

VIA ELECTRONIC MAIL

June 29, 2020

Ms. Shaughnessy Naughton
President
314 Action
1440 G St. NW
Washington, DC 20003

Mr. Joshua Morrow
Treasurer
P.O. Box 14560
Washington, D.C. 20044

Re: Deceptive, False and Defamatory “Health Alert” Advertisement by 314 Action

Dear Ms. Naughton and Mr. Morrow:

This Firm represents the Nancy Mace for Congress Campaign as well as Nancy Mace individually and write concerning 314 Action’s advertisement currently being run on Facebook that falsely and deceptively characterizes itself as a “Health Alert” purportedly to warn people regarding COVID-19 exposure and urging them to contact their “local health authority immediately.” Given the serious nature of the health concerns surrounding COVID-19, it is shocking that an organization that claims to be pro-science would seek to utilize the very real public health concerns arising from this unprecedented global pandemic for brazen political purposes. It is more troubling that this organization tries to deceive the public by styling its political advertisement as a “Health Alert” involving local health authorities. And it is shocking that 314 Action would improperly use Nancy Mace’s personal health information for political gain.

We write to put you on notice that the advertisement by 314 Action is false and deceptive in all respects and in and of itself constitutes a danger to the health and safety of South Carolinians and that it is defamatory to Nancy Mace.

You should be aware that it is a crime in South Carolina for an individual or group to falsely assert authority of law. *See* SC Code § 16-17-735. The advertisement is deceptively styled to appear as though it is some sort of official governmental warning and is designed to scare South Carolina voters under the guise of being a public warning regarding health and safety related to COVID-19.

In addition to being deceptive as a “Health Alert,” the advertisement is false in all respects with regard to Nancy Mace’s activities on June 23, 2020 and defamatory in that it implies that Nancy Mace is dangerous to public safety.

According to the advertisement, Nancy Mace visited her polling place on Tuesday, June 23rd, without a mask, and shook hands with South Carolina voters after knowing she had diagnosed with COVID-19. This statement is demonstrably false.

Contrary to what the advertisement says, Nancy Mace wore a mask when she visited her polling place on June 23rd and she did not shake hands with any voters. In fact, when she arrived at the polling place to vote at 7:15 a.m. that day, she was the only voter there. At her car, just before she left at 7:17 a.m., she removed her mask to take a ‘selfie’ to encourage South Carolinians to vote in the House District 99 runoff which she shared via Twitter. In addition to not having shaken hands with any voters at the polling place, at no time did she interact with anyone without a mask. This false allegation is intended to convey a threat to the public health that did not and does not exist.

Furthermore, the advertisement falsely claims that Nancy Mace went to the polling place on June 23rd after knowing that she had tested positive for COVID-19. This is false. She did not know that she had been exposed to COVID-19 prior to voting. The advertisement falsely states that Nancy Mace knowingly placed voters in danger. This too is demonstrably false.

A false message that Nancy Mace poses a danger to the public is *per se* defamatory under South Carolina law and she is entitled to damages for the harm to her reputation resulting from 314 Action’s false and deceptive advertisement. *Kennedy v. Richland Cty. Sch. Dist. Two*, 428 S.C. 98, 833 S.E.2d 414, 423 (Ct. App. 2019) (The “tort of defamation allows a plaintiff to recover when a defendant communicates a false message about the plaintiff to others that injures the plaintiff’s reputation.”); *McBride v. Sch. Dist. of Greenville Cty.*, 389 S.C. 546, 698 S.E.2d 845 (Ct. App. 2010) (A “statement is classified as defamatory *per se* when the meaning or message is obvious on its face.”). 314 Action’s advertisement falsely states that Nancy Mace recklessly endangered voters on June 23rd. The falsity of this statement and the entire message of 314 Action’s advertisement was easily verifiable, yet 314 Action took no action to verify its claims before recklessly distributing its advertisement.

It is clear that 314 Action has acted with either the “knowledge that the statement was false or with reckless disregard of its falsity” which satisfies the constitutional malice standard required in defamation actions involving public officials. *New York Times v. Sullivan*, 376 U.S. 254, 279–80 (1964). This makes 314 Action liable for damages for the harm this advertisement is causing to Nancy Mace’s reputation.

You are hereby on notice regarding the falsity of the advertisement.

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Given the foregoing, on behalf of the Nancy Mace for Congress Campaign and Nancy Mace individually, we insist that you immediately cease and desist from further distribution of your deceptive “Health Alert.”

In closing, I must reiterate how disturbing it is for an organization that claims to be an advocate for science is acting in a manner that is anything but scientific. Your advertisement is particularly crass in light of the fact that the world is experiencing the most severe pandemic in a century and more than one hundred thousand Americans have lost their lives as a result of the COVID-19 virus. Public debate about policies and issues are fair game. Lies, deception and defamation are not.

Nothing contained in this letter, nor any act or omission to act by the Campaign or Ms. Mace should be construed as a waiver of the rights or remedies available to them under applicable law, and all such rights and remedies are hereby reserved.

Sincerely,



David A. Warrington
Counsel for Nancy Mace
and
Nancy Mace for Congress