

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

THOMAS REESE,
23 Greenfield Avenue
West Seneca, New York 14224,

Plaintiffs,

v.

TIMOTHY HEALY
859 Union Road
West Seneca, New York 14224

DENNIS BUCK
173 Elm Street, Apt. 201
Buffalo, New York 14203

KEVIN ZIMMERMAN
3892 Clinton Street
West Seneca, New York 14224

SEAN DONOHUE
55 Leydecker Road
West Seneca, New York 14224

Defendants.

**AMENDED
COMPLAINT**

Index No.: 807462/2019

Plaintiff TIMOTHY REESE, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Complaint against Defendants TIMOTHY HEALY, DENNIS BUCK, KEVIN ZIMMERMAN and SEAN DONOHUE herein, alleges as follows:

1. At all relevant times hereinafter mentioned, Plaintiff was and still is a citizen of the United States of America and resident of the Town of West Seneca, County of Erie and State of New York, residing at 23 Greenfield Avenue, West Seneca, New York, 14224.

2. At all times hereinafter mentioned, Defendant Timothy Healy (“Defendant Healy”) was and still is a natural person residing in the County of Erie and State of New York.

3. At all times hereinafter mentioned, Defendant Healy was and is an employee of the West Seneca Highway Department.

4. Upon information and belief, at all times hereinafter mentioned, Defendant Dennis Buck (“Defendant Buck”) was and still is a natural person residing in the County of Erie and State of New York.

5. At all times hereinafter mentioned, Defendant Kevin Zimmerman (“Defendant Zimmerman”) was and still is a natural person residing in the County of Erie and State of New York.

6. At all times hereinafter mentioned, Defendant Zimmerman was and is an employee of the West Seneca Highway Department.

7. Upon information and belief, at all times hereinafter mentioned, Defendant Sean Donohue (“Defendant Donohue”) was and still is a natural person residing in the County of Erie and State of New York.

8. At all times hereinafter mentioned, Defendant Donohue was and still is an employee of the West Seneca Police Department.

9. This action arises under New York State law and under the United States Constitution.

10. At all relevant times stated herein, all activities giving rise to the instant action occurred within the State of New York.

11. This Court has subject matter jurisdiction of all causes of action herein because the amount in controversy is in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

FACTS PERTAINING TO ALL CLAIMS

12. At all times relevant herein, Plaintiff Thomas Reese (“Plaintiff”) was employed by the Town of West Seneca Highway Department and running for Town of West Seneca Highway Superintendent (“Highway Superintendent”).

13. On or about February 26, 2019, Plaintiff was duly endorsed as the Democratic candidate for the West Seneca Highway Superintendent position by the Town of West Seneca Democratic Committee.

14. Defendant Healy was an opposing candidate who sought the Democratic endorsement for the Highway Superintendent position.

15. Defendant Healy solicited a police officer of the West Seneca Police Department to obtain sealed police records to which neither was entitled access, concerning Plaintiff and Plaintiff’s family.

16. Defendant Donohue unlawfully obtained the sealed police records at the behest of Defendant Timothy Healy.

17. These records obtained data on the mental health of a family member, and did not bear on the character, ethics, or suggest unlawful conduct or mental unsoundness of Plaintiff to any extent. These records were obtained to threaten embarrassment to Plaintiff’s child if certain information were to be “leaked” and “made available” on social media, concerning other members of the child’s family, which formed the basis for the Court’s determination that Plaintiff was to be granted residential custody of the child.

18. Defendant Healy used these aforementioned records to attempt to force, coerce and intimidate Plaintiff to stop running for Highway Superintendent.

19. Defendant Healy shared the sealed information contained in the aforementioned records with some of his supporters, including Defendant Buck and Defendant Zimmerman.

20. Defendant Buck and Defendant Zimmerman posted multiple defamatory statements on Facebook regarding Plaintiff.

21. Said statements included referring to Plaintiff as a “woman abuser” and “piece of trash”.

22. Said statements included blatantly false information regarding Plaintiff’s police record, including stating that Plaintiff has “over 10 arrest including domestic violence... as well as a rape charge...”.

23. There is no truth to those allegations whatsoever, and the police records that were unlawfully obtained do not support those slanderous and despicable representations by Defendants Buck and Zimmerman.

24. Upon information and belief, Defendants Healy, Buck and Zimmerman were aware that for Plaintiff to disprove the allegations, Plaintiff would need to reveal the contents of the hitherto sealed police records to the embarrassment of the child of Plaintiff.

25. For that reason, under separate cover, Plaintiff will be moving to seal all evidence in this case that could potentially cause embarrassment to any member of Plaintiff’s family, and will be seeking to hold Defendants in contempt of Court for any future breaches of that sealing order.

26. The posts by Defendant Buck and Defendant Zimmerman were intended to prevent Plaintiff from winning the Highway Superintendent position. Posts included statements such as “How can anyone of the Town of West Seneca vote for this piece of trash” and “He lives in town and is running for highway superintendent”.

27. Upon information and belief, Plaintiff has experienced anxiety from having to re-live what was an extremely upsetting personal incident that had been the subject of the sealed

police records and, more importantly, the anxiety of contemplation of the emotional trauma to innocent members of Plaintiff's family who were subjected to humiliation and potential humiliation by virtue of Defendants' actions.

28. The incident that is the subject of the police records had been disposed of, resulting in custody being awarded to Plaintiff, and the resolution was fair and just and good for the minor child and all family members, and the records concerning this matter were sealed by a court of law.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT HEALY:
PRIVACY INVASION and FRAUD**

29. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered "1" through "28" with the same force and effect as if more fully set forth herein.

30. Defendant Healy used Plaintiff's confidential file for purposes of personal gain and political advantage, without the consent of Plaintiff.

31. Defendant Healy solicited Defendant Donohue to obtain court sealed police records on Plaintiff, and, knowing they were sealed by a court of law, shared the contents of the illegally obtained records with political supporters and others in an attempt to damage Plaintiff politically.

32. As a result of the foregoing, Plaintiff has been injured and damaged, and was subject to embarrassment on behalf of his family, all to Plaintiff's damage in a sum exceeding the jurisdictional limits of all lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
DEFAMATION**

33. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered “1” through “32” with the same force and effect as if more fully set forth herein.

34. Defendant Healy shared with and published the content of the sealed police record with Defendant Dennis Buck and Defendant Kevin Zimmerman.

35. Defendant Buck and Defendant Zimmerman, at the behest of Defendant Healy, posted multiple false and defamatory statements on their personal Facebook page, and Plaintiff’s campaign Facebook page in an effort to defame Plaintiff and prevent him from winning the position of Highway Superintendent. The data that was posted was false and known to Defendants to be false.

36. Statements posted on Facebook by Defendant Buck received comments such as “I walk my dogs by the school. Does this person reside where that truck is parked?” and others, evidencing fear and concern generated by Defendants of the person and character of Plaintiff, in response to false statements by Defendant Buck about Plaintiff’s criminal record.

37. Defendant Buck falsely accused Plaintiff of committing crimes and/or conduct involving moral turpitude.

38. Defendant Buck’s statements were false when made, and Defendant Buck knew them to be false when made.

39. Defendant Buck’s false statements were made with malice.

40. Defendant Buck knew the statements were false or had serious doubts about their truth, and posted the statements anyway with the intention of harming Plaintiff’s campaign.

41. As a result of the Defendant’s false and defamatory statements, Plaintiff has incurred losses, damages, special damages, including out of pocket pecuniary losses.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

42. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered “1” through “41” with the same force and effect as if more fully set forth herein.

43. Plaintiff was subjected to harassment while at work and throughout the community based upon the false statements, lies, prevarications, and misrepresentation of the police and court files that Defendants unlawfully obtained.

44. Defendants’ comments towards and about Plaintiff, in addition to spreading false information about him to other coworkers and members of the community, were designed to generate emotional distress to the detriment of Plaintiff.

45. As a result of the foregoing, Plaintiff has been injured and damaged, and was subject to humiliation and embarrassment, all to Plaintiff’s damage in a sum exceeding the jurisdictional limits of all lower courts.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

46. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered “1” through “45” with the same force and effect as if more fully set forth herein.

47. Defendants had a duty not to unlawfully interfere with Plaintiff’s campaign and employment, and not invade upon the privacy of Plaintiff’s family, and not defame Plaintiff.

48. Defendants breached those duties.

49. The aforesaid actions of the individual Defendants caused Plaintiff severe emotional distress, as he feared for the well being of his family, the reputation of his child, and

the fear that his child would at some point access the internet and see the vile things posted and generated by Defendants.

50. The aforesaid actions of the individual Defendants caused Plaintiff to fear for his physical safety.

51. The aforesaid incidents were caused wholly and solely as a consequence of the carelessness of the individual Defendants and without any negligence on the part of Plaintiff contributing thereto.

52. As a result of the foregoing, Plaintiff has been injured and damaged, and was subject to humiliation and embarrassment, all to Plaintiff's damage in a sum exceeding the jurisdictional limits of all lower courts.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS:
DEFAMATORY INJURY TO REPUTATION**

53. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered "1" through "52" with the same force and effect as if more fully set forth herein.

54. As the direct, natural and proximate results of the conduct of all Defendants, Plaintiff has suffered an injury to reputation and character.

**AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
INJURIOUS FALSEHOOD**

55. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered "1" through "54" with the same force and effect as if more fully set forth herein.

56. The utterance and publication of untrue statements by all Defendants to the public, was done with malice, ill-will, scienter, and deliberate falsification.

57. Said conduct induced others to refrain from interacting with Plaintiff and seeks to deprive Plaintiff of a victory in the upcoming election.

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
DECEIT**

58. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered “1” through “58” with the same force and effect as if more fully set forth herein.

59. The false statements by Defendants, with scienter and intent to defraud the public, intended to cause and is expected to cause damage to Plaintiff in the upcoming election.

60. Said false statements have caused damage to Plaintiff in his support base by virtue of the tortious conduct of Defendants.

**AS AND FOR A EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS:
CONSPIRACY**

61. Plaintiff repeats and re-alleges each and every allegation of this Complaint numbered “1” through “60” with the same force and effect as if more fully set forth herein.

62. The torts committed herein were done by and between all Defendants who acted in concert and corruptly and in furtherance of the agreement to harm the campaign of Plaintiff.

63. The corrupt conspiracy by Defendants Healy, Defendant Buck, Defendant Zimmerman, and Defendant Donohue have caused damage to Plaintiff.

WHEREFORE, Plaintiffs demand judgment in an amount to be determined upon the trial of this action, together with the costs and disbursements of this action, including attorneys’ fees, and for such other and further relief to Plaintiffs as this Court may deem just and proper.

DATED: June 19, 2019
Amherst, New York

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