phone.

Q. Do you remember that man's name?

A. No.

Q. Okay. Now, was that all prior to writing to Mr. Wagner on this Exhibit 3?

A. I mean, I'm only speculating at this point. Seeing as I said, "I want to confirm that that's not an official product", maybe I had this information, I had spoken to them beforehand, and was now following up with Mr. Wagner to see what he had to say.

Second, the 'storyline' being given to journalist, Greene, is in-line with the other defamatory statements that were being delivered by Warren Mosler himself around the same time. The only reasonable conclusion is that Benjamin Greene was speaking to Warren Mosler...even though he doesn't remember precisely who the Man-At-Mosler was.

39. Mosler wrote in his MSJ paragraph 39: "The article also makes clear that the RaptorGTR was "formed from a Mosler MT900..." id. at DMSJ0067. (emphasis added.)" ('UDF39')

I dispute Mosler's UDF39.

UDF39 is misleading. It mislabels a defamatory statement delivered by Mr. Mosler and believed by a journalist into a fact by inserting the words "The article also makes clear . . .". When read in total, the article did not "make it clear . . ." Mr. Mosler did:

For ease of reading, I am again pasting the article in question here:

Supercar Engineering, Inc. (SEI), a Mosler distributor and run by ex-Mosler engineer J. Todd Wagner, has released an aftermarket package for the MT900S, which it is calling the RaptorGTR, promising Veyron-competing specs and performance. Mr. Wagner was married to Mosler Automotive's General Manager and Vice President of Operations Jill Wagner. Mosler says the RaptorGTR is not one of its products and refused to comment further; Mr. Wagner tells us that he is suing Mosler for libel and will be filing us in on all the details as soon as he is legally able. Obviously, the two do not share a good relationship.

Released with a promotional music video for some unknown artist called Abby Cubey, the 2012 Mosler RaptorGTR features 838 hp from a twin-turbocharged 7.0-liter V-8 and a curb weight of just 2,580 pounds. SEI says RaptorGTR #001, formed from a Mosler MT900 owned by Mr. Wagner, will blast from zero to 60 mph in just 2.6 seconds and hit a top speed of 240 mph, nipping at the heels of the Veyron. The car's low weight also helps it come to a halt from 60 mph in only 95 feet—on par with a ZR1—and achieve 1.4gs of steady grip.

An exclusive set of 12 RaptorGTR cars will be dressed in a package commemorating the talents of the artist featured in the music video. The CubeyGTR will make 1,212 hp and cost an additional \$70,000 over the base car's \$700,000 asking price, but it should be good for runs up to 60 mph from a standstill in as little as 2.2 seconds.

We will let you know more about this train wreck in the happening as it unfolds. If you really must watch the video (it isn't great), it is included below.

Although I dispute the nature of wording UDF39 uses, I agree that after receiving the defamatory statements, Greene came to the INACCURATE conclusion that the product that was being launched was "made from a MT900."

The notion of vehicle X being “made from” vehicle Y is how aftermarket packages work. An aftermarket-modified 2009 MT900 is dramatically less valuable than a factory-spec 2012 Mosler RaptorGTR.

40. Mosler wrote in his MSJ paragraph 40: “The author of the article testified that he was intending to convey...that [SEI] was doing aftermarket work on the MT900s and that [SEI] named the modified car the RaptorGTR.” Exhibit F at DMSJ0902” (“UDF40”)

I very strongly dispute Mosler’s UDF40.

UDF40 is highly inaccurate and misleading. Below is the whole (relative) content of what Benjamin Greene testified to, rather than Mosler’s snippet/UDF40 that includes “...” and “[SEI]”, while omitting context of what was being asked of Greene.

Benjamin Greene deposition Feb 12, 2016 pg 19 Ins 3 – 14

Q. Now, your suggestion in that line is that Mosler itself was not calling the car the Raptor GTR? Isn't that what you intend to convey?

A. Yes.

Q. Okay. So you were intending to convey to the people that read your article that **based upon your interaction with the Mosler Automotive Center, Inc, that Mosler produced a car called the MT900S and that Supercar Engineering, Inc. was doing some aftermarket work on the MT900S, and then that Supercar Engineering, Inc., named the modified car a Raptor GTR, correct?**

A. That's correct.

41. Mosler wrote in his MSJ paragraph 41: "The fourth statement at issue was also published as an online comment to an article. Exhibit A at DMSJ0050. On November 16, 2011, under an online article by the Asia Release News Service entitled "First 2012 838hp 240mph Mosler RaptorGTR Hyperexotic Car Breaks Cover Via an Extreme Music Video: (Id. at DMSJ0050), Mosler commented "This is not from me. MOSLER is not involved with this. Warren Mosler." Id. at DMSJ0051" ('UDF41')

I agree with Mosler's UDF41.

42. Mosler wrote in his MSJ paragraph 42: "Wagner himself publicly admitted just hours later at 2:38a.m. of the next day, that the RaptorGTR was owned by SEI, not by MACC or Mosler. Id. at DMSJ0075" ('UDF42')

I dispute Mosler's UDF42.

First, neither on behalf of myself nor on behalf of SEI did I ever say, "The RaptorGTR is not owned by MACC or Mosler." This is false embellishment by Mosler that could mis-lead the Court to believe that SEI was somehow 'swearing off' MACC or Mosler as being linked to the RaptorGTR.

Second, Mr. Mosler intentionally fails to point out that the statement he is describing was in the comments of an ENTIRELY DIFFERENT article on an entirely different Continent. There was no actual nor implied linkage between Warren Mosler's comment and my comment. Below is the actual comment that I made in the 'The Truth About Cars' article to try and mitigate the damage that was being done by Warren Mosler, who had delivered the defamation to Matt Farah.

"Hi, this is Todd Wagner, owner of Supercar Engineering, Inc. SEI owns the Mosler RaptorGTR #001, and has been an engineering consultant to Mosler for over seven years. Further, SEI is a distributor for Mosler products."

“Matt has been mis-informed regarding the “hack job” of the RaptorGTR. Matt has now been provided with the government certification documents for the new Mosler vehicle, and I am expecting a quick apology for his comments.”

“I am also expecting an apology for his disrespectful comments about a lady, who ad been nothing but kind to him.”

A screenshot of my comment from ‘The Truth About Cars’ is below and couple of the replies:

J. Todd Wagner
November 16th, 2011 at 2:38 am

Hi, This is Todd Wagner, owner of Supercar Engineering, Inc. SEI owns the Mosler RaptorGTR #001, and has been an engineering consultant to Mosler for over seven years. Further, SEI is a distributor for Mosler products.

Matt has been mis-informed regarding the “hack job” of the RaptorGTR. Matt has now been provided with the government certification documents for this new Mosler vehicle, and I am expecting a quick apology for his comments.

I am also expecting an apology for his disrespectful comments about a lady, who has been nothing but kind to him.

[LOGIN TO REPLY](#)

mcs
November 16th, 2011 at 11:26 am

Hi Todd, thanks for responding. Just for clarification, you own Mosler Supercars of Riviera Beach FL and Warren Mosler is owner of a separate company, Mosler Cars of Lake Park FL – correct?

[LOGIN TO REPLY](#)

racer-esq.
November 16th, 2011 at 2:31 pm

- 1) Do you currently work for Warren Mosler?
- 2) Are the “Cubey GTR” modifications that you made to the Mosler MT900 authorized by Warren Mosler?
- 3) Has Warren Mosler authorized you to use his Mosler brand to market your tuner version of the MT900?
- 4) Did SpeedTV authorize you to use its “The Car Show” video segments in the above music video?

43. Mosler wrote in his MSJ paragraph 43: “The focus of the article was on covering a new music video, the actress who stars in the music video, and providing information on where the audience might download songs, ringtones, and other media relating to the new music video. Id. at DMSJ0050-51.” (‘UDF43’)

I dispute Mosler's UDF43.

The focus of the article was the launch of the 2012 Mosler RaptorGTR, with the music video being an item of intrigue to give the launch more velocity via partnering with a singer of Chinese heritage for the Exclusive Distributorship in China & Thailand. **Statistical proof of this fact is that 253 words in the article are about the RaptorGTR, and only 83 words are about Abby Cubey and the music video.** Some of those words about Abby Cubey were to indicate to the audience that she is of Chinese heritage (and speaks Chinese). This is very relevant to the intent of the launch – to attract interest inside of China.

All-in, at least 75% of the article was strictly about the RaptorGTR, 15% was toward attracting interest for Abby Cubey, and the remaining 10% was overlapped between the two.

The business strategy being employed here by me is known as 'co-branding' where the exposure of two different products/elements combined yield a greater net exposure than either of the products/elements could have achieved alone.

44. Mosler wrote in his MSJ paragraph 44: "Mosler's comment does not mention the RaptorGTR and is stating that he is not involved with the music video. Id." ("UDF44")

I dispute Mosler's UDF44.

First, Mr. Mosler's comments don't specify nor insinuate that MOSLER (meaning MACC) isn't involved in the music video. The vast majority of the press release and resulting article is about the 2012 Mosler RaptorGTR. Upon reading the article, I (a reasonable person) understood that Mr. Mosler was claiming that MACC didn't build the 2012 Mosler RaptorGTR.

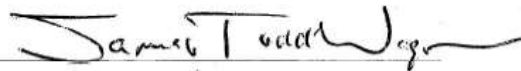
Second, the articles complained of – about the Global Launch of the 2012 Mosler RaptorGTR - are repeated all over the world. I have seen no documents (or testimony) in which Warren Mosler comments in any way to any press outlet directly about the music video.

45. Mosler wrote in his MSJ paragraph 45: "Mosler was not involved with the video, did not provide and funds towards the video, and did not have a creative part in the video. Exhibit G at DMSJ0965 at 52.11-53:P10." ('UDF45')

I dispute Mosler's UDF45.

Mosler signed an Exclusive Distribution Agreement, "**EXHIBIT P1**", on behalf of his wholly-owned company, MACC, that bound SEI to present the RaptorGTR to at least one press outlet in China & Thailand. On two other occasions, Mr. Mosler had benefitted from the production of music videos featuring MACC's vehicles, and there was no indication that Mr. Mosler had changed his stance on valuing the exposure his vehicles received through music videos. Furthermore, the MACC Bill of Sale, "**EXHIBIT P10**" states that the RaptorGTR was to be used to promote MACC. Mosler & MACC thus involved themselves in the production of the music video by demanding that the RaptorGTR be used to gain exposure for both MACC and its product, the 2012 Mosler RaptorGTR.

FURTHER AFFIANT SAYETH NAUGHT.



James Todd Wagner, individually and
As Authorized Agent for
Supercar Engineering, Inc.

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, by means of physical presence, or online notarization, on this day personally appeared JAMES TODD WAGNER, in his individual capacity as well as in his capacity as authorized agent of SUPERCAR ENGINEERING, INC. who is personally known to me ^{AKA} has produced FL Drivers License (state type of identification) who executed the foregoing instrument, attesting that the facts herein are true and who did take an oath.

SWORN TO and SUBSCRIBED before me this 14th day of December, 2022.



(SEAL)

NOTARY PUBLIC, State of Florida

Scott W. Zappolo

Scott W. Zappolo
(Print Name)
My Commission No: 66 966896

My Commission Expires: 3/20/2024

Appendix “7”: Segments of the frivolous counterclaim filed by Mr. Weber.

19. An advantageous business relationship existed between MACC, Mosler, and Savvas because Savvas submitted a deposit to purchase MACC assets and Savvas was preparing to close on the purchase of MACC assets.

20. Wagner and SEI had knowledge of the advantageous business relationship between MACC, Mosler, and Savvas because Wagner and SEI received notification of Savvas’ deposit to purchase MACC’s assets, Wagner received information from Mosler and MACC regarding Savvas’ proposed terms, and Wagner and SEI provided information to Savvas in furtherance of Savvas completing his due diligence as to the purchase of MACC’s assets.

21. In winding up Savvas’ efforts to purchase MACC’s assets, Savvas sent Wagner a document meant to wind up Wagner’s and SEI’s involvement with MACC.

22. Wagner stated that he would take steps to torpedo the pending sale to Savvas so that he could arrange a sale of MACC to himself or his investors at a reduced price after the dust settles.

- *Defendants never provided any evidence that Mr. Wagner was going to “torpedo” the sale to MACC. Wagner refused to sign the “Termination and Release” which surrendered SEI’s Intellectual Property, SEI’s Distributorships, and Wagner’s \$100,000 deposit to Warren Mosler. **Warren Mosler’s best-offer for this exchange was \$100**, thus refusing to sign was rational and reasonable. There was no “torpedoing”.*

31. SEI’s and Wagner’s interference with the advantageous business relationship between MACC, Mosler, and Savvas was willful, in an outrageous manner or with malice or wantonness or with reckless disregard for MACC and Mosler.

Rampant Repetition of “Non-Refundable” in reference to \$100,000 deposit in Counterclaim:

\$100,000.00 non-refundable deposit provided to Mosler as a deposit to purchase return of the \$100,000.00 non-refundable deposit was unlawful, improper, and unjustified tortious interference. The \$100,000.00 non-refundable deposit provided purchase MACC’s assets by improperly demanding return of the \$100,000.00 non-refundable deposit, even though Wagner and SEI knew that they had no legal right the \$100,000.00 non-refundable deposit, which Wagner and SEI knew would, and purchaser on existing terms. Wagner and SEI had no right to demand return of the \$100,000.00 non-refundable deposit.

Appendix “8”: Selected sections of Wagner/SEI (Counter-Defendants) brief that debunked the deceptive “STATEMENT OF FACTS” filed in Defendants’ Appeal to the dismissed Counterclaim.

Within the Counterclaim, Appellants assert that the “demand” complained of was actually a letter from Mr. Wagner’s attorney to Warren Mosler. R: 3288 at para.23. The letter complained of, but not attached to the Counterclaim can be found as part of a December 16, 2011 e-mail to Mr. Mosler (not Mr. Saavas Savopolous) from Mr. Wagner’s attorney and is entitled “Confidential Settlement Proposal.” R: 3019 – 3026.

Said letter specifically stated:

To begin with, Supercar and Wagner rejects the terms of the proposed Termination and Release Agreement previously provided to Wagner by Savvas Savopoulos (“Savvas”), as a non-starter. We understand that Mosler is in discussions with Savvas to sell Mosler [MACC]. Supercar and Wagner have no desire to interfere with or inhibit that transaction . . .that is why we are making this proposal to you.

Aside from being filed 7-years after the lawsuit was initiated (that’s when Steven Weber became new counsel for Warren Mosler); the below illustrate how grossly frivolous the lawsuit against Wagner was:

1. No law requires someone to sign a “Release”, certainly not one with absurd consideration of \$100.
2. The “Confidential Settlement Proposal” was exactly that – confidential and not admissible in Court.

3. The “Confidential Settlement Proposal” wasn’t sent to Savvas Savopoulos; the party whom Mosler claims I interfered with via sending the CSP.

DECEPTION #5 NOTES – Mr. Weber characterized the “Confidential Settlement Proposal”, as a “Demand Letter”. Mr. Weber certainly knows the difference between the two forms of communication. Mr. Weber CHOSE to mis-characterize the document, because without the intentional-mischaracterization his lawsuit against Mr. Wagner would be immediately dismissed.

Mr. Weber knows that a letter sent to Party-A cannot be construed as tortuously-interfering with Party-B **[who didn’t receive the letter]**. Yet, Steven Weber did exactly that both the Trial Court level and also to the Appellate Court.

STRATEGY OF REPEATING UNTIL LISTENER BELIEVES THE WORDS ARE TRUE: Below is a segment of Counter-Defendants’ reply segment that addresses the Warren Mosler’s extensive repetition of the word “compulsory”; even though the entire nature of the Appeal was to determine if the Counterclaim was permissive or compulsory.

As a note, Steven Weber uses this same strategy regarding Mr. Wagner’s \$100,000 deposit. There is never an instance where Mr. Weber describes the deposit as a deposit – He ALWAYS describes it as a “nonrefundable deposit”, even though that is hotly contested.

Appendix "9": Trial instances of Steven Weber stating to the Court that there was **"No Evidence"**

- **INSTANCE #1** of false claim that **"No Evidence"** exists to support Plaintiffs' position

Trial Transcript (before jury enters) pg 537 ln 6 – pg 538 ln 13

6 MR. ZAPPOLO: *"I just learned about the whole*

7 *con yesterday,"* and I'm going to tie that in.

8 Mr. Farah heard Mr. Mosler's comments and
9 concluded that James Wagner was running a con.

10 MR. WEBER: It doesn't say anything about
11 Mr. Mosler in that comment.

12 MR. ZAPPOLO: When he says "I just learned
13 about it yesterday," I can tie that in, Your Honor.

14 **MR. WEBER: There's no evidence** of what he's
15 referring to.

16 MR. ZAPPOLO: Warren Mosler is testifying
17 about that in his deposition, and it's -- and I
18 believe it's even further explained later on.

19 MR. WEBER: What page?

20 MR. ZAPPOLO: In this.

21 MR. WEBER: Where?

22 THE COURT: How are you going to tie that in?

23 You know, we're kind of getting into the woods
24 here, but --

25 MR. ZAPPOLO: He says, "I found out about the
1 whole con yesterday." There are other documents
2 that say that yesterday he spoke to Mr. Mosler. So
3 if he spoke to Mr. Mosler yesterday and then he
4 writes "I found out about the whole con
5 yesterday" --

6 MR. WAGNER: This explains further in the

7 deposition --
8 MR. WEBER: I think --
9 THE COURT REPORTER: Wait.
10 **MR. WEBER:** That doesn't mean that it's
11 Mr. Mosler who said it to Mr. Farah. You're
12 assuming **something that's not even said in this**
13 **transcript.**

Below is the transcript of Matt Farah, that Steven Weber was claiming to contain NO EVIDENCE about Warren Mosler speaking to a media outlet, leading the journalist to CONCLUDE that James Wagner is a con-artist:

Deposition of Matt Farah pg 33 ln 13-18 & pg 43 ln 1-4 & pg 34 ln 5-21 & pg 37 ln 18-21

13 BY MR. ZAPPOLO:

14 Q Thank you. And when you said in your
15 November 15th post, ***"I just learned about the whole***
16 **con yesterday,**" that was from a telephone conference
17 with Warren Mosler; was it?

18 MR. REINBLATT: Objection.

1 I would say that **the phone calls to Warren**
2 **Mosler** combined with the red flags we experienced
3 when we had the car personally, **led us to that**
4 **conclusion.**

5 ***Q Okay. Well, who was the producer of "The***
6 ***Car Show" that convinced you that this was -- that***
7 ***James Wagner was running some sort of a con?***

8 A I don't recall. There were several.

9 Q Okay. And their names were again, please?

10 A Well, the names I refer to as people who
11 were on set at the runway earlier were Neil Mandt,
12 M-a-n-d-t, who is the executive producer of the
13 show, and David Houston, spelled like the city. And
14 I don't -- again, they were the executive producers,
15 but a television show has many producers. There are
16 studio producers and field producers, and there are
17 all different kinds of producers. So I don't -- I
18 would not say with any type of confidence that it
19 was Neil or David that said that, but it was
20 somebody on the production team, and that's where my
21 concerns came from.

18 **Q Yet Mr. Mosler made it clear to you that**
19 **the Raptor GTR was not a Mosler product; correct?**

20 MR. REINBLATT: Objection.

21 THE WITNESS: Yes, he did.

Deposition of Matt Farah pg 33 ln 13-18 & pg 43 ln 1-4 & pg 34 ln 5-21 & pg 37 ln 18-21

9 **THE WITNESS:** I would say that **the conclusion,**
10 **based on the paragraph that you're referring to**
11 which is my comment from November 15th at 6:10 p.m.,
12 is that correct?

13 BY MR. ZAPPOLO:

14 Q Yes.

15 A I would say that my conclusions on that
16 comment are based on **somebody from our production**
17 **team contacting Mr. Mosler** and not myself.

18 Q Okay. And then when **we flip forward, you**
19 **actually had conversations with Mr. Mosler; correct?**

20 A Yes, I did have a conversation with

21 Mr. Mosler -- one.

22 Q Okay. And he said -- and *he confirmed*

23 *that the twin-turbo conversion to the Raptor GTR*

24 *Mosler 900s will not pass emissions and is not*

25 *certifiable for public sale; correct?*

1 A That -- yeah. I mean, again, I don't

2 recall some of the more specific details of that

3 conversation, but if I wrote that, that's what he

4 told me at the time. My memory would have been very

5 fresh then, so I would say that if I said it, then I

6 would stand by it now.

- **INSTANCE #2 of false claim that “No Evidence” exists to support Plaintiffs’ position**

Trial Transcript (a sidebar) pg 2529 ln 22 – pg 2530 ln 3

22 MR. WEBER: There's literally no evidence as

23 to what was actually said to the journalist because

24 no one was there.

25 MR. ZAPPOLO: The journalist's article says

1 that --

2 THE COURT: We'll address that after closings.

3 We'll address it after closings one more time.

Below is extensive evidence that Warren Mosler did speak to the journalists – including Mr. Mosler’s own admission; yet Steven Weber was stating to the Court there was “literally NO EVIDENCE” that

Warren Mosler spoke to the journalists:

Trial Transcript, Warren Mosler testifying pg 881 ln 9 - 12

9 Q Did you -- did you tell Mr. Farah that
10 Mr. Wagner was not a distributor of Mosler products?

11 A I don't know. If you've got that document,
12 let me read it and see what I actually told him

Warren Mosler Depo Feb. 10, 2016 Pg 218 ln 4 - 17

4 Q. Well, we know that what Mr. Farrah says, and I
5 just read, is not correct; right?

6 A. You can come to that conclusion, but that's --

7 Q. Can you reach any other conclusion?

8 A. It's not for me to speculate on what this guy
9 said. If you have a problem with him, go talk to him.

10 Q. *Well, the problem is he reached that conclusion*
11 *after speaking with you; correct?*

12 MR. REINBLATT: Objection.

13 BY MR. ZAPPOLO:

14 A. *That's what he, you know -- you can -- I guess,*
15 *it doesn't mean, you know, what you just said is a true*
16 *statement. He reached that conclusion after speaking to*
17 *me.*

Trial Transcript, Matt Farah (journalist) testifying pg 1103 ln 19 – pg 1104 ln 10

19 Q Page 52. All right. Would you agree with me
20 that on or about November 15, 2011 at 6:10 p.m., *you had*
21 *reached the conclusion that Mr. Wagner was a con man?*

22 A Yes.

23 Q Okay. And then when we flip forward, you
24 actually had conversations with Mr. Mosler, correct?

25 **A Yes, I did have a conversation with**

1 **Mr. Mosler -- one.**

2 Q Okay. And he said -- and he confirmed that
3 the twin-turbo conversion to the RaptorGTR Mosler 900S
4 will not pass emissions and is not certifiable for
5 public sale, correct?

6 A That -- yeah. I mean, again, I don't recall
7 some of the more specific details of that conversation,
8 but if I wrote that, that's what he told me at the time.
9 **My memory would have been very fresh then, so I would**
10 **say that if I said that, then I would stand by it now.**

Trial Transcript, Clifford Atiyeh (journalist) testifying pg 576 ln 13 – 20

13 Q Okay. And the information that you got in
14 that section of this article, that was information that
15 was conveyed to you by Mr. Mosler, correct?

16 A Yes.

17 Q Do you remember where Mr. Mosler was when you
18 and he had the conversation where he conveyed the
19 information?

20 A The Virgin Islands.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 25th day of April, 2024, pursuant to Fla. R. Jud. Admin. 2.516, a true copy of the foregoing document is being electronically filed and thereby e-served via Florida e-Portal on all counsel/parties affiliated with this case in the manner specified within the e-portal changes effective June 20, 2014. (Note: Alternate e-mail addresses on the e-portal will be “checked” for service, and anyone affiliated with this case but not registered on the e-portal will be served in the manner specified by the aforementioned Rule.) Persons served: Steven Weber, Esq., steve@weberlawpa.com; service@weberlawpa.com

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