

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-ED4

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CLERK
U.S. DISTRICT COURT 

JAY MARVIN,

Plaintiff,

Vs.

JANICE SHELL, aka JANICE456,
JOHN DOE I, aka SCION, and
JOHN DOE II, aka SALEMSHEXNY,

Defendants.

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02 C 2963

Judge Manning

Magistrate Judge Schenkier

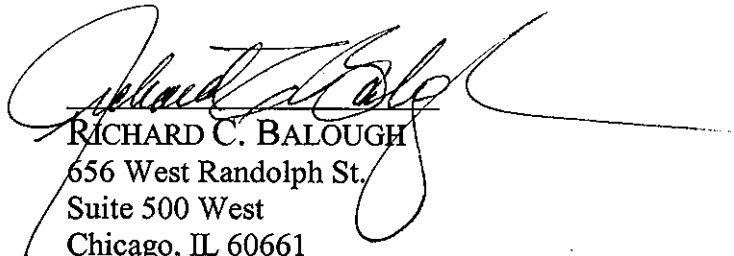
NOTICE OF FILING

To: Janice Shell
830 Montgomery Ave. Apt. 510
Bryn Mawr PA 19010

DOCKETED

JUN 26 2002

Please take notice that on this 25th day of June 2002, Plaintiff has filed First Amended Complaint and Jury Demand a copy of which is attached hereto.



RICHARD C. BALOUGH
656 West Randolph St.
Suite 500 West
Chicago, IL 60661
312.902.9970
Fax: 312.902.9981
Attorney for Plaintiff

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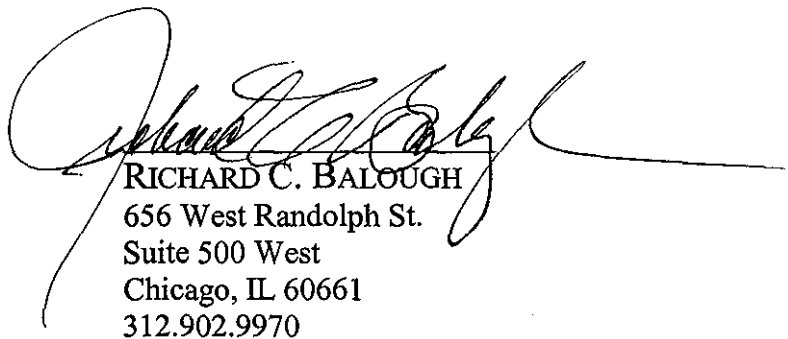
Judge Manning

Magistrate Judge Schenkier

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of Plaintiff's First Amended Complaint and Jury Demand has been placed with the United States Postal Service with adequate postage paid on this 25 day of June 2002 to:

Janice Shell
830 Montgomery Ave Apt 510
Bryn Mawr PA 19010-3321


RICHARD C. BALOUGH
656 West Randolph St.
Suite 500 West
Chicago, IL 60661
312.902.9970

Fax: 312.902.9981
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
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JAY MARVIN,

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02 C 2963

Vs.

Judge Manning

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Defendants.

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PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND

Now comes Jay Marvin complaining of Defendant Janice Shell, aka Janice456
and respectfully states as follows:

DOCKETED

JUN 26 2002

Parties

1. Plaintiff is a citizen of the State of Illinois.
2. Defendant Janice Shell, aka Janice456, is a citizen of the State of Pennsylvania and may be served at 830 Montgomery Ave, Apt. 510, Bryn Mawr, PA.

Jurisdiction and Venue

3. This court has jurisdiction over this matter pursuant to 28 U.S.C §1332 (a)(1) based upon the complete diversity of citizenship of the parties and the amount in controversy exceeds the jurisdictional minimum of \$75,000.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 (b) because this case arises out of actions that occurred within this Judicial District.

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Factual Background

5. Plaintiff has over the past year participated in a chat room on the Internet hosted by Lycos, Inc. called Raging Bull. The stated purpose of the Raging Bull chat room is “to engage in enlightening, useful conversations about investments.” See Exhibit A attached to this complaint.
6. A part of Raging Bull is comprised of message boards or “threads” that are designed to discuss a particular company’s stock. These messages, as soon as they are posted on the message board, are available for downloading and are downloaded worldwide and in the State of Illinois, including in Cook County, Illinois. One of the Raging Bull message boards is for Amazon Natural Treasures (AZNT), a company whose stock was previously traded on the over-the-counter market.
7. Persons posting on the Raging Bull message board do so using “screen names.” The screen names are not the actual names of the persons but merely are “handles” selected by the person himself or herself. The actual name of the person or the e-mail address of registered users may be known by Lycos.
8. Before a person can post on the message board, the person must agree to the Lycos terms of service (TOS). The terms of service for Raging Bull includes the proviso “[e]njoy the active debates and discussions, but remember that threatening or harassing another member, using profane language or otherwise abusing your membership in the community is against our TOS and can result in suspension or cancellation of your membership.” .

9. For a period of time, the stock of AZNT was touted by various unknown persons on the Raging Bull message board and the price rose. Defendant Janice Shell aka Janice456 posted unfavorable comments on the stock and the price of the stock fell sharply. Eventually the stock was delisted and is no longer traded.
10. As a result of the increase, then collapse of the price of AZNT stock, some investors in AZNT lost large sums of money. Several investors including Gary Dobry investigated why the stock rose and then fell. He reported his findings on the Raging Bull message board and other locations, alleging, amount other factors, a coordinated effort to tout the company causing its stock to rise, then to discredit the company causing its stock to fall, a practice called "pump and dump."
11. As a result of Dobry's postings, he was sued for libel by Richard Marchese.
12. Plaintiff Marvin is a friend of Dobry. Using his own funds and not those of his employer, plaintiff has given limited financial support to Dobry to hire a private investigator to aid Dobry in his defense of the libel claim by Marchese.
13. The investigation by Dobry and resulting lawsuit filed by Marchese were reported in the *Chicago Tribune* in an article published on March 4, 2002 that is attached as Exhibit C to this complaint.
14. Plaintiff on his own personal time and using his own personal computer also has posted messages on the Raging Bull site using various screen names to defend Dobry and plaintiff himself and to respond to the voluminous

allegations made against plaintiff and Dobry on the Raging Bull site by defendant Janice Shell.

15. The posting by defendant Shell on the AZNT thread on Raging Bull in the past year have nothing to do with engaging in enlightening conversations about investments. Instead, the thread has turned into a site where plaintiff is attacked almost daily by Janice Shell and other various posters using screen names to the site. Defendant Shell identifies plaintiff and his employer even though plaintiff's postings had been by screen name. Defendant Shell through her various postings has stated, and continues to state, falsely that plaintiff has misappropriated the corporate assets of his employer WLS-AM, has stalked women in the United States and in Italy, has assisted in hiding evidence in violation of court orders and has given false reports to law enforcement agencies. Defendant Shell further described plaintiff as mentally unstable and a physical threat to third parties.
16. The postings by defendant contain false statements concerning plaintiff. Defendant Shell does not merely post the false statements about the plaintiff once but rather repeatedly posts such statements. Defendant is acting in total disregard to the truthfulness of the statements she is posting. Defendant has engaged in a pattern of action to intentionally defame plaintiff, invade his privacy and interfere with his relationship with his employer.
17. Defendant Shell's total recklessness of the truth is further demonstrated by the fact that she continues to attack plaintiff and his employer whenever any poster to the AZNT site posts anything unfavorable about her or her

companion posters. This is in spite of the fact that plaintiff has not made any postings to the AZNT thread since this lawsuit was initiated in April 2002. Such actions show that defendant Shell undertakes no effort to ascertain the truthfulness of her postings and indicates her malice toward plaintiff.

18. Moreover, defendant Shell has gone beyond her postings on Raging Bull. She intentionally sent an e-mail containing false statements to plaintiff's employer—WLS-AM President and General Manager Zemira Jones—in an attempt to discredit him and to have him fired. The e-mail was sent by Defendant Shell to Jones at WLS's office located in Chicago, Illinois. A copy of the letter is attached to this complaint as Exhibit C. Defendant Shell even bragged about her actions on the Raging Bull site and posted portions of the e-mail.

19. Defendant Shell without any basis in fact—and contrary to the actual facts—continues to false state that plaintiff is committing the crime of misappropriation of funds of his employer and stalking innocent persons. Among her postings, she states:

a. “. . .Wonder why Zemira Jones [President and General Manager of WLS-AM Chicago] won't answer it. I mean, if he KNOWS that Marvin didn't use any WLS money to fund Dobry's witch hunt, why doesn't he just say so? Seems pretty simple to me.” Posted 29 March 2002. See Exhibit D attached to this complaint.

b. “As I told you, Jay, I haven't heard back from WLS. I can understand why: I asked them pointblank if you'd used their money to fund

Dobry's witch hunt. You think they'd lay themselves open to a million dollar lawsuit by commenting on that? I do think that if they knew you didn't use their money, they'd simply have written back saying: 'he did it all on his own, used his own money, so it's no concern of ours.' But that's not how it was, was it, Jay?" Posted 4 July 2001. See Exhibit E attached to this complaint.

- c. "Hey Porky [plaintiff]!! Did you use any WLS money to fund Puggles's stalking of me?" Posted 28 February 2002. See Exhibit F attached to this complaint.
- d. "Hey Marvin!!! How d'you feel about witch hunts? How about lynch mobs? YOU'RE the one putting up the money for this harassment of innocent people. Make you feel GOOD, Marvin?" Posted 14 June 2001. See Exhibit G attached to this complaint.
- e. "Now let's consider something else: would it be unethical for a loudmouthed not-very-bright talk show host to use some of his station's money to stalk and harass two women in Italy?" Posted 10 April 2002. See Exhibit H attached to this complaint.
- f. "And that, of course, returns us to the question of WLS and their responsibility, or lack thereof, for his behavior." Posted 17 April 2002. See Exhibit I attached to this complaint.
- g. "Well, if he really hadn't been using WLS's money or computers, or been doing this stuff on WLS's time, they could have simply said it was a private thing over which they had control as they weren't

involved. But they didn't say that. They didn't say anything." Posted 13 June 2002. See Exhibit J attached to this complaint.

Defamation and Libel

20. Defendant Shell has defamed and libeled plaintiff through her various postings on the Raging Bull website and in her statements contained in her letter to plaintiff's employer. Her statements are false and defamatory and libel per se. She imputes that plaintiff has engaged in the commission of criminal offenses, impute an inability or want of integrity in the discharge of the duties of his employment and impute the lack of ability of plaintiff in his profession and business. She has continued to make these postings over a period of months and even after the filing of the original complaint in this lawsuit.
21. Defendant Shell has acted in total disregard of the truth and has made no effort to verify the truthfulness or falsity of her statements. She has falsely assumed that others who are posting on the AZNT thread are plaintiff and uses those other postings to continue her defamation and libel against plaintiff.
22. As a result of defendant's actions, plaintiff has been injured in an amount in excess of the jurisdictional amount of this court.

Invasion of Privacy: False Light

23. Plaintiff realleges paragraphs 1 though 19 above.

24. As a result of defendant's various postings on the Raging Bull website and in her letter to plaintiff's employer, plaintiff's right to privacy has been invaded by placing plaintiff in a false light. The false statements repeatedly made by defendant accusing plaintiff of stalking of women and accusing him of misusing corporate funds for private use are highly offensive to a reasonable person. By repeatedly placing the postings on the website with a reckless disregard for whether the statements were true or false, defendant has acted with malice.
25. As a result of defendant's actions, plaintiff has been injured in an amount in excess of the jurisdictional amount of this court.

Interference with Business Relationship

26. Plaintiff realleges paragraphs 1 through 19 above.
27. Plaintiff is a contract employee of WLS-AM.
28. Defendant by sending her letter to WLS-AM that contains false statements and statements intended to place plaintiff in a false light have damaged the business relationship between plaintiff and his employer in an amount in excess of the jurisdictional amount of this court.

Demand for Jury

29. Plaintiff hereby requests trial by jury.

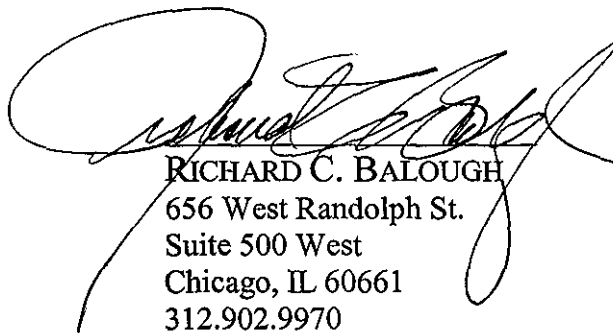
Prayer For Relief

30. Plaintiff requests that this court upon trial enter an order finding that:

- a. Defendant has libeled and defamed the reputation of plaintiff,
- b. Defendant has invaded the privacy of plaintiff,
- c. Defendant has interfered with the business relationship of plaintiff and his employer,
- d. Defendant is liable to plaintiff for actual and punitive damages, attorneys fees and the costs to pursue this cause of action,

And for such other and further relief that plaintiff shall be entitled to receive.

Respectfully submitted,



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Attorney for Plaintiff

See Case
File For
Exhibits