

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-10-2704

Charleston Carriage Works, L.L.C.,)
)
Plaintiff,)
)
vs.)
)
Charleston Animal Society, Ellen)
Harley and Charleston Carriage)
Horse Advocates, Inc.,)
)
Defendants.)
_____)

SUMMONS
LIBEL, DEFAMATION, CONSPIRACY
(Jury Trial Demanded)

BY _____
JULIE J. ARMSTRONG
CLERK OF COURT
2018 MAY 29 PM 2:07

FILED

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you; and to serve a copy of your Answer to the said Complaint upon the subscribers at their offices at 2344 Cosgrove Avenue, Post Office Box 71121, Charleston, South Carolina, 29415-1121 within thirty (30) days after the service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN FURTHER NOTICE that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.



May 23, 2018

Thomas R. Goldstein, S. C. Bar #2186.
BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Post Office Box 71121
Charleston, South Carolina 29415-1121
(843) 554-4291; (843) 554-5566 fax
ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLSTON)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-10- 2704

Charleston Carriage Works, L.L.C.,)
)
Plaintiff,)
)
vs.)
)
Charleston Animal Society)
Ellen Harley, and)
Charleston Carriage Horse)
Advocates, Inc.)
)
Defendants.)
_____)

COMPLAINT
(Jury Trial Demanded)

BY

JULIE J. ARYSTROMG
CLERK OF COURT

2018 MAY 29 PM 2:07

FILED

The plaintiff complaining of the defendants alleges and shows as follows:

1. The plaintiff is a limited liability company organized and existing pursuant to the laws of the State of South Carolina, with its principle place of business in Charleston County.
2. The defendant, Charleston Animal Society, is a quasi-governmental entity of the County of Charleston and an eleemosynary corporation, organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business located in Charleston County.
3. The defendant, Ellen Harley, is a citizen and resident of Charleston County and runs an unincorporated organization known as the Charleston Carriage Horse Advocates, which she operates out of her residence at 23 Wentworth Street, in Charleston County. The defendant incorporated the association on January 3, 2017. The acts complained of in this complaint occurred both before and after incorporation.

4. The subject matter of this lawsuit, the defendants' conspiracy to defame, harass, and injure the plaintiff, all occurred in Charleston County, South Carolina.

5. The Court has subject matter jurisdiction over this case and over the parties hereto, and the acts complained of occurred in Charleston County, making venue in Charleston proper.

**FOR A FIRST CAUSE OF ACTION
(Civil Conspiracy)**

6. Beginning approximately in July 2016, the defendants conspired and coordinated to spread false information about the plaintiff's operation that the defendants knew was false. The defendants did this in several ways. From time to time, persons acting on or at the direction of the defendants would approach the plaintiff's carriages to interfere in the operation of the plaintiff's business by shouting materially false information at the plaintiff's clients, including such false information as:

- A) Plaintiff's alleged failure to adhere to City ordinances;
- B) Plaintiff's alleged intentional cruelty to horses;
- C) Plaintiff's alleged disregard for animal safety;
- D) Plaintiff's alleged disregard for animal health and welfare;
- E) Plaintiff's alleged cruel and inhumane treatment of animals;
- F) Plaintiff's alleged pattern of allegedly working animals to death;
- G) Plaintiff's alleged unfitness to operate carriage tours, *etc.*

7. In addition to formulating and executing a plan to harass the plaintiff's clients to harm the plaintiff's business, the defendant, Harley, frequently follows the plaintiff's carriages,

attempting to provoke the plaintiff's horses and cause disruption and intimidation to the plaintiff's business.

8. The defendants, acting in concert with one another, have published materially false information about the plaintiff's operation including, but not limited to:

A) Publishing photographs of a horse who tripped, knowingly disseminating the false statement accompanying the photo that the still photo of the horse lying on its side (as it is trained to do) represented plaintiff's dead horse, which defendants falsely represented "collapsed" from overwork and heat exhaustion;

B) Publishing numerous posts of false information, falsely accusing the plaintiff of mistreating its horses and working them to the point of collapse;

C) Publishing numerous posts of false information and innuendo, designed to encourage strangers to disrupt the plaintiff's business, and causing the plaintiff's employees and managers to fear for their safety;

D) Publishing and promoting misleadingly edited video of a horse who tripped and representing that the video depicted a dead horse who collapsed and died from overwork and heat exhaustion, etc.

All of which, combining and concurring, have damaged the plaintiff by driving away business, falsely representing that the plaintiff is unfit for the operation of his business, and causing the plaintiff's employees, managers, and owners to fear for their safety.

9. The purpose of the defendants' false communications and assertions that the plaintiff is unfit to operate a carriage tour company is to damage the plaintiff and cause the plaintiff special damages by making it difficult for the plaintiff to conduct business, retain valued employees, and operate under a cloud of fear and intimidation.

10. The defendants' actions in publishing false information, and in using social media to publish and disseminate knowingly false information to stir up hostility directed at the plaintiff, and harass the plaintiff's operations, constitute a combination of the defendants—and those acting on their behalf—combining and concurring for the purpose of injuring the plaintiff, which has caused and is causing special damages to the plaintiff as set forth above and below.

11. The knowingly false information intentionally and maliciously published by the defendants, acting in concert, was and is designed to create a false impression of the plaintiff's operation for the primary purpose to injure the plaintiff.

12. As a direct and proximate result of the defendants' actions, the plaintiff has suffered injury to reputation and standing in the community, embarrassment, humiliation, diminishment of earnings, and loss of good will. The plaintiff's employees have suffered mental anguish and wounded feelings, and fear of imminent bodily harm or death.

13. The plaintiff is entitled to a trial by jury, and for damages against the defendants, jointly and severally, for both actual and punitive damages in an amount to be calculated by the trier of the facts.

FOR A SECOND CAUSE OF ACTION
Intentional infliction of Mental Distress
Violation of *Animal Enterprise Terrorism Act* (AETA)
18 U.S.C. § 43.

14. The plaintiff repeats the above allegations as if set forth here *verbatim*.

15. The defendants entered a course of conduct to publish materially false information about the plaintiff's operation with a view toward stirring up animosity and hatred for the plaintiff's operation.

16. As a direct and proximate result of the defendants' actions, the plaintiff's owner and employees received death threats and threats of arson, causing the plaintiff's managers to take precautions that should be unnecessary in a civilized society.

17. The *Animal Enterprise Terrorism Act* (AETA), 18 U.S.C. § 43, prohibits any person from engaging in certain conduct "for the purpose of damaging or interfering with the operations of an animal enterprise." The statute covers any act that either "damages or causes the loss of any real or personal property" or "places a person in reasonable fear of the death of, or serious bodily injury to that person."

18. The defendants have willfully and intentionally violated the *Animal Enterprise Terrorism Act* by using social media to create an environment of hostility, designed to intimidate the plaintiff's managers and employees, ruin its business, and encourage others to undertake harmful physical acts against the plaintiff's managers and employees.

19. As a direct and proximate result of the defendants' intentional publication of false and misleading information, the defendants, acting in concert, created a false impression of the plaintiff's operation for the primary purpose of encouraging third parties to injure the plaintiff and damage its business.

20. The intentional violations of the statute are evidence of the defendants' willfulness, and the defendants undertook such willful actions to cause distress to the plaintiff's managers and employees.

21. The defendants' conduct, combining and concurring, were so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized society.

22. The defendants' actions have caused economic injury to the plaintiff and caused their managers and employees to be fearful of death, bodily injury, and/or arson.

23. The defendants' use of social media to stir up hostility directed to the plaintiff and its managers and employees is so severe that no reasonable person could be expected to endure it.

24. The plaintiff is entitled to a trial by jury, and for damages against the defendants, jointly and severally, for both actual and punitive damages in an amount to be calculated by the trier of the facts.

FOR A THIRD CAUSE OF ACTION
42 U.S.C.A. § 1983 Violation Substantive Due Process Under Color of Law
Article I, § 3, South Carolina Constitution

25. The plaintiff repeats the above allegations as if set forth here *verbatim*.

26. As set forth above, the defendants have conspired to deny the plaintiff a reasonable opportunity to conduct a lawful business. The defendants' intentional publication of false information is defamatory and is libel *per se* and published without substantial justification.

27. The defendant, Charleston Animal Society, is a quasi-governmental agency as Charleston County taxpayer's money subsidizes its operation. Because it acted in concert with a private citizen to injure the plaintiff to deprive the plaintiff of its right to conduct business, both defendants are subject to suit for a violation of the plaintiff's civil rights under color of law. (See *Dennis v. Sparks*, 449 U.S. 24 (1980): "As the Court of Appeals correctly understood our cases to hold, to act "under color of" state law for 1983 purposes does not require that the defendant be an officer of the State. It is enough that he is a willful participant in joint action with the State or its agents. Private persons, jointly engaged with state officials in the challenged action, are acting "under color" of law for purposes of 1983 actions. *Addick's v. S. H. Kress & Co.*, 398 U.S. 144, 152 (1970); *United States v. Price*, 383 U.S. 787, 794 (1966).")

28. Because the defendants have acted jointly to publish false information designed to injure the plaintiff and prevent the plaintiff from exercising its right to conduct a lawful business, the plaintiff is entitled to a trial by jury for the actual damages as calculated by the trier of fact including loss of income, and for special damages for injury to reputation and standing in the community, embarrassment, humiliation, and mental anguish and pain and suffering by the plaintiff's managers and employees, caused by the defendants' efforts to create an atmosphere of fear and hostility directed to the plaintiff, its employees and managers.

29. As a direct and proximate result of the defendants' actions, combining and concurring, the plaintiff has suffered economic, and material losses as a result of the defamation.

30. The plaintiff is entitled to an award of attorney's fees under 42, § 1988, U. S. Code, ann. and/or South Carolina Code § 15-77-300, *et. seq.*

FOR A FOURTH CAUSE OF ACTION
Tortious Interference with Business Relations

31. The plaintiff repeats the above allegations as if set forth here *verbatim*.

32. The defendants knowingly and intentionally disseminated to third parties and governmental agencies false and misleading information concerning the plaintiff's carriage operation to induce the public at large and the local government to interfere and prevent the plaintiff from operating its business.

33. The defendants have engaged in a course of conduct designed to create hysteria and animosity directed at the plaintiff to prevent the plaintiff from exercising its right to conduct a lawful business. The defendants sought to destroy the plaintiff's reasonable investment backed expectations through fear and intimidation.

34. The defendants combined their efforts with other local government officials to prevent the plaintiff from making use of his property and harassed the plaintiff's managers and employees to destroy the business.

35. The defendants are aware that the plaintiff's carriage operation is a highly regulated industry, subject to numerous and extensive government regulations governed through the plaintiff's contractual franchise relationship with the City of Charleston. The defendants have frequently and intentionally attempted to procure a breach of that franchise contract by publishing false and defamatory information about the plaintiff.

36. The defendants have no justification for attempting to interfere in the franchise contractual relationship with the plaintiff and the City of Charleston.

37. As a direct and proximate result of the defendants' interference through the repeated publication of false information, the plaintiff has been damaged by having to divert time and money to combat the defendants' false information, respond to numerous inquiries, and its managers and employees have suffered mental anguish and fear from the receipt of death and arson threats, and have been damaged in such amount as will be calculated by a jury as the trier of the facts.

38. The intentional and calculated dissemination of false information has caused the plaintiff to suffer special damage. Because of the defendants' dissemination of false information, the plaintiff has suffered injury to reputation and standing in the community, embarrassment, personal humiliation, and has faced challenges designed to thwart its contractual relationship or revocation of its franchise license, and with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property. The defendants' acts caused the plaintiff to suffer economic losses and forced the plaintiff to incur unnecessary attorney's fees and costs,

45. As a direct and proximate result of the defendants' interference through the repeated publication of false information made with actual malice, the plaintiff has been damaged by having to divert time and money to combat the defendants' false information, respond to numerous inquiries, and its managers and employees suffered mental anguish and fear from the receipt of death and arson threats, and have been damaged in such amount as will be calculated by a jury as the trier of the facts.

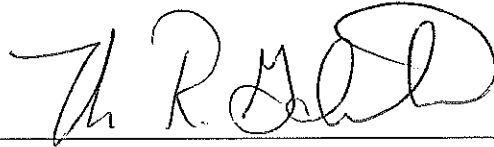
46. The intentional, calculated, and malicious dissemination of false information has caused the plaintiff to suffer special damage including economic damages and damage to its reputation and standing in the community, embarrassment, personal humiliation, and its managers and employees have suffered mental anguish and suffering. Because of the defendants' dissemination of false information, the plaintiff may be faced with a refusal to issue or revoke its franchise license, and with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property. The defendants' acts forced the plaintiff to incur unnecessary attorney's fees and costs, which he would not have incurred but for the defendants' unlawful combination with others designed to harm the plaintiff.

WHEREFORE, having fully set forth its complaint, the plaintiff prays for:

- A) A trial by jury;
- B) For judgment against the defendants for both actual and punitive damages in an amount to be determined by a jury;
- C) For an award of attorney's fees in an amount to be determined by the Court in accordance with Title 42 1988 and/or § 15-77-300, *et. seq.* South Carolina Code of Laws;
- D) For such other and further relief as the Court finds just and proper.

Respectfully submitted,

May 23, 2018

A handwritten signature in black ink, appearing to read "Th R Gold". The signature is written in a cursive style with a horizontal line underneath it.

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