

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEITH JOHNSON, individually and on behalf
of all others similarly situated,

Plaintiff,

- versus -

ELON MUSK, SPACE EXPLORATION
TECHNOLOGIES CORP dba SPACEX, and
TESLA, INC.,

Defendants.

Case No.: 1:22-cv-5037

CLASS ACTION COMPLAINT

JURY DEMANDED

INTRODUCTION

Defendants Elon Musk, SpaceX and Tesla, Inc. are engaged in a Crypto Pyramid Scheme (aka Ponzi scheme) by way of Dogecoin cryptocurrency. Dogecoin is not a currency, stock, or security. It's not backed by gold, other precious metal, or anything at all. You can't eat it, grow it, or wear it. Dogecoin does not generate cash flow. It doesn't pay interest or a dividend. It has no unique utility compared to other cryptocurrencies. It is not part of a new internet or the metaverse. It's not based upon or tied to anything of value. It's not secured by a government or private entity. The number of coins is unlimited. It's simply a fraud whereby "greater fools" are deceived into buying the coin at a higher price. Since Defendant Musk and his corporations SpaceX and Tesla, Inc. began purchasing, developing, promoting, supporting, and operating Dogecoin in 2019, Plaintiff and the class have lost approximately \$86 billion in this Crypto Pyramid Scheme. Defendant Musk is the self-appointed "Dogefather," "former CEO of Dogecoin," partner, developer, spokesperson, publicist, salesman, marketer, and promoter of Dogecoin, who assembled the "Doge Army" including his corporations and various billionaires, influencers, and celebrities to increase the price, market cap and trading volume of Dogecoin. Plaintiff demands an accounting, monetary damages, punitive damages, and equitable relief.

STATEMENT OF FACTS

- 1) In 2013, Dogecoin cryptocurrency was launched by co-founders Billy Markus and Jackson Palmer at a price of \$0.0002 per coin ($2/100^{\text{th}}$ of a penny).
- 2) Markus openly admitted that he created Dogecoin in about two hours as a joke and that it relied 99.99% on the “greater fool theory.”
- 3) On December 21, 2013, the Market Cap was only \$3.71 million.
- 4) Its price increased over 10-fold in its first fifteen days to \$0.0023.
- 5) Defendant Musk started talking to Dogecoin developers in 2019, providing advice and sharing his vast Rolodex of contacts.
- 6) Since that time Defendant Musk and people including his family, friends, employees and followers began to purchase Dogecoin.
- 7) Defendant Musk is one the world’s wealthiest individuals with estimated net worth in excess of \$250 billion with approximately 100 million Twitter followers who spread his frequent tweets to billions of people around the world.
- 8) He is also the CEO of Defendants SpaceX and Tesla, Inc. who jointly promote Dogecoin (SpaceX named a satellite after Dogecoin and Tesla accepts Dogecoin for merchandise).
- 9) Over the last three years, Defendant Musk, individually, and in his position as President of SpaceX and Tesla, Inc., garnered the support of celebrities, influencers, and billionaire investors along with thousands of Tik Tok, Twitter, Facebook, and Instagram followers, owners, and supporters of Dogecoin to boast the price, trading volume, and market cap of Dogecoin.
- 10) These individuals and entities include but are not limited to billionaire entrepreneur

Mark Cuban and the Dallas Mavericks NBA basketball team, artist and entrepreneur Snoop Dogg, artist Kevin Jonas, celebrity chef Guy Fieri, rapper Lil' Yachty, actress Vicky-Lee Valentino, adult star Angela White and artist Gene Simmons who has dubbed himself the "God of Dogecoin," just to name a few.

- 11) Defendant Musk has been tweeting about Dogecoin since at least April 2, 2019, when he shared a satirical article from *The Onion* about Bitcoin price volatility and added: "Dogecoin value may vary." Musk followed up with: "Dogecoin might be my fav cryptocurrency. It's pretty cool."
- 12) Defendant Musk also posted, "Dogecoin rulz" on April 2, 2019, together with a dog smoking a cigarette and the caption: "Doge? I haven't heard that name in years."
- 13) These tweets were prompted by a Dogecoin online survey on April 1, 2019, wherein 54.4% of 4,366 voters chose Defendant Musk (more than all other candidates combined) as the "CEO" of Dogecoin: "We have decided that Dogecoin does need a CEO. Someone who can lead us into the future while maintain the core values of what we are."
- 14) Clearly, Defendant Musk accepted this appointment as CEO of Dogecoin by virtue of his conduct and that of Tesla and SpaceX since April 1, 2019.
- 15) While Dogecoin had a market cap of \$250 million on April 1, 2019, trading at \$0.0020 (roughly the same price as six years prior), after Defendant Musk's tweets, the market cap rose to \$480 million, and the price doubled to \$0.0040 in three days.
- 16) Defendant Musk is and has been fully aware that his tweets regarding Dogecoin had direct effects on the Dogecoin price, market cap, and trading volume.
- 17) On July 17, 2020, Defendant Musk tweeted that 'the Dogecoin standard' would

inevitably take over the global financial system.

- 18) Defendant Musk's tweet on July 17, 2020, was enough to send Dogecoin's price up from \$0.0029 to \$0.0036 an increase of nearly 25% in only two days, increasing the market cap from \$363 million to \$452 million.
- 19) On November 11, 2020, SpaceX vice-president of commercial sales Tom Ochinero announced that, "This mission will demonstrate the application of cryptocurrency beyond Earth orbit and set the foundation for interplanetary commerce. We're excited to launch DOGE-1 to the Moon!"
- 20) On December 14, 2020, Defendant Musk tweeted that Tesla, Inc. would accept Dogecoin as payment for some merchandise and the price rose more from \$0.0032 to \$0.0040, a rise of 25% by December 17, 2020.
- 21) On December 20, 2020, Defendant Musk tweeted, "One word: DOGE". Only a few hours later, the token saw its valuation spike from \$0.0039 to \$0.0054, an increase of 40%.
- 22) On December 25, 2020, Defendant Musk tweeted the Dogecoin logo, and the price increased again.
- 23) On January 13, 2021, Defendant Musk Tweeted, "Tesla merch buyable with Dogecoin," which caused the market cap of Dogecoin to increase from \$1 billion to \$1.3 billion in less than 48 hours, an increase of 30%, and caused the price to rise from \$0.0068 to \$0.0098.
- 24) By February 2, 2021, Dogecoin was trading at \$0.03.
- 25) On February 4, 2021, Defendant Musk posted four Tweets regarding Dogecoin, including, "No highs, no lows, only Doge" and "Dogecoin is the people's crypto,"

- causing the market cap to hit an all-time high of \$7.4 billion.
- 26) On February 5, 2021, Defendant Musk posted a survey on Twitter regarding, “The future currency of Earth” where 71% voted for “Dogecoin to the Mooonn [sic]” over “All other crypto combined.”
- 27) On February 7, 2021, Defendant Musk posted a full-blown cryptocurrency instructional video on Twitter (“D is for Dogecoin! Instructional video.”) and tweeted, “Who let the Doge out” and by February 8, 2021, Dogecoin was trading at \$0.084, an increase of over 250% in less than one week.
- 28) On February 10, 2021, Defendant Musk tweeted that he purchased Dogecoin for his son together with a picture of his infant son.
- 29) On February 11, 2021, Defendant Musk tweeted a satirical post of Dogecoin and *Lord of the Rings* where he wrote, “Frodo was the underdog...” and “ONE COIN TO RULE THEM ALL” and the market cap soared to nearly \$11 billion.
- 30) On February 13, 2021, Dogecoin was trading at \$0.07 before Defendant Musk tweeted the following on February 14, 2021, in a stunning reversal of his position on Dogecoin, “If major Dogecoin holders sell most of their coins, it will get my full support. Too much concentration is the only real issue imo.”
- 31) Then, on February 15, 2021, Defendant Musk tweeted, “I will literally pay actual \$ if they just void their accounts.”
- 32) By February 17, 2021, the price of Dogecoin dropped to \$0.044, approximately a 35% drop in three days due to Defendant Musk’s tweets encouraging Dogecoin holders to sell, reducing the market cap from \$11 billion to \$6.2 billion, a loss of nearly \$5 billion in less than one week.

- 33) On February 20, 2021, Defendant Musk posted a link to another YouTube cryptocurrency video and on February 21, 2021, Musk tweeted, “Dojo 4 Doge.”
- 34) These two tweets caused the Dogecoin price to jump from less than \$0.052 to \$0.06 or 16%.
- 35) On February 24, 2021, Defendant Musk tweeted on behalf of himself and SpaceX, “Literally ... On the actual moon” with an image of a dog hoisting a Dogecoin flag on the moon, causing the price to jump from \$0.043 on February 23, 2021, to \$0.06 the next day, a jump of 40% in less than two days.
- 36) The trading volume from February 20 - 24, 2021, was approximately \$3 billion per day.
- 37) On or about February 25, 2021, it was reported that the SEC was investigating Defendant Musk for his tweets about Dogecoin.
- 38) Musk responded to the rumored headlines in a tweet stating, “Good luck catching my rocket. Doge will live forever. #dogefather.”
- 39) On March 1, 2021, Defendant Musk posted a meme showing a person in a camouflage uniform on fire on his knees with blood at his feet shielding a sleeping person in bed (represented as “DOGECOIN”) from missiles, grenades, bullets, and knives.
- 40) On March 5, 2021, Defendant Musk Tweeted that, “Doge spelled backwards is Egod.”
- 41) On March 13, 2021, Defendant Musk Tweeted three times about Dogecoin, including, “Why are you so dogematic, they ask.”
- 42) After these March 2021 tweets, Dogecoin rose from \$0.045 to \$0.063 from February

- 28 to March 13, an increase of 40% in two weeks.
- 43) On April 1, 2021, Defendant Musk Tweeted that SpaceX is going to put a literal Dogecoin on the literal moon.
- 44) On April 14, 2021, Defendant Musk tweeted artwork of a dog and a moon captioned, “Doge Barking at the Moon.” (in crypto parlance “moon” refers to a rapidly rising price).
- 45) As a result, the price of Dogecoin rose from \$0.07 to \$0.40 (over 500%) in less than two days with daily trading volume averaging approximately \$70 billion.
- 46) By April 17, 2021, the Dogecoin market cap had jumped from \$8 billion to \$55 billion in less than one week.
- 47) It was during the month of April 2021, that Plaintiff purchased Dogecoin at a price of approximately \$0.30 per coin as a result of Defendants’ conduct.
- 48) By April 22, 2021, Dogecoin dropped as low as \$0.18, but on April 24, 2021, it was announced that Defendant Musk would host the comedy show Saturday Night Live on May 9, 2021, in New York City on NBC.
- 49) On April 28, 2021, Defendant Musk Tweeted, “The Dogefather SNL May 8.”
- 50) On May 6, 2021, the Dogecoin Market Cap hit \$88.7 billion and the price of the coin hit a peak of \$0.73.
- 51) On May 9, 2021, Musk tweeted, “SpaceX launching satellite Doge-1 to the moon next year – Mission paid for in Doge – 1st crypto in space – 1st meme in space To the moooooonnn!!”
- 52) Defendant Musk appeared on Saturday Night Live on May 9, 2021.
- 53) During a sketch Defendant Musk appeared as a fictional financial expert called Lloyd

- Ostertag where he again referred to himself as “the Dogefather.”
- 54) Defendant Musk stated among other things that, “It’s the future of currency,” before agreeing Dogecoin is, “a hustle.”
- 55) Defendant Musk’s appearance on Saturday Night Live reflected negatively on Dogecoin for multiple reasons, causing the trading volume to skyrocket and the price to plummet.
- 56) The Dogecoin daily trading volume peaked at over \$46 billion on May 9, 2021.
- 57) Within four days, the Dogecoin market cap dropped from \$95 billion to \$45 billion (nearly 50%) and the price dropped from \$0.73 to \$0.38.
- 58) On May 13, 2021, Defendant Musk tweeted a picture of a Tesla interior with a sign that read “DON’T PANIC” and a post that read, “As always.”
- 59) This was followed by a post that said, “Working with Doge devs to improve system transaction efficiency, (P)otentially promising.”
- 60) Within one day the price of Dogecoin jumped 50%, soaring to \$0.58 as a result of Defendant Musk’s encouraging tweet.
- 61) Dogecoin prices immediately shot higher with a market cap of \$72.5 billion, \$8 billion higher or 15%.
- 62) On May 16, 2021, the market cap dropped to \$63 billion and on May 20, 2021, the market cap dropped to \$46.6 billion, and the price dropped to \$0.27.
- 63) On May 20, 2021, at 10:56 am, Defendant Musk tweeted, “Yeah, I haven’t & won’t sell Doge” and a meme with the statement, “How much is that Doge in the window?” As a result, the price jumped 60% to \$0.43 on May 20, 2021.
- 64) On May 24, 2021, Defendant Musk tweeted, “If you’d like to help develop Doge,

please submit ideas on GitHub & reddit.com...” and “Someone suggested changing Dogecoin fees based on phases of the moon, which is pretty awesome ha ha,” causing the price to jump from \$0.28 to \$0.38 (35% increase in one day).

65) However, on May 25, 2021, Defendant Musk tweeted, “Please note Dogecoin has no formal organization & no one reports to me, so my ability to take action is limited.”

66) May 25, 2021, Dogecoin was trading at \$0.36 but dropped more than 50% to \$0.17 after Defendants Musk’s derogatory tweet.

67) On July 1, 2021, Defendant Musk tweeted, “Release the Doge!” and “Baby Doge, doo, doo, doo, doo, doo, Baby Doge, doo, doo, doo, doo, doo, Baby Doge, doo, doo, doo, doo, doo, Baby Doge” and on July 2, 2011, Defendant Musk tweeted a meme with three young beautiful women surrounding a smiling young man on a laptop with the words “dogecoin Polytopia” above a graph depicting an increasing price, causing the price to rise to \$0.25.

68) On July 24, 2021, Defendant Musk tweeted a meme with Neo from *The Matrix* stating: “What are you trying to tell me, that I can make a lot of money with Dogecoin?” The response by the Dogecoin dog with sunglasses is: “No, Neo. I’m trying to tell you that Dogecoin *is money*.” As a result, the price increased from \$0.19 to \$0.23 (over 20%) in 24 hours.

69) On October 23, 2021, the price was \$0.25 when Defendant Musk tweeted, “Lots of people I talked to on the production lines at Tesla or building rockets at SpaceX own Doge. They aren’t financial experts or Silicon Valley technologists. That’s why I decided to support Doge – it felt like the people’s crypto.”

70) By October 28, 2021, the price increased to \$0.33 as a result of Defendant Musk’s

tweet, 33% in five days.

71) On October 31, 2021, Defendant Musk tweeted, “Tuition is in Dogecoin & u get a discount if you have a dog”.

72) Defendant Musk announced on December 14, 2021, that Defendant Tesla will accept Dogecoin payments for brand merchandise and the price jumped 25% from \$0.16 to \$0.20.

73) On January 25, 2022, Defendant Musk tweeted: “I will eat a happy meal on tv if @McDonalds accepts Dogecoin.” While this offer was not accepted the Dogecoin price increased from \$0.14 to \$0.15 in 24 hours (8% increase) as a result of the Tweet.

74) On February 18, 2022, Defendant Musk tweeted, “And futuristic diner / drive-in theater planned for Hollywood area! ... And, of course, you can pay in Doge” causing the Dogecoin price to increase from \$0.14 to \$0.15 in 24 hours (8% increase).

75) On March 11, 2022, the Dogecoin price dropped to \$0.11 with a market cap of \$15.28 billion.

76) On March 13, 2022, 9:11 pm Defendant Musk tweeted, “As a general principle, for those looking for advice from this thread, it is generally better to own physical things like a home or stock in companies you think make good products, than dollars when inflation is high. I still own & won’t sell my Bitcoin, Ethereum or Doge fwiw.”

77) March 18, 2022, Market Cap was \$16.39 billion and on March 25, 2022, Market Cap was \$17.82 billion.

78) Defendant Musk’s tweet caused a \$2.5 billion Market Cap spike, approximately 15%

in 14 days.

79) On May 12, 2022, Defendant Musk tweeted that, “it (Dogecoin) has the potential of currency,” causing the price to increase from \$0.074 to \$0.093 in a day, approximately 25%.

80) On May 26, 2022, Defendant Musk tweeted, “Dogecoin Trillionaire, the Movie,” which had no effect on the price, apparently the first time this has ever occurred.

81) Since Dogecoin peaked at \$0.73 in May 2021, it has dropped to as little as \$0.052, down 92% from its all-time high.

82) Plaintiff sold his Dogecoin in June 2022 at a price of \$0.08, losing approximately 70% of his investment.

83) Over the last three years, Defendants have engaged in and profited from the manipulation of the price of Dogecoin in this Crypto Pyramid Scheme, on behalf of themselves individually, as well as family members, friends, employees and followers.

84) Before Defendant Musk began promoting Dogecoin, the market cap had slowly grown over six years to \$250 million on April 1, 2019, with a daily trading volume of only \$19 million.

85) Dogecoin jumped to a peak daily trading volume of \$28 billion (1,500-fold increase or 150,000%) and a market cap of \$93 billion (360-fold increase or 36,000%) in May 2021, all in just two years because of Defendants’ conduct.

86) The Dogecoin price rose from \$0.002 to \$0.73 (350-fold increase or 35,000%).

87) However, as of June 13, 2022, the price of Dogecoin dropped as low as \$0.052, a loss of 92% and \$86 billion in market cap since May 2021.

- 88) Every statement and endorsement from Defendants on social media regarding Dogecoin has knowingly caused millions of people to spend billions of dollars buying into the Dogecoin Crypto Pyramid Scheme.
- 89) The ripple effect of Defendants' conduct regarding Dogecoin caused the entire crypto market cap to increase to \$3 trillion in the summer of 2021.
- 90) Since that time, nearly \$2 trillion has been lost in the crypto marketplace as the entire crypto market cap is presently close to \$1 trillion, crashing after Defendant Musk told the world on Saturday Night Live that crypto was, "a hustle."

DEFENDANTS' PRIOR SEC VIOLATIONS

- 91) Defendant Musk has a history of failing to comply with the Securities and Exchange Commission (SEC).
- 92) In 2018, Defendant Musk entered a consent decree with the SEC for misleading investors when he tweeted that he had gathered enough funding to take Tesla private.
- 93) Defendant Musk paid a \$40 million fine and agreed to step down as chairman and vet his tweets with lawyers.
- 94) After paying this fine Defendant Musk insulted the SEC on October 4, 2018, by tweeting, "Just want to that the Shortseller Enrichment Commission is doing incredible work. And the name change is so on point!"
- 95) In addition, Defendant Musk and his brother Kimbal Musk (who sits on Defendant Tesla's Board of Directors) are under investigation by the SEC for insider trading, arising from a November 2021 tweet in which Defendant Musk asked his followers if he should sell Tesla stock.
- 96) One day before the tweet, Kimbal Musk sold 88,500 Tesla shares. Musk's followers

- said Defendant Musk should sell, and he did. Tesla's stock tumbled after the tweet.
- 97) Most recently, Defendant Musk was 11 days late in publicly declaring he had amassed a large stake in Twitter in March 2022. That omission may have earned him \$156 million, according to a half-dozen legal and securities experts.
- 98) Defendant Musk is also rumored to be facing scrutiny by the FBI for allegedly pumping and dumping Dogecoin.
- 99) While the FBI did not confirm the Dogecoin investigation they released a statement saying. "It is important for people to know what they're getting into. Just because someone is wealthy and seen as smart, that doesn't mean you should take financial advice from them. We intend to prosecute anyone who partakes in ponzi schemes, pump and dump like schemes."
- 100) Since cryptocurrency is not regulated by the SEC, Defendant Musk has tweeted numerous times over the past three years about Dogecoin to manipulate the price without consequence.

DOGECOIN IS A CRYPTO PYRAMID SCHEME

- 101) New York Attorney General Letitia James describes pyramid schemes as, "a fraudulent system of making money based on recruiting an ever-increasing number of 'investors.'"
- 102) Dogecoin is a Crypto Pyramid Scheme because: (a) It has no intrinsic value; (b) It is not a productive asset; (c) It has no underlying value; (d) The number of coins is unlimited; (e) The value of Dogecoin is solely derived from the hope that the price will rise indefinitely under the "greater fool theory" and (f) the history of trading proves that the price is directly controlled and manipulated by Defendants.

- 103) In 2018, Bill Gates described cryptocurrency with the "greater fool theory" saying he would "short it" if he could.
- 104) Warren Buffett said that cryptocurrencies have no value since they don't produce anything and one's only hope is that a "greater fool" comes along to pay more than you did.
- 105) Wolf of Wall Street Jordan Belfort recently stated that, "Bitcoin & Crypto is a scam!" and that Dogecoin is a, "joke with no real value."
- 106) In 2019, LendingTree Chief Economist Tendayi Kapfudz described cryptocurrency as, "a pyramid scheme ... you only make money based on people who enter after you."
- 107) In April 2021, managing director of Morgan Creek Capital Management Mark Yusko called out Dogecoin, saying, "It's Ponzi-nomics," referencing the fact that it is a ponzi/pyramid scheme.
- 108) In May 2021, it was reported that Paul Krugman, an American economics professor and a Nobel laureate winner described cryptocurrencies as a long-running Ponzi scheme.
- 109) In June 2021, the Federal Reserve Bank of Minneapolis President Neel Kashkari called Dogecoin a Ponzi scheme.
- 110) In August 2021, billionaire hedge fund manager John Paulson predicted that cryptocurrencies (including Dogecoin) will "go to zero."
- 111) In 2021, Vivaldi CEO Jon von Tetzchner stated that cryptocurrencies are, "nothing more than a pyramid scheme posing as currency."
- 112) American billionaire Charlie Munger (former business partner of Warren Buffet)

stated that he is, “proud for not investing in crypto,” further stating that it will one day be “worthless.”

113) On February 14, 2022, Reserve Bank of India deputy governor T. Rabi Sankar said that cryptocurrencies are akin to Ponzi schemes or even worse and banning them is the most sensible option for India.

114) On July 14, 2021, Dogecoin co-founder Jackson Palmer tweeted nine anti-cryptocurrency tweets including the following: “The cryptocurrency industry leverages a network of shady business connections, bought influencers and pay-for-play media outlets to perpetuate a cult-like “get rich quick” funnel designed to extract new money from the financially desperate and naïve.”

JURISDICTION

115) Plaintiff invokes this Court’s diversity jurisdiction as the case involves parties from multiple states with allegations in excess of \$75,000; Plaintiff alternatively invokes jurisdiction under Civil RICO and the Class Action Fairness act as the dispute involves monetary damages in excess of \$5,000,000. The Court also has jurisdiction because Defendant Musk appeared on Saturday Night Live in this district where he committed some of the tortious acts described in this complaint. The Court has supplemental jurisdiction over the claims made under New York State law.

VENUE

116) Venue is proper in the Southern District of New York because defendants are jointly engaged in wrongful conduct in this district, and Defendants have minimum contacts with this district such that exercising jurisdiction is just and reasonable.

PARTIES

- 117) Plaintiff Keith Johnson is an American citizen who was defrauded out of money by Defendants' Dogecoin Crypto Pyramid Scheme.
- 118) Defendant Elon Musk is a partner in the Dogecoin Crypto Pyramid Scheme and CEO of SpaceX and Tesla, Inc.
- 119) Defendant Space Exploration Technologies Corp dba SpaceX is a private corporation with headquarters located 1 Rocket Road, Hawthorne, California 90250.
- 120) Defendant Tesla, Inc. is a public corporation with headquarters located at 13101 Harold Green Road, Austin, Texas 78725.

CLAIMS FOR RELIEF

CLASS ACTION ALLEGATIONS

- 121) The class is initially defined as all individuals or entities who have lost money buying, selling, and/or trading, Dogecoin, since at least April 2019.
- 122) This action is properly maintainable as a class action.
- 123) The class is so numerous that joinder of all members is impracticable.
- 124) The number and identities of class members can be determined through crypto exchanges, the Dogecoin blockchain, and voluntary disclosure by class members.
- 125) The disposition of their claims in a class action will be of benefit to the parties and the court.
- 126) A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted, and no unusual difficulties are likely to be encountered in the management of this action as a class action.
- 127) The likelihood of individual class members prosecuting separate claims is remote.

- 128) There is a well-defined community of interest in the questions of law and fact involved affecting members of the classes.
- 129) Among the questions of law and fact which are common to the class, and which predominate over questions affecting any individual class member are, the following:
- 130) Whether Defendants violated Civil RICO;
- 131) Whether Defendants have violated federal and state gambling laws;
- 132) Whether Defendants have engaged in common law fraud;
- 133) Whether Defendants are engaged in a fraud akin to a pyramid scheme;
- 134) Whether Defendants violated N.Y.S. G.B.L. § 349;
- 135) Whether Defendants violated N.Y.S. G.B.L. § 350;
- 136) Whether Defendants are liable for products liability through their failure to warn;
- 137) Whether Defendants' unlawful acts resulted in unjust enrichment;
- 138) Whether Plaintiffs and the classes are entitled to injunctive and equitable relief;
- 139) Whether Defendants' acts were willful entitling Plaintiff and the class to treble and/or punitive damages.
- 140) Plaintiff is a member of the class and is committed to prosecuting this action.
- 141) Plaintiff's claims are typical of the claims of the other members of the class.
- 142) Plaintiff does not have interests antagonistic to or in conflict with those they seek to represent. Plaintiff is, therefore, an adequate representative of the proposed class.
- 143) The likelihood of individual class members prosecuting separate individual actions is remote due to the relatively small loss suffered by class members as compared to the burden and expense of prosecuting litigation of this nature and magnitude.

144) Absent a class action, Defendants are likely to avoid liability for their wrongdoing, and the class members are unlikely to obtain redress for the wrongs alleged herein.

145) Adjudication of this case on a class-wide basis is manageable by this court.

FIRST CAUSE OF ACTION

CIVIL RICO – WIRE FRAUD

146) Plaintiff repeats and reiterates all previous paragraphs of this complaint as if fully set forth in this cause of action.

147) Defendants’ purchasing, marketing, advertising, promoting, and manipulating Dogecoin on the internet, inclusive of exchanges, in the United States and internationally since April 2019 constitutes an illegal wire fraud enterprise.

148) Dogecoin is a Crypto Pyramid Scheme created, promoted, and advertised by Defendants Musk, Tesla, Inc. and SpaceX, together with their servants, agents, employees, and volunteers.

149) Defendants falsely and deceptively claim that Dogecoin is a legitimate investment when it has no value at all.

150) Defendant Musk falsely stated that, “Dogecoin *is money*.”

151) Defendant Musk has encouraged Plaintiff and the class to buy and sell Dogecoin.

152) Defendant Musk’s tweets are repeated millions of times by Dogecoin holders, as well as on social media and the general media.

153) Defendants and their servants, agents, and employees have deceived Plaintiff and the class into believing that Dogecoin is a valuable asset worth purchasing, holding and trading.

154) Plaintiff and the class of Dogecoin holders and adopters would not have purchased Dogecoin if not for Defendants' fraudulent claims regarding the perpetual rising price of Dogecoin.

155) Since Defendants inflated the Dogecoin Market Cap to \$93 billion from \$250 million, and it is now under \$7 billion at the time this lawsuit was filed, Plaintiff and the class demands \$86 billion in compensatory damages and \$172 billion in treble damages, including damages suffered by Plaintiff.

SECOND CAUSE OF ACTION

CIVIL RICO - GAMBLING

156) Plaintiff repeats and reiterates all prior paragraphs of this complaint as if fully set forth in this cause of action.

157) Gambling is accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

158) On April 12, 2022, Dogecoin co-creator Shibetoshi Nakamoto tweeted that, "cryptocurrency buying and selling is not investing. It is gambling."

159) In January 2022, the Guardian published an article stating that, "'Trading is gambling, no doubt about it' – how cryptocurrency dealing fuels addiction. Fears rise over how unregulated trading and promotion of crypto assets are creating a new generation of addicts."

160) In July 2021, Chris Larsen President of Ripple stated that, "There is not any distinction between investing in Dogecoin and touring to Las Vegas."

161) In July 2021, MicroStrategy CEO Michael Saylor drew parallels between buying Dogecoin and playing roulette in Las Vegas saying that, "I'm gonna buy Dogecoin

before Elon Musk goes on Saturday Night Live (is like) I'm gonna go to Vegas and I'm going to bet on black."

162) In 2021, Mad Money's TV host Jim Cramer said, "I think dogecoin (buying) ... is actually gambling, not investing."

163) In 2021, Shark Tank star Kevin O'Leary said that, "When you speculate on something like Dogecoin, that's no different than going to Las Vegas and putting your money on red or black."

164) Defendants have violated and continue to violate Title 18, U.S.C., Sec. 1955, (federal crime or offense for anyone to conduct an 'illegal gambling business.') the Federal Wire Act of 1961 and the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).

165) While there is a special exemption for stocks, since Dogecoin is not a stock, it is not exempt.

166) Defendants have also violated the New York State Constitution which prohibits gambling with limited exceptions as well as New York Penal Law Section 225.10 (Promoting gambling in the first degree).

167) Plaintiff and the class are unknowingly gamblers who buy and sell Dogecoin as they would bet in a casino or a sports betting website.

168) Gambling is only allowed in the State of New York (and the other 49 states) under special conditions and circumstances, with proper licensing in those states that allow it at all.

169) Since the "trading" of Defendants' Dogecoin cryptocurrency constitutes a gambling enterprise, each Defendant must register with every state in which they are

operating under their gambling laws and pay taxes to those states and the federal government as required by law.

170) Since Plaintiff and the class were not advised that the trading of Dogecoin was nothing more than a gambling enterprise, Plaintiff and the class demand the return of all wagers lost trading Dogecoin.

THIRD CAUSE OF ACTION

COMMON LAW FRAUD

171) Plaintiff repeats and reiterate all prior paragraphs of this complaint as if fully set forth in this cause of action.

172) Defendants are engaged in a fraudulent Crypto Pyramid Scheme by way of Dogecoin cryptocurrency.

173) Defendants were aware since 2019 that Dogecoin had no value yet promoted Dogecoin to profit from its trading.

174) Defendant Musk used his pedestal as World's Richest man to operate and manipulate the Dogecoin Pyramid Scheme for profit, exposure and amusement.

175) Rather than developing Dogecoin in 2019, if Defendant Musk had announced the truth about Dogecoin and all cryptocurrencies, namely that they are all pyramid schemes, the market cap of cryptocurrencies would not have climbed to \$3 trillion, with a Dogecoin market cap of \$93 billion.

176) As a result of this fraudulent enterprise, Plaintiff and the class have lost approximately \$86 billion.

177) Wherefore, Plaintiff and the class demand compensatory damages in the amount of \$86 billion plus \$172 billion in punitive damages, to punish the Defendants and to deter such conduct in the future.

FOURTH CAUSE OF ACTION

NEGLIGENCE

178) Plaintiff repeats and reiterates all previous paragraphs of this complaint as if fully set forth in this cause of action.

179) Defendants were negligent, careless, and reckless in their development, promotion, and marketing of Dogecoin since April 1, 2019, including numerous tweets by Defendant Musk.

180) Defendants encouraged millions of people to buy and sell hundreds of billions of dollars of Dogecoin.

181) Defendants knew, or with the exercise of reasonable care, should have known that Dogecoin is a pyramid/ponzi scheme.

182) Defendants failed to warn Plaintiff and the class of the dangers of buying Dogecoin.

183) Defendant Musk was negligent, careless and reckless in appearing on Saturday Night Live and telling the world that cryptocurrency is, “a hustle.”

184) As a result of the foregoing, Plaintiff and the class collectively lost \$86 billion when the price dropped from \$0.73 in May 2021 to \$0.052 in June 2022.

FIFTH CAUSE OF ACTION

FALSE ADVERTISING

185) Plaintiff repeats and reiterate all prior paragraphs of this complaint as if fully set

forth in this cause of action.

186) Defendants have violated and continue to violate New York State GBL False Advertising Section 350-A by way of their Crypto Pyramid Scheme.

187) The false advertising includes but is not limited to the allegations of this complaint in the statement of facts including: that “Dogecoin *is money*,” “it (Dogecoin) has the potential of currency,” that ‘the Dogecoin standard’ would inevitably take over the global financial system and to Dogecoin holders when the price plummeted: “DON’T PANIC ... As always.”

188) Defendants and their partners, associates, servants, agents, employees, and volunteers have used TikTok, Facebook, Instagram, Twitter, and other social media and general media entities to deceptively advertise Dogecoin.

189) As a result of the foregoing, Plaintiff and the class bought and sold Dogecoin, sustaining capital losses by Plaintiff and the class of approximately \$86 billion.

SIXTH CAUSE OF ACTION

DECEPTIVE PRACTICES

190) Plaintiff repeats and reiterates all previous paragraphs of this complaint as if fully set forth in this cause of action.

191) Defendants and their partners, associates, servants, agents, employees, and volunteers have used TikTok, Facebook, Instagram, Twitter, and other social media and general media entities to deceptively promote Dogecoin.

192) Defendants’ marketing and support of Dogecoin is confusing and deceptive.

193) Defendant Musk deceptively tweeted that, “Dogecoin is the people’s crypto,” “Dogecoin rulz,” “ONE COIN TO RULE THEM ALL,” “Doge will live forever.

- #dogefather,” “Doge Barking at the Moon” (in crypto parlance “moon” refers to a rapidly rising price), all to encourage Plaintiff and the class to purchase Dogecoin.
- 194) Defendants’ have failed to advise Plaintiff and the class, as well as all Dogecoin investors, about the lack of value and the risks involved in trading Dogecoin.
- 195) Defendants’ descriptions and explanations of the Dogecoin block chain technology is confusing and deceptive.
- 196) Defendants and their servants, agents, and employees have deceived Plaintiff and the class into believing the price of Dogecoin will increase in excess of \$1.00, when in fact it has no value at all other than what a “greater fool” would pay for the coin.
- 197) Defendants and their servants, agents, and employees have deceived Plaintiff and the class into believe that the price of Dogecoin will continue to increase indefinitely.
- 198) Defendants fail to inform Plaintiff and the class of the costly “Miners” fees and that are charged for buy, selling, and transferring Dogecoin.
- 199) Plaintiff and the class demand statutory damages in the amount of \$86 billion in lost fiat currency.

SEVENTH CAUSE OF ACTION

PRODUCTS LIABILITY – FAILURE TO WARN

- 200) Plaintiff repeats and reiterates all prior paragraphs of this complaint as if fully set forth in this cause of action.
- 201) The Dogecoin blockchain is a product owned, operated, developed, supported and promoted by Defendants.
- 202) Defendants have promoted, marketed and advertised adoption and use of the Dogecoin blockchain without warning users, adopters and investors of the dangers

and pitfalls.

203) Those who purchase Dogecoin are not obtaining any ownership or licenses of any property.

204) Dogecoin owners therefore own nothing of value.

205) Plaintiff and the class of Dogecoin holders are entitled to return their Dogecoins for fiat currency at the price they paid.

EIGHTH CAUSE OF ACTION

UNJUST ENRICHMENT

206) Plaintiff repeats and reiterates all prior paragraphs of this complaint as if fully set forth in this cause of action.

207) As a result of Defendants' unethical, tortious and criminal conduct, Plaintiff and the class invested billions of dollars in the Dogecoin Pyramid Scheme.

208) Defendants were unjustly enriched by approximately \$86 billion of as result of their wire fraud, gambling enterprise, false advertising, deceptive practices, and other unlawful conduct.

209) Defendants were enriched at the expense of Plaintiff and the class.

210) It is against equity and good conscience to permit Defendants to retain \$86 billion in profits they have obtained at the expense of Plaintiff and the class.

DEMAND FOR JURY TRIAL

211) Plaintiff hereby demands trial by jury on all claims so triable.

PRAYER FOR RELIEF

Plaintiff and the class pray for the following relief:

A) An order certifying this case as a class action;

- B) An order enjoining unlicensed professionals from advertising, marketing, and promoting Dogecoin, including Defendants;
- C) An order declaring that the trading of Dogecoin constitute gambling within the meaning of New York law and federal law;
- D) An order awarding Plaintiff and the class monetary damages in the amount of \$86 billion, treble damages in the amount of \$172 billion, together with attorneys' fees and the costs of this action.

Respectfully Submitted,

June 16, 2022

By: /s/ Evan Spencer
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ATTORNEY FOR PLAINTIFF
AND THE CLASS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th day of June 2022, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system giving notice to all parties in this action.

/s/Evan Spencer
Evan Spencer