

10/27/09
ORIGINAL

CAUSE NO. 09-06381

CATHERINE CRIER

Plaintiff,

vs.

JOHN DOE a/k/a INTERNET PROTOCOL
ADDRESS: 75.16.196.192

Defendant.

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IN THE DISTRICT COURT OF

DALLAS COUNTY TEXAS

162nd J

JUDICIAL DISTRICT

FILED
2009 MAY 20 PM 12:00
GARY H. BROWN
DISTRICT CLERK
DALLAS CO. TEXAS
GAY SMITH
DEPUTY

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Catherine Crier, files this original petition complaining of Defendant John Doe, also known as Internet Protocol Address: 75.16.196.192, and support of her complaint shows the following:

I. DISCOVERY LEVEL 3

1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure 190.4, due to the complexity of this case.

ii. PARTIES

2. Plaintiff Catherine Crier is an individual residing in Westchester County, New York.

3. Defendant John Doe is an individual operating under the Internet Protocol Address 75.16.196.192. His precise identity and location is unknown at this time. Therefore, Plaintiff requests citation by publication, pursuant to Texas Rule of Civil Procedure 109. John Doe's Internet Service Provider is AT&T Internet Service, located at 2701 N. Central Expressway, Ste. No. 2205, Richardson, Dallas County, TX 75080.

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III. JURISDICTION AND VENUE

4. Dallas County is the location of the Internet Service Provider for John Doe. As a result, this is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. Venue is therefore proper in Dallas County under Tex. Civ. Prac. & Rem. Code § 15.002.

IV. FACTS

6. On or about August 12, 2008, in Dallas County, Texas, John Doe, using internet protocol address 75.16.196.192, knowingly posted untrue information on Ms. Crier's Wikipedia page, http://en.wikipedia.org/wiki/Catherine_Crier. Wikipedia is a free, online encyclopedia where any web user can add or delete information about an individual.

On the Wikipedia website, John Doe stated that Ms. Crier was a murder suspect, committed shoplifting, was jailed, and had been disbarred. These facts are untrue. Ms. Crier has never been arrested, jailed or accused of a crime, and she has not been disbarred. John Doe substituted Ms. Crier's last name for that of disbarred Texas lawyer Catherine Shelton. Doe then copied a November 26, 2007, Dallas Morning News article about Ms. Shelton, changed the last name to Crier, and posted that article on Ms. Crier's Wikipedia page.

V. CAUSES OF ACTION

A. DEFAMATION

7. Each of the foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

8. Defendant published a statement by written communication asserting that Ms. Crier was a murder suspect, committed shoplifting, was jailed, and had been disbarred.

9. This statement involved a public matter. Defendant substituted the name of Ms. Crier for that of Catherine Shelton in a Dallas Morning News article. He then published that untrue article on Ms. Crier's Wikipedia page.

10. The statement referred to Plaintiff Catherine Crier directly.

11. The statement was false because Ms. Crier has never been accused of a crime, nor has she been disbarred, all facts which John Doe well knew.

12. Defendant knew the statement was false or acted with reckless disregard for the truth because he changed the name of the individual in the November 26, 2007 Dallas Morning News article from "Shelton" to "Crier."

13. In reaction to the defamatory statements by John Doe, Ms. Crier has been harassed by others accessing the web page, she has experienced embarrassment and humiliation in addition to she suffered anxiety, worry and other physical manifestations of emotional distress.

14. Further, Defendant's malicious and intentional acts against Ms. Crier impose liability for punitive damages as they were performed with malice and with knowledge of the actual truth.

15. Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

B. DEFAMATION PER SE

16. Defendant's written statement described above was defamatory per se under the common law. Defendant's statement falsely accused Plaintiff of being a murder suspect and a thief.

17. The defamatory statement requires no proof of its injurious character because it was obviously hurtful to Plaintiff.

C. LIBEL PER SE

18. Defendant's written statement described in paragraph 6 was libel per se as defined by Texas Civil Practice and Remedies Code section 73.001. Defendant's statement injured Plaintiff's reputation, and exposed her to public hatred, contempt, and ridicule. It also impeached Plaintiff's honesty, integrity, virtue and reputation.

19. The defamatory statement requires no proof of its injurious character because it was obviously hurtful to Plaintiff.

C. MALICE

20. John Doe was aware of the risk of harm from her, her or their publication of false statements about Ms. Crier on a public web site. Although aware of the risk of harm, or perhaps specifically intending such harm, he, she or they acted with conscious indifference to that risk and with malice toward Ms. Crier and nevertheless continued to publish the false statements. As a direct and proximate cause of his actions, he, she or they are liable to Ms. Crier for punitive damages and Ms. Crier seeks such damages against John Doe.

VI. CONCLUSION AND PRAYER

As a direct and proximate cause of the actions of the Defendant as outlined above, Ms. Crier has suffered damages. Those damages include, but are not limited to, lost wages, emotional distress and mental anguish. The maximum amount of damages sought by Ms. Crier is within the jurisdictional limits of this Court. Therefore, Ms. Crier prays that the Defendant be cited to appear herein, that upon trial by a jury, the Defendant be held liable for the causes of action pled and a judgment be entered against him, her, or they, awarding Ms. Crier all of the following:

1. Actual damages;

2. Consequential damages;
3. Lost wages;
4. Damages for emotional distress and mental anguish;
5. Exemplary damages;
6. Pre- and post-judgment interest;
7. Costs of Court; and
8. Any other damages or relief she may show herself to be justly entitled.

Respectfully submitted,
KENDALL LAW GROUP, L.L.P.



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