

FILED
05-08-2020
Clerk of Circuit Court
Kenosha County
2020CV000445
Honorable Anthony
Milisauskas
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Branch 4



GUTTORMSEN, TERRY & NUDO, LLC

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Todd A. Terry
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April 29, 2020

VIA PERSONAL SERVICE AND U.S. MAIL

Ms. Erin Decker
706 N. School Street
Silver Lake, WI 53170

Mr. Matt Augustine
4306 31st Avenue
Kenosha, WI 53144

Ms. Mary Verzal
19515 107th Street
Bristol, WI 53104

Mr. John Poole
6245 237th Avenue
Salem, WI 53168

Mr. Don Diehl
5602 35th Avenue
Kenosha, WI 53144

Re: Defamation of Joseph Clark

Dear Gentlepersons:

I write in regard to the above entitled matter as this office represents Mr. Joseph Clark. This letter is not unusual from the standpoint that our office often prepares and serves upon people Cease and Desist and Retract letters where people such as you are making false and defaming comments about a client of ours in public which causes harm. I refer to each of you collectively as "you", not knowing yet who actually posted the assertions of fact. I intend to hold your entity and potentially, each of you, responsible for the post.

The unusual part about this matter is that I can assure you it will proceed to the next step which is litigation. This **is not** a hollow threat. I have had an opportunity to review the background and circumstances here with Mr. Clark together with the specific statements made. Based upon that review, I have an absolute slam dunk of a defamation case against you. In reading the factual allegations made, I am certain the same are and will be easily proven.

I write specifically to demand that you Cease and Desist from any further comment about my client and demand that you issue a retraction of your statements on the Facebook page for the Republican Party of Kenosha County. I certainly understand there can be political and personal animus between people and I respect and understand that. Where that animus crosses the line is



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where someone in your position makes entirely false and unsupported statements to the public at large which cause harm to the subject of those statements. That is precisely what has happened here. All I have to prove in a court of law is that the statements you made were not true and that they were done so with malicious intent. Damages that flow from that would include punitive damages together with actual attorney's fees incurred in the action. I can assure you both of those numbers will be large. The falsities of your factual assertions are easy to prove. The use of the word "crooked" (defined as dishonest or illegal) is equally as easy to prove and show malice.

The above considered, the following assertions are not true, you collectively held them out to be true and they must be retracted on your Facebook page:

1. The word "crooked". The allegation is that Mr. Clark is somehow engaging in illegal activity. That is an assertion of fact that, without support, must be retracted. There is and can be no actual support for the allegation. Additionally, the fact that Mr. Clark is not a public political figure, but rather, a private business owner, the reference to him as "crooked" is well beyond the bounds of free speech or opinion.
2. The assertion that Mr. Clark is "one of the people behind Kenosha Cares Coalition" ("KCC"). Again, this assertion is patently false. Up until just recently, KCC had been inactive for several years. Mr. Clark resigned his position from KCC well before any of the funds you reference in your post were raised or expended. A simple search of Wisconsin DFI online records would have shown the same. Again, these allegations were and are false, and were made recklessly or without caring what the truth was and solely to injure Mr. Clark.
3. The assertion that the Kenosha Community Health Center (KCHC) receives funding from Kenosha County and the same is a "political payback". Yet again, a patently false statement. A bit of research would have confirmed that the funding source for the COVID-19 testing has nothing to do with Kenosha County. Rather KCHC has received funding through the U.S. Dept. of HHS and is awaiting a Community Block Development Grant through the City of Kenosha. Mr. Clark has served on the KCHC board for more than three years and has received no compensation from KCHC, he is a volunteer. Mr. Clark receives no financial gain from KCHC.

The above assertions must be retracted no later than the close of business on **May 5, 2020**. That retraction must be forwarded to and approved by my office prior to being posted on Facebook and your website. The retraction must include the following: a. acknowledgement that the assertions were without merit and untrue; b. Mr. Clark is an uncompensated volunteer on the KCHC Board; and c. there is no contract or compensation between KCHC and Kenosha County

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for the COVID-19 county testing. In addition to the above, to avoid the lawsuit referenced, you must:

1. Pay attorney's fees to my office of \$500.
2. Make a donation to the KCHC of \$1,000.
3. Agree to adopt a policy that any social media posts by your entity will be approved by a majority of your Executive Committee.
4. Ensure that all social media footprint of this post is removed. That will be confirmed by Mr. Clark using an IT specialist to confirm the same. That cost will be paid by your or your organization and will not exceed \$1,000.

I am hopeful you can see the problems with this post and choose the proper path to resolve it now. In exchange for the above, we would enter into a full release and settlement agreement. Of note, Mr. Clark has already been contacted by several clients, both local and out of state, that observed the post and expressed concern.

The above may appear to be a big ask, but I can assure you (and each of you know Mr. Clark's level of commitment) that you will be sued by the morning of May 6, 2020 if this is not resolved pursuant to these terms. While often difficult to obtain, for me to obtain an award of punitive damages and actual attorney's fees, all I must show is: 1. The statements were false, 2. The statements were made recklessly or without caring what the truth was, and 3. The statements were made with malice. I feel **REAL** confident in proving all three. The choice here is collectively yours. Politics and antics surrounding the same can be nasty, but the line is crossed when lies are spread about a local businessman.

Sincerely,

GUTTORMSEN, TERRY & NUDO, LLC



Todd A. Terry

TAT/klb