

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

THEAOLA ROBINSON,

Plaintiff,

v.

THE WALT DISNEY COMPANY,

Defendant.

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Civil Action No. \_\_\_\_\_

Jury Trial Requested

**ORIGINAL COMPLAINT**

1. Plaintiff, Theaola Robinson, is a citizen of the State of Texas.
2. Defendant, The Walt Disney Company is a corporation incorporated under the laws of the State of Delaware and having its principal place of business in the State of California.
3. The amount in controversy between Mrs. Robinson and The Walt Disney Company exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.
4. Pursuant to Rule 10(c), Fed.R.Civ.P., Mrs. Robinson adopts by reference Plaintiffs' current complaint and the joinder of Mrs. Theaola Robinson therein in *Comb v. Benji's Special Education Academy*, No. 4-10-CV-03498, In the United States District Court for the Southern District of Texas, Houston Division.
5. The Walt Disney Company is the owner of a television station and a network of television stations and is a "broadcaster" as defined by Texas law.
6. On August 8, 2010, Rick Schneider responded in writing to the original overture from Ron Rowell asking Schneider to become involved in Benji's Special Educational Academy. Schneider's first point in his response to Rowell succinctly expresses the

bottom line situation then prevailing at Benji's, the overarching and defining context in which all the subsequent damaging actions and devastating events have taken place.

Schneider wrote:

**If I understand you correctly, the students and school are doing well academically.**

(Exhibit 1).

7. This statement succinctly expresses the situation at a remarkable institution, created and nurtured by the mother love and determination of a tireless educator, Mrs. Robinson, *for thirty years*, and reveals the context in which the occurrences giving rise to the rights to relief stated in this action quickly transpired over the next forty days.

8. For the thirty years prior to August 2010, Mrs. Robinson had, in total and complete obscurity, through much trial and sacrifice, and with virtually no private support, endeavored to provide for the most helpless and disadvantaged, the most forgotten and discarded, of the young in our society, a setting where they could find a loving and caring home, and, just possibly, find a chance at self-respect, self-discipline, and a foundation for a socially productive and rewarding life.

9. Mrs. Robinson is not and never has been a public figure.

10. This thirty years of work began in 1980 with Mrs. Robinson's creation of a day care academy for young special needs children, her own young son being such a child, having recently become disabled at age three on account of an injury, forcing her to abandon other career aspirations in order to care for him, and her abilities, energy, and love guiding her to care for other similarly needy young children. As detailed herein, thirty years of dedicated service and objective achievement was demolished, and Mrs. Robinson's reputation deliberately ruined, in a relative instant.

11. Mrs. Robinson began this work in the heart of Houston's Fifth Ward, one of the most blighted, impoverished neighborhoods in Houston, Texas, commonly known as a "ghetto," a place where a host of societal ills routinely conspire to blunt the aspirations of a majority of even the most physically and mentally able.

12. To begin her endeavor in 1980, Mrs. Robinson caused to be incorporated a Texas not-for-profit corporation, named Benji's Special Education Academy, ("Benji's"). She began Benji's by caring for her son and one other child at the Greater Love Missionary Baptist Church at 6913 Jensen Drive. Almost immediately, she had attracted twenty children to her program.

13. Over the ensuing years, Benji's enrollment grew to almost 100 children, and outgrew the facilities at Greater Love, relocating to a previously abandoned building at 5505 Jensen Drive.

14. Benji's continued to flourish with support from the City of Houston, and by 1996, with an enrollment of 140 students and the cooperation and encouragement of the City of Houston, Mayor Bob Lanier, and Councilman Ernest McGowen, Benji's acquired a lease from the City of Houston on another previously abandoned building, formerly known as White's Appliance Store, located at 2903 Jensen Drive.

15. During all these years, Benji's never charged tuition and the school operated and developed its facilities exclusively on grants from the City of Houston and Mrs. Robinson's personal support, primarily from the proceeds of her late husband's insurance.

16. In 1996, the White's Appliance Building was a boarded-up eyesore, which had become what is commonly known as a "crack house" at the time Mrs. Robinson

undertook to renovate, and Benji's to occupy, 5,000 square feet of the 30,000 square foot structure.

17. Also, by this time, the State of Texas had recently adopted laws providing for the creation of public charter schools, and Mrs. Robinson determined to expand Benji's successful program to occupy the entire 30,000 square feet of the White's Building and to convert Benji's into an open-enrollment public charter school.

18. On November 2, 1998, Benji's was granted a contract for an open-enrollment charter by the Texas State Board of Education.

19. Benji's is a "charter holder" as defined in Tex. Education Code § 12.1012.

20. As detailed in the Complaint in No. 4-10-CV-03498 (Docket No. 19 at ¶ 25), and as substantially admitted by the Defendants in that action (Docket Nos. 22 and 23 at ¶ 25), Benji's charter, initially set to expire on July 31, 2003, has been in a state of perpetual application for renewal since Benji's timely applied for renewal prior to July 31, 2003.

21. During the ensuing years, primarily beginning in 2008, Benji's became subject to close monitoring of all aspects of its operations, with particular emphasis on its special education programs for disabled students, through appointment of TEA conservators, primarily Dr. Shelly Swedlaw and Dr. Don W. Hooper.

22. Additionally, Benji's financial management and budgets received detailed scrutiny and oversight from both Dr. Hooper and TEA finance expert, Mr. Robert "Mike" Seale.

23. Particularly in light of this intervention and oversight, the objective financial condition of the school, its impressive facilities and learning tools (buildings, physical

education track, computers, educational laboratory facilities, uniforms, etc.) were at all times open and obvious to the TEA.

24. During 2009 and 2010, the present use of funds and proposed future budgets were reviewed and analyzed by the TEA and audited financial reporting detailing all expenditures and demonstrating the valuable investment made in facilities and equipment and reflecting a solvent operation, with a net worth of over \$1 million, were timely submitted to and accepted by the TEA. No detail was too small to evade notice, and even relatively minor purchases, such as a musical instrument, *i.e.*, a harp, were subjected to criticism by the TEA conservators, themselves being paid out of Benji's current receipts from the TEA and thus further burdening Benji's financial operation.

25. Personality conflicts developed in this process, were not satisfactorily resolved, and culminated in TEA launching a personal vendetta aimed solely at Mrs. Robinson.

26. At the urging of TEA employee Ron Rowell, Drs. Hooper and Swedlaw were directed to make detailed reports concerning Mrs. Robinson personally and her uncooperative and controlling behavior and attitude rather than on objective facts concerning the education and welfare of the students or the financial condition or management of Benji's.

27. As detailed in the Complaint in No. 4-10-CV-03498, at paragraphs 26-58, and in Exhibit 1 above, the plan went into effect in August 2010, and resulted in the appointment of an interim board of managers and interim superintendent on September 3, 2010, displacing Mrs. Robinson from an active role as superintendent. Mrs. Robinson, however, was not discharged, and she continued to report to the school every day. She fully cooperated with the interim board and interim superintendent between September

3<sup>rd</sup> and September 13<sup>th</sup>, effected changes in the signature cards at the bank and dealt with any and all questions and problems with the transition, and proposed changes in management and operation, including a significantly reduced role and salary for herself. None of this was considered. Instead, as its first order of business, the interim board voted to close Benji's on September 13, 2010, and gave notice of the immediate closure to students, parents, and staff the next day, providing a list of other schools in which to enroll the children but nothing for the displaced educators and staff.

28. Of particular significance to the instant action, even though the TEA had, as set out above, complete and detailed access to, and knowledge of, all of Benji's financial condition, operation, and expenditures, once the interim board of managers took control of Benji's operating bank accounts, the TEA had full control of, and access to, all financial records and thus complete and full knowledge of all payments made by Benji's from the over \$3 million in public funds received by Benji's to provide public education to almost 500 children over the preceding year.

29. The defendants in No. 4-10-CV-03495 have effectively admitted this action by the interim board and interim superintendent was unauthorized and *ultra vires*, citing in their answers (Docket Nos. 22 and 23, at ¶ 19), as justification, the provision of law allowing suspension of operations of a school by the charter holder for not more than three days, and that on 14 days advance notice, Tex.Admin.Code § 100.1213(c).

30. In the finest tradition of American citizenship, with the displaced administrator, Mrs. Robinson, leading the fight, the Benji's family stood up to this grossly unlawful action. Mrs. Robinson vowed that Benji's would remain open, the teachers agreed to continue to report, the bus drivers to transport the children, and the parents and students

to continue to come to school, all in peaceful disobedience to the grossly unlawful, arbitrary and malicious conduct of the TEA.

31. On September 14, 2010, all the major local news media, including the television station owned by Defendant, The Walt Disney Company, reported the abrupt and sudden closure of the school and the peaceful defiance unfolding at Benji's.

32. Benji's defiance to the events of September 13 and 14, 2010, appeared to surprise the TEA. Mr. Schneider, with apparent misgivings about what he had been a party to, abruptly resigned on September 14, 2010.

33. A new plan was immediately hatched to quash the peaceful and exemplary defiance of the State's arbitrary and malicious action.

34. The first prong of this plan was aimed at quashing public support for Mrs. Robinson's leadership of the school family's peaceful defiance. This prong of the plan was so cynical in formulation and execution that it is hard to imagine any responsible persons charged with carrying out the public trust with even having thought of it, let alone of pursuing it. This prong of the plan was aimed at destroying Mrs. Robinson's reputation in the community at large as a means to undermine her support, and provides the basis of the claim in this action.

35. The plan was simply to report to the major news organizations already involved in covering the story of the abrupt closure of the school and the defiance thereto that over \$3 million in public funds given to Benji's over the past year, *i.e.*, the entire annual budget for operations, was unaccounted for, with the clear intent to give the impression to persons of ordinary intelligence that Mrs. Robinson had stolen this vast amount of public

money and that Benji's was in effect nothing more than a scam being conducted for the personal benefit of Mrs. Robinson.

36. The proposition that \$3 million in public funds was missing and had been pocketed by Mrs. Robinson formed no part of any open meeting held on September 13, 2010, no part of any decision by the interim board of managers, and was not reported by any news organization on September 14, 2010. It only arose after it became clear that Benji's was not going to "take it lying down" in regard to the arbitrary and unlawful decision to immediately close the school.

37. All the current defendants in No. 4-10-cv-0349 deny making any such statement to the news media. (Docket Nos. 22 and 23 at ¶ 57).

38. It remains for discovery to reveal the original source of this devastating calumny.

39. Some credence may be lent to this denial because only one news organization saw fit to publish the accusation.<sup>1</sup> To believe the Defendants is to believe that one news organization concocted the story on its own. That one news organization is Houston ABC Channel 13, KTRK, ("KTRK"), a television station owned by, The Walt Disney Company, as confirmed by The Walt Disney Company's most recent annual report. (Exhibit 2).

40. On September 15, 2010, on the 4:30 PM news, Houston ABC Channel 13, KTRK, in studio reporter Ilona Carson and field reporter Cynthia Cisneros aired a two and a half minute segment on the situation at Benji's. Cisneros said, "According to the State millions in tax payer dollars cannot be accounted for." After playing clips of a parent,

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<sup>1</sup> KTRK's September 15, 2010 story need only be compared to KHOU or Houston Chronicle, (*infra*, Exhibit 6), stories of the same date which both reported that the Benji's receives more than \$3 million annually from the state, but neither report by these other news organizations suggest the entire amount of public funds received by Benji's over the preceding year were unaccounted for and had been misappropriated.

Shanika Thompson, and of Benji's spokesmen, Richard Johnson, Cisneros went on to say, "The state closure is based on a lack of sufficient financial records, meaning the state doesn't know where over three million dollars of taxpayer money given last year has been spent." A transcript of the entire broadcast is attached hereto. (Exhibit 3). The video was later published on ABC's website, along with a printed article "Defiant leaders refuse to close school," under Cynthia Cisneros byline. Cisneros wrote: "For the state, the issue is simple – where is the money? They say millions of taxpayer dollars are unaccounted for....The state closure is based on a lack of sufficient financial records, meaning the state doesn't know where the more than \$3 million of taxpayer money given last year has been spent..." (Exhibit 4).

41. The article generated 18 Facebook recommendations and 29 comments on KTRK's website, including:

4. We have been caught with our hand in the cookie jar, shine the activist bat signal and run out the race card.

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10. ...I saw the television report of this story last night, and I am surprised [*sic*] this school is still open. In true ghetto fashion, our race was made shame of one again. My prayers go out to the children, because most of them are delinquents and truants, that no public school will accept them....

11. ...poor management.

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23. Think about the former TSU President and all the other crooked charter schools that have been the news lately. What do they have in common?

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26. It is the money's fault. Those \$\$\$\$ stuck their heads up and the people in charge decided they need them for themselves more than the children.

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29. I don't understand why they are so upset about the school being closed up. If they had the proper paperwork, could account for all that money and follow the rules like every other school then they wouldn't have this problem.

(Exhibit 4).

42. On September 15, 2010, My Fox Houston ran a similar story; however, it made no mention that “millions of taxpayer dollars are unaccounted for”. Yet, readers obviously now aware of this allegation posted the following:

Jasmine. I use to teach at this school and this is BULL BULL...RACE has absolutely NOTHING to do with how misleading this woman Theola Robinson is and this school. TEA did the right thing...and yes I am AFRICAN AMERICAN! This is not a race thing..this woman really is a thief ...

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yjones. Theola will never be able to show where the money has gone she is a crook.

(Exhibit 5).

43. The Houston Chronicle also ran a story on September 15, 2010, that made no mention of “millions of taxpayer dollars are unaccounted for.” Yet, it had readers saying:

Gspencer. Where did the \$3,300,000.00 for last year go?

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RBBR. Something [*sic*] stinks. Let’s get a PI to do an asset search on the “chief executive” and you’ll find the missing money.

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babydolly. I wonder if Ms. Robinson made a hefty salary and paid herself first? Where IS the money? I can’t blame the state for shutting it down. Sooner the better.

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RBBR. ...Why didn’t you find out what “Chief Executive” Theaola Robinson’s annual compensation is? Bet she’s not going broke. Dollars to donuts she drives a new Mercedes and lives in an trendy upscale neighborhood...while Benji’s swirls down the drain.

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A-square...Theaola Robinson where is the remaining 2.3M? TEA should look into her & her crownies’ bank accounts/personal assets..just follow the money and you’ll find the answer.

(Exhibit 6).

44. On September 16, 2010, the second part of the plan was executed by TEA Commissioner Scott in a letter to Ron Rowell, as Interim Superintendent of Benji's, having replaced Mr. Schneider after his sudden resignation. The letter, while discussing financial concerns, does not mention anything about \$3 million in public funds being unaccounted for. Instead, in what can only be characterized as a desperate attempt to bring the TEA action within some semblance of at least the letter of the law, Commissioner Scott, arbitrarily and without any evidence, deemed that the peaceful defiance to the TEA's arbitrary action, the determination to simply continue holding school as usual, was itself endangering the safety, health, and welfare, of the students, thus warranting his immediate action. (No. 4-10-CV-03498, Docket No. 19-7).

45. The story was repeated by Defendant later that month, on September 25, 2010, when KTRK's Dave Ward and Gina Gaston in-studio and Jessica Willey reporting, aired a nearly three minute segment on the situation at Benji's. The video was later published on KTRK's website, along with a printed article "Questions raised over charter school's finances," under Jessica Willey's byline. Willey wrote: "Where is taxpayer money going and how is a taxpayer-owned building being used?...The Texas Education Agency says it doesn't know how Benji's spent \$3 million of taxpayer money, and a lease agreement obtained by Eyewitness News raises even new questions."<sup>2</sup> (Exhibit 7).

46. The article generated 11 comments on KTRK's website, including:

1. ...Call and ask where the money went. I'm sure Theola [*sic*] Robinson tell you.
2. Could it be in somebody's pockets?

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<sup>2</sup> The "lease" was no lease but merely a bookkeeping entry labeled "rent in kind," fully accounted for and well known to the TEA, and specifically to Mr. Seale and Dr. Hooper, though review of the Benji's budgets and statements of financial activity. (Exhibit 8).

(Exhibit 7).

47. On September 22, 2010, Emi Johnson of the TEA recommended the continued suspension of charter operations and funding, based not on the financial condition of the school, not on \$3 million being stolen, but on the civil disobedience led by Mrs. Robinson following September 13, 2010, of simply continuing to keep the school open, having endangered the safety, health, and welfare of the students. (No. 4-10-CV-03498, Docket 19-8).

48. The filing of an action in this Court spurred the next incarnation of KTRK's story on September 27, 2010. The video was later published on ABC's website, along with a printed article "Lawsuit filed against Benji's Academy," under Jessica Willey's byline. Willey wrote: "The Texas Education Agency doesn't know how the academy spent \$3 million of state money." (Exhibit 9).

49. The article generated 15 comments on KTRK's website, including:

7. ...Ms. Robinson should be arrested, not because she's black, because she's a thief!

8. I am just amazed as to why the parents are not suing Theaola Robinson and the old Board of Director, they are the ones who are stealing their children's future...

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12. You bet they want to keep it open, if its closed an investigation will show they were all taking money not to mention they won't be able to afford their new house, Hummer and boat payments the school and taxpayers were helping to buy.

(Exhibit 9).

50. KTRK's Cisneros returned to the story on September 30, 2010. The video was later published on KTRK's website, along with a printed article "Charter school fight goes to federal court," under Cynthia Cisneros's byline. Cisneros wrote: "The state says

it had no choice, alleging Benji's did not provide proper financial records to account for over \$3 million in state funding for the past year." (Exhibit 10).

51. The article generated 14 comments on KTRK's website, including:

11. The state is not to blame here. They need to sue the administrators to find out where the money is followed by prosecution of those who may have "mis-spent" it. Put blame where blame is due!

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13. Simple! No money! Can not account for \$9 [sic] million! Close the doors and take the administrators to court for mis-use of government (your) money....

(Exhibit 10).

52. The KTRK version of the saga was continued by Katie McCall on October 11, 2010. The video was later published on ABC's website, along with a printed article "Organizers plan to reopen troubled charter school," under Katie McCall's byline. McCall wrote: "On September 14, the TEA ordered Benji's Academy to close, citing millions of dollars in state funding that was not accounted for." (Exhibit 11).

53. The article generated 10 comments on KTRK's website, including:

2. the only thing organized about this plan is the organized crime

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5. ...the parents are supporting the administrators who have a little charisma along with a talent for lining their pockets...

6. ...The mgmt of this facility, will continue to steal under the guide [sic] of a school, where the kids will continue to suffer[r]

(Exhibit 11).

54. My Fox Houston ran a story about Benji's reopening under new management on October 11, 2010, with no mention of KTRK's reported "millions of dollars in state funding that was not accounted for." Yet, reader comments on Fox's website, reflected

the damage to Mrs. Robinson's reputation created by KTRK's statements: "Why isn't Theaola Robinson being charged for misappropriated tax payer funds?" (Exhibit 12).

55. The series of stories broadcast by Defendant, The Walt Disney Company, are untrue and are libelous defamations as defined by Texas law.

56. These libelous defamations were not privileged and were made with malice and the express intent to destroy the reputation of Mrs. Robinson.

57. To the extent any statement in the libelous defamations published or uttered as part of the television broadcast set forth above were uttered or published by one other than The Walt Disney Company, The Walt Disney Company failed to exercise due care to prevent the utterance or publication of the statements.

58. The Court and factfinder need not indulge in any ratiocination to determine how a person of ordinary intelligence would interpret the complained of statements, whether the complained of statements were capable of defamatory meaning, or whether the public generally, and those who know or are acquainted with Mrs. Robinson specifically, understood that the statements referred to Mrs. Robinson. All that is amply demonstrated by the public comments detailed herein, matters not available to courts and juries at the time these legal standards were developed but readily available in the modern digital age and sufficient to prove beyond doubt the wanton and malicious destruction of a good and honest person's reputation.

WHEREFORE, premises considered, Plaintiff demands judgment:

1. For libel *per se* damages found by the trier of fact without proof of special damages;
2. For actual damages and exemplary damages for malicious libel; and

3. For all other relief, general and special, legal and equitable, to which she may show herself justly entitled.

Respectfully submitted,

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