

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NXIVM CORPORATION, formerly known as
EXECUTIVE SUCCESS PROGRAMS, INC. and
FIRST PRINCIPLES, INC.,

Plaintiffs,

--against--

MORRIS SUTTON, ROCHELLE SUTTON, THE
ROSS INSTITUTE, RICK ROSS a/k/a
"RICKY" ROSS, STEPHANIE FRANCO, PAUL
MARTIN, Ph.D., AND WELLSRING RETREAT,
INC.,

Defendants.

Civil Action Nos. 1:03CV0976
(GLS/DRH)

**AMENDED CONSOLIDATED
COMPLAINT**

Plaintiffs, NXIVM Corporation (formerly known as Executive Success Programs, Inc.) and First Principles, Inc., by and through their attorneys, Nolan & Heller LLP, as and for a complaint against Defendants Morris Sutton, Rochelle Sutton, The Ross Institute, Rick Ross, Stephanie Franco, Paul Martin, and Wellspring Retreat, Inc., state and allege as follows:

INTRODUCTION

1. The facts of this case arise largely out of a series of events by which Plaintiffs unsuspectingly became entangled in a family dispute in which one side is apparently well-funded and has retained, upon information and belief, a two-time convicted felon to launch a series of false and harmful attacks against Plaintiffs' business.

2. Through this Complaint, Plaintiffs seek monetary damages for Defendants' improper actions, and a permanent injunction enjoining Defendants from continuing their improper use and dissemination of Plaintiffs' protected materials, as well as from continuing to make false and disparaging statements regarding Plaintiffs and/or the nature of their business.

JURISDICTION AND VENUE

3. This Court possesses subject matter jurisdiction over this Complaint pursuant to 28 U.S.C. §§ 1331, 1332, and 1338 (a) and (b). The jurisdiction of this Court is based on the existence of federal questions under the Lanham Act, 15 U.S.C. § 1125 and the United States copyright laws, 17 U.S.C. § 101, *et seq.* Alternatively, this Court possesses subject matter jurisdiction based on diversity of citizenship between the parties, given that the damages alleged exceed \$75,000. This Court has supplemental jurisdiction over the state claims herein pursuant to 28 U.S.C. § 1367.

4. The Court has personal jurisdiction over the Defendants because Defendants have committed the acts complained of in the Complaint within the Northern District of New York and are doing business within the State of New York.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(a), in that Plaintiffs' claims arise in this district, and Plaintiffs do business in this district.

PARTIES

6. Plaintiff NXIVM Corporation ("NXIVM"), formerly known as Executive Success Programs, Inc., is a corporation formed and existing under the laws of the State of Delaware and authorized to do business in the State of New York, with its principal place of business located at 455 New Karner Road, Albany, NY 12205. Plaintiffs' principal business is conducting Executive Success training programs designed primarily for managers, chief executives and other business professionals.

7. Plaintiff First Principles, Inc. ("First Principles") is a corporation formed and existing under the laws of the State of Delaware and authorized to do business in the State of New York, with its principal place of business located at 455 New Karner Road, Albany, NY

12205. First Principles has developed many of the proprietary materials that are used by NXIVM in its business, and NXIVM has a license agreement with First Principles for the trade secret and patent pending technology underlying the work.

8. Upon information and belief, Defendants Morris and Rochelle Sutton (collectively, the “Suttons” or “Mr. and Mrs. Sutton”) are individuals residing in the State of New Jersey.

9. Upon information and belief, Defendant Rick Ross is an individual with no formal education beyond high school, and whose background includes two Arizona criminal convictions, including conspiracy to commit grand theft, as well as a \$2.5 million dollar punitive damage award, which a United States District Court Judge found appropriate given Mr. Ross’ “seeming incapability of appreciating the maliciousness” of his own conduct. Mr. Ross holds himself out as “an internationally known expert on cults and other radical, extreme and often unsafe groups.” Mr. Ross is the founder and Executive Director of The Ross Institute, which, upon further information and belief, is a promotional arm of Mr. Ross’s for-profit businesses. Further, upon information and belief, Defendant Rick Ross is an individual residing in the State of New Jersey, and knowingly disseminates, through his websites, the materials subject to this litigation for distribution to the Northern District of New York.

10. Upon information and belief, Defendant The Ross Institute is a “doing-business-as” name for Defendant Rick Ross that has, since 1996, advertised itself as a not-for-profit entity, with its principal offices located in Jersey City, New Jersey. Defendant The Ross Institute does business in the State of New York, and knowingly disseminates, through its websites, the materials subject to this litigation, for distribution to the Northern District of New York.

11. Upon information and belief, Defendant Stephanie Franco is an individual and former participant in Plaintiffs’ training programs, who resides at 36 Darlington Road, Deal,

New Jersey, 07723, and who participated in activities upon which this action is based within the jurisdiction of the United States District Court for the Northern District of New York. Stephanie Franco also is the daughter of Defendant Morris Sutton.

12. Upon information and belief, Defendant Paul Martin, Ph.D. is a licensed psychologist, with his principal place of business located in Albany, Ohio, and is the acting Chief Executive Officer of Wellspring Retreat, Inc. Defendant Paul Martin, Ph.D. knowingly provided on the websites of Rick Ross and The Ross Institute (“the Ross Defendants”) materials containing or referring to Plaintiffs’ protected trade secrets, and those materials were knowingly disseminated within the geographical confines of the Northern District of New York. Defendant Paul Martin, Ph.D. knowingly authorized the dissemination of the materials subject to this litigation to be regularly accessed from the jurisdiction of the United States District Court for the Northern District of New York, and to be downloaded within the jurisdiction of the United States District Court for the Northern District of New York.

13. Upon information and belief, Defendant Wellspring Retreat, Inc. (“Wellspring”) operates a “retreat and cult recovery resource center” located at Albany, Ohio. Defendant Wellspring, through the actions of Paul Martin, Ph.D., its Chief Executive Officer, knowingly provided, on the Ross Defendants’ websites, materials containing or referring to Plaintiffs’ protected trade secrets, and those materials were knowingly disseminated within the geographical confines of the Northern District of New York. In this regard, one of the Ross Defendants’ websites, www.rickross.com, contains a link from that site to Wellspring’s own website, www.wellspringretreat.org, and Wellspring’s own website also provides a link to www.rickross.com.

14. Defendant Wellspring advertises and otherwise does business within the geographical confines of the Northern District of New York. Wellspring has an interactive

website, www.wellspringretreat.org, which allows consumers to purchase merchandise, including books, from within the geographical confines of the Northern District of New York.

BACKGROUND

A. Plaintiffs' Business

15. Plaintiffs NXIVM Corporation and First Principles, Inc. (hereinafter "Plaintiffs," except where specific reference is intended) were founded in 1998. First Principles, Inc. developed many of the proprietary materials that are used by NXIVM in its business, and NXIVM has a license agreement with First Principles, Inc. for the trade secret and patent pending materials underlying the work.

16. Plaintiffs' principal business is conducting Executive Success training programs for managers, chief executives, business professionals and other individuals concerned with honing their analytical and logic skills, particularly as they relate to setting and achieving goals. Plaintiffs' programs provide training in areas such as logical analysis and problem-solving skills, and are based primarily on the Rational Inquiry™ system developed by Keith Raniere for Plaintiffs and embodied in the Plaintiffs' written materials.

17. Plaintiffs have trained business managers and chief executives of companies and agencies nationwide, and have conducted sessions in many locations throughout the United States. In addition, Plaintiffs have begun to market their services internationally and have offered executive training programs internationally.

18. As discussed above, Plaintiffs have developed comprehensive proprietary written materials – and have undertaken extensive efforts to protect those materials. These materials took many years to develop, and embody a theory and practice developed by Keith Raniere for Plaintiffs known as Rational Inquiry™, which involves analyzing and optimizing how the mind

handles data. These materials, which are trademarked, patent pending, copyrighted and proprietary in nature, are collectively referred to herein as the “protected materials”.

19. The protected materials are used in Plaintiffs’ training programs and are essential to Plaintiffs’ business. Plaintiffs’ use of the protected materials allows Plaintiffs to implement a unique curriculum, which, absent the Defendants’ wrongful conduct, would be inaccessible to Plaintiffs’ competitors.

20. Plaintiffs have taken extensive steps to safeguard the protected materials, including placing the materials offsite, in a single computer, and limiting access to only three individuals within the Plaintiffs’ organizations. In addition, Plaintiffs have required all enrollees in their training programs to sign a Confidentiality Agreement and to refrain from any disclosure of Plaintiffs’ proprietary materials. Enrollees are reminded regularly, throughout the course of Plaintiffs’ training programs, that the instructional materials are leased to the clients for their personal use only, and that disclosure of those materials is not permitted.

B The Sutton Family Dispute; Defendants’ Wrongful Acquisition and Use of Plaintiffs’ Protected Materials

21. One of Plaintiffs’ clients, Mr. Michael Sutton, was at the time he first took one of Plaintiffs’ courses an executive of Lollytogs, Inc. (“Lollytogs”), a company that is primarily controlled by Michael Sutton’s father, Mr. Morris Sutton. In this regard, Lollytogs is a New York City based, closely-held company, which is a leader in the children’s apparel business, and its brands are distributed throughout the nation.

22. The Suttons are members of the orthodox Sephardic Jewish community in the greater New York area. Upon information and belief, Michael Sutton’s relationship with his parents was generally subservient in nature – and, as a result, he generally did what he was told to do both in terms of his personal life and his professional career.

23. Upon information and belief, Michael Sutton became unhappy with his career at

Lollytogs – a career that his father, Defendant Morris Sutton, chose for him when Michael was 23 years old. Upon information and belief, this unhappiness caused Michael a great deal of stress – and resulted in him seeking a variety of therapeutic modalities: e.g., acupuncture; kinesiology; etc.

24. Michael Sutton had, pursuant to a long-term relationship with a non-Jewish woman, fathered a daughter out of wedlock in or about April 1999. Although, upon information and belief, Michael Sutton lived with his daughter and her mother in Manhattan, he kept their existence a secret from his parents, who primarily resided in Elberon, New Jersey. Upon information and belief, Michael Sutton believed his parents, particularly Morris Sutton, would react negatively to the fact that Michael had a daughter with a woman who was not Sephardic – and whom he had not married. Thereafter, upon information and belief, when his daughter was about 6 months old, Michael Sutton disclosed to his parents their granddaughter's existence and his relationship with her mother. Upon further information and belief, Mr. and Mrs. Sutton reacted very negatively to this information, admonishing Michael that he could only have one family, and urging him to dissociate himself from his daughter and her mother. Michael Sutton advised his parents that he was unwilling to abandon his daughter and her mother.

25. In about the fall of 2000, at the recommendation of a family friend, Michael Sutton enrolled in one of Plaintiffs' courses with the hope of gaining some insights that might help him make decisions concerning his career and family dilemmas. Michael was impressed by Plaintiffs and their programs, took more courses, and eventually became one of Plaintiffs' coaches.

26. Because of his favorable reaction to Plaintiffs' training courses, Michael encouraged several of his Lollytogs co-workers to enroll in Plaintiffs' courses. In addition, Michael also encouraged several members of his family to take Plaintiffs' training courses.

Several family members actually took courses, including his mother, Defendant Rochelle Sutton; his sister, Leslie; and his brother-in-law, Aaron Kassin.

27. Subsequently, Michael Sutton decided to reduce his involvement in Lollytogs, and to spend more of his professional time working with Plaintiffs. Upon information and belief, Michael Sutton disclosed this intention to his parents, who tried, unsuccessfully, to dissuade him from this course of action. Michael's father, Defendant Morris Sutton, was particularly concerned about the negative effect that Michael's reduced involvement would have on Lollytogs's operations (Michael had been in charge of several corporate functions). In addition, Morris Sutton was also concerned about the fact that Michael was no longer following Morris's directions with respect to his personal life.

28. At or around this time Michael Sutton's half-sister, Defendant Stephanie Franco, signed up to take Plaintiffs' course. Upon information and belief, Defendant Stephanie Franco, who had no ownership interest in Lollytogs, conferred with Michael Sutton's parents – and they decided to get Michael to dissociate himself from Plaintiffs. Thereafter, Mr. and Mrs. Sutton hired Defendant Rick Ross to conduct an “intervention” concerning Michael's association with Plaintiffs. Michael first learned of this fact via a telephone call that he received while he was supposedly on a “family vacation” with his parents in Florida.

29. Beginning in or about November 2002, Defendant Ross, at the behest of Mr. and Mrs. Sutton, conducted several “interventions” with Michael Sutton. Upon information and belief, Ross met with Michael on three separate occasions, with the first such occasion taking place over the course of a “family vacation” in Florida. Michael Sutton did not know of Mr. Ross, or that an “intervention” was planned, prior to being introduced to Mr. Ross in Florida. Upon information and belief, Mr. and Mrs. Sutton were in attendance during the five-day “intervention” in Florida and during a subsequent one day “intervention” at their home in New

Jersey.

30. During the Florida and New Jersey meetings, Ross requested that Michael provide him with Plaintiffs' protected materials – and Michael informed Ross that the requested materials were confidential, and that he could not provide them to Ross. Mr. and Mrs. Sutton were present for these discussions, and were also aware of the confidential nature of Plaintiffs' protected materials.

31. Upon information and belief, Defendant Franco attended the New Jersey “intervention”– and attempted to persuade Michael Sutton to dissociate himself from Plaintiffs. At the time of this meeting, Ms. Franco was in possession of some of Plaintiffs' protected materials (Ms. Franco had signed a confidentiality agreement with Plaintiffs, which prohibited her from sharing or disclosing the protected materials to third parties). Defendant Franco had attended, as a client, the Plaintiffs' regular intensive course and obtained certain portions of Plaintiffs' protected materials. Subsequently, Defendant Franco was accepted into several increasing levels of Plaintiffs' coaching program to learn the Rational Inquiry™ method. This training is only available to individuals who have clearly represented their intent to become trainers exclusively for the Plaintiffs. At said trainings, Defendant Franco obtained additional portions of Plaintiffs' protected materials. These portions of the protected materials are not provided to Plaintiffs' clients as part of their regular courses, but only through Plaintiffs' coaching program.

32. Upon information and belief, Michael Sutton eventually told his father definitively that he would not dissociate from Plaintiffs and would continue with his plan to reduce his role at Lollytogs. Morris Sutton responded angrily – and subsequently indicated to Michael that he would do whatever was necessary to destroy Plaintiffs' business.

33. In furtherance of his employment by Mr. and Mrs. Sutton, Defendant Ross

obtained from Stephanie Franco a copy of all of the Plaintiffs' protected materials in her possession, in violation of Defendant Franco's confidentiality agreement with Plaintiffs. The Ross Defendants, Mr. and Mrs. Sutton and Franco all knew that Plaintiffs' materials were protected and subject to a confidentiality agreement.

34. Upon information and belief, Mr. and Mrs. Morris Sutton then directed their agents, the Ross Defendants, to engage in a series of activities, described below, to disparage and damage Plaintiffs' business. Mr. and Mrs. Sutton also hired Defendant Martin and non-party John Hochman to provide negative and damaging written analyses of Plaintiffs and Plaintiffs' training courses in furtherance of their intention to cause harm to Plaintiffs.

35. Despite knowing the protected and confidential nature of Plaintiffs' materials, the Ross Defendants, at the direction of the Suttons, provided all or some of these materials to Defendants Paul Martin, Ph.D. and Wellspring Retreat, Inc., as well as to non-party John Hochman, M.D. Upon information and belief, the Ross Defendants and Defendants Martin and Wellspring are collaborators in "deprogramming" and other "anti-cult" business and marketing activities. Upon information and belief, Defendant Martin and non-party Hochman were paid by the Suttons, through Ross, to use the protected materials and to write analyses of Plaintiffs' training programs concluding that Plaintiffs are a "cult" or are "cult-like".

36. Defendant Martin specifically authored two pieces, *A Critical Analysis of the Executive Success Programs, Inc.*, and *Robert Jay Lifton's Eight Criteria of Thought Reform as Applied to the Executive Success Programs* ("the Martin pieces"). These pieces quote extensively (although frequently out of context), and often verbatim, from portions of Plaintiffs' protected materials. Additionally, Defendant Martin's paid-for pieces make unsupported assertions and mischaracterize both the nature of Plaintiffs' materials and Plaintiffs' training programs, with the result that readers will be misled into believing that Plaintiffs and their

programs constitute a “cult.”

37. All of the Defendants knew that Plaintiffs’ materials contained protected trade secrets and were subject to a confidentiality agreement, and that acquisition or dissemination of these materials was wrongful.

38. Defendants Martin and Wellspring, despite their awareness of the protected nature of Plaintiffs’ materials and the harm that would be caused to Plaintiffs by dissemination of those materials, authorized the Ross Defendants to publish the Martin pieces on the Ross Defendants’ websites for dissemination throughout the world, including the geographical confines of the Northern District of New York.

39. Non-party John Hochman, M.D. authored a piece entitled, *A Forensic Psychiatrist Evaluates ESP* (“the Hochman piece”). The Hochman piece makes false statements and unsupported assertions. The result of this is that the Hochman piece mischaracterizes both the nature of Plaintiffs’ materials and Plaintiffs’ training programs, so that readers will be misled into believing that Plaintiffs and their programs constitute a “cult.”

40. The Ross Defendants, despite their awareness of the protected nature of Plaintiffs’ materials and the harm that would be caused to Plaintiffs by dissemination of those materials, nonetheless disseminated the Martin and Hochman pieces through their websites.

41. In disseminating the Martin and Hochman pieces, which contained some of Plaintiffs’ protected trade secrets as well as false statements regarding Plaintiffs’ programs, the Ross Defendants intended to obtain commercial gain through the use of Plaintiffs’ protected materials and disparagement of Plaintiffs and Plaintiffs’ programs and services. Upon information and belief, the Ross Defendants subsequently obtained such commercial gain by receiving payment from Defendant Morris Sutton and by attracting more potential buyers of the Ross Defendants’ merchandise or services to the Ross Defendants’ websites.

42. Upon information and belief, Defendants Martin and Wellspring obtained commercial gain by receiving payment from Defendant Morris Sutton, and by the advertising exposure gained by the publication of the Martin and Hochman pieces on the Ross Defendants' websites.

C. The Ross Defendants

43. Defendant Rick Ross markets himself as a known "cult expert", consultant and "deprogrammer," and appears to earn revenue primarily from conducting "cult" "deprogrammings" of individuals, often without such individuals' consent, and through sales of related products such as audio and video tapes.

44. Upon information and belief, Mr. Ross is a two-time convicted criminal—for conspiracy and conspiracy to commit grand theft.

45. The Ross Defendants operate several websites, including the two involved in the instant action: www.rickross.com and www.cultnews.com ("the websites" or "the sites"). The Defendants represent that their sites contain "a database of information about cults, destructive cults, controversial groups and movements." In actuality, however, the sites are a mere advertisement and marketing tool for the Ross Defendants and their services and products.

46. The websites boast of Defendant Ross's many interventions, including several "involuntary deprogrammings" conducted against individuals by Defendant Ross. Upon information and belief, one such "deprogramming" conducted by Ross resulted in a \$3.1 million verdict against Ross in the United States District Court for the Western District of Washington for conspiracy to violate the victim's rights, in which Ross was found to have engaged in such "atrocious and utterly intolerable" conduct that punitive damages of \$2,500,000 (included in the \$3.1 million verdict) were awarded against Ross. In an order denying a motion by Mr. Ross for a new trial or to amend the judgment, the Court held: "Mr. Ross' use of terminology cannot

avoid the uncontradicted evidence that he actively participated in the plan to abduct [the victim], restrain him with handcuffs and duct tape, and hold him involuntarily while demeaning his religious beliefs,” and noted that the award was appropriate given Mr. Ross’s “seeming incapability of appreciating the maliciousness” of his conduct, and that “Mr. Ross himself testified that he had acted similarly in the past and would continue to conduct ‘deprogrammings’ in the future.” Defendant Ross subsequently filed for bankruptcy.

47. The Ross Defendants have included Plaintiffs on a list of organizations contained on the websites, apparently created by Defendant Rick Ross, which designates the included organizations as “cults.” The sites contain sections including “Warning Signs,” and “Intervention,” which are designed to frighten family members and friends into seeking intervention and deprogramming services by Mr. Ross for any individual who is affiliated with one of the groups designated by Defendant Ross. Additionally, the sites operated by the Ross Defendants contain information that is either deliberately misleading or entirely false, including the juxtaposition of Plaintiffs’ legitimate business with known terrorist organizations such as Al Qaeda and the Ku Klux Klan.

48. The Ross Defendants have posted extensive material on the websites relating to Plaintiffs and their business. Although Plaintiffs have set forth only a sample of such content herein, some of the statements contained on Defendants’ websites include the following:

A. That Keith Raniere and the employees of NXIVM portray the “Rational Inquiry” method as a “sacred science”—one of the elements included in scientific definitions of a “cult.” *A Critical Analysis of the Executive Success Programs, Inc.*, Paul Martin, Ph.D., www.rickross.com (accessed December 20, 2004).

B. “The confidentiality issue seems to approach a gag order.” *A Critical Analysis of the Executive Success Programs, Inc.*, Paul Martin, Ph.D., www.rickross.com (accessed December 20, 2004).

C. As a characterization of Keith Raniere: “it is likely that he is a person with a serious mental problem and/or a con man with very grand and perhaps not so benevolent schemes.” *A Critical Analysis of the Executive Success Programs,*

Inc., Paul Martin, Ph.D., www.rickcross.com (accessed December 20, 2004).

D. That participants in Plaintiffs' seminars are isolated and cut off from friends and loved ones. *A Critical Analysis of the Executive Success Programs, Inc.*, Paul Martin, Ph.D., www.rickcross.com (accessed December 20, 2004).

E. That the following purported "eight criteria of thought reform" are applicable to Plaintiffs: "1. Milieu Control," "2. Mystical Manipulation," "3. Demand for Purity," "4. The Cult of Confession," "5. The 'Sacred Science,'" "6. Loading the Language," "7. Doctrine Over Person," and "8. Dispensing of Existence." *Robert Jay Lifton's eight criteria of thought reform as applied to the Executive Success Programs*, Paul Martin, Ph.D., www.rickcross.com (accessed December 20, 2004).

F. "[T]hat [Executive Success Programs] has characteristics that are consistent with the themes of thought reform [often called 'brainwashing'] . . .", and thus that the Executive Success Programs exhibit characteristics consistent with those of a "cult". *A Critical Analysis of the Executive Success Programs, Inc.*, Paul Martin, Ph.D., www.rickcross.com (accessed December 20, 2004).

G. "ESP Intensive participants are signing up for sixteen ten-hour days, which will either be experienced successively, or in five-day segments." *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

H. "Participants are told to promise not to tell non-participants of what they learn in the Intensive, as well as its methods... They will be unable to respond to routine questions they would be expected to receive, such as, 'What did you learn today?' or 'What's going on at the seminar you are attending?'" *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

I. "[O]ngoing participants are required to make a daily brief phone call to 'check-in' with a 'coach'." *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

J. Section heading: "Cult-Like Elements of the ESP Intensive." *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

K. "The group claims unprecedented results training over 400,000 individuals." *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

L. That "emotional appeals or other manipulation" occur to encourage participants in Plaintiffs' seminars to stay longer at the end of the day or to return for successive days of training. *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickcross.com (accessed December 20, 2004).

M. That Plaintiffs' program involves "a kingdom of sorts, ruled by a Vanguard, who writes his own dictionary of the English language, has his own moral code, and the ability to generate taxes on subjects by having them participate in his seminars. It is a kingdom with no physical borders, but with psychological borders - influencing how his subjects spend their time, socialize, and think. . . ." *A Forensic Psychiatrist Evaluates ESP*, John Hochman, M.D., www.rickross.com (accessed December 20, 2004).

N. That, following an earlier failed business enterprise, "Raniere was restricted from starting another multi-level operation for some years. . . ." *Human Potential Group in NY Draws Controversy*, Rick Ross, July 29, 2003, cultnews.com (accessed December 22, 2004).

O. That NXIVM is "a controversial organization called a 'cult'". Archives, September 18, 2003, posted by Rick Ross, www.cultnews.com (accessed December 30, 2004).

P. That "[Plaintiffs' program] is a 'cult' and Keith Raniere is taking advantage of people. . . ." Visitor Comments, www.rickross.com (accessed December 20, 2004).

49. All of the statements set forth above are demonstrably false and were disseminated and published by the Ross Defendants solely with the intent to disparage Plaintiffs' products and services and to convince readers that Plaintiffs' programs are "cult-like" and emotionally harmful to participants. The Ross Defendants engaged in, and continue to engage in, the foregoing conduct (i) in order to advertise, promote and market their "anti-cult" services and products in general, (ii) to sell services directly to Plaintiffs' clients or clients' families (which would correspondingly deprive Plaintiffs of business), and (iii) with the specific intention to malign and harm Plaintiffs.

D. Defendant Franco

50. Defendant Stephanie Franco (Michael Sutton's half-sister) completed and submitted an application for enrollment in Plaintiffs training program on or about May 5, 2001. Plaintiffs' enrollment application requires applicants to represent, *inter alia*, that they do not compete with Plaintiffs and that they will return all of Plaintiffs' materials upon leaving the

program. In order to induce Plaintiffs to accept her application for enrollment, Defendant Franco represented to Plaintiffs that she was not a competitor of Plaintiffs and that she would return Plaintiffs' protected materials upon leaving the program.

51. Four days prior to enrolling in Plaintiffs' training program, Defendant Stephanie Franco completed a five-day training course administered by Taibi Kahler Associates, Inc. ("Taibi Kahler"), a competitor of Plaintiffs. Following completion of the Taibi Kahler course, Defendant Franco received her master training certification, and was marketed as a certified trainer on Taibi Kahler's website. In her capacity as a Taibi Kahler trainer, Defendant Stephanie Franco is a competitor of Plaintiffs. Defendant Franco concealed her status as a Taibi Kahler trainer from Plaintiffs.

52. Further, upon information and belief, Ms. Franco is the sole officer and director for the Center for Personal Growth, Inc., a New Jersey for-profit corporation, which, upon information and belief, is also a competitor of Plaintiffs.

53. Defendant Stephanie Franco knowingly misrepresented the facts in enrolling in Plaintiffs' program by stating that she was not a competitor of Plaintiffs. In fact, Defendant Franco knew that she was a Taibi Kahler trainer and the owner of a business known as the Center for Personal Growth, Inc. and, thus, a competitor of Plaintiffs, at the time she submitted the application.

E. Plaintiffs' Damages

54. Prior to Defendants' wrongful conduct, Plaintiffs developed and maintained substantial goodwill and reputation in their name and business. To the best of Plaintiffs' knowledge, terms such as "cult" and "controversial group" were never associated with Plaintiffs prior to Defendants' wrongful conduct.

55. Defendants' wrongful conduct, as described in this Complaint, has caused

substantial damages, including harm to the reputation of Plaintiffs' services and to Plaintiffs' goodwill, reduced registration for Plaintiffs' programs, and expenses in time and money incurred to combat Defendants' false statements.

56. Specific examples of the harm caused to Plaintiffs by Defendants' conduct include:

A. A search under the internet search engine "Google," using name combinations such as "NXIVM" or "Executive Success" produces the websites of the Ross Defendants within the first page of the search results. Clients or potential clients of Plaintiffs, in order to determine that they are not on the NXIVM homepage, likely would have to access the articles on Defendants' websites. As a result, users seeking information on Plaintiffs or their products may be directed to articles on Defendants' websites, which (1) disclose portions of Plaintiffs' protected materials, which are trade secrets within Plaintiffs' industry; and (2) contain false and misleading information about Plaintiffs and their programs. Plaintiffs thus have suffered, and continue to suffer, extreme harm to their business reputation and the goodwill of their products.

B. Media sources have published articles containing derogatory information about Plaintiffs and their programs that is based on the information disseminated through the Ross Defendants' websites. For example, on August 18, 2003, MSNBC published a news story, which described Plaintiffs as "a controversial group" and criticized the decision of actress Goldie Hawn to speak at Plaintiffs' meeting. The MSNBC article specifically quoted Defendant Rick Ross, who falsely stated, "Ms. Hawn should understand that this group is trading on her name to promote its own agenda. . . ." Subsequently, on August 20, 2003, Ms. Hawn cancelled her speaking engagement out of fear of negative publicity on the Ross Defendants' websites. Additionally, on October 13, 2003, the cover story of *Forbes Magazine* featured Keith Raniere

and Plaintiffs' organization. The *Forbes* article also contained derogatory and disparaging information about Plaintiffs, some of it specifically quoted from information disseminated on the Ross Defendants' websites.

C. Defendants' conduct and the negative media publicity stemming from that conduct have caused harm to Plaintiffs' business reputation and the goodwill associated with Plaintiffs' programs. Numerous existing clients of Plaintiffs have dissociated themselves from Plaintiffs, and have stopped taking Plaintiffs' courses, as a result of Defendants' conduct, and out of a resulting fear of being associated with an organization that has been listed on the Ross Defendants' websites. A partial listing of these clients is annexed hereto as Exhibit "A" (filed herewith under seal).

D. Numerous prospective clients have cancelled enrollments or have decided not to enroll in Plaintiffs' courses as a result of Defendants' conduct, and out of a resulting fear of being associated with an organization that has been listed on the Ross Defendants' websites. These clients included several large scale corporate training accounts. A partial listing of these clients and prospective clients is annexed hereto as Exhibit "B" (filed herewith under seal).

E. Several professional firms have refused to provide services to Plaintiffs as a result of Defendants' conduct, and out of a resulting fear of being associated with an organization that has been listed on the Ross Defendants' websites. A listing of these firms is annexed hereto as Exhibit "C" (filed herewith under seal).

F. Plaintiffs' protected trade secrets have been disseminated through a medium that is accessible to Plaintiffs' competitors. As a result, Plaintiffs have suffered competitive harm in the professional development industry and, potentially, may be exposed to future misappropriation and misuse of their protected materials.

G. Plaintiffs have suffered, and continue to suffer, irreparable harm, and have

no adequate remedy at law.

**AS AND FOR A FIRST CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Misappropriation of Trade Secrets

(Against All Defendants)

57. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

58. Plaintiff First Principles, Inc. has developed comprehensive trademarked, copyrighted and proprietary written materials (“the protected materials”) which, at all times relevant, have been licensed to NXIVM. NXIVM, in turn, has designed its training programs around those protected materials.

59. The protected materials are used in Plaintiffs’ training programs and are essential to Plaintiffs’ business. Plaintiffs’ use of the protected materials allows Plaintiffs to implement a unique curriculum, to which none of Plaintiffs’ competitors should have access. Plaintiffs have taken extensive steps to protect the secrecy of these materials, including placing the material offsite, in a single computer, and limiting access to only three individuals within the organization. Additionally, Plaintiffs have required all enrollees in their training programs to sign a Confidentiality Agreement and refrain from any disclosure of Plaintiffs’ proprietary materials.

60. Plaintiffs’ protected materials constitute trade secrets, which Plaintiffs have taken reasonable and necessary measures to protect, and which are essential to Plaintiffs’ business and provide Plaintiffs an advantage over competitors who do not know or use the trade secrets.

61. The Suttons, the Ross Defendants, Franco, Martin and Wellspring knew that

Plaintiffs' training materials contained protected trade secrets and were subject to a confidentiality agreement, and that acquisition or dissemination of these materials was wrongful.

62. Defendant Stephanie Franco wrongfully retained copies of Plaintiffs' protected materials after the conclusion of several of Plaintiffs' courses and programs. Despite knowing that disclosure of the materials was prohibited by the confidentiality agreement, Defendant Franco wrongfully provided copies of Plaintiffs' protected materials to the Ross Defendants.

63. Although the Ross Defendants knew that the Confidentiality Agreement prohibited disclosure of Plaintiffs' protected materials, the Ross Defendants nonetheless sought Defendant Franco's assistance to obtain Plaintiffs' protected trade secrets. As a result of their agreement with Stephanie Franco, the Ross Defendants wrongfully obtained copies of Plaintiffs' protected materials.

64. Although the Ross Defendants knew that Plaintiffs' materials were protected and that Franco's disclosure of Plaintiffs' protected materials was wrongful, they nonetheless used and disclosed Plaintiffs' protected materials by forwarding a copy of the protected materials to Defendant Paul Martin, Ph.D. and Defendant Wellspring.

65. Despite the knowledge of Defendants Wellspring and Martin that Plaintiffs' course materials consisted of trade secrets and were subject to a confidentiality agreement, Defendant Martin used and relied on Plaintiffs' protected trade secrets in authoring two pieces. Martin's pieces quote extensively (although frequently out of context), and often verbatim, from portions of Plaintiffs' protected materials. Subsequently, Defendants Martin and Wellspring authorized the Ross Defendants to publish the Martin pieces, which contained Plaintiffs' protected trade secrets, on the Ross Defendants' websites.

66. Finally, despite their awareness of the protected nature of Plaintiffs' materials and the harm that would be caused to Plaintiffs by dissemination of those materials, the Ross

Defendants nonetheless disseminated the Martin pieces through their websites.

67. Mr. and Mrs. Sutton are liable for the Ross Defendants', Martin's and Wellspring's misappropriation of plaintiffs' protected materials, both vicariously and because those parties were acting as the Suttons' agents at the time of their misconduct.

68. Plaintiffs have suffered and continue to suffer damage as a result of the Defendants' wrongful use and disclosure, including but not limited to the damages suffered as a result of the dissemination of their protected materials through a medium that is accessible to Plaintiffs' competitors. Plaintiffs will suffer irreparable harm if such improper dissemination of its protected materials is not halted.

**AS AND FOR A SECOND CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Product Disparagement

**(Against Defendants Morris and Rochelle Sutton, Rick Ross, The Ross Institute,
Paul Martin, Ph.D. and Wellspring Retreat, Inc.)**

69. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

70. As detailed above, Defendants Rick Ross and The Ross Institute disseminated, through the use of their websites, false statements about the nature, characteristics and quality of Plaintiffs' products and services. With respect to specific examples of such statements, Plaintiffs incorporate Paragraph 48 of the within complaint by reference, as if fully restated herein. These publications relating to Plaintiffs' programs are not susceptible to any meaning other than one that is disparaging.

71. Defendants' representations were broadly disseminated to thousands of third parties through Defendants' websites.

72. As detailed above, many statements disseminated through the Ross Defendants' websites are assertions of fact, or claimed "expert" opinions, purported to be based on fact, which are demonstrably false. Plaintiffs' programs in fact do not employ any brainwashing or mind control methods.

73. Upon information and belief, these false statements were disseminated by the Ross Defendants with the intent to disparage Plaintiffs' products and services and to prevent potential clients from participating in Plaintiffs' programs. At the time of publication of the false statements, the Ross Defendants knew that the statements were false, or acted with reckless disregard as to whether or not the statements were false. Further, upon information and belief, the Ross Defendants disseminated and published the false statements described herein with the specific intention to malign and harm Plaintiffs.

74. Defendants Martin and Wellspring authorized the Ross Defendants to publish the Martin pieces, which contained false and/or misleading statements regarding Plaintiffs' products and services, on the Ross Defendants' websites for dissemination to third parties. At the time Defendants Martin and Wellspring authorized the publication of the Martin pieces, they knew that the statements contained in the Martin pieces were false, or acted with reckless disregard as to whether or not the statements were false.

75. The derogatory statements made by these Defendants are not protected by any absolute or qualified privilege.

76. As a result of these Defendants' improper conduct, Plaintiffs have sustained and continue to sustain significant damages. These damages specifically include, but are not limited to, those set forth in Paragraph 56, and Exhibits A-C.

77. Upon information and belief, the Ross Defendants, Martin and Wellspring were employed by Mr. and Mrs. Sutton to engage in the conduct described herein. The Suttons are

therefore liable for the Ross Defendants', Martin's and Wellspring's conduct, both vicariously and because said Defendants were acting as their agents.

**AS AND FOR A THIRD CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Breach of Contract

(Against Defendant Stephanie Franco)

78. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

79. Prior to participation in Plaintiffs' 2001 training course, and for good consideration, Defendant Franco entered into a confidentiality agreement with Plaintiffs, which prohibited disclosure or dissemination of Plaintiffs' protected materials.

80. At all times relevant to this Complaint, the confidentiality agreement between Defendant Franco and Plaintiffs was a legal and binding agreement.

81. Plaintiffs performed their obligations pursuant to the confidentiality agreement by permitting Defendant Franco to participate in their 2001 training program, and by permitting Defendant Franco access to Plaintiffs' protected materials.

82. Defendant Stephanie Franco breached the Confidentiality Agreement by providing, or by causing her half-brother, Jeffrey Sutton, to provide, a copy of Plaintiffs' protected materials to Defendant Rick Ross, in violation of the confidentiality agreement.

83. As a result of Defendant Franco's wrongful breach, Plaintiffs have suffered substantial damages as set forth herein, including damages arising from the dissemination of their protected materials to competitors and third parties.

**AS AND FOR A FOURTH CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Interference with Contractual Relations

(Against Defendants Morris and Rochelle Sutton, Rick Ross and The Ross Institute)

84. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

85. At all times relevant to this Complaint, the confidentiality agreement between Defendant Franco and Plaintiffs was a legal and binding agreement.

86. Defendants Morris and Rochelle Sutton, Rick Ross and The Ross Institute knew of the existence of a valid confidentiality agreement between Defendant Franco and Plaintiffs.

87. Notwithstanding the Ross Defendants' knowledge of Defendant Franco's confidentiality agreement, the Ross Defendants took numerous actions with the intent to influence or induce Defendant Franco to breach the confidentiality agreement.

88. The Ross Defendants' conduct was wrongful and without reasonable justification or excuse.

89. As a result of the Ross Defendants' wrongful conduct, Defendant Franco breached the confidentiality agreement by disclosing Plaintiffs' protected materials to the Ross Defendants.

90. The Ross Defendants engaged in the foregoing conduct with respect to inducing Defendant Franco to breach the confidentiality agreement in furtherance of, and within the scope of, their employment by the Suttons.

91. As a result of the Ross Defendants' wrongful conduct, Plaintiffs have suffered substantial contract damages as set forth herein, including damages arising from the dissemination of their protected materials to competitors and third parties.

92. The Suttons are therefore liable for the Ross Defendants' conduct, both

vicariously and because the Ross Defendants were acting as their agents.

**AS AND FOR A FIFTH CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Interference with Contractual Relations

**(Against Defendants Rick Ross, The Ross Institute,
Morris Sutton and Rochelle Sutton)**

93. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

94. Plaintiffs have valid contracts and ongoing business relationships with clients worldwide. These relationships have substantial economic value to Plaintiffs.

95. Upon information and belief, the Ross Defendants have actual or constructive knowledge of the existence of Plaintiffs' business relationships.

96. Notwithstanding such notice and/or knowledge, the Ross Defendants have disseminated disparaging statements concerning Plaintiffs on their websites, for the purposes of influencing or inducing clients to breach their contracts with Plaintiffs and/or cease their business relationships with Plaintiffs.

97. The Ross Defendants, in disseminating disparaging information concerning Plaintiffs, intended that Plaintiffs' clients breach their contracts with Plaintiffs and/or cease their business relationships with Plaintiffs. At the time of the Ross Defendants' wrongful conduct, the Ross Defendants knew that their conduct was certain or substantially certain to cause injury to Plaintiffs.

98. The Ross Defendants' conduct was wrongful and without reasonable justification or excuse.

99. As a direct result of the Ross Defendants' interference with Plaintiffs' contracts and business relationships, Plaintiffs have lost numerous existing clients, including but not

limited to those set forth in Exhibit "A" hereto.

100. The Suttons are therefore liable for the Ross Defendants' conduct, both vicariously and because said Defendants were acting as their agents.

**AS AND FOR A SIXTH CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Interference with Prospective Contractual Relations

**(Against Defendants Rick Ross, The Ross Institute,
Morris Sutton and Rochelle Sutton)**

101. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

102. Plaintiffs have reasonable expectations of future business relationships with prospective individual and business clients worldwide, which prospective relations have economic value.

103. Upon information and belief, the Ross Defendants have actual or constructive knowledge of Plaintiffs' expectation of these prospective business relationships.

104. Notwithstanding such notice and/or knowledge, the Ross Defendants have disseminated disparaging statements concerning Plaintiffs on their websites, for the purposes of influencing or inducing potential clients to refuse to enter into contracts with Plaintiffs, and, thus, to cause economic harm to Plaintiffs. At the time of the Ross Defendants' wrongful conduct, the Ross Defendants knew that their conduct was certain or substantially certain to cause injury to Plaintiffs.

105. The Ross Defendants' interference with Plaintiffs' prospective contractual relations was undertaken through the dissemination of false and misleading statements. The Ross Defendants' conduct was wrongful and without reasonable justification or excuse.

106. As a direct result of the Ross Defendants' interference with Plaintiffs' prospective

business relationships, numerous potential clients, including but not limited to those set forth in Exhibit “B” hereto, have refused to enter into business relationships with Plaintiffs. Absent the Ross Defendants’ wrongful conduct, Plaintiffs would have entered into potentially advantageous contractual relationships with many of these potential clients. Plaintiffs have suffered substantial economic loss due to the failure to enter into contractual relationships with these prospective clients.

107. The Suttons are therefore liable for the Ross Defendants’ conduct, both vicariously and because said Defendants were acting as their agents.

**AS AND FOR A SEVENTH CAUSE OF ACTION, PLAINTIFFS
STATE AND ALLEGE THE FOLLOWING:**

Copyright Infringement

**(Against Defendants Rick Ross, The Ross Institute,
Paul Martin, Ph.D., Wellspring Retreat, Inc.,
Morris Sutton and Rochelle Sutton)**

108. Plaintiffs repeat, re-allege and incorporate each of the foregoing allegations, as if set forth in full herein.

109. Plaintiffs have obtained numerous copyrights on portions of their protected materials, including but not limited to: (1) *12-Point Mission Statement*, Registration No. TXu1-111-082, registered on August 11, 2003; (2) *Face of the Universe*, Registration No. TXu1-111-081, registered on August 11, 2003; (3) *Rules and Rituals*, Registration No. TXu1-111-080, registered on August 11, 2003; (4) *Tribute*, Registration No. TXu1-111-083, registered on August 11, 2003; and (5) *Work and Value*, filed on August 1, 2003 (registration status unknown). Plaintiffs’ materials contain copyright notification pre-printed on all pages.

110. Defendants Martin and Wellspring knew that individual copyrights had been granted to these portions of Plaintiffs’ materials and that they had previously been unpublished.

In spite of this, Defendants wrongly copied entire portions of Plaintiffs' copyrights works verbatim, and authorized the Ross Defendants to post said portions on their websites, all in violation of 17 U.S.C. § 101, *et seq.* and Plaintiffs' exclusive rights to use and disseminate their copyrighted works.

111. The Ross Defendants knew of the individual copyrights granted to these works and that they were previously unpublished. In spite of this, the Ross Defendants wrongly posted the Martin and Hochman pieces, which contained substantial portions of Plaintiffs' protected materials, on their websites, all in violation of 17 U.S.C. § 101, *et seq.* and Plaintiffs' exclusive rights to use and disseminate their copyrighted works.

112. The Defendants posted substantially similar portions of Plaintiffs' individually copyrighted works. Since potential clients may access Plaintiffs' copyrighted materials through the Ross Defendants' websites, these clients may no longer desire to attend Plaintiffs' training courses. Further, Plaintiffs' competitors also now have free access to Plaintiffs' copyrighted works through the Ross Defendants' websites, notwithstanding that Plaintiffs intended to maintain the confidentiality of these materials from competitors.

113. The Defendants copied and posted Plaintiffs' copyrighted materials (i) in order to advertise, promote and market their "anti-cult" services and products in general, (ii) to sell services directly to Plaintiffs' clients or clients' families (which would correspondingly deprive Plaintiffs of business), and (iii) with the specific intention to malign and harm Plaintiffs. The Defendants' posting of Plaintiffs' protected proprietary copyrighted materials on their website is without any justification, including any legitimate criticism of Plaintiffs' work or business. Accordingly, the Defendants' conduct cannot be protected by the fair use exception of 17 U.S.C. § 107.

114. If the Defendants' conduct is not immediately halted, Plaintiffs will suffer

irreparable harm, including but not limited to (1) a reduction in demand for Plaintiffs' copyrighted materials and Plaintiffs' services; and (2) potential further misappropriation and misuse of Plaintiffs' copyrighted materials, due to the widespread availability of those materials through the internet.

115. The Suttons are liable for the Ross Defendants' conduct, both vicariously and because these Defendants were acting as their agents.

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A permanent injunction directing that the Ross Defendants (1) immediately remove from their websites, www.rickcross.com and www.cultnews.com, and from any other website with which they have association, any proprietary information belonging to Plaintiffs; and (2) deliver the original and any and all copies of Plaintiffs' proprietary materials in the possession of Defendants immediately to Plaintiffs' counsel, and to deliver any notes, writings or other documents pertaining to the materials in the possession of Defendants to Plaintiffs' counsel; and
2. A permanent injunction directing that the Ross Defendants immediately remove from their websites, www.rickcross.com and www.cultnews.com, and from any other website with which they have association, any statement regarding Plaintiffs, Plaintiffs' business, Plaintiffs' employees, Plaintiffs' products, services or instructional courses, which statement is false or materially misleading; and
3. A permanent injunction restraining the Defendants, and any person in concert or participation with them or acting at their direction and control, from publishing, disseminating, distributing, issuing or in any other manner publicizing any statement regarding Plaintiffs, Plaintiffs' business, Plaintiffs' employees, Plaintiffs' products, services, or instructional courses, which statement is false or materially misleading, if a Defendant knows at the time of publication that any such statement is false or materially misleading, or acts with reckless disregard as to whether any such statement is false or materially misleading; and
4. A permanent injunction restraining the Defendants, and any person in concert or participation with them or acting at their direction and control, from tortiously interfering with Plaintiffs' contractual relations or prospective contractual relations.
5. A permanent injunction order requiring Defendants to (a) immediately recall from any and all of their customers, contacts, site viewers, and any other entity or individual any infringing copies, including all derivative works of Plaintiffs' copyrights, including but not limited to Plaintiffs' copyrighted materials which is the subject of this Complaint (or any version or portion thereof); (b) remove the order form, download links, and any other infringing materials from public display;

(c) immediately stop distributing, copying or printing, in any manner or form, copyrights of Plaintiffs including but not limited to Plaintiffs' copyrighted materials which is the subject of this Complaint (or any version or portion thereof); and (d) deliver the original and any and all copies of Plaintiffs' copyrighted materials in the possession of Defendants immediately to Plaintiffs' counsel, and to deliver any notes, writings or other documents pertaining to the materials in the possession of Defendants to Plaintiffs' counsel; and

6. A permanent injunction restraining the Defendants, and any person in concert or participation with them or acting at their direction and control, from directly or indirectly infringing any of Plaintiffs' copyrights, in any manner, including without limitation printing, creating electronic versions of, posting copies on the internet, otherwise reproducing, creating derivative works (including translations), displaying, manufacturing, printing, reprinting, publishing, vending, taking orders, distributing, gifting, transferring, selling, licensing, promoting, advertising, or otherwise exploiting any infringing copies of Plaintiffs, including but not limited to Plaintiffs' copyrighted materials which are the subject of this Complaint (or any version or portion thereof), or by causing or participating in any such acts.

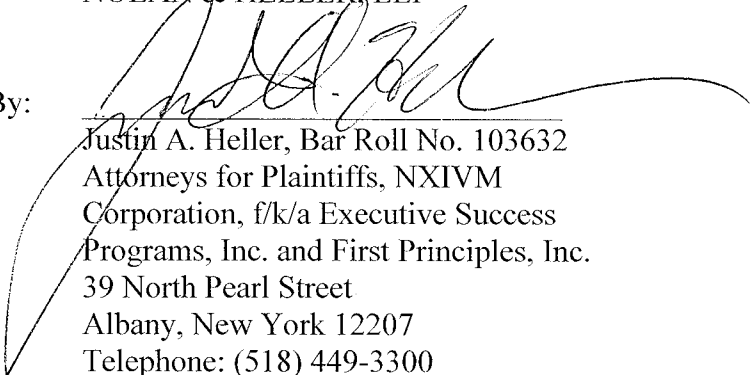
Additionally, Plaintiffs respectfully requests judgment against the Defendants as follows:

1. Compensatory damages in such amount as may be determined by the Court based upon the evidence, but in an amount greater than \$75,000;
2. Punitive damages in the sum of \$20,000,000.00; and
3. Such other and further relief as this Court deems just, proper and equitable. Plaintiffs hereby demand a jury trial with respect to both liability and damages.

Dated: Albany, New York
April 19, 2005

NOLAN & HELLER, LLP

By:


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