

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NIAGARA

COMPLAINT



136445

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30 Pages

Wayne F. Jagow, Niagara County Clerk

Clerk: AS

NXIVM CORPORATION, a New York corporation,

Plaintiff,

-against-

METROLAND MAGAZINE, INC,

Defendant.

Index No. 136445

COMPLAINT

Plaintiff NXIVM CORPORATION ("NXIVM"), by its attorneys Bartolomei & Associates, for its Complaint against METROLAND MAGAZINE, INC. ("METROLAND"), alleges, on personal knowledge as to its actions and upon information and belief as to the actions of others, as follows:

1. NXIVM is, and at all times herein mentioned, was a New York corporation with a principal place of business at 345 Buffalo Avenue, Niagara Falls, New York 14303.
2. METROLAND MAGAZINE, INC. is a New York corporation with its principal place of business at 419 Madison Avenue, Albany, NY 12210.
3. On information and belief, Rick Ross a/k/a "Ricky" Ross, d/b/a Ross Institute or Rick A. Ross Institute of New Jersey ("ROSS") is an individual who resides in New Jersey and does business at 123 Town Square Place, No. 323, Jersey City, New Jersey 07310-1756.
4. On information and belief, Morris Sutton and Rochelle Sutton ("SUTTONS"), are individuals who maintain a residence in New York, New York.

**FACTUAL ALLEGATIONS**

5. NXIVM's principal business is conducting training, coaching and ethics programs designed primarily for leaders, teachers, executives, organization heads, concerned citizens, decision makers and others who value ethical, humanitarian performance. NXIVM also has local, national and international active community building programs; NXIVM is in over 32 countries. NXIVM studies the dynamics of human performance and seeks to help its clients achieve their personal, team and group potentials. Using a proven format modeled after the

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efficiency of martial arts programs, with mentors, coaches, and ranks, NXIVM uses an ethics based, humanitarian approach. NXIVM's programs provide hands-on, person-to-person practice in areas such as situational ethics, human performance, logical analysis and problem-solving. All materials are based on the confidential, patent pending, Rational Inquiry system developed by Keith Raniere.

6. On information and belief, ROSS is an individual with no formal education beyond high school whose principal business is to promote himself through his websites, [www.rickross.com](http://www.rickross.com) and [www.cultnews.com](http://www.cultnews.com). His website reports that he is an internationally known expert regarding destructive cults, controversial groups and movements, and that since 1982 he has been studying, researching and responding to the problems often posed by such groups or movements.

7. On information and belief, the SUTTONS are members of the orthodox Sephardic Jewish Community, or Syrian Jews (known as the SY's), in the greater New York area.

8. The SUTTONS' son, Michael Sutton, began taking NXIVM's course in the fall of 2000. He began taking the course when he had concerns about the direction his life was taking and the role he played in the wide-flung Lollytogs business empire, an empire of global proportions owned by his family. Michael Sutton found personal success in the NXIVM course and recommended the course to other family members. He was able to resolve personal conflict related to his daughter (see Exhibit D).

9. The NXIVM coursework caused Michael Sutton to reevaluate his role with the Lollytogs family empire. Michael Sutton decided to reduce the time spent working with the SUTTONS family businesses.

10. The SUTTONS contacted ROSS in 2002, known then to be a counter-cult deprogrammer. On information and belief, a \$3.1 million judgment was awarded against ROSS in the United States District Court for the Western District of Washington for kidnapping one of his "clients." ROSS subsequently filed for bankruptcy. At significant expense, the SUTTONS hired ROSS and created situations which would bring Michael Sutton into contact with ROSS where ROSS could attempt to use means to persuade Michael Sutton to leave NXIVM. Two of

the Ross meetings with Michael Sutton happened at the Lollytogs corporate offices in NY.

11. After the SUTTONS became involved with ROSS, ROSS devoted much attention to NXIVM, previously unknown to ROSS, on ROSS's websites. On information and belief, the SUTTONS, after ROSS' unsuccessful attempts to intervene with Michael Sutton, fueled with money and information provided assistance to ROSS to further his attack upon NXIVM.

12. On March 6, 2008, ROSS published on his website the article attached hereto as Exhibit A, which is maintained at <http://www.cultnews.com/?p=2291>.

13. In this Exhibit A article, ROSS brought attention to the activities of an a capella competition for college students which NXIVM had organized and was presenting in Albany, New York.

14. Exhibit A contained a number of false statements, published to the world and potential clients of NXIVM, and which were published with ROSS's knowledge that the statements were false.

15. Exhibit A stated: "Some NXIVM program participants have sought psychiatric treatment subsequent to attending the group's intensives, one participant was hospitalized and another committed suicide." The phrase "committed suicide" was a link to an article published by ROSS on his website, reproduced hereto as Exhibit B, at <http://www.rickross.com/reference/esp/esp40.html>. Exhibit B had been published by the Albany Times Union on February 1, 2004.

16. The plain implications of Exhibit A are that the NXIVM course leads to psychological stress and, in one case, a suicide.

17. The linked Exhibit B article, however, contains statements, on information and belief, which ROSS knows to be false, and false when Exhibit A republished Exhibit B. Critical to the article's theme is the link between NXIVM and an actual reported suicide, Kristin Marie Synder.

18. The linked Exhibit B article accurately reports that Synder's body was never found when she disappeared in Alaska on February 7, 2003.

19. The linked Exhibit B article, however, falsely states that Snyder left behind a

suicide note in her recovered vehicle which said: "I attended a course called Executive Success Programs (a.k.a. Nexivm) based out of Anchorage, AK, and Albany, NY [and] I was brainwashed and my emotional center of the brain was killed/turned off. I still have feeling in my external skin, but my internal organs are rotting. Please contact my parents . . . if you find me or this note. I am sorry life, I didn't know. I was already dead. May we persist into the future."

20. In truth of fact, that note was not found in the vehicle. According to the official police report, a different note was left behind in the vehicle, and said note made no mention of NXIVM or Executive Success Programs. Moreover, on February 7, 2003, the name "NXIVM" or "Nexivm" (*sic*) had not been used as a trade name. The corporation that later became NXIVM Corporation, was incorporated in Delaware in 1998 as "Executive Success Programs, Inc." and later was renamed NXIVM Corporation. But, prior to the February 7, 2003, the corporation did not do business as NXIVM. The Plaintiff, NXIVM Corporation (a New York Corporation) was organized on February 13, 2004 (also after February 7, 2003).

21. On information and belief, when Exhibit B was published in 2004, ROSS knew that the reported suicide note was a fake and that the statement that such note naming "NEXIVM" was found was patently false.

22. The remainder of Exhibit A contains a number of falsely pernicious statements (and, on information and belief, known by ROSS to be false when published and republished) calculated to convey the impression that NXIVM was a manipulative cult seeking to recruit college students into some sort of psychological suicide pact.

23. Exhibit A contains words attempting to make that connection: [1] "college students, a traditional target for groups called 'cults'", [2] college students are the "latest focus for NXIVM," [3] "a suspicious and much older a capella group [was created and hosted by] Keith Raniere," [4] "Edgar Bronfman Sr. once told Forbes Magazine that his daughter was involved in a 'cult,'" [5] Raniere "runs a cult-like program aimed at breaking down his subjects psychologically, separating them from their families and inducting them into a bizarre world of messianic pretension, idiosyncratic language and ritualistic practices," and a "ploy to lure college

students into NXIVM.”

24. Item 5 in the previous paragraph was a patently false statements republished from an October 13, 2003 Forbes article, republished at a ROSS website, <http://www.rickross.com/reference/esp/esp31.html>. But, the false statement in the Forbes article was directly the result of information fed to Forbes by ROSS after he had come into the SUTTONS’ money.

25. ROSS uses the Ross Website, illegally, under the guise of being a non-profit educational charity, to operate a personal for profit business with its income and assets inuring only to his benefit.

26. Excerpts from the web postings written by Rick Ross as Director of the Ross Institute are published on the Ross Institute website (“RI website”).

27. The RI website is the sole means of advertising by Rick Ross for his personal, professional, non-charitable, for-profit commercial services.

28. Rick Ross’ personal for-profit services are advertised throughout the RI website.

29. In certain sections the advertisements for Rick Ross’ personal service are very misleading. The average consumer is led to believe money is going to Ross Institute when it really goes to Rick Ross.

30. “Go Daddy” domain name registration search service profile shows that “rickross.com”, the web domain of the Ross Institute, is owned by Mr. Ross personally and not the charity.

31. On March 13, 2008, Metroland Magazine, Inc. published the article at Exhibit C hereto. It is still being published at [http://www.metroland.net/back\\_issues/vol31\\_no11/newsfront.html](http://www.metroland.net/back_issues/vol31_no11/newsfront.html). It contains a quote from Rick Ross, which says: “Raniere, according to Ross, is not allowed, by law, to be involved in a discount buyer’s club, due to the collapse of CBI.”

32. At no time was Raniere barred by law from being involved in a discount buyer’s club. Exhibit B’s claim to the contrary is false, and was published to put NXIVM in a bad and false light. On information and belief, METROLAND knew this claim to be false, or were

grossly reckless in making the claim. Indeed, Raniere's prior discount buyer's club was never adjudicated in any judicial or administrative action to have been contrary to law, and Raniere has never been the subject of a judicial or administrative order affecting his ability to organize and run a discount buyer's club or any business remotely like it.

**FIRST CAUSE OF ACTION: PRODUCT DISPARAGEMENT**

33. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-32, inclusive, as though they were fully here set forth.

34. As a result of the publication of Exhibit C by METROLAND, NXIVM has experienced a drop-off of business and loss of profits. NXIVM does no advertising, relying upon word of mouth. A survey of clients and potential clients of NXIVM has confirmed that the drop-off of business is due in part to the publication of Exhibit C.

35. As a result of the publication of Exhibit C, NXIVM has been damaged in at least the sum of \$5,000,000 with interest and such damage continues to accrue.

**SECOND CAUSE OF ACTION: PRODUCT DISPARAGEMENT: PUNITIVE DAMAGES**

36. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-35, inclusive, as though they were fully here set forth.

37. METROLAND committed such acts and engaged in such conduct with malice recklessly and/or with intent to harm the Plaintiff in its business reputation and its business advantage.

38. Therefore, Plaintiff is entitled to punitive damages from METROLAND in the amount of \$10,000,000.

**THIRD CAUSE OF ACTION: PRIMA FACIA TORT**

39. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-38, inclusive, as though they were fully here set forth.

40. The above conduct and acts constitute a prima facie tort.

41. As a result of such prima facie tort, Plaintiff has been damaged through the loss of business and profit in the amount of at least \$5,000,000.

**FOURTH CAUSE OF ACTION: INJUNCTION**

42. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-41, inclusive, as though they were fully here set forth.

43. If METROLAND is not enjoined from publishing and/or republishing such false, disparaging and defamatory statements, Plaintiff will incur additional damages beyond those already suffered and the continued accrual of damages will escalate dimensionally.

44. Therefore, METROLAND must be enjoined from any and all such publication and/or republication.

**FIFTH CAUSE OF ACTION: DEFAMATION**

45. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-44, inclusive, as though they were fully here set forth.

46. The making of the false statements constitutes defamation.

47. As a result of the Defendants' defamation of the Plaintiff, the Plaintiff has suffered a loss of business and profit and has been damaged at least in the amount of \$5,000,000.

**SIXTH CAUSE OF ACTION: DEFAMATION: PUNITIVE DAMAGES**

48. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-47, inclusive, as though they were fully here set forth.

49. METROLAND committed such acts and engaged in such conduct with malice recklessly and/or with intent to harm the Plaintiff in its business reputation and its business advantage.

50. Therefore, Plaintiff is entitled to punitive damages from METROLAND in the amount of \$10,000,000.

**SEVENTH CAUSE OF ACTION: TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE**

51. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-50, inclusive, as though they were fully here set forth.

52. METROLAND's objective in publishing Exhibit C was to deter potential clients away from NXIVM's programs. It has been successful.

53. As a result of Exhibit C, NXIVM has been damaged in at least the sum of \$5,000,000, with interest that continues to accrue.

**EIGHTH CAUSE OF ACTION: TORTIOUS INTERFERENCE WITH  
PROSPECTIVE BUSINESS ADVANTAGE: PUNITIVE DAMAGES**

54. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-53, inclusive, as though they were fully here set forth.

55. METROLAND committed such acts and engaged in such conduct with malice recklessly and/or with intent to harm the Plaintiff in its business reputation and its business advantage.

56. Therefore, Plaintiff is entitled to punitive damages from METROLAND in the amount of \$10,000,000.

**NINTH CAUSE OF ACTION: CONSPIRACY WITH ROSS AND SUTTONS TO  
COMMIT PRODUCT DISPARAGEMENT, PRIMA FACIA TORT, DEFAMATION,  
AND TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS  
ADVANTAGE**

57. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-56, inclusive, as though they were fully here set forth.

58. On March 13, 2008, Metroland Magazine, Inc. published the article at Exhibit C hereto. It is still being published at [http://www.metroland.net/back\\_issues/vol31\\_no11/newsfront.html](http://www.metroland.net/back_issues/vol31_no11/newsfront.html). It contains a quote from Rick Ross, which says: "Raniere, according to Ross, is not allowed, by law, to be involved in a discount buyer's club, due to the collapse of CBI."

59. METROLAND conspired with ROSS and SUTTONS to republish the same false information and as a result, further disparaged Plaintiff's products and further tortiously interfered with Plaintiffs business advantage and further defamed Plaintiff. As a result of such conspiracy, Plaintiff lost business and profit in an amount of at least \$5,000,000.

**TENTH CAUSE OF ACTION: CONSPIRACY WITH ROSS AND SUTTONS TO  
COMMIT PRODUCT DISPARAGEMENT, PRIMA FACIA TORT, DEFAMATION,**

**AND TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS**

**ADVANTAGE: PUNITIVE DAMAGES**

60. NXIVM realleges and incorporates by reference all of the allegations contained in Paragraphs 1-59, inclusive, as though they were fully here set forth.

61. METROLAND committed such acts and engaged in such conduct with malice recklessly and/or with intent to harm the Plaintiff in its business reputation and its business advantage.

62. Therefore, Plaintiff is entitled to punitive damages from METROLAND in the amount of \$10,000,000.

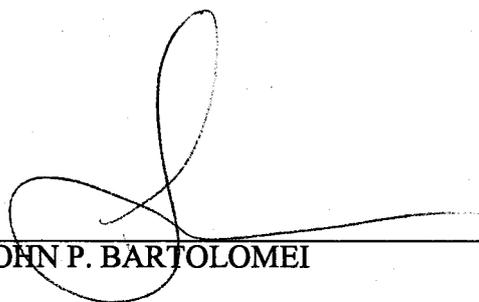
**PRAYER FOR RELIEF**

WHEREFORE, NXIVM prays for judgment as follows:

1. For our First Cause of Action money damages in the amount of at least \$5,000,000;
2. For our Second Cause of Action money damages in the amount of at least \$10,000,000;
3. For our Third Cause of Action money damages in the amount of at least \$5,000,000;
4. For our Fourth Cause of Action order enjoining METROLAND from any and all such publication;
5. For our Fifth Cause of Action money damages in the amount of at least \$5,000,000;
6. For our Sixth Cause of Action money damages in the amount of at least \$10,000,000;
7. For our Seventh Cause of Action money damages in the amount of at least \$5,000,000 with interest;
8. For our Eighth Cause of Action money damages in the amount of at least \$10,000,000 with interest;

9. For our Ninth Cause of Action money damages in the amount of at least 5,000,000 with interest;
10. For our Tenth Cause of Action money damages in the amount of at least \$10,000,000;
11. And for such other and further relief as the Court may deem just and proper along with the costs and disbursements and attorneys fees for the action.

Dated: March 12, 2009  
Niagara Falls, New York



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JOHN P. BARTOLOMEI

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