

3. Defendant, Nicholas Sposato (“Sposato”) is a candidate for Alderman of the 36th Ward and is responsible for the communications and campaign materials of FOS.

COMMON ALLEGATIONS OF FACT

4. In the February 22, 2011 election in a field of six candidates, Ald. John Rice received a majority of the votes with 48 percent of the votes tallied against second place candidate Sposato, who received 24 percent.
5. Defendant Sposato is running a distant second against Alderman Rice in an April 5, 2011 run off election for alderman of the 36th ward-in what was one of the more hotly contested aldermanic races in Chicago.
6. In a desperate bid to besmirch Alderman Rice’s name and reputation, on March 11, 2001 at 1:30 p.m. in front of City Hall, Sposato called a press conference to maliciously and wrongfully accused Alderman Rice of criminal activity, simultaneously calling on United State Attorney Patrick Fitzgerald to investigate Alderman Rice. (Exhibit A: Press Release from the Sposato Campaign).
7. Sposato’s press conference and media release attempt to connect a Fox News story chronicling the literary aspirations of a mob informant - which nowhere mentions or refers to Alderman Rice - with Alderman Rice, by completely misstating the content of the story and falsely stating that Alderman Rice is engaged in criminal activities that must be investigated by the US Attorney’s office.

8. Again on March 11, 2011, the Defendants initiated a campaign of robocalls to residents of the 36th Ward. Robocalls are automated phone calls that utilize both a computerized autodialer and a computer-delivered pre-recorded message. Robocalls are exempt from the United States National Do Not Call Registry and cannot be blocked.
9. The caller initiating the robocall identifies itself as Sposato and goes into a series of self-serving and manufactured facts, displaying breathtaking intellectual dishonesty-the Defendants states that Ald. Rice is engaged in a series of criminal activities including the “pedaling of political influence” to organized crime officials.
10. The Defendants’ aggressive avoidance of the truth is also exhibited in cyberspace. Sometime in 2011, in Chicago, Cook County, Illinois and everywhere around the world in which individuals had access to the world-wide web, Defendants maliciously, and dishonestly wrongfully composed and published on Sposato’s website, <http://36ward.com/>, a website accessible to millions of people around the world, the false assertion that Sposato has been endorsed by the Chicago Sun-Times when in fact he was not; Alderman Rice was.
11. Plaintiff is a life-long resident of the 36th Ward with a career of public service and has never been accused of any criminal wrong-doing by either the Cook County States Attorneys Office, the Illinois Attorney General or the United States Attorney’s Office-or any municipal, state or Federal investigative body.

12. Defendants' false and unconscionable attack on the reputation and character of the Plaintiff has in space of minutes destroyed a name and reputation the Plaintiff has built over his career and lifetime.
13. Defendants knew the statements they published in Chicago, Cook County, Illinois, through use of robocalls, press conferences, media advisories, and online media accessible everywhere around the world in which individuals have access to the world-wide web, against the Plaintiff were false. They went ahead with the publication simply because they knew they could, in the hopes that it would boost Sposato's chance at beating Alderman Rice in a runoff election.
14. Sposato manufactured facts, re-characterized the truth and made up sources to serve his immediate political goal of sensationalism and mud slinging towards his opponent, seeming to want to win the aldermanic race at any price.
15. Contrary to the Defendants' desire to make sensationalized campaign sound-bites by spurious and false publications, the Plaintiff's career in government and in the private sector, has been unsullied by criminal charges involving political matters or any other matters.
16. Defendants willful and ongoing publication of false statements against the Plaintiff cast the Plaintiff in a false light and gave rise to the false implication that he is engaged in criminal conduct, in direct contravention to the truth and doing irrevocable harm to Plaintiff's reputation, candidacy and profession.

17. Plaintiff has no adequate legal remedy against the Defendants' ongoing bad actions. No amount of money damages could be as clear, complete, practical, efficient, equitable and just as an injunction. Unless enjoined, Defendants will-as a matter of law-cause irreparable harm to the Plaintiff, including harm to his campaign for re-election to Alderman of the 36th Ward.

18. Equity and a balancing of the hardships favors the Plaintiff and not the Defendants because the Defendant, FOS is a committee organized to elect a political candidate to an office in Chicago government which demands the highest commitment to candor, honesty and civilized discourse and Plaintiff, has not opined publicly about this particular political race and no financial means to publicly defend himself against this very public attack. Moreover, the Defendants' win at all costs, without regard for the truth campaign will irrevocably harm the campaign and reputation of the Plaintiff if not stopped.

COUNT I - DEFAMATION PER SE

19. Plaintiff incorporates and realleges paragraphs 1 through 18 as if fully rewritten herein in Count I.

20. The statements authored, published and otherwise propagated by the Defendants, in writing, orally, electronically and by the world-wide web are false and defamatory *per se* in that they impute criminal wrong-doing to the Plaintiff, a want of integrity and honesty in his conduct and profession.

21. Defendants published the statements with negligence, in that there existed accessible public records affirmatively demonstrating that the Plaintiff had

never been charged with any criminal wrong-doing, and had never conducted any criminal wrong-doing. Defendants also failed to conduct any confirming investigation or to seek confirmation from the Plaintiff. Plaintiff acted without reasonable belief and (based on the lack of any evidence of wrongdoing on Plaintiff's part) with malicious and reckless disregard for the truth.

22. In addition, Defendants published and otherwise propagated statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements. Defendants fabricated the story that Plaintiff was engaged in criminal conduct. The intellectual dishonesty of the Defendants is chilling given that sources cited for their assertions do not remotely support their assertions.

23. The publication of such defamatory falsehood by Defendants was willful and wanton and was calculated to cause damage to the Plaintiff, causing the Plaintiff to suffer injury to his reputation, profession and financial harm.

WHEREFORE, Plaintiff prays that this Honorable Court:

A. Enter judgment for the Plaintiff and against the Defendants for the stated violations of the Illinois common law of torts.

B. Order that all defamatory statements against the Plaintiff be removed from the Website and an apology and retraction be placed prominently on Website, and a mass robocalling be initiated immediately, similar to the robocalls already placed by the Defendants apologizing for the publication of false and fabricated assertions about the Plaintiff;

- E. Award Plaintiff compensatory damages, jointly and severally, against all the Defendants in an amount in excess of \$100,000.00;
- F. Award Plaintiff punitive damages against all the Defendants individually;
- G. Grant such other and further relief as this Court deems equitable and just.

COUNT II - FALSE LIGHT

- 24. Plaintiff incorporates and realleges paragraphs 1 through 23 as if fully rewritten herein in Count II.
- 25. Defendants publicized the false statements by means of public press conferences, robocalls, media advisories, electronically and through broadcast media outlets thereby making publication of them to the public at large.
- 26. The false statements are grossly misleading and highly offensive in that they accuse the Plaintiff of criminal wrongdoing, a gross lack of integrity.
- 27. In addition, Defendants published and otherwise propagated statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements. Defendants fabricated the story that Plaintiff was engaged in criminal conduct.
- 28. The publication of such defamatory falsehood by Defendants was willful and wanton and was calculated to cause damage to the Plaintiff and his campaign.

WHEREFORE, Plaintiff prays that this Honorable Court:

- A. Enter judgment for the Plaintiff and against the Defendants for the stated violations of the Illinois common law of torts.
- B. Order that all defamatory statements against the Plaintiff be removed from the Website and an apology and retraction be placed prominently on Website, and a mass robocalling be initiated immediately, similar to the robocalls already placed by the Defendants apologizing for the publication of false and fabricated assertions about the Plaintiff;
- H. Award Plaintiff compensatory damages, jointly and severally, against all the Defendants in an amount in excess of \$100,000.00;
- I. Award Plaintiff punitive damages against all the Defendants individually;
- J. Grant such other and further relief as this Court deems equitable and just.

**COUNT III- INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS**

- 29. Plaintiff incorporates and realleges paragraphs 1 through 28 as if fully rewritten herein in Count III.
- 30. Defendants publicized the false statements by means of mass robocalling, press conferences, media advisories and by publication on the world-wide web.
- 31. The false statements are grossly misleading and highly offensive in that they accuse the Plaintiff of engaging in criminal wrongdoing and a gross lack of integrity.
- 32. In addition, Defendants published and otherwise propagated statements with knowledge that they were false and/or with reckless disregard as to the

truth of the statements. Defendants fabricated the story that Plaintiff was engaged in criminal conduct. Defendants purposefully eluded the truth in asserting that the Plaintiff was charged with criminal conduct by failing to check records that were available to them but would have contradicted the Defendants if checked and by simply lying and manufacturing falsehoods.

33. The publication of such defamatory falsehood by Defendants was willful and wanton and was calculated to cause damage to the Plaintiff, in fact causing the Plaintiff to suffer extreme injury to his reputation, political campaign and profession.

34. As a direct and proximate result of said acts, Plaintiff has suffered and continues to suffer, emotional and mental trauma, stress, pain and suffering and other damages, some of which are permanent.

WHEREFORE, Plaintiff prays that this Honorable Court:

A. Enter judgment for the Plaintiff and against the Defendants for the stated violations of the Illinois common law of torts.

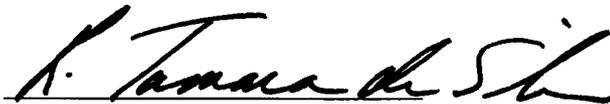
B. Order that all defamatory statements against the Plaintiff be removed from the Website and an apology and retraction be placed prominently on Website, and a mass robocalling be initiated immediately, similar to the robocalls already placed by the Defendants apologizing for the publication of false and fabricated assertions about the Plaintiff;

K. Award Plaintiff compensatory damages, jointly and severally, against all the Defendants in an amount in excess of \$100,000.00;

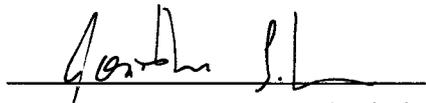
- L. Award Plaintiff punitive damages against all the Defendants individually;
- M. Grant such other and further relief as this Court deems equitable and just.

Respectfully submitted,

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