



STATE OF OKLAHOMA
IN THE DISTRICT COURT OF CLEVELAND COUNTY, S.S.
STATE OF OKLAHOMA

FILED

FEB 01 2021

In the office of the
Court Clerk MARILYN WILLIAMS

- (1) JOHN BERREY, an individual,)
- (2) TAMARA REEVES, an individual,)
- (3) MERLIN KENT JONES, an individual,)
- (4) TENA SMITH, an individual,)
- (5) RANNY McWATTERS, an individual,)
- (6) MARLYN ROGERS, an individual,)
- (7) ALAN MAUK, an individual, and)
- (8) BARRY SWITZER, an individual,)

Plaintiffs,)

v.)

Case No. CT-2021-92

- (1) MICHAEL EDWARD CRUMP, an)
an individual d/b/a INNOVATIVE)
GAMING SOLUTIONS,)
- (2) GUY BARKER, an individual,)
- (3) JOSEPH BYRD, an individual)

Defendants.)

JURY TRIAL DEMANDED

PETITION

Plaintiffs, John Berrey, Tamara Reeves, Merlin Kent Jones, Tena Smith, Ranny McWatters, Marilyn Rogers, Alan Mauk, and Barry Switzer (collectively "Plaintiffs") alleges and states as follows:

PARTIES

1. John Berrey, an individual, is a citizen of the State of Oklahoma and the Quapaw Tribe, residing in Osage County, Oklahoma. Berrey was the Chairman of the Quapaw Tribe from 2002 until 2020 when he lost an election. In addition to his elected position as Chairman, Berrey further held positions with the Downstream Development Authority ("DDA") and the Saracen Development Authority ("SDA").

2. Tamara Reeves, an individual, is a citizen of the State of Oklahoma and the Quapaw

Tribe, residing in Ottawa County, Oklahoma. Reeves was the Secretary-Treasurer of the Quapaw Tribe from 2004 until 2020 when she lost an election. In addition to her elected position, Reeves further held positions with the DDA and SDA.

3. Merlin Kent Jones, Tena Smith, Ranny McWatters, Marilyn Rogers, and Alan Mauk were employed by DDA and SDA. Mauk is a resident of Newton County, Missouri. Jones and Smith are residents of Jasper County, Missouri. McWatters is a resident of Ottawa County, Oklahoma. Rogers is a resident of Craig County, Oklahoma.

4. Barry Switzer is a citizen of the State of Oklahoma and a resident in Cleveland County, Oklahoma. The Quapaw Tribe hired Switzer in its marketing efforts for the DDA and the SDA. Switzer was paid for his work. Switzer resides in Cleveland County, Oklahoma.

5. Michael Edward Crump is the majority owner of Innovative Gaming Solutions (“IGA”), an unincorporated association with its principle place of business located in Laclede County, Missouri.

6. Guy Barker is a citizen of the State of Oklahoma and the Quapaw Nation, and resides in Tulsa County, Oklahoma.

7. Joseph Byrd is a citizen of the State of Oklahoma and the Quapaw Nation, and resides in Tulsa County, Oklahoma.

JURISDICTION AND VENUE

8. This action also arises under the laws of the State of Oklahoma.

9. This court has subject matter jurisdiction of Plaintiffs’ claims against the Defendants. Defendants Barker and Byrd are sued in their individual capacities and not as members of the Quapaw Nation. *See Lewis v. Clarke*, 137 S.Ct. 1285 (2017).

10. Venue is proper in Cleveland County. 12 O.S. §§ 137, 139, 154.

STATEMENT OF FACTS

11. On or about October 24, 2020, Defendant Crump, under the name IGA, published a PowerPoint presentation to a meeting of the Quapaw Tribe and also posted the PowerPoint on the World Wide Web, <https://www.youtube.com/watch?v=5M-VzLr1f1I&t=5750s> for public consumption (“Presentation”).

12. The Presentation alleged Plaintiffs received millions of dollars of unauthorized payments from DDA and SDA while it was under the control of the Plaintiffs which subjected them to potential criminal prosecution.

13. The Presentation was commissioned and approved by Defendants Barker and Byrd.

14. The Presentation included statements that its purpose was to develop evidence to support civil litigation and a criminal referral to state and federal authorities.

15. The Presentation concluded that Plaintiffs received through “unjust enrichment” millions of dollars in direct payment and DDA payments of personal expenses.

16. The Presentation failed to reveal that all payments received by the Plaintiffs was consistent with the agreements between Plaintiffs and the Tribe and each payment was authorized.

17. The Presentation asserted Coach Switzer received millions of dollars in direct payment and DDA payments of his personal expenses and that the “investigation” is still ongoing.

18. The Presentation failed to reveal that at all relevant times Coach Switzer and the Tribe were operating under a Talent Services Agreement which was approved by the Tribe. The amounts paid by the Tribe and received by Coach Switzer were consistent with and authorized by the Talent Services Agreement.

19. The Presentation failed to reveal that Coach Switzer fully performed under the Talent Services Agreement. Coach Switzer appeared in numerous television and radio

commercials and print advertisements. Coach Switzer appeared in person on-site and off-site as directed by the Tribe consistent with his obligations under the Talent Services Agreement. Coach Switzer performed other services all as contemplated and required under the Talent Services Agreement.

20. The Presentation also failed to reveal that the payments made to Coach Switzer were reasonable for the services he performed and far below what the market was paying other celebrities for similar services.

21. The Presentation exonerated, by first and last name, those tribal members and other individuals whom the presenter believed in his own opinion did no wrong.

22. The presenter did not exonerate the named Plaintiffs so that by implication the presenter accused the named Plaintiffs of committing criminal acts.

23. The Defendants allowed the Presentation to be published on the world wide web viewable to the world and through their acts allowed accusations of criminal acts by Plaintiffs to be published to the world.

24. Defendants knew the Presentation to be false as any payments to Plaintiffs or reimbursement of expenses were legitimate, transparent and approved by the appropriate corporate entities.

25. Defendants Barker and Byrd acted with actual malice toward Plaintiffs. Just prior to publishing the Presentation, Defendants Barker and Byrd completed a political campaign for Quapaw leadership against Plaintiffs Berrey and Reeves in which they spread false and misleading information prior to the election regarding Plaintiffs Berrey and Reeves.

26. Specifically, and by way of only one example of many, Defendants Barker and Byrd sent a letter to the members of the Quapaw nation that accused Plaintiffs Berrey and Reeves

of stealing millions of dollars from settlements of three lawsuits against the United States. The information in these letters were false.

27. Only one of the lawsuits discussed in the Barker/Byrd letter was on behalf of the Quapaw Nation. The only payment from this settlement with the Federal Government went to the tribe's trust account. One of the lawsuits, *Bear v. United States*, is still awaiting payment because it requires Congressional approval. The third, *Goodeagle v. United States*, was settled and distributed to individuals decided by the Bureau of Indian Affairs.

28. Defendants Barker and Byrd were so intent to wrestle control of the Quapaw Nation, they commissioned an "anonymous" forwarding of a letter reportedly written by Plaintiff Berrey's ex-wife accusing Plaintiff Berrey of stealing money, using tribal funds for his personal expenses, using tribal labor for his personal property, taking illegal drugs, and many other improprieties. Plaintiff Berrey's ex-wife, Karol Linduff Berrey, denies giving anyone the information or authorization to publish the letter.

29. While he is not required to prove this particular letter was false given the other false statements made by Defendants Barker and Byrd, the statements in the Karole Linduff Berrey letter are false.

30. Defendant Crump published the Presentation asserting it was an audit of DDA which he knows to be false. Defendant Crump is not authorized to act as an auditor in any state. He operates an unincorporated entity, IGA, with his wife out of their home. Defendant Crump knew the information he was publishing was false as no "unjust enrichment" occurred.

31. Further, Defendant Crump acknowledged during the Presentation that because his investigation was not yet concluded, the specific information from the investigation and the

individual targets of the investigation must remain confidential. Yet, Defendants published the false criminal allegations against Plaintiffs on the World Wide Web for the entire world to see.

32. Defendant Crump acted with actual malice in that he knew the information was false and he has a financial incentive to publish the lies commissioned by Defendants Barker and Byrd.

33. Defendants' statements in the Presentation were not privileged.

34. The Presentation subjected Plaintiffs to public hatred, contempt, ridicule and obloquy, and tends to deprive them of public confidence.

35. Plaintiffs have many business relationships within the tribal community in Oklahoma and Arkansas. The Presentation was specifically designed to, and has succeeded in damaging those relationships.

36. Plaintiff Switzer is a well-known former Coach of the University of Oklahoma and Dallas Cowboys football teams. Defendants included Coach Switzer in the Presentation for the sole purpose of damaging Coach Switzer's reputation.

37. The Presentation is slander *per se* in that it makes criminal allegations and/or it directly injures them in respect to their office, profession, trade or business.

38. The Presentation was also libel *per se* in that it was published in writing.

39. Because the Presentation is slander and libel *per se*, damages are presumed.

40. Even though damages are presumed, Plaintiffs can and will show they have suffered actual damages in that their credit and reputation in the community has been damaged and they suffered and continue to suffer pain and anguish.

41. Defendants' conduct was in willful and wanton disregard of Plaintiffs warranting an award of punitive damages.

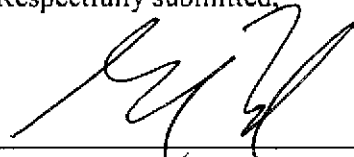
42. Plaintiffs are entitled to an injunction requiring Defendants to remove the defamatory information from the World Wide Web and from any further dissemination of the information contained in the Presentation.

Wherefore, Plaintiffs pray for a judgment against Defendants for:

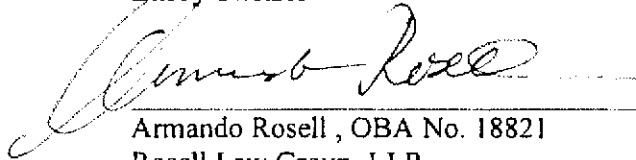
- A. A declaration from the Court that the information published is false;
- B. An injunction requiring Defendants to remove the false information from the World Wide Web;
- C. An injunction prohibiting Defendants from further disseminating of the false information;
- D. An order directing Defendants to issue (i) a public apology to Plaintiffs by first and last name; (ii) a public retraction of all allegations of criminal and civil wrongdoing made by the Defendants in the YouTube published Presentation; and (iii) a public affirmative statement that Plaintiffs have no evidence and never had any evidence that Plaintiffs committed any criminal act (collectively "Public Statements").
- E. An order directing Defendants to cause the Public Statements to be published in the newspapers ("Published Apology") with the highest circulation in the state of Oklahoma and Arkansas. The Published Apology shall be printed in the business section of each newspaper and shall be at least the size of ½ of the full page and it shall contain the first and last names of all Defendants and reflect all Defendants as the "apologors." Defendants shall pay all costs associated with the publishing of the Published Apology.
- F. If Defendants are contacted by any media or news organization, an order directing Defendants to affirmatively apologize to each Plaintiff by first and last name, retract all allegations of criminal acts, affirmatively state that they have no evidence of criminal wrongdoing and that they never had any evidence of criminal wrongdoing.

- G. Damages to Plaintiffs' reputation and credit, including for pain and anguish;
- H. Punitive damages
- I. Attorney fees and costs; and
- J. For such other relief that this Court deems just and proper.

Respectfully submitted,



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