

EXHIBIT A

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(717) 540-9170
ATTORNEY FOR THE PLAINTIFF

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DAUPHIN COUNTY
PENNSYLVANIA

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY

MILTON PURCELL,
Plaintiff

v.

OLIVER EWING,
Defendant

:
: NO: 2007 CV 9043 CV
: CIVIL ACTION - LAW
:
:
: JURY TRIAL DEMANDED

NOTICE

You have been sued in court. If you wish to defend the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint is served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the petition or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

SPERO T. LAPPAS, Esquire
Serratelli, Schiffman, Brown and Calhoon, P.C.
Complaint
Page 1

SEP 13 2007

I hereby certify that the foregoing is a true and correct copy of the original filed.

Stephen C. Davina
Prothonotary

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P.006

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

NOTICIA

USTED LE HAS SIDO DEMANDADO EN EL TRIBUNAL. Si desea alegar defensa alguna a las reclamaciones expuestas en las paginas siguientes, usted debe ir a la audiencia. Advertencia: de no comparecer ante dicho tribunal, su caso sera decidido en su ausencia y, sin mas notificacion, el tribunal puede dictaminar un Decreto contra usted por cualquiera reclamacion o compensacion alegada en la Petición. Usted puede perder dinero o propiedad u otros derechos importantes a usted.

LLEVE ESTOS DOCUMENTOS A SU ABOGADO EN SEGUIDA.
SI NO TIENE UN ABOGADO O NO TIENE CON QUE PAGAR TAL
SERVICIO, VISTE O LLAME A LA SIGUEINTE DIRECCION.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
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Respectfully submitted

SERRATELLI, SCHIFFMAN, BROWN AND CALHOON, P.C
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Complaint
Page 3

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY

MILTON PURCELL,
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: NO: 2007 CV 9043 CV
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DAUPHIN COUNTY
PENNA

COMPLAINT

AND NOW this 7 day of September 2007 comes the

Plaintiff, MILTON PURCELL, by and through his counsel, SPERO T. LAPPAS, ESQUIRE, and makes this COMPLAINT against the above named Defendant respectfully representing as follows:

1. The Plaintiff Milton Purcell is an adult individual residing in Dauphin County, Pennsylvania.
2. The Defendant OLIVER EWING is an adult individual who, to the Plaintiff's best and most current knowledge resides at 114 Haldane Drive, Laplata, Maryland 20646 .
3. All of the Defendant's actions described in this Complaint were intentional, malicious and taken in bad faith; in the alternative,

SPERO T. LAPPAS, Esquire
Sextelli, Schiffman, Brown and Calhoun, P.C.
Complaint
Page 3

those actions were reckless; in the alternative, those actions were negligent. None of those actions were privileged or in the alternative any privilege which would have otherwise attached was lost through the abuse of a conditionally privileged occasion, or because of malice, actual malice, recklessness, reckless disregard of the falsity of the publication, negligence or for other legal cause.

4. On various dates within the statute of limitations, and as part of an ongoing course and pattern of conduct, the Defendant engaged in a series of defamatory publications of and about this Plaintiff. These publications included postings to internet sites or forums, some or all of which involved the Defendant's use of an alias: specifically "Prosecute". In the alternative, the Defendant combined and conspired with others to commit this defamation. In the alternative, the Defendant's actions were a substantial cause or contributing factor to this defamation.

5. These postings include postings to a website known as PennLive.com which is headquartered, housed, managed, maintained

and/or hosted in Dauphin County, Pennsylvania.

6. All of the defamatory publications described in this Complaint have been received in Dauphin County, viewed by persons in Dauphin County, received by persons in Dauphin County, all of whom understood and appreciated the defamatory content thereof and understood the defamatory publications to refer to the Plaintiff.

7. The Defendant OLIVER EWING at all times knew that the Plaintiff was a resident of Dauphin County, the Defendant knew that the Plaintiff was a business owner with his principle place of business in Dauphin County, and the Defendant knew that the Plaintiff was actively involved in certain civic and private associations such as the Milton Hershey School Alumni Association which has its headquarters in Dauphin County.

8. When the Defendant OLIVER EWING placed the aforementioned defamatory materials on the internet, he intended them to be received, read, and understood by persons in the Plaintiff's home and residential state of Pennsylvania; persons who know the

Plaintiff and who would be influenced by the defamatory information which he was publishing. Accordingly, the Defendant was expressly aiming his defamation at the Pennsylvania forum.

9. The Plaintiff avers that these defamatory publications are frequently received and understood by readers in Pennsylvania, in Dauphin County, and elsewhere.

10. With respect to the specific acts of defamation, on or about September 21, 2006 the Defendant posted or caused or contributed to the posting of the following message on the internet. The Plaintiff believes this was posted on the PennLive website.

*"Look at the pictures.
By prosecute, 9/21/06 22:49ET*

If one looks at the photos in the homecoming flyer, two of the candidates look to me like photos that you would see for someone accused of child molestation. Look at Bill Brill and Milt Purcell, those are the type of perverts to look out for. Then look at Brad's photo with the Rent a Model on this web page. Enough said."

11. This September 21, 2006 posting referred to a photograph of the Plaintiff published in the homecoming brochure of the Milton

Hershey School Alumni Association. In that brochure, the Plaintiff's photograph was published and he was identified by picture and name. Members of the alumni association or other people familiar with this photograph would have immediately recognized Milton Purcell as the person being referred to in the September 21, 2006 message.

12. This defamatory publication suggests by reasonable implication that the Plaintiff either is, or has been accused of "child molestation." In this context, the term "pervert" is reasonably understood to refer to a person who commits unlawful, immoral, unethical, disreputable and inappropriate acts with minor children.

13. The September 21, 2006 publication identifies the Plaintiff as a "pervert." It indicates that the Plaintiff is a person whom others should "look out for." It suggests and encourages its readers to avoid association with the Plaintiff.

14. The Defendant's course of conduct and pattern of defamation extended up to and at least including July 17, 2007 when the Defendant posted or caused or contributed to the posting of the

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P. 012

following messages on the internet:

*"What does Parcell do??
By prosecute 7/17/07 17:50ET*

He is on no committees, he does nothing. How can someone like him have a full time criminal defense attorney on his payroll? The answer [sic] is easy, "when you have the money, you can bully whom ever you want and your criminal defense attorney will bail you out! Ain't that right Milt?" "Yes sir you are correct!" says Milt. Too bad Dick is not around to kick little brothers butt! Moron."

15. The July 17, 2007 publication indicates falsely and by reasonable implication that the Plaintiff is a criminal, that he has a "full-time criminal defense attorney" on his payroll. The reasonable interpretation of this publication is that the Plaintiff frequently engages in criminal acts so as to require the services of a "full-time criminal defense attorney."

16. The Defendant's course of conduct and pattern of defamation extended up to and at least including July 30, 2007 when the Defendant posted or caused or contributed to the posting of the following message on the internet:

"They must really be in fear

*SPERO T. LAPPAS, Esquire
Serravalle, Schiffman, Brown and Calhoun, P.C.
Complaint
Page 8*

By prosecute, 7/30/07 22:51ET

"They never post the minutes to all the board meetings held, they will not post the candidates running for the board of directors this year. And Brill still looks like a child molester. Just look at last years picture of him when he ran for a position on the board. And tell me what the hell does Purcell do? He is on no committees and has a barn named after his family. Maybe that is where he belongs, in the barn. Perverts and bullies is all they are. Oh my, did I say pervert (:<)."

17. This defamatory publication suggests by reasonable implication that the Plaintiff either is a "pervert", a term which is reasonably understood to refer to a person who commits unlawful, immoral, unethical, disreputable, and inappropriate acts with minor children.

18. The July 30, 2007 reinforces and amplifies the defamatory force and damage of the earlier acts of defamation, especially the message of September 21, 2006 which identifies the Plaintiff as a "pervert," indicates that the Plaintiff is a person whom others should "look out for." and suggests and encourages its readers to avoid association with the Plaintiff.

19. With respect to each incident and item of defamation individually and in combination with one another:
- (a) Each publication tends to blacken the Plaintiff's reputation or expose him to public hatred, contempt or ridicule, or to injure him and his business or profession;
 - (b) Each publication expresses defamatory meaning about the Plaintiff either directly and overtly or by reasonable implication, insinuation and innuendo;
 - (c) Each publication when read as a whole and in its totality, or when reasonably read in pertinent part and in context, is defamatory of the Plaintiff;
 - (d) The defamatory content of each publication is applied to the Plaintiff overtly or by reasonable implication;
 - (e) Each defamatory publication was understood by recipients thereof to refer to the Plaintiff;
 - (f) The defamatory publication and its content was

understood by the readers thereof as intended to be applied to the Plaintiff;

(g) The defamatory content of each publication was false and untrue;

(h) The defamatory publication described or mentioned in each Complaint is actionable per se;

20. As the direct, legal and proximate result of the Defendant's actions as described in this Complaint, the Plaintiff has suffered actual harm in that, *inter alia*,

(a) He has suffered the impairment of reputation and standing in the community, in the alumni community, and he has suffered personal humiliation, mental anguish, and suffering;

(b) He has been exposed to public contempt and ridicule;

(c) He has been exposed to criminal suspicions;

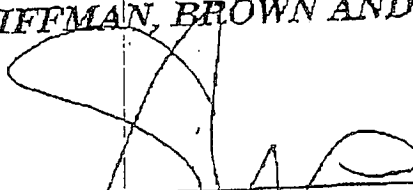
(d) He has suffered other losses and damages.

21. WHEREFORE, this Plaintiff, Milton Purcell, requests that

this Court enter judgment in his favor and against this Defendant in an amount in excess of the local limits for referral of cases to compulsory judicial arbitration, plus punitive damages, plus costs of litigation and interest as allowed by law.

Respectfully submitted
SERRATELLI, SCHIFFMAN, BROWN AND CALHOON, P.C

By:


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Attorneys for Defendant

MILTON PURCELL,
Plaintiff

v.

OLIVER EWING,
Defendant

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY,
PENNSYLVANIA

NO. 2007-CV-9043-CV

CIVIL TERM

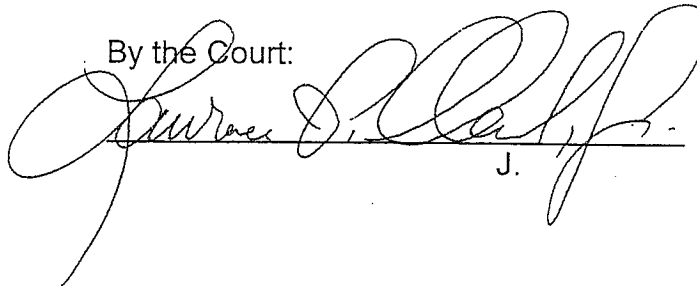
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ORDER

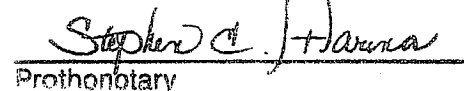
AND NOW, this 18th day of September 2007, upon consideration of the Defendant's Emergency Motion for Protective Order, said Motion is GRANTED. The oral deposition of the Defendant shall not take place for a period of 30 days, but may then be rescheduled at a time mutually agreeable to the parties and their counsel.

By the Court:


J.

SEP 18 2007

I hereby certify that the foregoing is a true and correct copy of the original filed.


Prothonotary

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EXHIBIT B

AFFIDAVIT OF PETER J. SPEAKER

I am an attorney who represents the Defendant in the above matter. I have had extensive experience with personal injury litigation over the past twenty-two (22) years, including representation of parties in defamation cases in Pennsylvania. The amount of damages claimed by Plaintiff in the Complaint filed in the Court of Common Pleas of Dauphin County at No. 2007-CV-9043-CV is for some unspecified amount, but the "amount in controversy" certainly exceeds \$75,000.

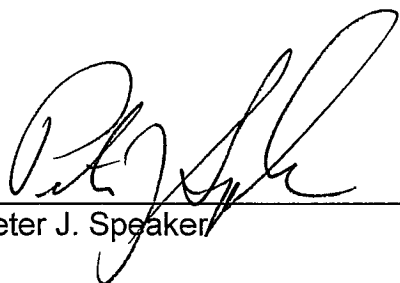
I called Plaintiff's counsel, Spero Lappas, on the telephone, on October 3, 2007. He was not available, but I left a message in which I asked him whether he would stipulate that the amount in controversy and damages sought in this case will not be in excess of \$75,000. I said that, unless I heard otherwise from him, I would assume that he would refuse to so stipulate. Attached hereto is a copy of an email I sent to him on October 3, 2007, confirming his refusal.

Although the Complaint does not state a liquidated amount of total damages, it alleges that Defendant maliciously defamed Plaintiff by publishing statements "on-line" that, according to Plaintiff, suggest that he is a child molester; and it demands unspecified damages, including but not limited to compensation for personal injuries such as humiliation, anguish and impairment of reputation; it alleges that he has suffered public contempt and ridicule; and it also demands punitive damages.

Although the Defendant denies any liability in this case, there is ample precedent for damages in comparable defamation cases far in excess of the jurisdictional limit. Again, although the Defendant denies liability, if a jury were to find, as alleged, that the Defendant committed the alleged acts maliciously, and that Plaintiff actually sustained

the harm alleged, then a jury could award damages far in excess of the jurisdictional limit. See CoreComm-ATX, Inc. v. AT&T Corp., 2002 U.S. Dist. LEXIS 8998 (E.D. Pa. May 22, 2002) (where it is alleged that a defendant willfully and maliciously harmed plaintiff through tortuous conduct, there is no doubt that a reasonable jury could well award more than \$75,000 in punitive damages; therefore the action was removable). Indeed, my search for verdicts in cases involving on-line posting of defamatory statements immediately yielded the report attached hereto, regarding a multi-million dollar award for defamation in the form of an on-line posting.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 12, 2007.


Peter J. Speaker

494540.2

Speaker, Peter J.

From: Speaker, Peter J.
Sent: Wednesday, October 03, 2007 1:08 PM
To: 'Spero T. Lappas (slappas@ssbc-law.com)'
Subject: Purcell v. Ewing
Contacts: Spero T. Lappas

Spero,

Following up on my telephone message, this will confirm that the Plaintiff contends that the amount in controversy exceeds \$75,000, and that you will not stipulate that any judgment shall be limited to that amount or less. Accordingly, I intend to remove the case to Federal Court.

-Pete

Peter J. Speaker, Esquire
Thomas, Thomas & Hafer LLP
305 North Front Street
Sixth Floor
Harrisburg, PA 17101
Phone: (717) 255-7644
Fax: (717) 237-7105

What's It Worth? § 23.02 (2007 ed.)

What's It Worth? 2007 Edition
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CHAPTER 23. Psychological Injuries (Mental and Emotional Distress)
SECTION 23.02. Adequate

What's It Worth? § 23.02 (2007 ed.)

Scheff v. Warbis

Case No. 03022837

VERDICT DATE: 2006

CATEGORY: Psychological Injuries (Mental and Emotional Distress)

CITATION: VerdictSearch Nat'l Rptr., Issue 10, Vol. 5 (Dec. 2006)

AMOUNT: \$ 11,350,000

SPECIFIC-INJURY: Emotional distress

INJURED-PARTY: Female educational consultant

STATE: Florida

AREA: Broward Cty.

JUDGE: John T. Luzzo

P-EXPERTS: none disclosed

D-EXPERTS: none disclosed

ATTORNEYS: David H. Pollack, Miami, Fla., for plaintiff; and Pro Se defendant

OCCURRENCE: From June 2003 to 2004, defendant posted statements on an online forum for the parents of troubled teens about the plaintiff calling her a "crook", "con artist" and "an exploiter"

PERTINENT-INFO: Plaintiff and on behalf of her minor child, sued defendant for **defamation** because the statement affected her business and reputation and cause her emotional distress; defendant did not appear at trial; the jury awarded \$ 11.35 million to plaintiff, \$ 6,425,000 punitive damages and \$ 4,925,000 compensatory damages