

No.	Plaintiffs' Material Fact	Supporting Evidence
	longer and would only promote Busch Gardens[.]”	
483.	[REDACTED]	[REDACTED]
484.	On January 15, 2014, SeaWorld was informed that “because [REDACTED] . . . ha[d] been getting a lot of backlash from PETA regarding [SeaWorld’s] current Fun Cards promotion” with [REDACTED] [REDACTED] was “not going to work with [SeaWorld] this summer” and did “not want to continue a partnership” with SeaWorld.	PX 179 at BakerSW0097063.
485.	The “letter from PETA that was sent to [REDACTED] in regards to the SeaWorld Fun Card program” stated, among other things: “I’m writing to you today on behalf of PETA with an urgent appeal regarding [REDACTED] SeaWorld promotion at its stores. SeaWorld is facing a public-relations disaster after the recent release of the documentary film <i>Blackfish</i> , which exposes the company’s cruel treatment of marine animals for profit. Since the release of the film, numerous publications, including the <i>Los Angeles Times</i> , have condemned SeaWorld, and the company has reported a decline in attendance and revenue at its parks..”	PX 179 at BakerSW0097063-64.
486.	[REDACTED]	[REDACTED]
487.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
488.	[REDACTED]	[REDACTED]
489.	[REDACTED]	[REDACTED]
490.	By February 18, 2014, [REDACTED] had cancelled their “Spooktacular partnership” with SeaWorld “because of Blackfish.” [REDACTED] had two years left on their contract and worked with [the Company’s] three SeaWorld parks and Sesame Place. The total value that the partner provide[d] to [SeaWorld was] [REDACTED]”	PX 183 at BakerSW0066456.
491.	[REDACTED]	[REDACTED]
492.	By April 16, 2014, the national sales manager for [REDACTED], a destination management company, “brought to [a SeaWorld San Diego employee’s] attention a big challenge that they have been facing with their clients perception of SeaWorld due to Blackfish. This week alone they had 4	PX 185 at BakerSW0096406.

No.	Plaintiffs' Material Fact	Supporting Evidence
	large event clients tell them they would not consider SeaWorld as an option for any event; she said that this has been a consistent response over the past several months. We have noticed a decline in inquiries from all of our DMCs [destination management companies] over the past 6 months and I am sure it is because they are facing the same challenges.”	
493.	Hannes forwarded this information to Larocca, Frey, Koontz and Reilly in an email with the subject, “Special Events and Reputation Issues,” informing them that destination management companies were “having trouble pitching SeaWorld as a special events venue. These events wont show up as canceled due to reputation issues but [t]he net result is less catering revenue and admissions revenue.”	PX 185 at BakerSW0096406.
494.	[REDACTED]	[REDACTED]
495.	[REDACTED]	[REDACTED]
496.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
497.	[REDACTED]	[REDACTED]
498.	[REDACTED]	[REDACTED]
499.	[REDACTED]	[REDACTED]
500.	[REDACTED]	[REDACTED]
501.	<p>By April 15, 2014, the [REDACTED] with whom SeaWorld previously "had a positive working relationship for many years, [REDACTED]</p> <p>informed SeaWorld that the [REDACTED] would not work with SeaWorld "moving forward, as they feel 'uncomfortable' in light of the current climate</p>	<p>PX 193 at BakerSW0039336.</p>

No.	Plaintiffs' Material Fact	Supporting Evidence
2	with Blackfish and negative media attention.”	
3		
4	502.	
5		
6		
7		
8		
9	503.	
10		
11		
12		
13	By May 2, 2014, “[redacted] [wa]s planning to make a media statement today about discontinuing their partnership with SeaWorld due to <u>Change.org</u> . [SeaWorld was] trying to stop them and [was] urgently supplying them with Truth assets. They have asked us not to continue to sell [redacted] promo tickets online[.]”	PX 196 at BakerSW0421310.
14		
15	504.	
16		
17		
18	505.	
19		
20		
21	506.	
22		
23		
24		
25	507.	
26		
27		
28	508.	

No.	Plaintiffs' Material Fact	Supporting Evidence
2	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]
11	509.	[REDACTED]
12	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]

15. Blackfish Impacts - SeaWorld Orlando's Lost Blackfish Revenue Tracking

16	[REDACTED]	[REDACTED]
17	510.	[REDACTED]
18	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]
20	511.	[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]
26	512.	[REDACTED]
27	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
513.	[REDACTED]	[REDACTED]
514.	[REDACTED]	[REDACTED]
515.	In January 2014, SeaWorld employees tracked “Lost Blackfish Revenue” from canceled events, including convention events, promotions, and partnerships at SeaWorld Orlando, where the stated reason for the cancellation was negative publicity related to SeaWorld’s practice of keeping orcas in captivity. Specifically, Caracciolo instructed SeaWorld Orlando employees to “start tracking revenue loss attributed to Blackfish,” and to prepare a “grid” listing “the effects of Blackfish on our business,” including “lost impressions, lost revenue, lost promotional value in addition to added expenses (i.e. increased talent for Bands, Brew).”	PX 17 (Caracciolo Tr.) 155:9-21, 160:14-161:22, 164:25-165:10, 176:15- 178:13, 188:6-13; PX 203- 05.
516.	SeaWorld Orlando employees were instructed to keep this information “highly confidential.”	PX 206 at BakerSW0066720.
517.	On January 16, 2014, SeaWorld Orlando employees held a meeting to “Review Market Impressions / Blackfish Effect.”	PX 207.
518.	By January 21, 2014, [REDACTED]	PX 206 at BakerSW0066721.

No.	Plaintiffs' Material Fact	Supporting Evidence
	[REDACTED]	
519.	As of January 21, 2014, SeaWorld Orlando's Lost Blackfish Revenue chart listed opportunities lost due to <i>Blackfish</i> with the following companies that had backed out of promotional or special events planned at SeaWorld [REDACTED]	PX 204 at BakerSW0129278; PX 206.
520.	[REDACTED]	[REDACTED]
521.	By February 24, 2014, SeaWorld Orlando had updated the chart to add canceled events attributed to negative publicity by: [REDACTED]	PX 209 at BakerSW0066108, 110.
522.	By February 24, 2014, SeaWorld Orlando employees attributed at least [REDACTED] in lost forecasted revenue, [REDACTED] lost impressions, and [REDACTED] in lost promotional value to events at SeaWorld Orlando canceled due to negative publicity related to <i>Blackfish</i> .	PX 209 at BakerSW0066110.
523.	[REDACTED]	[REDACTED]
524.	On June 3, 2014, [REDACTED] canceled an event at SeaWorld Orlando.	PX 211 at BakerSW0449973-74).

No.	Plaintiffs' Material Fact	Supporting Evidence
	SeaWorld employees responded, among other things: "Another one lost to Blackfish," "a repeat group," and "We will add to spreadsheet."	
16. Blackfish Impacts - BBBQ		
525.		
526.		
527.		
528.		
529.	On September 12, 2013, Joan Jett declined to perform at BBBQ. Specifically, Gollattscheck told Jacobs, Bides, Prather and Caracciolo: "Joan Jett has declined – animal issues... It is the first	PX 216 at BakerSW0028336 ("email with subject "blackfish impact . . . ?").

No.	Plaintiffs' Material Fact	Supporting Evidence
530.	time this has come up with any artists, but we think it is backlash from the movie"; and (ii) then stated to Jacobs and Bides: "Fred, Becca – wanted to make you aware of this. Read on below, but looks like Blackfish may be having some impact on talent booking for BBQ at SeaWorld Orlando. Joan Jett played at BGT last year, so she may have gone to the dark side after that, and maybe because of the movie." Jacobs responded: "If a known star like Joan Jett goes public with this it will stink pretty good. 'SeaWorld tried to book me for an appearance and because of Blackfish I told them I didn't want any part of them.'"	
531.	On November 27, 2013, Barenaked Ladies cancelled its performance at BBQ because of <i>Blackfish</i> . Specifically, the band posted a message to their social media followers that stated, among other things: "We've talked things over, and decided not to play at Seaworld at this time. We watch movies too, ya know!"	PX 217 at BakerSW0113078.
	On December 2, 2013, Helmstedter sent this information to Brown, Mills, Rearden and Frey with a message that stated, among other things: "Jill Kermes and I communicated over the weekend to figure out a strategy to combat not only the Bare Naked Ladies issue but also the potential of losing other artists. There is a meeting with PR and Entertainment now to discuss a strategy to arm the artists management with proper information to combat the negative social media and correct the misconceptions purported by Blackfish. She and I also discussed using positive social media campaign tactics to bolster our side, although we're not sure what restrictions may be imposed on such tactics by Blackstone. I fear if we don't take action, we'll continue to lose artists and goodwill with our audience. Further celebrity endorsements of Blackfish or resulting business partner boycotts	PX 217 at BakerSW0113076.

No.	Plaintiffs' Material Fact	Supporting Evidence
	will continue to damage our reputation.”	
532.	[REDACTED]	[REDACTED]
533.	By December 4, 2013, Willie Nelson “backed out” of his BBQ performance, and SeaWorld Orlando “pull[ed] the calendar of remaining acts off the SeaWorld website, at least for the next few weeks to allow this to settle a bit. No sense adding ‘fuel to the fire’ providing the exact acts to target.”	PX 161; PX 219 at BakerSW0023180 (on December 6, 2013, Willie Nelson announced he had canceled his performance because of how SeaWorld treats its whales, as revealed by <i>Blackfish</i>).
534.	On December 6, 2013, after learning about Nelson’s cancellation, Jacobs stated: “This whole fucking thing pisses me off. What relentless amateurism we’ve shown in booking these fucking people and managing the whole fucking chocolate mess. All of this could have been easily avoided. To wit: ‘Willie, on our best day SeaWorld is controversial, but right now we’re being attacked from all sides. We are positively radioactive. If you don’t want SeaWorld stink on you, we have to know now and we’ll walk away.’ And then the kicker: ‘Oh, yes. Willie and his people will say[] it’s a scheduling conflict.’ God we look like idiots.”	PX 219 at BakerSW0023179.
535.	By “positively radioactive[,]” Jacobs meant that SeaWorld was “the focus of so much intense criticism across so many different media and in so many different contexts and environments that . . . the reference to radioactive means simply that we are something that you don’t want to get close to.”	PX 10 (Jacobs Tr.) 246:5-14.
536.	By December 2013, SeaWorld was “in the middle of a very, very serious controversy” that was “related to negative publicity from <i>Blackfish</i> [.]”	PX 10 (Jacobs Tr.) 246:15-248:1.
537.	By December 6, 2013, Cheap Trick had cancelled its performance at BBQ because of <i>Blackfish</i> .	PX 220 at BakerSW0023189.

No.	Plaintiffs' Material Fact	Supporting Evidence
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Specifically, on December 6, 2013, Jacobs sent an email to Atchison and other SeaWorld executives that stated, among other things: "The death of Nelson Mandela appears to have taken the edge off what would otherwise have been significant coverage of Willie Nelson cancelling his SeaWorld date. We told media that it was a scheduling conflict, but most were skeptical and some ignored it outright. Clearly, we cannot fall back on that statement again unless there is a legitimate scheduling problem with one of the artists that has nothing to do with PETA or Blackfish. As you know Cheap Trick has also cancelled. To this point no one but us, AEG and the band knows that."	
538.	[REDACTED]	[REDACTED]
539.	On December 9, 2013, Atchison received a cease and desist letter from celebrity musician, Joan Jett, which stated, among other things: "I was surprised and upset to see on <u>YouTube</u> that SeaWorld used 'I Love Rock 'n Roll' as the opening music for its cruel and abusive 'Shamu Rocks' show. I'm among the millions who saw <i>Blackfish</i> and am sickened that my music was blasted without my permission at sound-sensitive marine mammals. These intelligent and feeling	PX 222 at BakerSW0061094.

No.	Plaintiffs' Material Fact	Supporting Evidence
	creatures communicate by sonar and are driven crazy in the tiny tanks in which they are confined. If I don't receive written confirmation that SeaWorld will cease and desist from using any Joan Jett & the Blackhearts music, I will be forced to take further action, and you'll find me among the PETA protestors outside your parks. SeaWorld's reliance on cruelty and captivity for commerce has been widely exposed."	
540.	[REDACTED]	[REDACTED]
541.	[REDACTED]	[REDACTED]
542.	[REDACTED]	[REDACTED]
543.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
544.	[REDACTED]	[REDACTED]
545.	By December 17, 2013, .38 Special had canceled or declined to perform at SeaWorld Orlando due to issues raised about SeaWorld's treatment of its orcas in <i>Blackfish</i> .	PX 225 at BakerSW0021817.
546.	[REDACTED]	[REDACTED]
547.	By January 16, 2014, the <i>Blackfish</i> "hysteria ha[d] spread to the Busch Garden brand with the Beach Boys and Pat Benatar hav[ing] canceled concerts there today . . . This collection of brush fires is growing and needs wider pushback."	PX 227 at BakerSW0010148.
548.	[REDACTED]	[REDACTED]
549.	Ultimately, every time a musician announced its cancellation of a performance at SeaWorld, the media "kill[ed]" the Company, as "every one of these cancellations c[ame] with dozens, sometimes scores of . . . news stories and it's like standing on a train track. Well, the train's coming at you and you don't step off . . . the track[.]"	PX 10 (Jacobs Tr.) 247:5-16.
550.	Atchison instructed SeaWorld employees that the BBQ "event was going to go on . . . even if we have to pay a premium to replace" the canceled acts, and SeaWorld ultimately paid "a significant	PX 10 (Jacobs Tr.) 248:13-249:5.

No.	Plaintiffs' Material Fact	Supporting Evidence
	premium" to do so.	
17. Blackfish Impacts – Just for Kids		
551.		
552.		
553.		
554.	Ultimately, the JFK event financially underperformed and missed its attendance budget by [REDACTED] President Prather and SeaWorld Orlando employees attributed this underperformance to <i>Blackfish</i> impact.	PX 141 at BakerSW0065493; PX 50 (Prather Tr.) 162:24-163:12, 165:11-23.

18. Blackfish Impacts – Catering Impacts

555.	On January 10, 2014, [REDACTED] canceled		PX 232 at BakerSW0450182.
556.	an event at SeaWorld San Antonio "because of Blackfish." SeaWorld San Antonio employees estimated the event would have generated [REDACTED] attendees and [REDACTED] in revenue.		PX 233.

No.	Plaintiffs' Material Fact	Supporting Evidence
	showed six catering events canceled at SeaWorld Orlando and SeaWorld San Antonio for an estimated loss of [REDACTED] in guaranteed revenue and [REDACTED] attendees.	
557.	Atchison asked whether “these parties specifically referenced BF without prompting[,]” and was told “that these groups have cited BF or activists commentary. . . . A 7th group booked for [SeaWorld Orlando] has asked for their deposit back, they were denied. More to come.”	PX 234 at BakerSW0145415.
558.	Swanson received the information regarding catering event cancelations in January 2014 due to “blackfish or Animal Rights Controversy” on January 29, 2014.	PX 235 at BakerSW0450131.
559.	By February 7, 2014, another catering event scheduled for March 8, 2014 at SeaWorld San Antonio was “cancelled because of Blackfish.”	PX 236 at BakerSW0450114.
560.	[REDACTED]	[REDACTED]
561.	On May 7, 2014, Caracciolo sent an update to the individuals who would be presenting an update from the “Culinary / Catering task force” that SeaWorld Orlando’s culinary and catering “business [wa]s certainly off this year attributed to several factors mostly losing a major group due to One Ocean closure as well as Blackfish negative publicity issues.”	PX 238 at BakerSW0065212; PX 17 (Caracciolo Tr.) 257:23-258:7.
562.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
19. Blackfish Impacts – School and Youth Organization Visits		
563.	By August 6, 2013, “off the back of Blackfish publicity and the subsequent response from their members the [U.K.] [REDACTED] . . . terminated [its sponsorship] agreement” with SeaWorld and withdrew its SeaWorld merit badge from circulation, “citing potential reputational damage by association.”	PX 156 at BakerSW0161526.
564.	By September 2013, “with the beginning of [the 2013] school year,” SeaWorld had begun to “increasingly” see “Blackfish being used as a teaching aid, either to initiate a discussion and debate about marine mammals in captivity, or the influence of film . . . or any of a dozen other subjects that a teacher might decide were relevant to his or her students.”	PX 10 (Jacobs Tr.) 197:15-198:11; PX 240 at BakerSW0029417.
565.	Schools in Orlando, Florida, including schools that many SeaWorld employees’ children attended, were showing <i>Blackfish</i> in 2013.	PX 10 (Jacobs Tr.) 199:7-200:1; PX 241.
566.	By November 2, 2013, students from Pt. Loma High School in San Diego, California, had sent a video message to SeaWorld San Diego stating their objections to SeaWorld’s practices after watching <i>Blackfish</i> .	PX 242.
567.	By November 12, 2013, one of SeaWorld’s “undercover agent[s]” spying on animal “activists” submitted a report to SeaWorld from the “World Whale Conference” that indicated there was “a possibility that the next wave of attack for Blackfish producers is getting the film shown in schools, particularly high schools. . . . Perhaps we’d want to consider a pre-emptive approach in schools regarding the debate?”	PX 243 at BakerSW0024611.
568.	By December 10, 2013, students from Pt. Dume Marine Academy in Malibu, California had “decided to cancel their group camp” due to <i>Blackfish</i> . The school had attended SeaWorld San Diego’s group camp annually from 2007 through 2012, averaging about 43 children and 3	PX 244.

No.	Plaintiffs' Material Fact	Supporting Evidence
	chaperones per trip.	
569.	After CNN published a story about a school canceling a trip to SeaWorld, Board member McHale told D'Alessandro, “[t]his is scary.” D'Alessandro replied that he had talked to Atchison “about this earlier today . . . [and] about ramifications and beating this back.”	PX 245.
570.	[REDACTED]	[REDACTED]
571.	By January 8, 2014, SeaWorld had received another “cancellation for Group Camp due to Blackfish” from [REDACTED]	PX 247 at BakerSW0091247.
572.	[REDACTED]	[REDACTED]
573.	By the end of January 2014, as “the filmmakers of Blackfish” were scheduled “to speak and show the film in local San Diego schools[,]” [REDACTED]	PX 250 at BakerSW0500630.
574.	[REDACTED]	[REDACTED]
575.	On February 11, 2014, SeaWorld Orlando received a letter written by the scouts of Girl Scout Troop 371 [from Naples, Florida] cancelling their April 4th reservation.	PX 252 at BakerSW0130858 (That letter stated: “We the scouts of Girl Scout Troop 371 are choosing not [to] attend our reserved Sea World Sleepover. We do not support the captivity of killer whales and dolphins.”)

No.	Plaintiffs' Material Fact	Supporting Evidence
		We are all Florida girls, some of us are even annual pass holders, who used to be excited about going to Sea World then we saw the documentary film Blackfish. We hope you will change your practices and release not just the whales but all the animals at Sea World. We believe that these beautiful animals should not be put in bathtubs. We request that you respond to this letter. Our troop leader has already called and emailed about our concerns but we have yet to get a response. . .").
576.	SeaWorld Orlando employees believed "this is bigger than one girl scout troop."	PX 253 at BakerSW0439044.
577.	[REDACTED]	[REDACTED]
578.	By February 18, 2014, SeaWorld Orlando had "moms and girl scout troops cancelling on us because of Blackfish [and had] to assume it's not a given that you would bring your kids here for camp like you've done for hundreds of years."	PX 255 at BakerSW0131010.
579.	On March 3, 2014, Reilly sent an email to Jacobs, Taylor and other SeaWorld employees that stated, among other things: "About two weeks ago we had a conference call and reviewed a plan to reach out to San Diego high schools to address our reputation challenge. . . Tony, unless we hear otherwise, based on that call we will proceed. Our employees in these schools are now urging us to take action. I am copying Dan	PX 256 at BakerSW0042344-46.

No.	Plaintiffs' Material Fact	Supporting Evidence
	Decker [SeaWorld San Antonio President] because he is seeing the same issues." The "High School Outreach Plan" attached to Reilly's email identified a long-term goal of SeaWorld's outreach plan to be to [REDACTED] [REDACTED]	
580.	On March 5, 2014, "Curie Elementary in University" canceled its field trip to SeaWorld San Diego "due to Blackfish." The school had "come through" SeaWorld's "program for years."	PX 257 at BakerSW0119793.
581.	By March 24, 2014, at SeaWorld San Diego's Director of Education and Conservation informed Reilly, Hannes and others that "all of our camp program programs are off to last year. As we discussed a few weeks ago I believe this is a direct link to the backlash of 'Blackfish' as Moms are highly affected by the movie and are the primary decision makers."	PX 258 at BakerSW0311536.
582.	By March 27, 2014, SeaWorld employees had "all talked about a generation of kids that may be turned off to SeaWorld because they're hearing more about Blackfish than they are the truth [from SeaWorld]." In response, Atchison informed Taylor: [REDACTED] [REDACTED]	PX 259 at BakerSW0008327-28.
583.	By April 14, 2014, SeaWorld San Diego had been "having issues with sales for high school groups and ticket sales at California universities" due to <i>Blackfish</i> .	PX 260 at BakerSW0096237.
584.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
20. <i>Blackfish Impacts – International Markets</i>		
585.		
586.	On August 2, 2013, Dave Ody sent an email with the subject, “effects of negative PR / Media coverage in the UK[,]” to SeaWorld employees, Caracciolo, Jeanssone-Becka, and Lisha Duarte (Senior Director of International Sales & Marketing).	PX 262 at BakerSW0249741.
587.	Ody was SeaWorld’s “key” account representative at SeaWorld’s “UK marketing agency” and served as SeaWorld’s “market manager for the UK.” Ody was, “in a sense,” SeaWorld’s “office” in the UK in 2013. He informed SeaWorld about “trends in demand . . . with respect to SeaWorld Orlando in the UK market[,]” including “negative publicity directed at SeaWorld[,]” which was important information to SeaWorld’s marketing and sales departments.	PX 17 (Caracciolo Tr.) 103:8-105:13.
588.	Ody’s email provided a “summary of some of the negative publicity regarding Blackfish and wider issues around captive mammals,” including a list of mainstream media coverage of <i>Blackfish</i> in the UK and identification of the “largest (and most damaging)” publications and “newspapers [SeaWorld] would actually advertise in – as they are core Florida audience.” Ody’s email further stated that the “launch day of Blackfish – last Friday saw a great deal of coverage” in both “film review[s] . . . and extended pieces into the moral debate around keeping ‘intelligent creatures in tanks’ (the main positioning by activists and how UK media position the debate).”	PX 262 at BakerSW0249741.
589.	Jeanssone-Becka forwarded Ody’s “effects of negative PR / Media coverage in the UK” email to Frey and Catherine Mashburn with a message that stated, among other things: “The driver for this email is the overall concern in going dark in	PX 262 at BakerSW0249741.

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2	media given the negative publicity in the UK right now."	
3		
4		
5		
6		
7	590.	
8		
9		
10		
11		
12		
13		
14		
15		
16		
17	591.	
18		
19		
20		
21		
22		
23		
24		
25		
26	592.	
27		
28	593.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11	594.	
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22	595.	
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18	596.	
19		
20		
21		
22		
23		
24		
25		
26		
27	597.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
598.	[REDACTED]	[REDACTED]
599.	[REDACTED]	[REDACTED]
600.	By January 2014, SeaWorld was “continuing to see some fallout from Blackfish” in Canada and “facing” issues in “Canada with Blackfish and [the SeaWorld] brand.”	PX 269 at BakerSW0067076-77.
601.	By January 6, 2014, SeaWorld was informed that “2 promotions [that] were a key important part of [SeaWorld’s] 2014 1st quarter initiatives for Canada” and scheduled for “January & February” of 2014 were canceled for the SeaWorld Orlando park because SeaWorld’s Canadian partners were “concerned with hav[ing] any association with” SeaWorld’s “brand.”	PX 269 at BakerSW0067076-77.

No.	Plaintiffs' Material Fact	Supporting Evidence
602.	[REDACTED]	[REDACTED]
603.	[REDACTED]	[REDACTED]
604.	[REDACTED]	[REDACTED]
605.	[REDACTED]	[REDACTED]

21. *Blackfish Impacts – Human Resources and Staffing*

606.	Among the “ways that Blackfish was affecting [SeaWorld’s] business in 2013” was the Company’s devotion of “staff resources” to the issues raised in the film and the public backlash	PX 10 (Jacobs Tr.) 79:17-80:9.
------	--	--------------------------------

No.	Plaintiffs' Material Fact	Supporting Evidence
	that the film ignited.	
607.	In “early” 2013, Jacobs spent “a dominant part” of every day devoted to responding to <i>Blackfish</i> . “By the end of 2014, it was every minute of every day” and “then throughout the rest of [his] SeaWorld career, it was essentially all [he] was doing.”	PX 10 (Jacobs Tr.) 80:11-81:8, 82:13-83:1.
608.	In 2013 and through 2014, anyone “in the position of authority in the [C]ompany . . . had demands placed on their time . . . and certainly, you know, whether it was our legal staff or our marketing staff or those of us in Corporate Affairs, it was a large and growing impact on our time and all the way up to Mr. Atchison.”	PX 10 (Jacobs Tr.) 81:9-22.
609.	[REDACTED]	[REDACTED]
610.	By November 19, 2013, “[B]lackfish [was] impacting hiring” at SeaWorld Orlando.	PX 272 at BakerSW0127091.
611.	On January 11, 2014, D’Alessandro informed the BX Board Members: “Whether it is sponsor problems, show cancellations, investor worries, PR, internal issues etc. I would estimate on any given day our CEO is spending 30-50 percent of his time here. He would deny it, but that’s an accurate range.”	PX 273 at BakerDD006569-70.
612.	By January 13, 2014, SeaWorld had assigned at least “two team members from the [SeaWorld Orlando] park [to] dedicate 100% of their time towards BF” because “until [the Company could] turn around this crisis, nothing is more important.”	PX 274 at BakerSW0218551-52.
613.	By January 14, 2014, SeaWorld employees were “so deep in the Blackfish response that [they were] losing ground on other programs.”	PX 275 at BakerSW0296243.
614.	By February 8, 2014, SeaWorld San Diego employees were becoming “increasingly embarrassed to wear SeaWorld logos outside of	PX 276 at BakerSW0090663.

No.	Plaintiffs' Material Fact	Supporting Evidence	
2	the park."		
3			
4	615.		
5			
6			
7			
8	616.	Since 2013, when <i>Blackfish</i> premiered, SeaWorld has gone through five (5) separate Chief Executive Officers: (1) Atchison; (2) D'Alessandro (interim); (3) Joel Manby; (4) Reilly (interim); and (5) the current CEO, Gustavo Antorcha.	PX 278 (SeaWorld Form 8-Ks announcing CEOs' resignations and appointments).
9			
10			

22. SeaWorld's Omnibus Surveys (July 2013 through May 2014)

12		
13		
14		
15		
16		
17		
18		
19		
20	617.	
21		
22		
23		
24		
25		
26		
27		
28	618.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
619.		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
620.		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
621.	[REDACTED]	[REDACTED]
622.	[REDACTED]	[REDACTED]
623.	[REDACTED]	[REDACTED]
624.	[REDACTED]	[REDACTED]
625.	[REDACTED]	[REDACTED]
626.	Kermes described the Omnibus Surveys as “a relatively blunt” and “imprecise” tool [REDACTED]	PX 283 (Kermes Tr.) 84:9-17, 85:18-86:4.
627.	[REDACTED]	[REDACTED]
628.	Jacobs stated that if SeaWorld saw “increasing awareness of Blackfish and increasing association of Blackfish with SeaWorld, that . . . would correspond to . . . an injury to SeaWorld’s reputation[.]”	PX 10 (Jacobs Tr.) 74:14-19.
629.	Jacobs stated that if someone intended to see <i>Blackfish</i> , that meant “bad news for SeaWorld[.]”	PX 10 (Jacobs Tr.) 176:6-9.
630.	[REDACTED]	[REDACTED]

⁴ Collectively, these surveys are referred to herein as the “Omnibus Surveys,” and these three questions, asked in the Omnibus Surveys in 2013, are referred to as the “2013 Omnibus Questions.”

No.	Plaintiffs' Material Fact	Supporting Evidence
631.	[REDACTED]	[REDACTED]
632.	[REDACTED]	[REDACTED]
633.	For the week of July 18, 2013 - the first week that SeaWorld obtained the results of the U.S. Omnibus Survey - the U.S. Omnibus Survey indicated that at least 2.5% of the respondents had heard of and recalled the title of <i>Blackfish</i> .	PX 284 at BakerSW0159985 (in attached chart, "Wave 1" fielded 7/18/13).
634.	By July 25, 2013, the results of the U.S. Omnibus Survey indicated that at least 4.8% of respondents had heard of and recalled the title of <i>Blackfish</i> .	PX 284 at BakerSW0159985 (in attached chart, "Wave 2" fielded 7/25/13).
635.	By August 22, 2013, the results of the U.S. Omnibus Survey indicated that at least 8.2% of the respondents had heard of and recalled the title of <i>Blackfish</i> .	PX 284 at BakerSW0159985 (in attached chart, "Wave 6" fielded 8/22/13).
636.	According to Heaney, if [REDACTED]	PX 7 (Heaney Tr.) 207:23-208:5.
637.	By the week of August 22, 2013, the results of the U.K. Omnibus Survey indicated that at least 7.7% of the respondents had heard of and recalled the title of <i>Blackfish</i> .	PX 285 at BakerSW0159983.
638.	The results of the U.K. Omnibus Survey also indicated that, for the week of August 22, 2013, at least 20.9% of individuals from "the greater London area (where the film has seemingly been shown the most)" had heard of and recalled the title of <i>Blackfish</i> .	PX 285 at BakerSW0159982.
639.	By August 20, 2013, Jacobs interpreted the	PX 10 (Jacobs Tr.)

No.	Plaintiffs' Material Fact	Supporting Evidence
	results of the U.S. Omnibus Survey as showing “large growth in awareness” of the film and believed that this “growing national awareness of Blackfish and intent to see the film was hurting SeaWorld’s reputation[.]”	176:11-177:10; PX 286 at Eml-002195-96; <i>see also</i> PX 56.
640.	In a November 11, 2013 email with the subject “Blackfish Research,” Jacobs informed Atchison, Taylor, Kermes, Beechner, Heffernan, and SeaWorld’s <i>Blackfish</i> consultants that, from the results of the Omnibus Surveys, “[SeaWorld was] seeing measurable increases in both awareness and association in the U.S., courtesy of CNN’s full-court press.”	PX 287 at BakerSW0024683.
641.	The U.S. Omnibus Survey Results indicated that more than 15% of the U.S. population had heard of and recalled the title of the <i>Blackfish</i> film by the week of November 7, 2013.	PX 288 at BakerSW0024694-95.
642.	[REDACTED]	PX 10 (Jacobs Tr.) 233:9-234:19.
643.	By the end of 2013, as Repass reported to Jacobs, Bides, Jeansonne-Becka, Heaney and other SeaWorld employees, the Omnibus Survey data revealed to SeaWorld that: (i) for the week of December 26, 2013, approximately 21.8% of the U.S. population had heard of and recalled the title of the Blackfish film, which Repass described as the “highest level of awareness since we started surveying”); and (ii) for each preceding week since October 24, 2013, between approximately 12% and 17% of the U.S. population had heard of and recalled the title of the Blackfish film: (a) 12.6% in the week of October 24, 2013; (b) 13.0% in the week of October 31, 2013; (c) 15.7% in the week of November 7, 2013; (d) 11.8% in the week of November 14, 2013; (e) 12.9% in the week of November 21, 2013; (f) 15.6% in the week of November 28, 2013; (g)	PX 281 at BakerSW0050261 (data presented in the attached spreadsheet beginning Week 15).

No.	Plaintiffs' Material Fact	Supporting Evidence
	17.2% in the week of December 5, 2013; (h) 13.8% in the week of December 12, 2013; and (i) 14.9% in the week of December 19, 2013.	
644.	Repass' report to Jacobs, Heaney and other SeaWorld employees with the year-end Omnibus Survey results further stated to Jacobs: "Fred, I saw your note regarding the need to add a couple additional questions (possibly bi-weekly vs. weekly). I'll follow-up with you separately on that this afternoon."	PX 281 at BakerSW0050261.
645.	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2	[REDACTED]	
3		
4		
5	[REDACTED]	
6		
7	[REDACTED]	
8		
9	[REDACTED]	
10		
11	[REDACTED]	
12		
13		
14	[REDACTED]	
15		
16	[REDACTED]	
17		
18	[REDACTED]	
19		
20		
21	[REDACTED]	
22		
23	[REDACTED]	
24		
25		
26	[REDACTED]	
27	646.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7	647.	
8		
9		
10	648.	
11		
12		
13		
14	649.	
15		
16		
17		
18		
19	650.	
20		
21		
22		
23		
24		
25	651.	
26		
27		
28	652.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	653.	
11		
12		
13		
14		
15		
16		
17	654.	
18		
19		
20	655.	
21		
22	The data generated by SeaWorld's 2014 Omnibus Survey indicated that, for each week in 2014 that respondents were asked the three 2013 Omnibus Questions, at least 20% of the U.S. population had heard of and recalled the title of the <i>Blackfish</i> film: (i) 21% in the week of January 2, 2014; (ii) 26% in the week of January 9, 2014; (iii) 20% in the week of January 16, 2014; (iv) 27% in the week of January 23, 2014; (v) 23% in the week of January 30, 2014; (vi) 28% in the week of February 6, 2014; (vii) 24% in the week of	PX 293 at BakerSW0006367 (slide 4), 78.
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
	February 13, 2014; (viii) 24% in the week of February 27, 2014; (ix) 24% in the week of March 13, 2014; (x) 23% in the week of March 27, 2014; (xi) 26% in the week of April 10, 2014; and (xii) 26% in the week of April 24, 2014.	
657.	Moreover, at the request of SeaWorld San Diego President Reilly “and a couple others[,]” in 2014, SeaWorld began comparing the responses from consumers in the “San Diego and Los Angeles markets against the national data among the omnibus survey questions [that SeaWorld had] been asking.” The data indicated that, dating back to July 2013, a higher percentage average of San Diego/Los Angeles residents than the U.S. population “overall” reported that they had heard of and recalled the title of the <i>Blackfish</i> in each month that the Omnibus Survey had been run: (i) 9.6% of the San Diego/Los Angeles market in July and August 2013; (ii) 9.7% of the San Diego/Los Angeles market in September 2013; (iii) 19.2% of the San Diego/Los Angeles market in October 2013; (iv) 23.8% of the San Diego/Los Angeles market in November 2013; (v) 26.5% of the San Diego/Los Angeles market in December 2013; (vi) 34.9% of the San Diego/Los Angeles market in January 2014; and (vii) 43.9% of the San Diego/Los Angeles market in February 2014.	PX 294 at BakerSW008163, 66 (slide 2).
658.	For each week in 2014 that respondents were asked whether <i>Blackfish</i> would “influence” their “interest in visiting an aquarium or marine life park[.]” the data generated by SeaWorld’s 2014 Omnibus Survey data showed that at least 23% of the respondents asked the question answered that <i>Blackfish</i> made them “less interested in visiting an aquarium or marine life park”: (i) 28% in the week of January 16, 2014; (ii) 24% in the week of January 30, 2014; (iii) 30% in the week of February 13, 2014; (iv) 24% in the week of February 27, 2014; (v) 27% in the week of March 13, 2014; (vi) 30% in the week of March 27,	PX 293 at BakerSW0006367 (slide 7).

No.	Plaintiffs' Material Fact	Supporting Evidence
	2014; (vii) 23% in the week of April 10, 2014; and (viii) 30% in the week of April 24, 2014.	
659.	The 2014 Omnibus Survey data indicated that, for each week in which respondents were asked whether <i>Blackfish</i> would “influence” their “interest in visiting an aquarium or marine life park[,]” a higher percentage of respondents answered that <i>Blackfish</i> would make them “less interested” than “more interested” in “visiting an aquarium or marine life park”: (i) 28% “less interested” vs. 15% “more interested” in the week of January 16, 2014; (ii) 24% “less interested” vs. 22% “more interested” in the week of January 30, 2014; (iii) 30% “less interested” vs. 24% “more interested” in the week of February 13, 2014; (iv) 24% “less interested” vs. 21% “more interested” in the week of February 27, 2014; (v) 27% “less interested” vs. 19% “more interested” in the week of March 13, 2014; (vi) 30% “less interested” vs. 18% “more interested” in the week of March 27, 2014; (vii) 23% “less interested” vs. 22% “more interested” in the week of April 10, 2014; and (viii) 30% “less interested” vs. 22% “more interested” in the week of April 24, 2014.	PX 293 at BakerSW0006367 (slide 7).
660.	The 2014 Omnibus Survey data further indicated that “[a] higher percentage of consumers in San Diego/Los Angeles said the movie would make them less interested in visiting an aquarium or marine life park” than the U.S. population overall as well. Specifically, through the end of February 2014: (i) 46% of the San Diego/Los Angeles market were “less interested” vs. the 11% of that market who were “more interested” in the month of January 2014; and (ii) 37% of the San Diego/Los Angeles market were “less interested” vs. the 14% of that market who were “more interested” in the month of February 2014.	PX 294 at BakerSW008163, 66 (slide 5).
661.	The 2014 Omnibus Survey data indicated that, for each week in which respondents were asked whether they “support or oppose having killer	PX 293 at BakerSW0006367 (slide 1).

No.	Plaintiffs' Material Fact	Supporting Evidence
	whales (Orcas) in aquariums and marine life parks[,]” at least 30% of the U.S. population opposed, and a higher percentage of the U.S. population opposed than supported “having killer whales (Orcas) in aquariums and marine life parks”: (i) 33% “oppose” vs. 16% “support” in the week of January 9, 2014; (ii) 30% “oppose” vs. 16% “support” in the week of January 23, 2014; (iii) 32% “oppose” vs. 13% “support” in the week of February 6, 2014; (iv) 32% “oppose” vs. 15% “support” in the week of February 20, 2014; (v) 32% “oppose” vs. 16% “support” in the week of March 6, 2014; (vi) 38% “oppose” vs. 16% “support” in the week of March 20, 2014; (vii) 38% “oppose” vs. 15% “support” in the week of April 3, 2014; (viii) 33% “oppose” vs. 15% “support” in the week of April 17, 2014; and (ix) 30% “oppose” vs. 18% “support” in the week of May 1, 2014.	
662.	The 2014 Omnibus Survey data further indicated that “[m]ore consumers in San Diego/Los Angeles oppose having killer whales in aquariums and marine life parks than the U.S. overall,” as the data showed through February 2014: (i) 40% of “consumers in San Diego/Los Angeles” opposed, while 8% supported, in the month of January 2014; and (ii) 37% of “consumers in San Diego/Los Angeles” opposed, while 19% supported, in the month of February 2014.	PX 294 at BakerSW008163, 66 (slide 1).
663.	The 2014 Omnibus Survey data further indicated that, for each week in which respondents were asked whether they “support or oppose having killer whales (Orcas) in aquariums and marine life parks[,]” the respondents who answered they “oppose[d]” also answered that they felt more “strongly about this topic” than the respondents who answered they “support[ed]” having killer whales (Orcas) in aquariums and marine life parks.	PX 293 at BakerSW0006367 (slides 2-3, “Intensity of Feelings”).

No.	Plaintiffs' Material Fact	Supporting Evidence
23. SeaWorld's Corporate Reputation Survey (October 2013 – Fielded August 2013)		
664.	According to SeaWorld Orlando President Prather, in 2013, it “was a common fact known” at SeaWorld in 2013 that <i>Blackfish</i> “was affecting our reputation.” Prather had conversations with his colleagues “to the effect that <i>Blackfish</i> was having a negative effect on SeaWorld’s corporate reputation” in 2013.	PX 50 (Prather Tr.) 219:25-220:7, 108:15-109:4.
665.	[REDACTED]	[REDACTED]
666.	[REDACTED]	[REDACTED]
667.	[REDACTED]	[REDACTED]
668.	[REDACTED]	[REDACTED]
669.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2	[REDACTED]	[REDACTED]
3		[REDACTED]
4		[REDACTED]
5	670.	[REDACTED]
6	[REDACTED]	[REDACTED]
7		[REDACTED]
8		[REDACTED]
9	671.	[REDACTED]
10		[REDACTED]
11		[REDACTED]
12		[REDACTED]
13		[REDACTED]
14	672.	[REDACTED]
15		[REDACTED]
16		[REDACTED]
17		[REDACTED]
18		[REDACTED]
19		[REDACTED]
20	673.	[REDACTED]
21		[REDACTED]
22		[REDACTED]
23		[REDACTED]
24	674.	[REDACTED]
25		[REDACTED]
26		[REDACTED]
27	675.	[REDACTED]
28		[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
676.	[REDACTED]	[REDACTED]
677.	[REDACTED]	[REDACTED]
678.	[REDACTED]	[REDACTED]
679.	[REDACTED]	[REDACTED]
680.	[REDACTED]	[REDACTED]
681.	[REDACTED]	[REDACTED]
682.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5	683.	
6		
7		
8		
9		
10	684.	
11		
12		
13		
14		
15	685.	
16		
17		
18		
19	686.	
20		
21		
22		
23		
24		
25	687.	
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
688.	[REDACTED]	[REDACTED]
689.	[REDACTED]	[REDACTED]
690.	[REDACTED]	[REDACTED]
691.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16	692.	
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
693.	[REDACTED]	[REDACTED]
694.	[REDACTED]	[REDACTED]
695.	[REDACTED]	[REDACTED]
696.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
697.	[REDACTED]	[REDACTED]
698.	[REDACTED]	[REDACTED]
699.	[REDACTED]	[REDACTED]

24. SeaWorld's Reputational Charrette (October 2013) and Blackfish Defense

700.	On October 24, 2013, a number of SeaWorld executives participated in a meeting about the Company's reputation—termed a "reputational charrette."	PX 302.
701.	Specifically, on September 30, 2013, Atchison's secretary, Nancy Anderson, sent a calendar invitation to attend a "Reputational Charrette" meeting on October 24, 2013, to SeaWorld employees, Atchison, Taylor, Rearden, Brad	PX 302.

No.	Plaintiffs' Material Fact	Supporting Evidence
	Andrews, Heaney, David Hammer, Scott Helmstedter, Mills, Brown, Swanson, Chris Dold, Jacobs, Bides, Barbara Heffernan and Judy St. Leger. The message stated that the “discussion” at this “Reputational Charette” would be “led by Jim Atchison, Tony Taylor and Bob Feldman from Pulse Point group. It is a continuation of the discussion around the company brand looking forward. Our chairman [D’Alessandro] will be in town and joining this meeting as well.”	
702.	Atchison specifically selected and/or authorized the individuals he wanted “to attend this Reputational Charrette with David [D’Alessandro] and Pulse Point[.]”	PX 303.
703.	The purpose of this October 2013 “reputational charrette” meeting was to “give form to what was becoming clear to all of us, that the – that the film was having a significant impact on the company’s reputation, which is, you know a great asset, and that we have to do whatever is required from that moment forward to try to repair and rebuild the company’s reputation.”	PX 10 (Jacobs Tr.) 212:23-213:9.
704.	Virtually “all of the key senior executives from the company [were] present, as well as others who had some role to play in helping to rebuild the company’s reputation, plus . . . members of [SeaWorld’s] board” attended this reputational “charrette” meeting on October 24, 2013.	PX 10 (Jacobs Tr.) 207:25-208:21.
705.	[REDACTED]	[REDACTED]
706.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5	707.	
6		
7		
8		
9	708.	
10		
11		
12		
13	709.	
14		
15		
16		
17		
18	710.	
19		
20		
21		
22		
23		
24	711.	
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17	712.	
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18	713.	
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
714.	On October 22, 2013, SeaWorld's <i>Blackfish</i> consultant, Bob Feldman, invited numerous SeaWorld employees and his fellow <i>Blackfish</i> consultants to the JW Marriott Hotel in Orlando on October 24, 2013, where PulsePoint would be "setting up four projectors with four large screens to show the following: 1. CNN's live broadcast of <i>Blackfish</i> and surrounding editorial coverage[;] 2. CNN's 'second screen experience' related to the film, pre-, during and post-airing[;] 3. A 'mobile command center' of real-time social conversations related to the movie on channels such as Facebook, Twitter, etc.[; and] 4. Game #2 of the Boston-St. Louis World Series. (For those who need a break!)"	PX 307.
715.		
716.		
717.	On October 24, 2013, the night that CNN aired <i>Blackfish</i> on national television, Baratta sent an email with a blank subject line to Wallace. That email stated: "Blackfish movie is tough." That same night, Wallace responded by pointing out that "[w]e're trending" on Twitter under the hashtag: "#Blackfish."	PX 309.
718.	"The night of the [television] premiere, <i>Blackfish</i> was trending, so it means it was one of the most talked about conversations in all of social media,	PX 2 (Allen Tr.) 157:6-16.

No.	Plaintiffs' Material Fact	Supporting Evidence	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	or all of Twitter.” 719. 720.	[REDACTED] [REDACTED] On October 25, 2013, a <i>Blackfish</i> consultant from PulsePoint sent SeaWorld a “daily social media monitoring report” that showed, among other things: (i) as of 3:40 p.m. on October 25, 2013, there had been 123,762 “overall mentions” of <i>Blackfish</i> on October 24, 2013 and October 25, 2013; (ii) this social media “[v]olume peaked at around 90,000 mentions yesterday [October 24, 2013] and there has been some sustained engagement in the conversation today [October 25, 2013]. (Much more so than after any Tweetstorm)”; (iii) the “CNN Premiere result[ed] in all time volume spike” for social media mentions of <i>Blackfish</i> ; (iv) in response to a CNN Crossfire poll that asked whether individuals would take their kids to SeaWorld, 86% of respondents answered “No” and 14% of respondents answered “Yes”; (v) there were “[n]umerous negative reviews” on SeaWorld San Diego’s social media page, including for example, a message from “Anna Elizabeth Heaslet” that stated: “I grew up going to SeaWorld in San Diego. I watched Blackfish tonight and am appalled and ashamed.... My friend posted something about this on here and	PX 311.

No.	Plaintiffs' Material Fact	Supporting Evidence
	they deleted tonight. As I'm sure they will mine..."; and (vi) numerous celebrities, including Ariana Grande and Sam Simon, posted tweets about <i>Blackfish</i> to their Twitter followers.	
721.	After the television debut of <i>Blackfish</i> on CNN, individuals who had previously "liked" or "followed" SeaWorld's social media pages began to "unlike" these pages at a higher rate than they had in the past.	PX 2 (Allen Tr.) 163:9-164:19.
722.	[REDACTED]	[REDACTED]
723.	[REDACTED]	[REDACTED]
724.	[REDACTED]	[REDACTED]
725.	On October 30, 2013, Rearden forwarded to Heaney and Atchison the resume of a prospective job applicant, who had previously worked for Daytona International Speedway. In his email, Rearden stated: "... Some of that experience could help us with Project Atlanta, as they are somewhat similar in terms of capital projects for	PX 313 at BakerSW0238710, 12.

No.	Plaintiffs' Material Fact	Supporting Evidence
2	brand / reputation efforts."	
3		
4		
5	726.	
6		
7		
8	727.	On November 4, 2013, Atchison scheduled a meeting for November 8, 2013 on "Project Atlanta Creative & Programming update 2."
9		PX 314.
10		
11	728.	
12		
13		
14		
15		
16		
17	729.	
18		
19		
20		
21		
22	730.	On November 7, 2013, Taylor forwarded an article published in <i>Market Watch</i> about <i>Blackfish</i> to one of SeaWorld's <i>Blackfish</i> consultants, Bob Feldman. Feldman responded: "Tony, Can we chat Monday? I don't have enough visibility into what all the PR efforts are right now, but there really should be an all-out strategy of push-back and engagement. For the next six months. It's not about <i>Blackfish</i> ; it's about protecting the SeaWorld brand." After Taylor forwarded Feldman's message to Jacobs, Jacobs responded:
23		PX 316 atBakerSW0024946-47.
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
	"Us to the Board of Directors: 'We'd like to have an all-out strategy of push-back and engagement on Blackfish for the next six months.' Board of Directors to Us: 'No.'"	
731.	[REDACTED]	[REDACTED]
732.	By November 2013, Jacobs had discussed the fact that "SeaWorld's corporate reputation ha[d] suffered measurable damage as a direct result of, among other things, Blackfish" with Kermes because, for Kermes to "lead" SeaWorld's communications "department forward[,]" "it just wouldn't do to falsely minimize the impact of the film or the – the trouble that [SeaWorld was] dealing with."	PX 10 (Jacobs Tr.) 240:18-241:17.
733.	The "long-term" reputation "remedial" plan Jacobs and Kermes were working on was designed to "remedy" or "repair[]" SeaWorld's "damaged reputation, returning us to a steady state[.]"	PX 10 (Jacobs Tr.) 239:19-23.
734.	[REDACTED]	[REDACTED]
735.	As 2013 progressed, "the proportion of tweets coming only from activists seemed to decrease. There was more moderate-minded folks chiming in," and it became more common for SeaWorld "to see people having responses" similar to "Just watched #Blackfish. I will never visit @SeaWorld again."	PX 2 (Allen Tr.) 151:15-19, 153:23--155:1.
736.	In November 2013, online petitions protested the inclusion of a SeaWorld float in the Macy's Thanksgiving Parade. By November 25, 2013, SeaWorld and its <i>Blackfish</i> consultants had drafted a "response statement" to share with Macy's about these protests.	PX 2 (Allen Tr.) 170:14-171:2; PX 318 at BakerSW0023722.

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	737.	
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22	738.	
23		
24		
25		
26		
27	739.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
740.	On December 11, 2013, Kermes informed Frey and Hartman: "We've gotten what looks like a green light to get more proactive in our response to BF and about the company in general. Among other areas, social media seems to be the most immediate area of focus. We have our corporate communications consultant Pulse Point working on some ideas regarding strategy and execution, and wanted to get the internal team engaged quickly as well."	PX 321.
741.		
742.		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13	743.	
14		
15		
16		
17		
18		
19		
20		
21	744.	
22		
23		
24		
25		
26	745.	
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
	[REDACTED]	
746.	<p>On December 12, 2013, Gollattscheck sent Kermes and Jacobs an email with the subject, "SWO social media info." Among other things, this email stated: "One of the things we're trying to fine tune is being able to really analyze what's happening on our social channels. . . . Since Oct. 24 especially, anything we post with killer whales (which isn't much) gets low engagement, high negative comments and relatively low positive comments. Fun fact: about 91% of our Twitter comments are negative. A few trends overall: Each time there is a Blackfish update (domestic airing, UK airing, etc.) F[ace]B[ook] traffic spikes and so do our delete/hide/bans. Negative engagement slowed a bit a few weeks after Blackfish aired, but has picked up again with BNL/change.org/etc." Gollattscheck's "SWO social media info" email further reported that: (i) for SeaWorld Orlando, "[o]ut of 210 comments over 7 days, only 19 were positive"; and (ii) SeaWorld Orlando had "hidden/deleted" 660 posts on SeaWorld Orlando's Facebook page since November 5, 2013, when the Company first "began tracking" the number of Facebook posts it hid or deleted.</p>	PX 327.
747.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
	[REDACTED]	
748.	On December 15, 2013, a Busch Gardens Williamsburg employee, Carl Lum, forwarded an email that Busch Gardens Williamsburg had received from a consumer on December 14, 2013. The consumer's email stated, among other things, that the consumer had planned a 2-day trip to Busch Garden Williamsburg for the consumer and their parents in April 2014, but after finding out that "Busch Gardens is wholly owned [by] SeaWorld[.]" the consumer would not "be putting [their] money into the company." The consumer's email stated specifically: "I may not be bringing thousands to a park as a rock star; but like those rock stars who are cancelling their SeaWorld concerts – and all the revenue that would have been generated with their association to SeaWorld, I won't be putting my money into the company, either. Best of luck, and let me know when 'Busch Gardens' changes hands to a company that doesn't destroy the lives of sea creatures for profit."	PX 329 at BakerSW0050239-40.
749.	In his email to Mills that forwarded this consumer's email, Busch Gardens employee Lum stated: "Seeing more and more of this. I know there are many working to move this in a positive direction."	PX 329 at BakerSW0050239.
750.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
	[REDACTED]	
751.	<p>On December 18, 2013, Atchison sent to SeaWorld's Board and Taylor a "final draft of" SeaWorld's "Open Letter"—the "advertorial [that Atchison] mentioned as the first foundational step in [SeaWorld's] response to the various media reports that are circulating (and unfortunately building) about SeaWorld and the care of [the Company's] animals. The attached reflects the input of our internal team, reflection on the key themes that our research of Blackfish has illuminated and counsel from key external resources that we have engaged to help us navigate this issue. The tone is direct, clear and focuses squarely on a few critical issues that are at the heart of the lingering debate. The intent is to place the ad in the WSJ, NY Times, LA Times, Washington Post and three local park papers on Friday. . . . To be clear, this effort is an important step in our campaign, but not our only weapon. We also have significant work underway on a robust social media strategy, a website and production of a series of videos addressing the points referenced in this ad and other key concerns. . . . I feel strongly this ad is a critical first step."</p>	PX 331 at BakerSW0011061.
752.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1	[REDACTED]	
2	[REDACTED]	
3	[REDACTED]	
4	[REDACTED]	
5	[REDACTED]	
6	[REDACTED]	
7	[REDACTED]	
8	[REDACTED]	
9	[REDACTED]	
10	[REDACTED]	
11	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]
13	754. [REDACTED]	[REDACTED]
14	[REDACTED]	
15		
16	755. On December 18, 2013, Frey “confirmed” that SeaWorld’s corporate marketing team was “charged with the development of the ‘dark’ site” and requested the “set up” of a “temporary office/‘war room’ for the team members to load the site.”	PX 335.
17		
18		
19		
20	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]
24	756. [REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7	757.	
8		
9		
10		
11		
12	758.	
13		
14		
15		
16		
17		
18		
19		
20		
21	759.	
22		
23		
24		
25		
26		
27		
28	760.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17	761.	
18		
19		
20		
21		
22		
23		
24	762.	
25		
26		
27		
28	763.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28	764. On January 9, 2014, Frey circulated SeaWorld's "Blackfish Strategy" plan to several SeaWorld employees and SeaWorld's other outside advisors from Initiative and DraftFCB with the message: "Yesterday we had the opportunity to meet with our CEO [Atchison] and Chairman of the Board [D'Alessandro] to discuss how the SeaWorld	PX 338 at BakerSW0095085.

No.	Plaintiffs' Material Fact	Supporting Evidence
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	brand should evolve it's corporate image campaign. As you're aware, since the release of the Blackfish documentary, the company has been under increased scrutiny from animal rights activists. Over the past several weeks these activists have begun targeting our corporate partners and the musical artists scheduled to perform at our parks, as well as protesting company sponsored parades. All this has generate[d] increased negative coverage of the brand through both traditional and online channels. While we have recently initiated some PR and marketing activities to combat the false claims featured in the film, it hasn't been enough to stop the momentum. With this in mind, we have gotten approval to ramp up efforts and more directly attack the credibility of the film. As reference, I've attached a copy of the commendation we presented yesterday. [REDACTED] 765. [REDACTED] 766. [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11	767.	
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23	768.	
24		
25		
26		
27		
28	769.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	770.	
11		
12		
13		
14		
15		
16	771.	
17		
18		
19		
20		
21		
22	772.	
23		
24		
25		
26		
27	773.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	774.	
11		
12		
13		
14		
15		
16		
17		
18		
19	775.	
20		
21		
22		
23		
24		
25		
26		
27	776.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25	777.	
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26	778.	
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26	779.	
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17	780.	
18		
19		
20		
21		
22		
23		
24		
25		
26		
27	781.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
782.	[REDACTED]	[REDACTED]
783.	[REDACTED]	[REDACTED]
784.	On February 5, 2014, Bides informed another SeaWorld employee that Bides could not join a weekly "YouTube Influencer program" because Bides "physically d[id] not have the time for this this week due to priorities with Blackfish. We just found out they are re-airing BF on CNN this	PX 351.

No.	Plaintiffs' Material Fact	Supporting Evidence
1 2 3	Sunday, so are marking a bunch of new changes and pushing content.”	
4 5 6 7 8 9 10 11 12 13	785. [REDACTED]	[REDACTED]
14 15 16 17 18 19 20 21 22 23 24	On February 17, 2014, one of SeaWorld’s <i>Blackfish</i> consultants sent SeaWorld a “Daily Monitoring” report that reported, among other things, that: (i) “CNN re-aired <i>Blackfish</i> on Saturday [February 15, 2014]; [social media] volume spiked at 18,000 mentions” of <i>Blackfish</i> on Twitter; (ii) <i>Blackfish</i> was nominated for “Best Documentary” at the “BAFTA Awards,” but another film won the award; (iii) “200 protesters outside of SeaWorld San Diego gain some media attention”; (iv) “A new Change.org petition has reached 3,000 signatures – this is the main driver of Twitter conversation volume”; and (v) the “Netflix rating numbers” for <i>Blackfish</i> continued to rise and had reached “1,055,079 as of this morning.”	PX 353 at BakerSW0066493-96.
25 26 27 28	786. On February 19, 2014, Atchison sent a calendar invitation to Atchison, Demsky, Repass, Heaney and Rearden to meet with Atchison on February 20, 2014 about “Project Atlanta Research” and “consumer sentiment survey.”	PX 354 at BakerSW0201522.
788.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19	789.	
20		
21		
22		
23		
24		
25	790.	
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	791.	
11		
12		
13		
14		
15		
16	792.	
17		
18		
19		
20		
21	793.	
22		
23		
24		
25		
26	794.	
27		
28	795.	

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15	796.	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27	797.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19	798.	
20		
21		
22		
23		
24		
25		
26		
27	799.	
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11	800.	
12		
13		
14		
15		
16		
17		
18	801.	
19		
20		
21		
22	802.	
23		
24		
25	On April 18, 2014, Frey sent an agenda for the "SeaWorld Brand Reputation Taskforce April 2014 Workshop" to numerous SeaWorld employees and third-party consultants. The agenda for this "Brand Reputation Taskforce April 2014 Workshop" identified the following	PX 361.
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
	attendees: Carl Allen, Becca Bides, Corrine Brindley, Toni Caracciolo Brian Carter, Veronica Crossett (from third-party MXM), Stephanie DeWitt, Wes Donehue (from third-party Push Digital), Roi Ewell, Anne Fischer, Pete Frey, Scott Gass, Nick Gollattscheck, Lori Gustafson, Marilyn Hannes, Todd Harris (from third-party Something Else), Barbara Heffernan, Fred Jacobs, Aimee Jeanssone-Becka, Jill Kermes, Dave Koontz, Cat Marshburn, Chauncey McCall (from third-party, MXM), Susan Polachek (from third-party FCB), Kelly Repass, Tony Taylor, Katie Townsley (from third-party MXM), Jonathan Williams (from third-party Push Digital), and Dennis Wirzman. The agenda stated that Day 1 of the planned two-day workshop would be attended by the SeaWorld employees and the “Agency Partners,” while Day 2 attendees would only include SeaWorld employees.	
804.	The agenda identified the “Objective(s)” of SeaWorld’s Brand Reputation Taskforce to include: (i) “Align and set goal for mid-term strategy”; (ii) “Solidify SeaWorld Brand Reputation taskforce”; (iii) “Developing structure for success”; and (iv) “Laying ground work for long-term plan.”	PX 361 at BakerSW0061580.
805.	The agenda for Day 1 of SeaWorld’s April 2014 “Brand Reputation Taskforce Workshop” included the following: (i) an “Opening” presentation by Kermes and Frey; (ii) a “Research Overview” that would include: (a) a presentation on “Focus Group Insights” by Repass; (b) a presentation on “Corp Rep/Blackfish Omnibus Highlights” by Repass; and (c) a presentation on a “California Study” by Brindley; (iii) a “Truth’ Campaign Overview” that would include: (a) a “Strategy Recap” presentation by Kermes; (b) a presentation on “Paid Media & Social Campaign” by Allen and Fischer; (c) a presentation on “California Learnings”; and (d) a presentation on	PX 361 at BakerSW0061580.

No.	Plaintiffs' Material Fact	Supporting Evidence
	"What Worked/What Did[n't] Work" by Kermes; (iv) a presentation on "How to think like an activist" by Wes Donehue of Push Digital; (v) presentations on the "Truth Campaign" by Bides, Allen, and Donehue; (vi) a "SeaWorld Cares Overview" that would include: (a) a presentation on the "2010 Cares Campaign" by Caracciolo and Marshburn; (b) a "Program Evolution Overview" by Bides; and (c) a "2014 Advertising & Offer recommendation" by Frey, Gustafson, and "Marcelo D"; and (vii) a presentation on "In-park marketing & messaging" by Hannes and Koontz.	
806.	The agenda for Day 2 of SeaWorld's April 2014 "Brand Reputation Taskforce Workshop" included the following: (i) a presentation on a "SWOT Analysis" by Kermes; (ii) a presentation on "Long-term" by Kermes; (iii) a presentation by Kermes and Frey on "2014 Action Plan & Tools" that would address: (a) "Gaps" in "research, resources, structure"; (b) "How does this taskforce work moving forward"; and (c) "Implications"; (iv) a presentation on "Next steps" by Kermes; and (v) a "Wrap-up" presentation by Kermes.	PX 361 at BakerSW0061580).
807.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
808.	[REDACTED]	[REDACTED]
809.	<p>On April 19, 2014, Taylor sent an email to Atchison that stated, among other things: "We definitely need to catch up. My list is getting very long. I tried to get . . . some time on your calendar for Jill and I on Corporate Reputation. In light of California, we are anxious to start but need to visit with you first. Corporate Affairs and SeaWorld Marketing are having an all hands two-day summit on Wednesday and Thursday. This is a pro-active effort by Jill [Kermes] and Pete [Frey] and I think it is a very good idea. There is a lot of anxiety in the parks that attendance is suffering due to reputational issues. I think the park marketing teams are feeling the pressure and are all wanting to run out and do something about it. The idea is to have everyone involved so that it will be coordinated AND they realize what the reputational landscape looks like and that things are being done to address."</p>	PX 363.
810.	<p>Atchison responded to Taylor's email: "I'll block early Wed[nesday] . . . Important to get the reputational efforts off and running."</p>	PX 363.
811.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12	812.	
13		
14		
15		
16		
17		
18		
19		
20	813.	
21		
22		
23		
24		
25		
26	814.	
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
1	[REDACTED]	
2	[REDACTED]	
3	[REDACTED]	
4	[REDACTED]	
5	[REDACTED]	
6	[REDACTED]	
7	[REDACTED]	
8	[REDACTED]	
9	[REDACTED]	
10	[REDACTED]	
11	[REDACTED]	
12	[REDACTED]	
13	[REDACTED]	
14	[REDACTED]	
15	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]
17	[REDACTED]	
18	815.	[REDACTED]
19	[REDACTED]	
20	[REDACTED]	
21	[REDACTED]	
22	[REDACTED]	
23	On August 12, 2014, Jacobs asked Bides and copied Kermes and Repass if SeaWorld had received "preliminary results" for the Company's 2014 Corporate Reputation Survey. Repass responded: "Not yet. We've asked TNS to fast track the results for the 9/11 [Strategy Committee] meeting. We should have the final report around 9/5 (originally 9/19)." Bides replied: "I used to view these results like opening	PX 368 at BakerSW0173257.
24		
25		
26		
27		
28		

No.	Plaintiffs' Material Fact	Supporting Evidence
	a present on Christmas morning – full of anticipation and optimism. Now it's like waiting for zombies to attack at midnight on Halloween. In a cemetery."	
817.	[REDACTED]	[REDACTED]
818.	[REDACTED]	[REDACTED]
819.	[REDACTED]	[REDACTED]
820.	[REDACTED]	[REDACTED]
821.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
1	[REDACTED]	
2	[REDACTED]	
3	[REDACTED]	
4	[REDACTED]	
5	On August 15, 2014, SeaWorld announced its whale habitat project, which it renamed the "Blue World Project." The press release SeaWorld issued in connection with its press conference stated, among other things: SeaWorld "announced today that it plans to build new, first-of-its-kind killer whale environments and that it will fund new programs to protect ocean health and killer whales in the wild. The new projects will build on SeaWorld's legacy of providing state-of-the-art, innovative, homes for its animals, and will offer park guests unique and inspiring killer whale encounters for generations to come. . . The first of the new environments will be built at SeaWorld San Diego . . . with new killer whale homes to follow at SeaWorld Orlando and SeaWorld San Antonio."	PX 371 at Ex. 99.1.
6	[REDACTED]	
7	[REDACTED]	
8	[REDACTED]	
9	[REDACTED]	
10	[REDACTED]	
11	[REDACTED]	
12	[REDACTED]	
13	[REDACTED]	
14	[REDACTED]	
15	[REDACTED]	
16	[REDACTED]	
17	[REDACTED]	
18	[REDACTED]	
19	[REDACTED]	
20	[REDACTED]	
21	[REDACTED]	
22	823.	[REDACTED]
23	[REDACTED]	
24	[REDACTED]	
25	[REDACTED]	
26	[REDACTED]	
27	[REDACTED]	
28	[REDACTED]	

No.	Plaintiffs' Material Fact	Supporting Evidence
824.	[REDACTED]	[REDACTED]
825.	On October 8, 2015 the California Coastal Commission approved SeaWorld's "Blue World Project" to build a new killer whale habitat "in San Diego, but attached certain conditions to approval. Those conditions included, among other things, a prohibition against breeding orcas or transporting orcas to or from the habitat. On December 29, 2015, [SeaWorld] filed a lawsuit against the California Coastal Commission on the grounds that the California Coastal Commission was outside the scope of its authority in imposing such conditions because it does not have jurisdiction over orcas, which are regulated under federal law."	PX 374 at SeaWorld 2016 Annual Report, 5.
826.	On March 17, 2016, SeaWorld announced that the Company "ended all orca breeding and the orcas currently in [SeaWorld's] care will be the last generation of orcas[.]"	PX 374 at SeaWorld 2016 Annual Report, at 3.

Additional Consumer Research

827.	[REDACTED]	[REDACTED]
828.	[REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
829.	[REDACTED]	PX 377 at BakerSW0067815; PX 120 (Frey Tr.) 331:3-9.
830.	[REDACTED]	[REDACTED]
831.	[REDACTED]	[REDACTED]
832.	[REDACTED]	[REDACTED]
833.	[REDACTED]	[REDACTED]
834.	A “Key Learning” that Initiative reported to SeaWorld from the MMM analysis was “The Blackfish Effect is significant and long-lasting.”	PX 377 at BakerSW0067816, slide 17.
835.	The MMM analysis found that from “week 34” of 2013 onward, “Blackfish impacted the SeaWorld parks by five percent in terms of visitors[.]” Calendar week 34 of 2013 is August 19 – 25, 2013.	PX 377 at BakerSW0067816, slide 17; PX 120 (Frey Tr.) 337:5-16.
836.	For SeaWorld San Antonio, the MMM analysis	PX 377 at

No.	Plaintiffs' Material Fact	Supporting Evidence
2	found that [REDACTED] that <i>Blackfish</i> was one of the “biggest negative drivers” of the attendance decline at SeaWorld San Antonio in 2013.	BakerSW0067816, slides 42, 43, 45.
5	837. [REDACTED]	[REDACTED]
8	For SeaWorld Orlando, the MMM analysis found the “ <i>Blackfish Effect</i> [was] smaller than other SW markets from a percentage standpoint,” but “the comparative strength of the Oct[ober]-Dec[ember] period ma[d]e the actual loss significant” and, thus, [REDACTED]	PX 377 at BakerSW0067816, slide 58.
12	839. [REDACTED]	[REDACTED]
15	840. [REDACTED]	[REDACTED]
19	841. [REDACTED]	[REDACTED]
23	842. [REDACTED]	[REDACTED]

No.	Plaintiffs' Material Fact	Supporting Evidence
843.	Under the heading, "Impact of the Blackfish Controversy," in a slide entitled "Barriers to SeaWorld Visitation," Repass reported: "There is a high level of awareness of negative publicity (seen/heard/read any news, word of mouth) in the market place that appears to be hurting SeaWorld's attendance. . . . Virtually all the negative news is related to Blackfish (20%), whale/animal treatment (12%) and safety/trainer incident (8%). . . . The fallout negative impacts SeaWorld visitation by at least 7% of non-visitors and may have a ripple effect well beyond that. This may include SeaWorld annual pass holders, other family members and visitation to other SeaWorld parks."	PX 378 at BakerSW0281614, slide 15.
844.		
845.		
846.		

No.	Plaintiffs' Material Fact	Supporting Evidence
847.	[REDACTED]	[REDACTED]
848.	[REDACTED]	[REDACTED]
849.	[REDACTED]	[REDACTED]
850.	[REDACTED]	[REDACTED]

25. Blackfish Impacts – Consumer Complaints and Communications

851.	Prior to, during and after the Class Period, SeaWorld received direct correspondence from scores of consumers who took the time to write personal letters and/or email communications to SeaWorld that described how <i>Blackfish</i> had affected these consumers' views towards SeaWorld and its business practices. Regarding letters about <i>Blackfish</i> , Jacobs testified "it would be reasonable to conclude that ... for every one, there's more out there" and that "for every one that I saw, I worried that there were, you know, 10 that I didn't see."	PX 385, PX 395, PX 404 (collecting hundreds of examples of the customer emails SeaWorld received indicating a particular customer(s) had changed their opinion about SeaWorld and/or would not attend or return to SeaWorld parks because of <i>Blackfish</i>), PX 415 (same); PX 10 (Jacobs Tr.) 108:4-19, 442:12-23.
852.	The actual volume of consumer complaints about <i>Blackfish</i> that SeaWorld received via email	PX 382 at BakerSW0028655; PX

No.	Plaintiffs' Material Fact	Supporting Evidence
	during the Class Period is unknown because SeaWorld employees were consistently instructed to “delete” such emails during this period if the consumer’s message did not indicate a “glimmer of hope” for SeaWorld to change the consumer’s opinion.	383 at BakerSW0049576; PX 384 at BakerSW0182699.
853.	Consumer letters and emails that SeaWorld received in 2013 and 2014 (that were not deleted) informing SeaWorld that the consumers had changed their opinion about SeaWorld, canceled scheduled trips and/or would never visit a SeaWorld park again due to the consumers’ exposure to the issues raised in <i>Blackfish</i> .	PX 385; PX 395; PX 404 (collecting hundreds of examples of the customer emails SeaWorld received indicating a particular customer(s) had changed their opinion about SeaWorld and/or would not attend or return to SeaWorld parks because of <i>Blackfish</i>); PX 415 (same).
854.	Between April 2013 and August 28, 2013, SeaWorld received numerous letters and emails from consumers, who took the time to write to inform the Company of how <i>Blackfish</i> had affected these consumers’ perceptions of SeaWorld.	PX 385 (collecting examples of the customer emails SeaWorld received from April 2013 through August 28, 2013, indicating a particular customer(s) had changed their opinion about SeaWorld and/or would not attend or return to SeaWorld parks because of <i>Blackfish</i>).
855.	For example, on April 6, 2013, SeaWorld received an email from an individual identified as Shannon Lumpkin. The email stated, among other things: “My family recently visited SeaWorld . . . However, recently we’ve seen the film Blackfish and after further researching the matter we have decided to never visit Seaworld again until orcas are no longer a part of your shows.”	PX 386.
856.	Another example was an email SeaWorld received on July 15, 2013, from an individual	PX 387.