

CAUSE NO. CC-10-07369-A

HEATHER DOBROTT,	§	COUNTY COURT AT LAW NO. 1
	§	
Plaintiff	§	DALLAS COUNTY, TEXAS
	§	
v.	§	
	§	
TIMOTHY SPENCER DARNELL,	§	
	§	
Defendant	§	

PLAINTIFF’S SECOND AMENDED ORIGINAL PETITION

Plaintiff Heather Dobrott files this Original Petition in this Cause and would respectfully show this Court the following:

I. DISCOVERY CONTROL PLAN

1. Discovery in this case is to proceed according to a Level 2 Control Plan.

II. PARTIES

2. Plaintiff Heather Dobrott (“Plaintiff”) is an individual who resides in the City of Garland, Dallas County, Texas.

3. Defendant Timothy Spencer Darnell (“Darnell”) is an individual who can be served with process at his residence, which is located at 1513 Home Park Drive in Allen, Texas.

III. JURISDICTION

4. This Court has jurisdiction over this Cause pursuant to sections 25.003 and 25.0592 of the Texas Government Code.

IV. VENUE

5. Venue is mandatory in the courts of Dallas County pursuant to section 15.017 of the Texas Civil Practice and Remedies Code because it is a suit for libel, slander, and invasion of privacy, and Plaintiff resided in Dallas County at the time her causes of action accrued.

V. FACTS

6. Darnell was the President of a now-defunct limited-liability company known as Advantage Conferences LLC.

7. According to Darnell, Advantage Conferences LLC provided “Christian-based” “mentoring for entrepreneurs” by hosting seminars where relatively-unknown “middle-class millionaires” educated attendees on “very profound principles that most people are not aware of.” The cost of attending such a seminar was \$9,995. At the seminars, attendees were heavily encouraged to become “representatives” of Advantage Conferences LLC by selling tickets to future seminars.

8. In 2005, the Better Business Bureau of Metropolitan Dallas (“the BBB”) determined that Plaintiff was primarily engaged in promoting a pyramid scheme and accordingly, gave Advantage Conferences a negative review on its website.

9. Apparently upset with the Better Business Bureau’s evaluation of his business, Advantage Conferences sued the BBB for defamation. All of Advantage Conferences’ claims were dismissed on summary judgment in 2006.

10. For several years, Plaintiff has researched illegal pyramid schemes that were disguised as legitimate “multilevel-marketing” businesses. When she learned of Advantage Conferences’ lawsuit against the BBB, she discussed it with other interested individuals in an online forum known as *scam.com*.

11. Apparently upset with Plaintiff’s evaluation of his business, Darnell sued Plaintiff for defamation. In 2009, once again, all of Darnell’s claims were dismissed on summary judgment.

12. In retaliation against Plaintiff for her communication of the facts and her opinions about his business, as well as for her success in his frivolous lawsuit against her, Darnell purchased the website

domain “www.heatherdobrott.com,” which he titled “A website dedicated to the lying stalker from Garland, TX.”

13. If a person does a Google search for “Heather Dobrott,” Darnell’s website is the first result returned.

14. Although Plaintiff has no role in the maintenance, design, or content of this website, Darnell placed a notice at the bottom of the page that suggests that Plaintiff holds a copyright to the information published thereon.

15. Darnell uses this website to suggest, either directly or indirectly, that Plaintiff is unintelligent and that her comments about his businesses were false, when they were in fact, true.

16. Darnell uses this website to publish photographs of Plaintiff’s home and to relay information so that people she does not know can contact her.

17. Darnell uses this website to publish fake and misleading photographs of Plaintiff, some of which falsely imply that she is grossly overweight, others of which imply that she is a polygamist and a member of a fundamentalist religious group that was the subject of a criminal investigation in 2008.

18. Darnell uses this website to publish unauthorized photographs of Plaintiff and/or her children at her home.

19. Darnell uses this website to publish unauthorized photographs of Plaintiff, her husband, and their children on family vacations.

20. Darnell uses this website to publish private and personal information about her husband and his employment.

21. In retaliation, Darnell has published on www.mylinkingpowerforum.com to suggest Plaintiff was “mentally challenged” and knew how to “damage hundreds of peoples’ businesses, lives and reputations”....

22. In retaliation Darnell has also published on www.timdarnell.org in order to suggest that

Plaintiff is a “vicious Internet blogger,” authors “smear campaigns,” and that he lost a “multi-million dollar business... all because of one....Internet blogger (Plaintiff).”

23. Darnell uses this website to suggest that Plaintiff is a “neurotic individual” who has nothing better to do “than spend their waking hours slandering your good name, or your business’s public image.” Darnell suggest that Plaintiff’s statements about him and his businesses were libelous and slanderous, when in fact they were true.

24. In retaliation Darnell published on Twitter about “5 years of cyber attacks” and “damages lead to discovery” linking to his article on www.TimDarnell.org.

25. Darnell published on www.xing.com that:

I have a heart for business people who have suffered damage from Internet defamation - a relatively new, but serious tort that has little legal or law enforcement remedies due to lack of laws that have any teeth, and 1st Amendment "rights."

I finally figured it out...but not until after losing a multi-million dollar business. There is only one solution that works, and every business person who has any public exposure at all MUST get serious about this aspect of their business and personal life. A single negative comment can cost you business, and a campaign by a deranged stalker, (and they are out there), can even cost you the loss of your entire business. Serious, serious, business...

VI. CAUSES OF ACTION

A. Intrusion on Seclusion

26. Darnell intentionally intruded on Plaintiff’s solitude, seclusion, or private affairs.

27. The intrusion would be highly offensive to a reasonable person.

28. Plaintiff suffered an injury as a result of Darnell’s intrusion.

B. Public Disclosure of Private Facts

29. Darnell publicized information about Plaintiff's private life.
30. The publicity would be highly offensive to a reasonable person.
31. The matter publicized is not a legitimate matter of public concern.
32. Plaintiff suffered an injury as a result of Darnell's disclosure.
33. Darnell intentionally intruded on Plaintiff's solitude, seclusion, or private affairs.

C. Appropriation of Name or Likeness

34. Darnell appropriated the name of likeness for the value associated with it.
35. Plaintiff can be identified from the information.
36. Darnell received some advantage or benefit from the appropriation.
37. Plaintiff suffered an injury as a result of Darnell's appropriation.

D. Libel

38. Darnell published statements of fact via the internet regarding private issues that directly and indirectly referred to Plaintiff.

39. Plaintiff is neither a public official, nor a private figure, nor an involuntary public figure.

40. Darnell's statements did not involve a particular public controversy.

41. Darnell's statements were defamatory pursuant to section 73.001 of the Texas Civil Practice and Remedies Code because they are communications "expressed in written or other graphic form that tend[] to...injure a living person's reputation and thereby expose the person to public hatred, contempt, or ridicule; or financial injury; or to impeach any person's honesty, integrity, virtue or reputation; or to publish the natural defects of anyone and thereby expose the person to public hatred."

42. Darnell's statements constitute libel per quod because, through the use of innuendo, he published statements that an average, reasonable person or the general public would find defamatory.

43. Darnell's statements constitute libel per quod because he published statements which conveyed a false and defamatory impression of Plaintiff by omitting material facts or juxtaposing facts.

44. Darnell's statements were false.

45. Plaintiff was injured as a result of Darnell's libelous acts.

E. Slander

46. Darnell published statements via oral communications to third persons regarding private issues that directly and indirectly referred to Plaintiff.

47. Darnell's statements constitute slander per quod because, through the use of innuendo, he published statements that an average, reasonable person or the general public would find defamatory.

48. Darnell's statements constitute slander per quod because he published statements which conveyed a false and defamatory impression of Plaintiff by omitting material facts or juxtaposing facts.

49. Darnell's statements were false.

50. Plaintiff was injured as a result of Darnell's slanderous acts.

VII. DAMAGES

51. Plaintiff is entitled to general damages to compensate her for Darnell's injury to her character and reputation, the injuries to her feelings, and mental anguish.

52. Plaintiff is entitled to damages for the loss of earning capacity that she has suffered as a result of Darnell's conduct.

53. Should this Court conclude that Darnell defamed Plaintiff and/or invaded her privacy, she is entitled to nominal damages under Texas law.

54. Should this Court conclude that Darnell acted with actual malice when she defamed Plaintiff and/or invaded her privacy, Plaintiff is entitled to exemplary damages.

VIII. JURY TRIAL

55. Plaintiff respectfully requests a trial by jury.

IX. REQUEST FOR DISCLOSURE

56. Plaintiff respectfully requests Darnell to serve her with responses to the information

identified in Texas Rule of Civil Procedure 194 within fifty days of receiving service of this Petition.

VIII. CONCLUSION AND PRAYER

For the reasons outlined above, Plaintiff respectfully requests this Court to set this matter for a jury trial and at its conclusion, enter a judgment in her favor, and order Darnell to pay her damages, all costs of court, and all other relief to which she is justly entitled.

Respectfully submitted,



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PRO SE PLAINTIFF