



STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Eric J. Holcomb
Governor

November 29, 2019

CEASE & DESIST LETTER

Reveal
Attn: D. Victoria Baranetsky, General Counsel
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Will Evans, Reporter
Reveal
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Dear Reveal and Mr. Evans:

On behalf of Indiana Governor Eric J. Holcomb, you are hereby directed to take action immediately to retract and correct all of the false and misleading statements in the article that you published entitled: **Crippled backs, a crushing death: Investigation reveals cost of Amazon Prime for workers.** Additionally, you must also cease and desist from publishing this article as currently written, take steps to retract it, and issue an apology to Governor Holcomb.

The tragic death of Amazon worker, Mr. Phillip Terry, should not have been exploited by this writer and published. Your source for the portion of the story applicable to the State of Indiana, Mr. John Stallone (an IOSHA Inspector), isn't credible, something you could have ascertained before publishing it. Your story seeks to unjustifiably and inexcusably harm the good name and reputation of Governor Holcomb through false accusations.

Defamation of a public official, under Indiana law, can be established upon a showing of actual malice, meaning that the defendant either knew the statement was false or recklessly disregarded whether or not it was true. *See Journal-Gazette Co. v. Bandido's, Inc.*, 712 N.E.2d 446 (Ind. 1999). *See also New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

Mr. Stallone made at least three misrepresentations that we know of, as follows:

- His claim about having a meeting with Governor Holcomb is false.
- His claim about resigning is false. The truth is he was fired for poor job performance.
- His claim about wanting to issue more safety citations is false.

The following paragraphs provide further elaboration on these misrepresentations and why Mr. Stallone isn't a credible source, as well as some additional concerns about your article:

1. Mr. Stallone claims he met with Governor Holcomb. This never happened. No such meeting ever occurred. It's a complete and outrageous fabrication. Governor Holcomb did not even know about this case; he has never been involved in a Department of Labor case.

I note that you were told multiple times before you published the article, by both our office and the Indiana Department of Labor (“IDOL”), that this allegation was false, yet you published it anyway. These clear and unequivocal denials should have been red flags for you, causing you to prudently pause to re-evaluate whether Mr. Stallone was being truthful.

You have produced nothing else, as shown by your reporting, to support Mr. Stallone’s sensational claim. Before publishing your article, what probing questions, if any, did you ask Mr. Stallone in an effort to verify his claim? For example, did you ask Mr. Stallone to identify other IDOL employees who would have, or should have, seen Governor Holcomb at IDOL’s offices (where he claims this meeting occurred) so you could talk with them about this? When a high-profile, well-known figure like a governor of a state walks into a state government office, people notice and remember it. Did you ask Mr. Stallone to identify fellow employees or others that he told about this purported meeting so that you could talk with them in order to verify it? Mr. Stallone would be a truly rare person if he was pressured by a governor, as he alleged, and yet didn’t tell anyone else about it.

In addition, I note your article, when talking about the alleged meeting with Governor Holcomb, says that it occurred “[s]ome days after the conference call with Amazon officials.” Nowhere do you say precisely when this meeting supposedly occurred. You seem to have no problem citing precise dates for other key events in your story, but you don’t cite the time or date of the meeting in question. If Mr. Stallone did not, or could not, give you a precise time and date of that meeting, that is yet another red flag that should have caused you concern, as it is hard to believe anyone would forget exactly when such a remarkable meeting occurred. I note that our office has asked you for the specific time and date that Mr. Stallone claims this meeting occurred so we can further prove our denials by showing where Governor Holcomb was at that time (for example, the governor might have been giving a speech or been out of the State at the time), but all you’ve given us, in response, is a vague approximation of the time of the alleged meeting as being somewhere between November 20–December 6.

2. Mr. Stallone claims that he resigned. The truth is that he was fired for poor work performance that began long before the tragic death of Mr. Terry. Why is that important? Because it’s not unusual for people who have been fired to harbor ill will toward their former employers, and some even look for ways to get even. The fact that he was fired calls into question Mr. Stallone’s credibility, motivations and bias – something you apparently didn’t explore despite the red flags mentioned above. Had you investigated Mr. Stallone’s employment history and status with the State, either by asking him to provide you with his personnel file or requesting the publicly-available information about him from the Indiana State Personnel Department, you would have learned of his firing and could have taken that into proper consideration before publishing your article.

3. Mr. Stallone claims he wanted to issue eight safety citations. In conversations with the Indiana Department of Labor (“IDOL”) before publication of your article, you stated that Mr. Stallone claimed he wanted eight citations and received pushback from his superior over

the number. Yet the documents provided to you by IDOL – which were handwritten by Mr. Stallone himself at the time he left the Amazon facility just two days after the death – show he listed only four citations. Those same four violations were actually filed against Amazon after the required internal review at IDOL. This discrepancy also casts further doubt on Mr. Stallone's credibility.

4. Failure to explain the requirements of Indiana law. The law of our state requires the IDOL to confer and negotiate with businesses in order to resolve safety issues and violations. *See* Ind. Code ch. 22-8-1.1. Thus, contrary to the insinuation in your article that the call between Indiana's OSHA Director and Amazon officials was suspect and out of the ordinary, the truth is that a review, which routinely includes conferring and negotiating with the business in question, was required under Indiana law. Clearly, this was something that your source, Mr. Stallone, knew as an IOSHA Inspector, and that can be easily ascertained by looking at Indiana law. But your reporting failed to discuss the requirements of Indiana law and how they apply to this case.

The allegations in your story about Governor Holcomb are completely and utterly false. Your source, Mr. Stallone, is not credible. Your story has serious inaccuracies and falsehoods.

In light of the foregoing, we hereby demand and direct that you take immediate action to retract and correct all the false and misleading statements in your article. Additionally, you must also cease and desist from publishing this article as currently written, take steps to retract it, and issue an apology to Governor Holcomb.

Your prompt attention to this matter is requested and required.

Sincerely,

A handwritten signature in black ink, appearing to read 'JRH' or similar, written in a cursive style.

Joseph R. Heerens
General Counsel