

1 KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
 Michael J. Kump (SBN 100983)
 2 mkump@kwikalaw.com
 Jonathan P. Steinsapir (SBN 226281)
 3 jsteinsapir@kwikalaw.com
 Nicholas C. Soltman (SBN 277418)
 4 nsoltman@kwikalaw.com
 808 Wilshire Boulevard, 3rd Floor
 5 Santa Monica, California 90401
 Telephone: 310.566.9800
 6 Facsimile: 310.566.9850

7 Attorneys for Plaintiffs Kim Kardashian
 West and Kimsaprincess, Inc.

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

11 KIMSAPRINCESS INC., a California
 12 corporation, and KIMBERLY
 13 KARDASHIAN WEST, an individual,

14 Plaintiffs,

15 vs.

16 CHARLES RUNELS, an individual,
 CELLULAR MEDICINE
 17 ASSOCIATION, aka AMERICAN
 COSMETIC CELLULAR MEDICINE
 ASSOCIATION, a Nevada corporation,
 18 ADVANCED DERMATOLOGY &
 COSMETIC LASER CARE, A
 19 MEDICAL CORPORATION, a
 California corporation, and
 20 1 through 100, inclusive,

21 Defendants.

Case No. 2:19-cv-10415

COMPLAINT FOR:

(1) COPYRIGHT INFRINGEMENT
[17 U.S.C. § 501];

(2) INFRINGEMENT OF
REGISTERED MARK [15 U.S.C.
§ 1114];

(3) FALSE ASSOCIATION [15
U.S.C. § 1125(a)];

(4) VIOLATION OF THE RIGHT
OF PUBLICITY; AND

(5) CALIFORNIA COMMON LAW
TRADEMARK INFRINGEMENT

DEMAND FOR JURY TRIAL

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
 808 WILSHIRE BOULEVARD, 3RD FLOOR
 SANTA MONICA, CALIFORNIA 90401
 TEL 310.566.9800 • FAX 310.566.9850

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

INTRODUCTION AND FACTUAL BACKGROUND

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1. Kim Kardashian West is a world-famous media and entertainment personality, model, businesswoman, and entrepreneur. Ms. Kardashian has spent considerable time, energy and resources developing her career and is generally credited as the first (and most successful) social media “influencer.” As of this filing, Ms. Kardashian has over 148 million followers on Instagram and almost 62 million on Twitter.

2. Along with her family, Ms. Kardashian has starred for twelve years on E!’s hit reality television series *Keeping Up with the Kardashians* (“KUWTK”). KUWTK has also spawned various spin-offs, such as *Kourtney and Kim Take New York* and *Kourtney and Kim Take Miami*. In addition to her television presence, Ms. Kardashian is active in the fashion and cosmetics sectors. In 2017, she launched her own cosmetics company and beauty line, KKW Beauty, as well as a fragrance line, KKW Fragrance. Her most valuable property, however, remains her name and likeness.

3. Defendant Charles Runels is a doctor in Alabama. In characteristically self-promoting fashion, he describes himself alternatively as the “Orgasm Doctor” and the “Calvin Klein of medicine.” To that end, while he appears to maintain a small practice in Alabama, most of his time is spent touting the various cosmetic procedures he has purported to trademark—including, as relevant here, the Vampire Facial (as well as the Orgasm Shot, the Vampire Facelift, and the Vampire Breast Lift). To hear Runels tell it, the point of medical trademarking is to “protect patients by limiting advertising of these procedures to providers who agree to follow specific methods and to use FDA approved devices,” in much the same way that “a Calvin Klein tag goes on a garment manufactured by another person but who follows Mr. Klein’s design.” But the “protection” of patients who have never heard of Runels, let alone been treated by him, does not pay the bills. The *real* goal, as the *New York*

1 *Times* pointed out in 2011, was to charge other doctors \$47 a month to promote *their*
 2 Vampire Facelifts.¹

3 4. As it turns out, over the last decade, that number has doubled. As
 4 Runels admitted in a filing with the U.S. Patent and Trademark Office, as of
 5 December 2017 he was charging “over 650 medical providers” about \$190,000 *per*
 6 *month* from licensing fees for approximately 2000 “licenses.” Notably, these
 7 licenses are themselves the subject of a cancellation proceeding, which alleges,
 8 among other things, that Runels’ registrations of the “Vampire” trademarks (i.e.,
 9 Vampire Facelift, Vampire Nipplelift, Vampire O Shot, and Vampire Facial) are
 10 fraudulent, because he “neither exercises, nor has the right to exercise, any
 11 supervision or control” over the “licensed” medical services performed by medical
 12 providers across the nation. Runels’ entire licensing apparatus appears to be a naked
 13 pay-to-play scheme—if applicants can pay the monthly fee, they are approved.
 14 Unsurprisingly, his misdeeds are not limited to unscrupulous licensing activities and
 15 shakedown letters to so-called “infringers” (what he calls the thousands of medical
 16 providers who do not “license” his various ill-begotten trademarks). Runels has also
 17 misappropriated the names and likenesses of some of the most famous women in the
 18 world, including Ms. Kardashian.

19 5. When he is not trying to sell “licenses” or tweeting out links that
 20 either quote him or refer to one of his “trademarked” procedures,² Runels serves as
 21 the President, Secretary, Treasurer, *and* Director of his co-defendant, the Cellular
 22 Medicine Association (“CMA”). (The CMA also operates through the similar-
 23 sounding, but not legally incorporated, “American Cosmetic Cellular Medicine
 24

25 ¹ Catherine Saint Louis, *‘Vampire Face-Lifts’: Smooth at First Bite*, NY
 Times (Mar. 2, 2011).

26 ² In one 24-hour span this month, Runels’ Twitter handle @TempleRepair (or
 27 more likely the bot he set up for this purpose) posted 24 different links, more of
 28 which were “dead” than from 2019.

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 808 WILSHIRE BOULEVARD, 3RD FLOOR
 SANTA MONICA, CALIFORNIA 90401
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1 Association” (“ACCMA”).) Despite the bland name, evocative of a legitimate trade
 2 group, the organization that he founded is short on “scientists” and “research” into
 3 “cellular medicine” and long on, you guessed it, licensing—or, as the CMA calls it,
 4 “certification.” Indeed, it is no coincidence that Runels has as many “licensees”
 5 (2,000) as the CMA has members. For example, when applicants click on the
 6 “application to become a Provider (or to renew license [sic]) of the Vampire Facial®
 7 Procedure (\$47 application fee, then monthly),” which “[i]ncludes 5 bottles of
 8 Altar™ Cream,” the “application” form is indistinguishable from the “checkout”
 9 screen greeting any online shopper:

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11/15/2019 <https://secure.ultracart.com/checkout/singleLoad.do?n=1573865652445&merchantId=ACCMA>

Item	Qty	Description	Amount	Remove
VFCL+Altar	1	Vampire Facial® Provider Membership plus 5 Jars of Altar™ Cream	\$322.00	
Subtotal:			\$322.00	Change Currency

Affiliate Code (optional):

SHIPPING ADDRESS

*First Name: *Last Name:
 Company:
 *Address 1:
 Address 2:
 *City:
 *State/Province/Region: *Zip/Postal Code:
 *Country: United States
 *Daytime Phone:
 * Email Address: (for email confirmation)

Please send me email updates of news and special offers
 This address is a residence
 Check here if billing information is different from shipping information.

COMMENTS

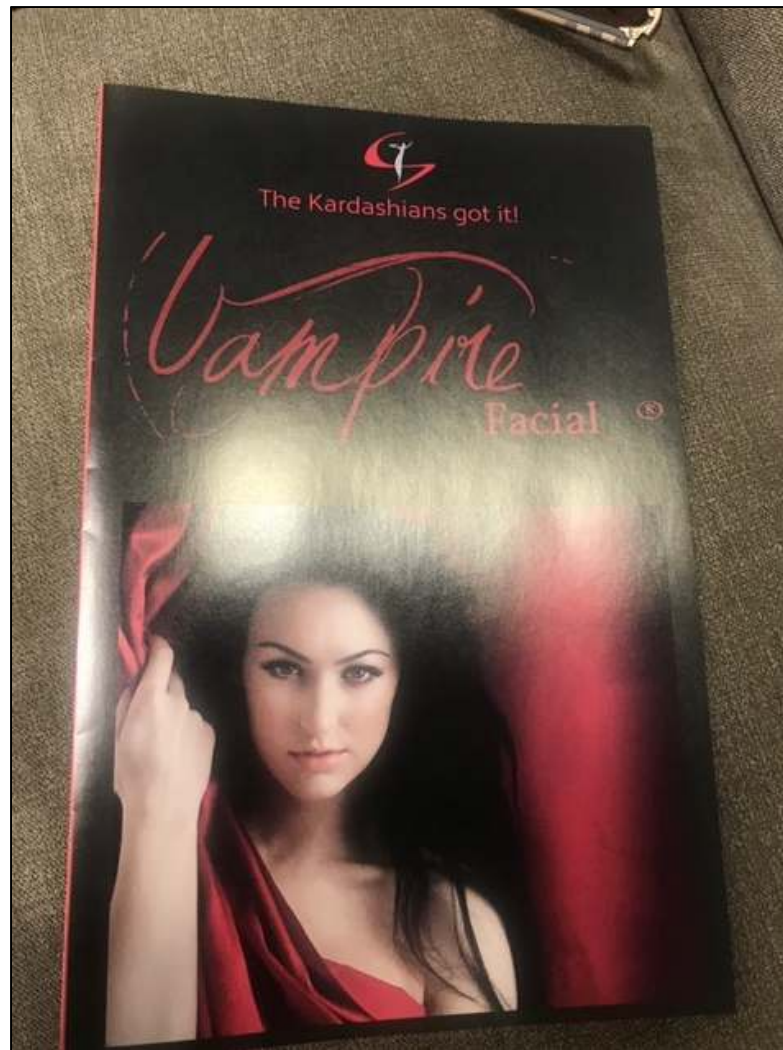
SHIPPING PREFERENCE	SUMMARY
<input checked="" type="radio"/> FedEx: First Overnight \$0.00	Subtotal: \$322.00
<input type="radio"/> USPS: Priority Mail \$10.40	Tax: \$0.00
<input type="radio"/> FedEx: 2-Day AM \$38.28	Shipping: \$0.00
<input type="radio"/> USPS: Express Mail \$39.95	Total: \$322.00
<input type="radio"/> FedEx: Standard Overnight \$80.82	
<input type="radio"/> FedEx: Priority Overnight \$87.28	

CREDIT CARD PAYMENT

*Credit Card Type:
 *Credit Card #:
 *Expiration Date:
 *Card Verification #: [help finding this number](#)

<https://secure.ultracart.com/checkout/singleLoad.do?n=1573865652445&merchantId=ACCMA> 1/2

1 6. On information and belief, in addition to “certifying” medical providers
2 (i.e., processing their payments), the CMA/ACCMA provides marketing materials
3 to members such as Defendant Advanced Dermatology & Cosmetic Laser Care
4 (“Advanced Dermatology”). Advanced Dermatology is a dermatology practice in
5 Valencia, California. It is listed on the Vampire Facial website’s “member”
6 directory (www.vampirefacial.com/members/directory). In July 2019, a patient at
7 Advanced Care (who was not there for a Vampire Facial) saw the pamphlet below:



25 7. While “the Kardashians”—or, more accurately, Ms. Kardashian and her
26 sister Kourtney—did “get” a Vampire Facial, it was seven years ago. And they had
27 certainly never licensed their name in connection with the procedure.

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

1 8. Upon further investigation, Ms. Kardashian was horrified to discover
2 that her name and likeness were plastered all over Runels' website
3 (www.vampirefacial.com). Just below a post disclaiming any association with the
4 Vampire Facial provider from which patients had contracted HIV is a photo
5 captioned, "Bar [Refaeli] & Kim Receive the Vampire Facial® Procedure." (Refaeli
6 is a world-famous supermodel.)

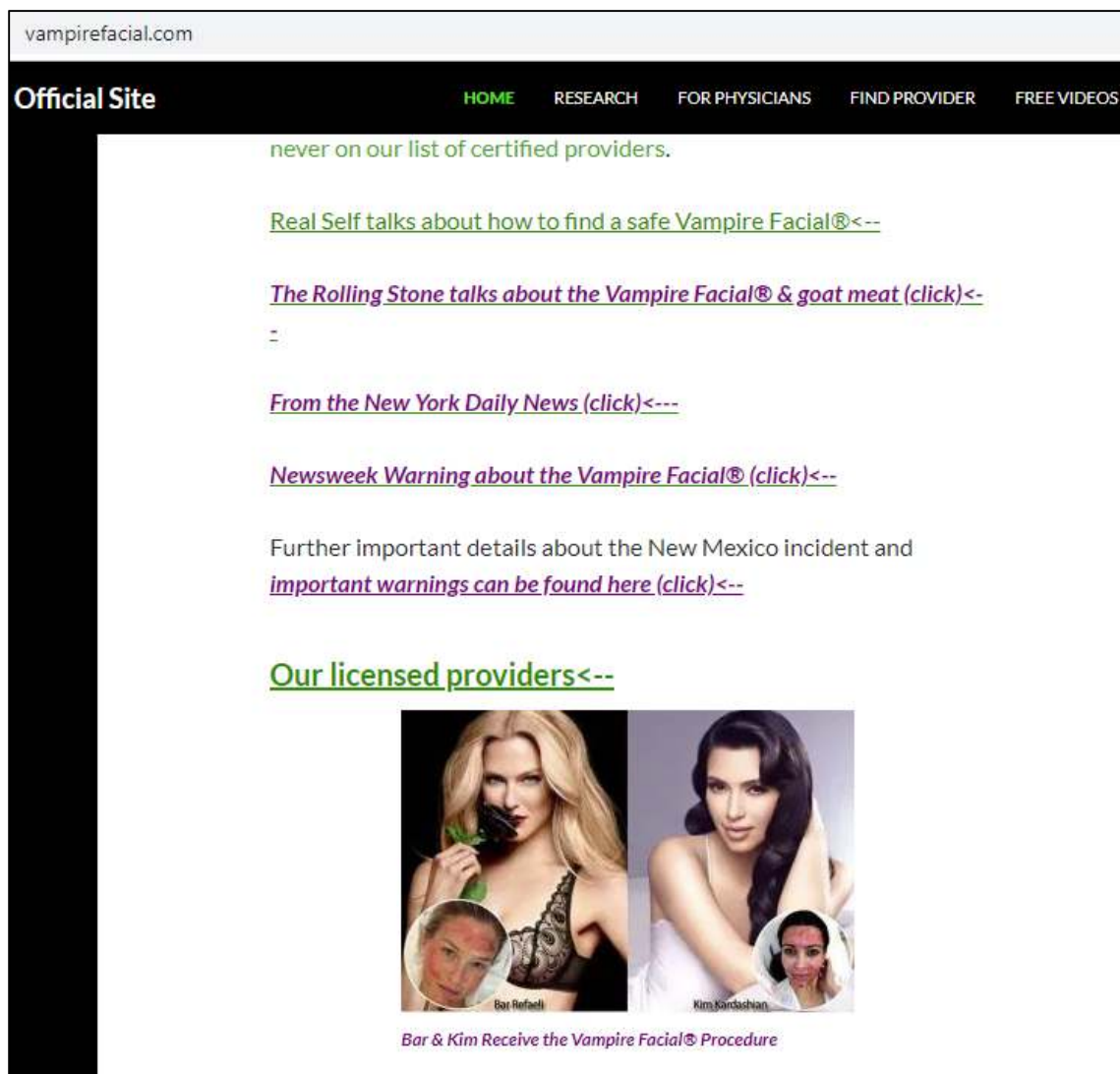


Figure 1: Vampire Facial homepage

26 9. That is not the only image of Ms. Kardashian on the homepage, either.
27 Just below is another photograph of Ms. Kardashian that she herself had taken and
28 posted to Instagram, captioned in large blue font, "Kim Kardashian immediately

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SANTA MONICA, CALIFORNIA 90401
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1 after her famous Vampire Facial® Procedure.” The two photographs appear side-by-
2 side below:



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11 **Figure 3: @kimkardashian verified account**
(<https://www.instagram.com/p/WsspMAuS2A/>)



12 **Figure 2: www.vampirefacial.com**

13 10. Incredibly, for someone who complains that he has “been forced to
14 employ a full-time staff to identify and stop providers who use any or all of his
15 trademarks without license,”³ Runels has also used Ms. Kardashian’s name and
16 likeness elsewhere on his website.

- 17 • A YouTube video on the home page (which is itself a screengrab of the
18 homepage with the video playing on a sidebar) features both of the
19 aforementioned pictures of Ms. Kardashian.
- 20 • Another article, titled “The Secret Legal Story Behind Kim
21 Kardashian’s Famous ‘Vampire’ Selfie & Altar™ ... the Latest
22 Vampire Skin Therapy™,” reads in pertinent part: “Recently, People
23 reported on Kim Kardashian’s most famous selfie—her face covered in
24 blood after a Vampire Facial®. Here’s the legal story behind the photo;

25 ³ Charles Runels, *Infringement*, Cellular Medicine Association (May 15,
26 2018), online at <https://cellularmedicineassociation.org/infringement/#.XdXUBFdKiUk> (adding that
27 he has sent “communications” to “several hundred infringers throughout the country
28 to stop using his trademarks”).

1 how Dr. Charles Runels, MD created the legal mechanism of the
 2 Vampire Facial® procedure to protect women from life threatening
 3 diseases.” ([https://www.vampirefacial.com/the-secret-legal-story-
 4 behind-the-most-famous-celebrity-selfie-ever/#.XcsNYIVKi70](https://www.vampirefacial.com/the-secret-legal-story-behind-the-most-famous-celebrity-selfie-ever/#.XcsNYIVKi70)).

- 5 • Finally, a video titled “WARNING: Vampire Facial New Mexico—
 6 How to find the a [sic] licensed Vampire Facial® provider ...”
 7 explicitly links Ms. Kardashian to the procedure: “... what the heck is a
 8 vampire facial? It's a very particular way of using an FDA-approved kit
 9 to prepare blood to go back on the face, which is what Kim Kardashian
 10 had. *I know for a fact the physician who did that was using an FDA-
 11 approved kit done in the right way, so there’s absolutely no worry.*”
 12 (<https://www.vampirefacial.com/warning/#.Xc9iH1VKi70>).

13 11. As if to highlight the blatant opportunism, one day after Ms.
 14 Kardashian’s attention-grabbing Instagram post, Beverly Hills RN, another CMA
 15 “member,” issued a press release distancing itself from Ms. Kardashian’s procedure.
 16 Quoting “the only approved national trainer for the Vampire Facelift and Vampire
 17 Facial,” who “was trained by the inventor of the procedure, Dr. Charles Runels,” the
 18 release explained Ms. Kardashian’s was “NOT the ideal treatment” because
 19 Firstly, I saw that they drew a great amount of blood in what looked to
 20 be a very large syringe. Normally, only about 8 cc’s or ml’s of blood
 21 is drawn ... a very small amount equivalent to a tablespoon. Secondly,
 22 the physician was dropping the red blood on to her face...again NOT
 23 the way the procedure is done when done correctly. ... Lastly, the
 24 procedure should not be painful. Granted, she did not use numbing
 25 crÃme [sic] because she may have already been pregnant (another
 26 issue) but when done correctly, the Vampire Facelift and the Vampire
 27 Facial should not be uncomfortable, bloody, or require a lot of blood!
 28 (<https://www.newswire.com/did-kim-kardashian-really-have/216112>) In other

1 words, when Ms. Kardashian’s gory procedure threatened to bring disrepute to
2 Runels, he and his “trainer” disclaimed any association with her. But years later,
3 when her star had risen even further, the procedure was suddenly “done in the right
4 way.”

5 12. Runels’ scheme to misappropriate Ms. Kardashian’s hard-earned
6 popularity without her permission is so pervasive that she features prominently in,
7 of all places, *his LinkedIn profile*. Quite literally, on *his* profile page, *her* photo is
8 twice as large as his, as seen below.

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

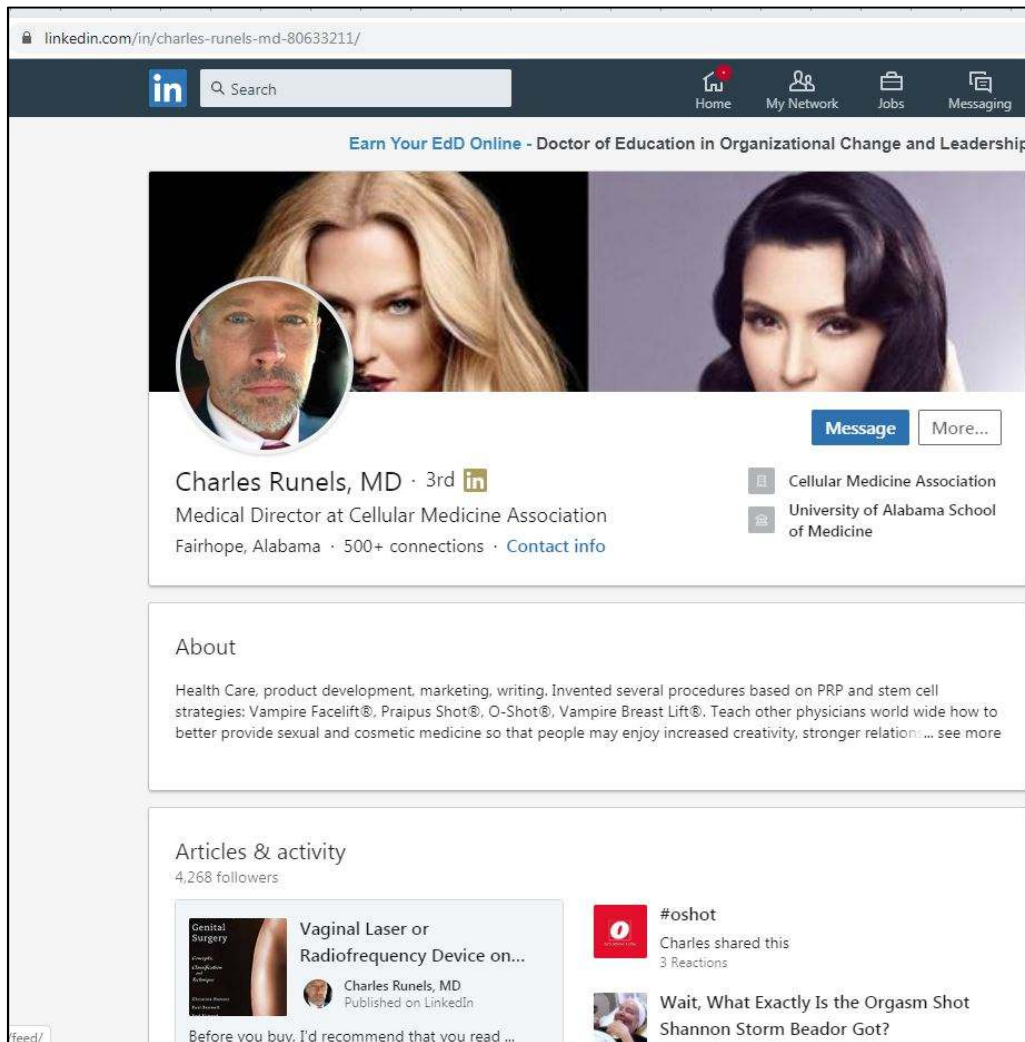


Figure 4: Charles Runels LinkedIn profile (<https://www.linkedin.com/in/charles-runels-md-80633211>)

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808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

1 17. On information and belief, Defendant Charles Runels is a citizen of and
2 resides in Alabama. On information and belief, Defendant Cellular Medicine
3 Association is a Nevada corporation with its principal place of business in Fairhope,
4 Alabama. On information and belief, Defendant Advanced Dermatology &
5 Cosmetic Laser Care is a California corporation, with its principal place of business
6 in Valencia, California.

7 18. Plaintiffs are ignorant of the true names and capacities of Defendants
8 DOES 1 through 100 and therefore sues these Defendants by such fictitious names.
9 Plaintiffs will amend this complaint to allege these Defendants’ true names and
10 capacities when ascertained. Each of these Defendants is responsible and liable in
11 some manner for the events alleged herein and the damages caused thereby.

12 **JURISDICTION AND VENUE**

13 19. This is a civil action arising under federal law: namely, the Copyright
14 Act of 1976, 17 U.S.C. § 101 *et seq.*, and the Lanham Act of 1946, 15 U.S.C.
15 §§ 1051, *et seq.* This Court has original jurisdiction over the federal claims pursuant
16 to 28 U.S.C. §§ 1331 and 1338(a). This Court has supplemental jurisdiction over the
17 state law claims pursuant to 28 U.S.C. § 1367(a), as those claims are so related to
18 the federal claims that they form part of the same case or controversy.

19 20. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(a)
20 because this is a civil action arising under an Act of Congress relating to copyrights
21 and defendants or their agents reside in or may be found in this judicial district.
22 Venue is also proper under 28 U.S.C. § 1391(b), because a substantial part of the
23 events or omissions giving rise to the claims occurred in this district or a substantial
24 part of property that is the subject of the action is situated in this district.

25 **FIRST CLAIM FOR RELIEF**

26 **Copyright Infringement – 17 U.S.C. § 501**

27 21. Plaintiffs repeat and reallege all prior allegations of the Complaint.
28

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

1 the Mark and has consented to the registration of this mark in the name of
2 Kimsaprincess, Inc.. Plaintiffs’ use of the mark in commerce predates Defendants’
3 use.

4 31. Runels, the CMA, and Advanced Dermatology (collectively,
5 “Defendants”) have used, and continue to use the Mark in commerce in connection
6 with the sale, offering for sale, distribution and advertising of their respective goods
7 and services, along with the goods and services of persons associated with Runels.
8 This use is not, and has never been, authorized by Plaintiffs.

9 32. Defendants’ use of the Mark is likely to cause confusion, or to cause
10 mistake or to deceive consumers as to the affiliation, association, connection,
11 endorsement, or sponsorship of Plaintiffs with Defendants.

12 33. Runels and the CMA have used, and continue to use, the Mark with
13 prior knowledge of Plaintiffs’ rights therein, and with the intent to capitalize on and
14 trade on the established goodwill of Plaintiffs. Their use of the Mark was in bad
15 faith and with knowledge (or reckless disregard of the fact) that such use would
16 cause confusion, mistake and deception.

17 34. As a result of Defendants’ conduct alleged above, Plaintiffs have
18 suffered, and will continue to suffer, damages in an amount to be proven at trial, but
19 not less than a number well into seven figures. Plaintiffs are further entitled to
20 disgorge Defendants of all their profits under the Lanham Act. Runels and the
21 CMA’s willful infringement and misconduct is of such a nature that an award
22 trebling the amount of damages is necessary and appropriate under the Lanham Act.

23 35. As a result of Defendants’ conduct, Plaintiffs have suffered and will
24 continue to suffer irreparable harm unless their conduct is enjoined and restrained by
25 this Court.

26 36. Runels and the CMA’s misconduct is such that this is an “exceptional”
27 case within the meaning of the Lanham Act, entitling Plaintiffs to recover their
28 reasonable attorney’s fees.

THIRD CLAIM FOR RELIEF

False Association or Endorsement – 15 U.S.C. § 1125(a)

37. Plaintiffs repeat and reallege all prior allegations of the Complaint.

38. Plaintiff Kim Kardashian West is a world-famous popular media and entertainment personality, model, businesswoman entrepreneur, and social media influencer. Ms. Kardashian’s name and likeness is famously associated with Plaintiffs and conjures up Ms. Kardashian’s identity and persona in the minds of the public.

39. Defendants have used, and continue to use, Ms. Kardashian’s name, likeness, identity, and persona in its advertisements in order to confuse the public into believing that Plaintiffs sponsor, endorse and are associated with Vampire Facial. In fact, Plaintiffs do not sponsor or endorse Vampire Facial, and they are not associated with Defendants.

40. As a result of Defendants’ unauthorized use of Ms. Kardashian’s name, likeness, identity, and persona, the public is mistakenly confused that Plaintiffs sponsor, endorse and are associated with Defendants and the Vampire Facial.

41. Defendants have used, and continue to use, Ms. Kardashian’s name, likeness, identity, and persona with prior knowledge of Plaintiffs’ rights therein, and with the intent to capitalize on and trade on the established goodwill of Plaintiffs. Runels and the CMA’s use of Ms. Kardashian’s name, likeness, identity, and persona is in bad faith and with knowledge (or reckless disregard of the fact) that such use would cause confusion, mistake and deception.

42. As a result of Defendants’ conduct alleged above, Plaintiffs have suffered, and will continue to suffer, damages in an amount to be proven at trial, but not less than a number well into seven figures. Plaintiffs are further entitled to disgorge Defendants of all of its profits under the Lanham Act. Runels and the CMA’s willful infringement and misconduct is of such a nature that an award trebling the amount of damages is necessary and appropriate under the Lanham Act.

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

1 43. As a result of Defendants’ conduct, Plaintiffs have suffered and will
2 continue to suffer irreparable harm unless their conduct is enjoined and restrained by
3 this Court.

4 44. Runels and the CMA’s misconduct is such that this is an “exceptional”
5 case within the meaning of the Lanham Act, entitling Plaintiffs to recover their
6 reasonable attorney’s fees.

7 **FOURTH CLAIM FOR RELIEF**

8 **Violation of the Right to Publicity Under California Law**

9 45. Plaintiffs repeat and reallege all prior allegations of the Complaint.

10 46. Plaintiff Kimberly Kardashian West’s name and likeness is widely
11 known and closely associated with Plaintiffs. Defendants’ unauthorized use of Ms.
12 Kardashian’s name and likeness invokes Ms. Kardashian’s identity in the minds of
13 the public. The unauthorized use of Ms. Kardashian’s name and likeness is
14 prohibited both by California common law and by California Civil Code § 3344.

15 47. As a result of Defendants’ intentional and unauthorized use of Ms.
16 Kardashian’s name and likeness in its advertising, Plaintiffs have suffered and will
17 continue to suffer damages in an amount to be proven at trial, but not less than a
18 number well into seven figures.

19 48. As a result of Defendants’ conduct, Plaintiffs have suffered and will
20 continue to suffer irreparable harm unless their conduct is enjoined and restrained by
21 this Court.

22 49. Runels and the CMA’s misappropriation of Ms. Kardashian’s name and
23 likeness was done with an intent to injure Plaintiffs and to subject Plaintiffs to cruel
24 and unjust hardship in conscious disregard of Plaintiffs’ rights. Such acts were done
25 willfully, maliciously, and oppressively. Plaintiffs are, therefore, entitled to an
26 additional award of punitive and exemplary damages in an amount sufficient to
27 punish Runels and the CMA and to deter them from committing such acts in the
28 future.

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

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FIFTH CLAIM FOR RELIEF

(California Common Law Trademark Infringement)

50. Plaintiffs repeat and reallege all prior allegations of the Complaint.

51. Plaintiff Kimberly Kardashian West is a world-famous popular media and entertainment personality, model, businesswoman entrepreneur, and social media influencer. Ms. Kardashian’s name and likeness is famously associated with Plaintiffs and conjures up Ms. Kardashian’s identity and persona in the minds of the public.

52. Defendants have used, and continue to use, Ms. Kardashian’s name, likeness, identity, and persona in its advertisements in order to confuse the public into believing that Plaintiffs sponsor, endorse and are associated with Vampire Facial. In fact, Plaintiffs do not sponsor or endorse Vampire Facial, and they are not associated with Defendants.

53. As a result of Defendants’ unauthorized use of Ms. Kardashian’s name, likeness, identity, and persona, the public was mistakenly confused into believing that Plaintiffs sponsor, endorse and are associated with Defendants and the Vampire Facial.

54. Defendants have used, and continue to use, Ms. Kardashian’s name, likeness, identity, and persona with prior knowledge of Plaintiffs’ rights therein, and with the intent to capitalize on and trade on the established goodwill of Plaintiffs. Runels and the CMA’s use of Ms. Kardashian’s name, likeness, identity, and persona was in bad faith and with knowledge (or reckless disregard of the fact) that such use would cause confusion, mistake and deception.

55. As a result of Defendants’ misconduct, Plaintiffs have suffered and will continue to suffer damages in an amount to be proven at trial, but not less than a number well into seven figures.

56. As a result of Defendants’ conduct, Plaintiffs have suffered and will continue to suffer irreparable harm unless their conduct is enjoined and restrained by

1 this Court.

2 57. Runels and the CMA's misappropriation of Ms. Kardashian's name,
3 likeness, identity, and persona, with prior knowledge of Plaintiffs' rights therein,
4 was done with an intent to injure Plaintiffs and to subject Plaintiffs to cruel and
5 unjust hardship in conscious disregard of Plaintiffs' rights, and such acts were done
6 willfully, maliciously, and oppressively. Plaintiffs are, therefore, entitled to an
7 additional award of punitive and/or exemplary damages in an amount sufficient to
8 punish Runels and the CMA and to deter them from committing such acts in the
9 future.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for relief as follows:

12 A. For a temporary restraining order, as well as preliminary and permanent
13 injunctive relief, prohibiting Defendants from any use of the Photograph, any use of
14 the Mark, and any use of Ms. Kardashian's name, likeness, identity or persona;

15 B. For damages according to proof at trial;

16 C. For disgorgement of profits under the Copyright Act, the Lanham Act
17 and under California law;

18 D. For treble damages under the Lanham Act against Runels and the
19 CMA;

20 E. For punitive and exemplary damages for Runels and the CMA's
21 violations of Plaintiffs' rights of publicity and their California common law
22 trademark rights;

23 F. For pre-judgment and post-judgment interest according to proof;

24 G. For a declaration that Runels and the CMA have infringed Ms.
25 Kardashian's copyrights, trademarks and right to publicity, as set out above, and that
26 such infringements were willful;

27 H. For attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117, 17
28 U.S.C. §§ 505 and 1203, and any and all other sources of law; and

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

1 I. For such other relief as may be just and proper.
2

3 DATED: December 9, 2019

KINSELLA WEITZMAN ISER
KUMP & ALDISERT LLP

6 By: /s/ Michael Kump
7 Michael J. Kump
8 Attorneys for Plaintiffs Kimberly
9 Kardashian West and Kimsaprincess, Inc.
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KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

DEMAND FOR JURY TRIAL

On all issues so triable, Plaintiffs hereby demand a trial by jury.

DATED: December 9, 2019

KINSELLA WEITZMAN ISER
KUMP & ALDISERT LLP

By: /s/ Michael Kump
Michael J. Kump
Attorneys for Plaintiffs Kimberly
Kardashian West and Kimsaprincess, Inc.

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KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP
808 WILSHIRE BOULEVARD, 3RD FLOOR
SANTA MONICA, CALIFORNIA 90401
TEL 310.566.9800 • FAX 310.566.9850

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