

FILED
03-07-2022
Clerk of Circuit Court
Racine County
Case No. 2022CV000257
Honorable Eugene A.
Gasiorkiewicz
Branch 2

STATE OF WISCONSIN

CIRCUIT COURT

RACINE COUNTY

Christopher Smith
10650 S. Shangrila Court
Oak Creek, WI 53154

Plaintiff,

v.

Kelly Gallaher
4622 Knollwood Drive
Mount Pleasant, WI 53405,

Defendant.

SUMMONS

Case No. _____
Case Code 30107
Personal Injury-Other

THE STATE OF WISCONSIN TO EACH PERSON ABOVE AS A DEFENDANT:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint which is attached states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is:

Clerk of Circuit Court
Racine County Courthouse
730 Wisconsin Avenue
Racine, WI 53403

and to:

Christopher R. Smith
10650 S. Shangrila Court
Oak Creek, WI 53154

You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the Court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 7th day of March, 2022.

PLAINTIFF

By: Christopher Smith

Christopher Smith

10650 S. Shangrila Court
Oak Creek, WI 53154
Email: chris@wrslegal.net

FILED
03-07-2022
Clerk of Circuit Court
Racine County
RACINE COUNTY
Honorable Eugene A.
Gasiorkiewicz
Branch 2

STATE OF WISCONSIN

CIRCUIT COURT

RACINE COUNTY

Christopher Smith
10650 S. Shangrila Ct.
Oak Creek, WI 53154

Plaintiff,

v.

Case No. _____

Kelly Gallaher
4622 Knollwood Drive
Mount Pleasant, WI 53405

Defendant

COMPLAINT

Now comes the Plaintiff, Christopher Smith, who alleges and complains as follows:

INTRODUCTION

This is an action brought by the Plaintiff, Christopher Smith, against Kelly Gallaher, the Defendant, for injuries she caused to the professional reputation of the Plaintiff.

PARTIES

1. Plaintiff Christopher Smith is an adult resident of the State of Wisconsin and is, at all times relevant to this claim, residing at 10650 S. Shangrila Court, City of Oak Creek, Milwaukee County, Wisconsin.
2. Defendant Kelly Gallaher is an adult resident of the State of Wisconsin and is, at all times relevant to this claim, residing at 4622 Knollwood Drive, Village of Mount Pleasant, Racine County, Wisconsin.

FACTUAL ALLEGATIONS

3. At all times relevant to this action, Plaintiff has been employed by the Village of Mount

Pleasant (hereinafter referred to as the “Village”) as the Village Attorney.

4. Plaintiff relies largely on his good reputation to obtain and maintain his employment as a municipal attorney.
5. Plaintiff is employed at the pleasure of the Village Board, consisting of seven elected village trustees.
6. Upon information and belief, at all times relevant to this action, Gallaher operates a Facebook page called “A Better Mount Pleasant,” (ABMP) which Gallaher says was “set up in 2015 to support specific candidates who were running for village trustee,” according to a June 20, 2018 Racine County Patch article.
7. Upon information and belief, at the time of filing of this complaint, the ABMP Facebook page had nearly 2,000 followers.
8. On or about February 10, 2022, the Racine Journal Times published an article regarding a Village ordinance change containing a quote attributed to Plaintiff that read, “This change was first formally brought to the board in April 2021, though discussion of it began back in 2018.” (hereinafter referred to as the “Quote”)
9. The Quote was and is true and accurate.
10. Upon information and belief, on or about March 3, 2022, Gallaher posted the following statements, portrayed as facts, on the ABMP Facebook page:
 - a. “So, the Village Attorney lied to The Journal Times saying term length discussions date back to 2018.”
 - b. “They are lying to you and the media. It matters.”
 - c. “Please share.”

(These statements are hereinafter referred to as the “Facebook Defamation”).

11. Upon information and belief, the Facebook defamation was shared by ABMP followers.
12. Upon information and belief, on or about March 3, 2022, Gallaher authored and sent an email to numerous individuals, including multiple reporters and at least one editor for the Racine Journal Times containing the following statements portrayed as facts:
 - a. “Your story on the village ordinance to extend terms in office for village officials included a quote from Village Attorney Chris Smith, in which he stated that, ‘*this change was first formally brought to the board in April 2021, though discussion of it began back in 2018, according to Smith.*’ This is false. Smith lied to you.”
(Hereinafter referred to as the “Email Defamation.”) (emphasis in original)
13. Upon information and belief, on or about March 3, 2022, Gallaher posted similar defamatory statements on her Twitter account. (Hereinafter referred to as the “Twitter Defamation”).
14. On March 3, 2022, Plaintiff contacted Gallaher, demanding that she remove the defamatory post from the AMBP Facebook page and publish a correction.
15. On March 3, 2022, upon information and belief, Gallaher did remove the defamatory post from the AMBP Facebook page and Gallaher’s Twitter account.
16. On March 4, 2022, Plaintiff authored a correction and provided it to Gallaher, which stated:
“ATTN ABMP READERS:
Yesterday, we posted a statement which falsely accused the Mount Pleasant Village Attorney of lying to the media regarding the dates in which the Village Board discussed the length of terms for village officials. The Village Attorney’s statements were truthful, and that is why yesterday’s post was removed. In that same post, we also accused the Village Administrator of purposefully not reading written citizen comments opposing the ordinance. This was misleading, because the village did not receive any written comments for her to read. We regret posting this false information and sincerely apologize for any damage it may have caused. **IF YOU SHARED THAT POST, PLEASE SHARE THIS CORRECTION AS WELL.**”
(Hereinafter referred to as the “Correction”)
17. On March 4, 2022, upon information and belief, Gallaher posted the Correction on the ABMP Facebook page and on her Twitter account. However, Gallaher editorialized the

Correction to add, "In the future, we will use more precise language."

18. On March 4, 2022, upon information and belief, Gallaher's husband posted a comment in reply to the Correction, which is viewable to all ABMP followers and to the public, which states, "So, they threatened a lawsuit, huh? Typical."
19. On March 4, 2022, upon information and belief, Gallaher replied to her husband's comment by stating, "Correct." Gallaher's reply is viewable to all AMBP followers and the public.
20. On March 4, 2022, Plaintiff demanded that Gallaher email the Correction to any individuals to whom she emailed the Email Defamation and provide Plaintiff with proof that she did so.
21. As of the filing of this complaint, upon information and belief, Gallaher has not emailed the Correction to the recipients of the Email Defamation.
22. As a result of Gallaher's defamatory conduct, Plaintiff has suffered emotional distress.
23. Upon information and belief, Gallaher has created hundreds of posts on social media, including the ABMP Facebook page pertaining to Village policies, politics, officials, and employees.
24. Upon information and belief, nearly every one of the posts referenced in Paragraph 23 portrays Mount Pleasant Village officials or employees negatively.

FIRST CLAIM FOR RELIEF: DEFAMATION

25. Plaintiff incorporates by reference the allegations of all preceding paragraphs.
26. The elements of defamation in Wisconsin are (1) a false statement; (2) communicated by speech, conduct or in writing to a person other than the one defamed; and (3) the communication is unprivileged and tends to harm one's reputation, lowering him or her in the estimation of the community or deterring third persons from associating or dealing with him or her." *Ladd v. Uecker*, 2010 WI App 28, ¶ 2, 323 Wis. 2d 798, 802, 780 N.W.2d 216,

218.

27. The statements contained in the Email Defamation, Facebook Defamation and Twitter Defamation are false.
28. The statements contained in Email Defamation, Facebook Defamation and Twitter Defamation were communicated in writings to individuals other than the Plaintiff.
29. The statements contained in the Email Defamation, Facebook Defamation and Twitter Defamation were not privileged.
30. The Email Defamation, Facebook Defamation and Twitter Defamation were made as statements of fact.
31. The statements contained in Email Defamation, Facebook Defamation and Twitter Defamation, which publicly asserted that Plaintiff lied to the media regarding a matter involving plaintiff's employment, tends to harm plaintiff's reputation.
32. As demonstrated by Gallaher's editorialization of the Correction, her confirmation of her husband's comment following the Correction, her refusal to send the Correction to the recipient's of the Email Defamation, and her pattern and practice of consistently and publicly portraying Village officials and employees negatively, Plaintiff alleges that Gallaher made these defamatory statements intentionally and with express malice, which is a basis for punitive damages in a private defamation action. *See Calero v. Del Chem. Corp.*, 68 Wis. 2d 487, 228 N.W.2d 737 (1975).

WHEREFORE, Plaintiff, Christopher Smith, prays for judgment against Kelly Gallaher, as follows:

1. General and actual damages
2. Punitive damages

3. Costs and attorneys fees
4. Such other relief as the Court deems just and proper.

Plaintiff demands a trial by jury on those causes of action for which he is entitled to a jury trial.

Dated this 7th day of March, 2022.

Christopher Smith

Christopher Smith
Plaintiff