

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

SAVE-A-LIFE FOUNDATION, INC.,

Plaintiff,

v.

PETER HEIMLICH, JASON HAAP and
ROBERT BARATZ, WLS TELEVISION, INC.,
AMERICAN BROADCASTING CO., and
CHUCK GOUDIE,

Defendants.

No. 07 CH 12022

**AMENDED VERIFIED COMPLAINT
FOR INJUNCTIVE RELIEF AND DAMAGES**

NOW COMES plaintiff, SAVE-A-LIFE FOUNDATION, INC., by its counsel, ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C., and for its Complaint against defendants, PETER HEIMLICH, JASON HAAP, ROBERT BARATZ, WLS TELEVISION, INC., AMERICAN BROADCASTING CO. and CHUCK GOUDIE, states the following:

Introduction

1. Plaintiff, SAVE-A-LIFE FOUNDATION, INC. ("Save-A-Life"), is a not-for-profit corporation organized under the laws of the State of Illinois and qualified under Section 501(c)(3) of the United States Internal Revenue Code. Save-A-Life's headquarters is located in Cook County, Illinois, and it does business in Cook County and throughout the nation. Save-A-Life is a national affiliate of the Department of Homeland Security Citizen Corps, and its programs have been promoted and supported by many local and national organizations.

2. Save-A-Life's mission is to train bystanders, particularly school age children, in age appropriate life supporting first aid ("LFSA") skills to provide in emergency situations prior to arrival of emergency medical service ("EMS") professionals. Save-A-Life was founded in 1993,

and has since organized and sponsored programs that have trained over 1.6 million children in LFSA throughout the nation. Save-A-Life has 13 branches or satellites in seven separate states, has letters of intent to bring its training to 30 additional states in 2007 and is presently registered to do business in all 50 states and Puerto Rico.

3. Save-A-Life is funded by federal, state and local government grants and earmarked appropriations, contracts and grants and contributions from private businesses and other entities. Save-A-Life has received grants and contributions to support its programs from organizations such as Chicago Public Schools ("CPS"), Blue Cross/Blue Shield of Illinois, Ronald McDonald House Charities, and other entities. Save-A-Life's funding sources are publicly disclosed, it provides quarterly financial and activity reports to its private and governmental funders, and undergoes a full audit annually by an independent auditing firm.

4. Save-A-Life's programs are taught by EMS professionals. The LFSA skills taught in Save-A-Life's programs include emergency recognition, scene safety, use of 911, bleed control, opening an airway, rescue breathing, CPR, the Heimlich Maneuver, and other basic and more advanced LFSA techniques.

5. Defendant, PETER HEIMLICH, is the son of Dr. Henry Heimlich. Defendant PETER HEIMLICH, upon information and belief, is a resident of the State of Georgia.

6. Defendant JASON HAAP, is a resident of Cincinnati, Ohio. He operates an internet blog known as the Cincinnati Beacon.

7. Defendant ROBERT BARATZ, on information and belief, is a resident of the State of Massachusetts, and is the proprietor of an organization called the National Council Against

Health Care Fraud. On information and belief, defendant Baratz is in the business of acting as a paid expert witness in proceedings where alternative medicine practices are at issue.

8. Defendant WLS TELEVISION, INC. ("WLS") is a Delaware corporation doing business in Illinois. WLS owns, operates and manages ABC-7, a television station broadcasting out of Chicago.

9. Defendant AMERICAN BROADCASTING CO. ("ABC"), is a Delaware corporation doing business in Illinois. ABC owns, operates and manages WLS.

10. Defendant CHUCK GOUDIE ("GOUDIE") is a reporter who at all relevant times was employed by defendants WLS and ABC. Goudie works within and controls an investigative reporting group on ABC-7 known as the "I-Team."

The Heimlich Connection

11. The Heimlich Maneuver is a life saving measure for choking victims involving a thrust delivered to the victim's abdomen, creating a burst of air expelling the obstruction. It derives its named from Dr. Henry Heimlich, who pioneered the technique. Dr. Heimlich is the founder and President of the Heimlich Institute, located in Cincinnati, Ohio.

12. Until early 2007, Dr. Henry Heimlich served on Save-A-Life's Medical Advisory Board. He developed a close affiliation with Save-A-Life, appeared at functions promoting Save-A-Life, and made guest appearances at Save-A-Life programs where he would demonstrate the Heimlich Maneuver. Prior to early 2007, discussions were underway and plans were made to merge Save-A-Life and the Heimlich Institute, and for Save-A-Life to take ownership of the Heimlich Institute's assets and become the repository for Dr. Heimlich's personal papers and other materials related to the Heimlich Maneuver.

13. For reasons unknown to Save-A-Life, a family feud has developed in which defendant HEIMLICH has publicly and repeatedly stated that his mission is to discredit and destroy the reputation of his father, Dr. Henry Heimlich. Defendant HEIMLICH has operated a web site dedicated to exposing what he contends are fraudulent acts by Dr. Henry Heimlich. Defendants HAAP and BARATZ have conspired and acted in concert with defendant HEIMLICH in his demonstrated mission against Dr. Henry Heimlich.

Defendants' Concerted Action

14. In the spring of 2006, shortly after the Edwardsville Intelligencer, a newspaper located in Edwardsville, Illinois, reported that a 12 year old girl who was trained in a Save-A-Life program offered at her school used the Heimlich Maneuver to save the life of her friend who was choking on a piece of food, defendants HEIMLICH, HAAP and BARATZ began an organized and concerted campaign to destroy Save-A-Life. The campaign against Save-A-Life was motivated solely because of its close affiliation with Dr. Henry Heimlich. The campaign began with harassment of Save-A-Life employees and Board members in Illinois and elsewhere.

15. In the fall of 2006, after WGN television in Chicago broadcast a story about Dr. Heimlich attending a Save-A-Life program at a CPS south loop school where the Heimlich maneuver was being taught, defendants HEIMLICH, HAAP and BARATZ targeted Chicago media and other contacts in their organized campaign to destroy Save-A-Life. The campaign continued with harassment of Save-A-Life supporters and Board members with a barrage of contacts, questions and demands, and making false, inflammatory and defamatory communications with media in the Chicago area about Save-A-Life, its employees and its programs, and demanding that the media outlets act on defendants' information.

The ABC-7 Reports

16. On November 16, and 17, 2006, ABC-7 in Chicago aired a sweeps week report by defendant GOUDIE critical of Save-A-Life. In that report GOUDIE:

- (a) On information and belief, relied on and reported information and innuendo fed to him by defendants PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, without disclosing those defendants' bias and ulterior motives.
- (b) Accused Save-A-Life of deceiving its contributors into providing funding for Save-A-Life by exaggerating the background and experience of its President and founder, Carol Spizzirri. That statement was false and defamatory. No organization, business or government agency or officer has made or supported funding of Save-A-Life based on Carol Spizzirri's background and experience.
- (c) Stated that Save-A-Life's instructors were unpaid, and therefore its funding was unaccounted for and misappropriated. That statement was false and defamatory. In fact, Save-A-Life's instructors are paid, and none of its funds are misappropriated. All of its funds are accounted for in every way.
- (d) Interviewed defendant Baratz and aired statements by him in which he accused Save-A-Life of deceiving its contributors, and of misappropriation and failing to account for its funds. GOUDIE never disclosed defendant BARATZ's bias, ill will, or wrongful motives. Defendant BARATZ's statements were false and defamatory.
- (e) Stated that Save-A-Life's teaching the Heimlich Maneuver in its programs was inappropriate and inconsistent with prevailing national guidelines or standards. This statement was disparaging of Save-A-Life's product, and was false.
- (f) Stated that Save-A-Life overstated the number of CPS students it trained, and reported that CPS Chief Executive Officer Arne Duncan also doubted Save-A-Life's report on the number of CPS students it trained. This statement was false and defamatory. Save-A-Life has accurately reported the number of CPS students it trained, which is documented. On information and belief, Arne Duncan has never expressed doubt about the number of CPS students trained through Save-A-Life programs.
- (g) Stated that Save-A-Life intentionally released and promoted false reports about how Christina Spizzirri, the 18-year old daughter of Carol Spizzirri, was killed in a car accident. That statement was false and defamatory.

Neither Carol Spizzirri, Save-A-Life nor any of its employees or agents have lied about any of the circumstances surrounding Christina Spizzirri's death.

17. After the ABC-7 report was aired, defendants HEIMLICH, HAAP and BARATZ, through the Cincinnati Beacon, immediately claimed credit for the report, and as part of their ongoing scheme to destroy Save-A-Life for its affiliation with Dr. Heimlich, transmitted the defamatory report to numerous state and federal legislators and government agencies responsible for approving funding for Save-A-Life, companies, civic organizations and other entities engaged in business arrangements with Save-A-Life or contemplating such arrangements, and other supporters and partners of Save-A-Life. Defendants HEIMLICH, HAAP and BARATZ have also harassed and stalked such entities by sending numerous e-mails, letters and other communications calling attention to the ABC-7 report or portions of it, and making inquiries and demands related to the report or making other false, negative and critical comments and innuendo about Save-A-Life.

18. On or about May 31, 2007, ABC-7 aired a follow-up report by defendant GOUDIE making the following false and defamatory statements:

- (a) That Save-A-Life was under investigation by a government agency and a private entity regarding improprieties in its operations and use of funds;
- (b) That state legislators were closely scrutinizing Save-A-Life for financial improprieties;
- (c) That Save-A-Life hired and used an unqualified temporary worker named Julia Rickert to create, edit, write and rewrite a handbook regarding LFSA techniques and principles.

19. As a direct and proximate result of the foregoing, Save-A-Life has sustained damages in that it has lost business opportunities and arrangements with third-parties, funding, and has expended money in repairing and responding to the damage done to its reputation by defendants' conduct.

Count I
Tortious Interference With Prospective Economic Advantage
HEIMLICH, HAAP and BARATZ

20. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 20 of Count I.

21. The foregoing actions by defendants HEIMLICH, HAAP and BARATZ constituted tortious interference with prospective economic advantage, in that the defendants' actions were taken solely to deter and discourage companies, partners, legislators, government agencies and other supporters of Save-A-Life from affiliating, supporting, promoting, or partnering with Save-A-Life, as part of an ongoing scheme to discredit Dr. Henry Heimlich and Save-A-Life for its affiliation with him.

22. Defendants' actions were taken maliciously, without any legitimate purpose, and solely to damage Save-A-Life.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, and award the following relief:

- A. A preliminary and permanent injunction prohibiting defendants from continuing their tortious conduct;
- B. Compensatory damages and costs in an amount in excess of \$50,000;
- C. Punitive damages in an amount in excess of \$50,000.

Count II
Defamation Per Se
HEIMLICH, HAAP and BARATZ

23. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 23 of Count II.

24. The foregoing actions by defendants constituted defamation *per se* by defendants, in that their statements impugned the integrity of Save-A-Life in its business.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, for the following relief:

- A. A preliminary and permanent injunction prohibiting defendants from continuing their tortious conduct;
- B. Compensatory damages and costs in an amount in excess of \$50,000;
- C. Punitive damages in an amount in excess of \$50,000.

Count III
Defamation Per Quod
HEIMLICH, HAAP and BARATZ

25. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 25 of Count III.

26. The foregoing actions by defendants constituted defamation *per quod* of Save-A-Life.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, and award the following relief:

A. A preliminary and permanent injunction prohibiting defendants from continuing their tortious conduct;

B. Compensatory damages and costs in an amount in excess of \$50,000;

C. Punitive damages in an amount in excess of \$50,000.

Count IV
Commercial Disparagement
HEIMLICH, HAAP and BARATZ

27. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 27 of Count IV.

28. The foregoing actions by defendants constituted commercial disparagement of Save-A-Life's products and services.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, and award the following relief:

A. A preliminary and permanent injunction prohibiting defendants from continuing its tortious conduct;

B. Compensatory damages and costs and in an amount in excess of \$50,000;

C. Punitive damages in an amount in excess of \$50,000.

Count V
Defamation Per Se
WLS, ABC and GOUDIE

29. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 29 of Count V.

30. The foregoing actions by defendants constituted defamation *per se*, in that their statements impugned the integrity of Save-A-Life in its business.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, WLS TELEVISION, INC., AMERICAN BROADCASTING COMPANY and CHUCH GOUDIE, for the following relief:

- A. Compensatory damages and costs in an amount in excess of \$50,000;
- B. Punitive damages in an amount in excess of \$50,000.

Count VI
Defamation Per Quod
WLS, ABC and GOUDIE

31. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 31 of Count VI.

32. The foregoing actions by defendants constituted defamation *per quod* of Save-A-Life.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, WLS TELEVISION, INC., AMERICAN BROADCASTING COMPANY and CHUCK GOUDIE, and award the following relief:

- A. Compensatory damages and costs in an amount in excess of \$50,000;
- B. Punitive damages in an amount in excess of \$50,000.

Count VII
Commercial Disparagement
WLS, ABC and GOUDIE

33. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 19 as paragraph 33 of Count VII.

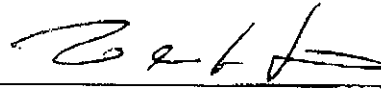
34. The foregoing actions by defendants constituted commercial disparagement of Save-A-Life's products and services.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, WLS TELEVISION, INC., AMERICAN BROADCASTING COMPANY and CHUCK GOUDIE, and award the following relief:

- A. Compensatory damages and costs and in an amount in excess of \$50,000;
- B. Punitive damages in an amount in excess of \$50,000.

Respectfully submitted,

By:



Thomas G. DiCianni

CERTIFICATE OF SERVICE

Susan L. Monroe, a non-attorney, on oath, deposes and says that she served a true and correct copy of the foregoing Amended Verified Complaint for Injunctive Relief and Damages upon Wayne B. Giampietro, 121 S. Wilke, Suite 500, Arlington Heights, IL 60005, via U.S. First Class Mail, proper postage prepaid, at or before 5:00 p.m. on November 15, 2007.

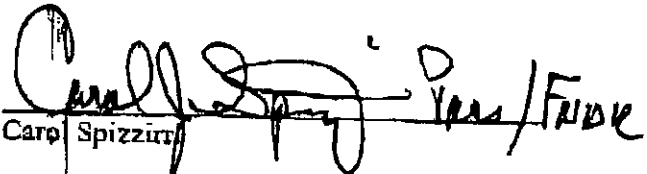
[X] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.

Susan L. Monroe

smmonroe\My Documents\1. TGD\SALPvHaap\Amended Complaint.wpd /1049251.001

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Carol Spizziri

Thomas G. DiCianni
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