

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION No. 08-1931D

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WILLIAM H. DIADAMO )

Plaintiff/Counterclaim Defendant )

v. )

THOMAS J. DUGGAN, JR. )  
VALLEY PATRIOT, INC., )

Defendants/Counterclaim Plaintiffs )

MERRIMACK VALLEY RADIO, LLC, )  
JOHN DOE ONE, and )  
JOHN DOE TWO. )

Defendants )

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**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO THE SPECIAL MOTION TO  
DISMISS OF THE DEFENDANT THOMAS J. DUGGAN, INC., AND IN SUPPORT OF  
CROSS SPECIAL MOTION TO DISMISS THE COUNTERCLAIMS**

INTRODUCTION

Contrary to all relevant Massachusetts case law, that to seek protection under the anti-SLAPP statute one has to be petitioning, and more specifically petitioning for one's self, Thomas J. Duggan, Jr, ("Duggan") asserts that he, a member of the media, enjoys an absolute immunity for anything that he says about a matter of public concern, true or false, innocuous or malicious. Defamation, however, is alive and well in Massachusetts, and the anti-SLAPP statute is wholly inapplicable to the malicious statements made by Duggan on his radio show that plaintiff, a

lawyer, "is being accused of throwing a case"; accordingly, Duggan's Special Motion to Dismiss must be denied.

Conversely and ironically, that same anti-SLAPP statute was created precisely to eliminate baseless claims like Duggan's "tortuous<sup>1</sup> [sic] abuse of prosecution"<sup>2</sup>, contrived solely to chill, intimidate, or punish citizens like plaintiff who have "exercised their constitutional right to petition the government to redress a grievance," i.e, bringing this lawsuit. Accordingly, Duggan's SLAPP counterclaims must be dismissed.

### BACKGROUND

Duggan, during his "Paying Attention" radio broadcast on 980 FM, WCAP, on August 23, 2008, said<sup>3</sup>:

"I've been sitting on a story now for about a week and a half, two weeks, and it involves Attorney DiAdamo and the City of Lawrence."

Oh no! He's talking about Attorney DiAdamo. He's in trouble. That guy's got pull. He's got big pull. Could be in trouble here. I don't care.

I've got information now from the City of Lawrence from a number of other sources in the City of Lawrence that attorney DiAdamo who was representing the City of Lawrence during the Andea Traficanti disability case is being accused of throwing the case and has been fired by the City of Lawrence because he is being accused of throwing the case.

What we have learned is that attorney DiAdamo admitted to at least two members of the Sullivan administration that he is best friends with Ms. McCann's

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<sup>1</sup> One assumes he meant "tortious", although tortuous is certainly an apt description of the logic behind the claims.

<sup>2</sup> There is no tort of "abuse of prosecution"; there is abuse of process and malicious prosecution, neither of which apply here. That will be addressed in a later Motion, if necessary.

<sup>3</sup> Please note that this is transcription of oral statements, and therefore punctuation has been added to assist in readability and in no way is intended to alter meaning. Please refer to the actual recording for complete accuracy.

husband and that Ms. McCann's husband was in his office discussing the case on numerous occasions prior to him representing the City on the case. So I did a little research because I didn't really know who attorney DiAdamo is.

I know Carmine DiAdamo who has turned out to be his dad and I knew him very well from working on the School Committee and I always liked him an awful lot." "I think he did an awful lot for the school system at the time. And I started doing research to find out who his son is." "What does he do? And lo and behold, I get some information that attorney DiAdamo is making 100k a year as the special counsel of the Greater Lawrence Sanitary District. Now Jocko Ford is the counsel for the Greater Lawrence Sanitary District and I don't know what he's making but on top of that, attorney DiAdamo is making over \$100,000.

The City of Lawrence was paying him somewhere in the neighborhood of \$70 to \$75,000 dollars which means if nobody ever walks into this guy's law firm to have him represent them in any kind of trial, he's making 175,000 plus dollars a year with these two contracts alone.

And it's going to be interesting to see if there is going to be a BBO complaint. My understanding is that it's something that's being bantered about and is very possible.

Surprise, surprise!" "As I'm doing my research, I also find out you know it was the same attorney DiAdamo who was representing the City in the Lariviere case. What? In Methuen? The Lariviere case? Wow!

So now you've got he's representing the City during the Traficanti case. He's representing the City of Methuen during the Lariviere case, both of which he lost. And on top of that, he's pulling down \$100,000 a year to show up at one meeting every two months at the Greater Lawrence Sanitary District. You're going to be hearing an awful lot more about this story. Remember that you heard it here first.

Now I know that Jill Harmacinski is up at the Tribune taking notes and they are probably going to try to get it in the Tribune before we come out but they don't have the sources we have. So you pay attention to the Valley Patriot website. Pay attention to this program because as we get more information, and as we get closer to publication, I'm going to give you more of what I have on this story because there is more to this story. A lot more to this story and we're going to be breaking it for you as we can, as we can because I don't want to, I don't want to out my sources and if I gave you more stuff now, it would put people in a very compromising position. 978-454-4980.

How's that for a breaking news story guys? You like that one? They don't even care, one's reading and the other one's sleeping. If it's not national and its not abortion, neither one of you guys care what we are talking about.

[Other person] I'm not sleeping Thomas. I'm ducking under the table. That's your story and you can run with it.

[Duggan] Well, I mean I'm not making any accusation at all. I'm telling you what's been told to us. It's been verified. It's verifiable and it's going to be something that's going to be talked about a great deal in other news media outlets over the next 2 or 3 weeks, I can promise you that.

The broadcast was later published on [www.valleypatriot.com](http://www.valleypatriot.com), the website of the Valley Patriot, a monthly newspaper, upon information and belief, at least partially owned by Duggan and his primary means of support.

Shortly after the broadcast, on August 25, 2008, Duggan was contacted by telephone, confirmed the next day by letter, and informed that his statements were false, i.e, that: Plaintiff did not throw or lose the Traficanti case, and has not been accused of throwing the case; (2) Plaintiff is not "best friends" with McCann, in fact plaintiff has no social relationship with McCann whatsoever, and McCann has never been the source of any money or referrals to plaintiff or his office; (3) Plaintiff did not and does not make \$70,000 to \$75,000 per year representing Lawrence in worker's compensation cases; plaintiff worked pursuant to a contract and made a flat fee of \$48,000 per year; (4) Plaintiff did not and does not make \$100,000 a year as special counsel to the GLSD to attend meetings, and certainly not to show up to one meeting every two months; (4) Plaintiff did not represent Methuen in *Lariviere v. Methuen, et al.*, Massachusetts Federal District Court Docket No. 05-11579EFH. In fact, Plaintiff represented Lariviere against Methuen, a fact that was later corrected on the Valley Patriot website; and finally, (5) no BBO complaint had been filed or was being "bantered about."

Duggan promised to research and correct the information. Then the following week on his radio show, Duggan revised his story (for the first time), claiming that he first heard this information from an anonymous source and then confirmed it with "someone that was in the know over at Lawrence City Hall." He again promised to continue to research the story, and was adamant that was no possibility it was an innocent mistake, "*the only way it can be incorrect is if there was ill intent.*" Since that time, however, Duggan has refused to either correct his assertions or to reveal his source or sources; in fact in an ill conceived and desperate attempt to protect himself and his sources, Duggan has now changed his story several times, up to and now including a totally nonsensical version that plaintiff himself was the source. The fact is that this Special Motion was not filed to protect his "petitioning" status, but to delay the inevitable: his deposition, and the depositions of any others responsible for the devastating harm caused plaintiff.

#### STANDARD

The procedure for determining whether to grant a Special Motion to Dismiss pursuant to Mass. Gen. L. c. 231, § 59H is well established. The party seeking dismissal must demonstrate, through pleadings and affidavits, that the claims against it are "'based on' the petitioning activities alone and have no substantial basis other than or in addition to the petitioning activities." *Duracraft Corp. v. Holmes Prods. Corp.*, 427 Mass. 156, 167-168 (1998). At this early stage, "[t]he focus solely is on the conduct complained of, and, if the only conduct complained of is petitioning activity, then there can be no other 'substantial basis' for the claim." *Office One, Inc. v. Lopez*, 437 Mass. 113, 122 (2002). *If the moving party fails to make this showing, the special motion must be denied.*

If this showing is made, then the burden shifts to the nonmoving party to demonstrate, again by pleadings and affidavits, that "(1) the moving party's exercise of its right to petition was devoid of any reasonable factual support or any arguable basis in law and (2) the moving party's acts caused actual injury to the responding party." G.L. c. 231, § 59H. See *Fabre v. Walton*, 436 Mass. 517, 520 (2002); *Baker v. Parsons*, 434 Mass. 543, 552 (2001); *McLarnon v. Jokisch*, 431 Mass. 343, 349 (2000). In this way, the legislative purpose behind the statute, to protect parties from harassing lawsuits that have no basis in law and that are filed solely to discourage individuals from exercising their right to petition, is furthered. See *Duracraft Corp. v. Holmes Prods. Corp.*, *supra* at 166-167. At the same time, the rights of opposing parties, to petition the courts for redress of wrongs unlawfully inflicted by another, are protected. See *Baker v. Parsons*, *supra* at 553.

A SLAPP suit, as a general rule, has no merit. "The objective of SLAPP suits is not to win them, but to use litigation to intimidate opponents' exercise of rights of petitioning and speech" and "to deter common citizens from exercising their political or legal rights or to punish them for doing so." *Duracraft Corp. v. Holmes Prods. Corp.*, *supra* at 161, quoting *Wilcox v. Superior Court*, 27 Cal. App. 4th 809, 816-817 (1994).

## ARGUMENT

- I. **The Anti-SLAPP Statute Does Not Apply To Duggan Because He Was Not Petitioning For Himself, In Fact Not Petitioning At All; His Statements Were Made In A Commercial Context For Personal Gain**
  - A. **Duggan Was Not Petitioning For Himself When He Made His Defamatory Statements, And Therefore The Anti-SLAPP Statute Does Not Apply**

General Laws c. 231, § 59H, provides, in pertinent part:

In any case in which a party asserts that the civil claims . . . against said party are based on said party's exercise of its right of petition under the constitution of the United States or of the [C]ommonwealth, said party may bring a special motion to dismiss. . . .

The statute identifies five types of statements that comprise "a party's exercise of its right of petition:"

[1] [A]ny written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; [2] any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; [3] any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive, or judicial body or any other governmental proceeding; [4] any statement reasonably likely to enlist public participation in an effort to effect such consideration; or [5] any other statement falling within constitutional protection of the right to petition government.

G.L. c. 231, § 59H.

Duggan's argument fails immediately. In order for the statute to potentially apply, Duggan must be seeking from the government redress for a grievance of his own or petitioning *on his own behalf*. *Kobrin v. Gastriend*, 443 Mass. 327, 330 (2005) (The right of petition contemplated by the Legislature is thus one in which a party seeks some redress from the government.) Duggan, however, was making statements about a lawyer involved in workers' compensation case in which he had no rights or interest whatsoever. Since Duggan is in no way addressing the wrong done to him personally, but merely commenting, albeit in a defamatory way, on a case in which he had absolutely no involvement, he cannot avail himself of the statute's protection. See *Fisher v. Lint*, 69 Mass. App. Ct. 360, 364-5 (2007) "The anti-SLAPP statute is restricted by its language to those defendants who petition the government *on their own behalf*. In other words, the statute is designed to protect overtures to the government by parties petitioning in their status as citizens" (quotation omitted). *Plante v. Wylie*, 63 Mass. App. Ct.

151, 156 (2005). Only “the petitioner’s *own* interests and statements directed thereto are the subject of protection.” *Kobrin*, supra, at 330.

**B. Duggan Was Not Petitioning At All When He Made His Defamatory Statements On His For-Profit Radio Show, And Therefore The Anti-SLAPP Statute Does Not Apply**

On several occasions, the Courts have addressed what kinds of activity constitute petitioning. The right to petition may include "reporting violations of law, writing to government officials, attending public hearings, testifying before government bodies, circulating petitions for signature, lobbying for legislation, campaigning in initiative or referendum elections, filing agency protests or appeals, being parties in law-reform lawsuits, and engaging in peaceful boycotts and demonstrations." *Duracraft Corp. v. Holmes Prods. Corp.* at 161-162 (1998), quoting Pring, SLAPPs: Strategic Lawsuits Against Public Participation, 7 Pace Envtl. L. Rev. 3, 5 (1989). None of these apply to defamatory statements, broadcast to the general public, made during a commercial radio show for Duggan’s profit.

First, Duggan did not make any formal request of any sort to anyone, and at no time made any request that any action be taken; he simply made conclusory (untrue) statements that he characterized as fact: “It’s been verified. It’s verifiable . . .” Moreover, Duggan did not in any way address his comments to any legislative, executive, or judicial body; he simply broadcasted to the world. “Furthermore, the Supreme Judicial Court as recently clarified that the protection of the statute extends only to petitioning a constitutional sense, that is, activities that invoke a seeking from the government of the redress of one’s own grievances or otherwise petitioning on one’s own behalf.” *Wynn v. Creigle*, 63 Mass. App. Ct. 246, 253 (2005). Some sort of attenuated argument that his comments may have reached a government official who may have been



listening, or that the statements may have prompted some member of the public to take some action is not petitioning any more than any other statement made by any other person to another. To accept this absurdly broad interpretation would bring any statement under the protection of the statute, which is clearly not what the legislature intended. See *Duracraft*, supra, at 162-3.

The instant case is strikingly similar to and certainly controlled by recent decision in *The Cadle Company v. Schlichtmann*, 448 Mass. 242 (2007). In that case, the defendant lawyer was sued for placing on his website allegedly defamatory statements about the plaintiff. The court concluded that since the website has been set up for commercial reasons, the plaintiff's complaint could not be deemed to be solely and exclusively based on the defendant's petitioning activity. The situation in this case is essentially identical. Duggan's defamatory statements were made during a radio broadcast for which Duggan sells advertising for his own pecuniary gain. Moreover, during that broadcast, Duggan advertises his own newspaper, in which he has an obvious financial interest he further sells advertising. Duggan's only real interest in making the sensational allegations was to increasing traffic to his radio show and/or newspaper for his own financial gain. This precludes him from the statute's protection.

The fact that the statements, with some contextual torture, may be construed to fall within the scope of the statute because they were "made in connection with an issue under consideration or review by a legislative, executive or judicial body" or are "reasonably likely to enlist public participation in an effort to affect some consideration" does not protect defendant, because he is not a member of the public who was injured by the alleged practices. *Cadle*, at 250. Defendant is a businessman simply trying to increase his audience by publishing sensational (if untrue) stories. The mere fact that a statements concern a topic that has attracted the

governmental attention does not in itself bring that statement under the protection of the statute. See, *Global Naps, Inc. v. Verizon New England, Inc.*, 63 Mass. App. Ct. 600, 60-6 (2005). If Duggan's arguments had any merit at all, there would be no successful defamation cases by individuals, public or private, against media members, and this is clearly not the case. In similar case, a Superior Court Judge achieved a substantial verdict against The Boston Herald, and others, for making untrue statements. *Murphy v. Boston Herald*, 449 Mass. 42 (2007).

**C. Duggan's Radio Show Is Not A "Public Forum", It Is His Forum, Maintained For His Benefit.**

There is no merit to the defendant's characterization of his radio show as a "public forum"; Duggan has not, and cannot, refute that the radio show, newspaper and website are anything but revenue generating enterprises. The fact that they may have a collateral function of informing the public or fostering discussion or action does not eliminate their profit-making function. As pointed out by the Courts in *Cadle*, the commercial nature of the broadcast and publication starkly distinguishes the instant case from the one cited by defendant in his brief, *MacDonald v. Paton*, 57 Mass. App. Ct. 290 (2003). The "palpable commercial motivation" behind the radio show "definitively undercuts the character of the statements contained therein." *Cadle*, supra, at 252.

**II. Assuming Arguendo That Plaintiff Met His Burden, Plaintiff Has Demonstrated By Pleading And Affidavit That (1) Duggan's Allegations Are Devoid Of Any Reasonable Factual Support Or Arguable Basis In Law, And (2) That Plaintiff Has Sustained Damages.**

**A. Duggan's Allegations Are Devoid Of Any Reasonable Factual Support Or Arguable Basis In Law**

Due to the attorney-client privilege, Duggan's allegations that plaintiff has been accused of throwing a case creates unique problems for plaintiff, especially here where it appears that

Duggan and city representatives are working together to tie plaintiff's hands. (This is spelled out in more detail in the Affidavit of William H. DiAdamo, filed herewith.) In sum, through counsel, Mayor Michael Sullivan and Michael Sweeney have refused to waive the privilege; why they do not want the story told is left to conjecture. Although plaintiff believes that he has the right to defend himself in accordance with Rule 1.6 of the Massachusetts Code of Professional Conduct, and further that Sweeney, by submitting an affidavit in support of Duggan's Motion, has waived the privilege for himself and everyone, given Duggan's allegations, plaintiff is contemporaneously filing a Motion for Authorization to Reveal Client Communications. Until that Motion is acted upon, Plaintiff will rely on non-privileged information, with the request that the Judge, at hearing on the Special Motion to Dismiss, will address the privilege issue, and accept a Supplemental Affidavit from plaintiff that spells out in great detail the vast and varied communications.

For the time being, Plaintiff will rely on his pleading and abbreviated Affidavit to demonstrate that even assuming, *arguendo*, and certainly without admitting, Duggan was engaged in a petitioning activity, plaintiff has provided ample evidence that Duggan's statements are "devoid of any reasonable factual support or any arguable basis in law."

Even without countervailing materials, Duggan undermines himself by his consistently contradictory statements. In his initial radio broadcast, Duggan said that he had information "from a number of other sources in the City of Lawrence" that plaintiff "is being accused of throwing the case and has been fired by the City of Lawrence because he is being accused of throwing the case." In his broadcast the following week, Duggan claims that he initially got the story from an anonymous source, and that he then confirmed it with someone at City Hall. Then, in his

counterclaim, Duggan claims that the broadcast relied on information from plaintiff himself. Next, in his Special Motion to Dismiss, defendant offers two affidavits, one from the defendant's live-in partner, Porten, that plaintiff was "not prepared to defend" the Traficanti case, the other from Michael Sweeney, Lawrence Planning Director, who, upon information and belief, is a long-time friend of the defendant and a contributor to the Valley Patriot, stating that plaintiff was "not prepared."

First, those statement do not support defendant's allegations that plaintiff "threw the case" or that a BBO complaint was under investigation. If those are his sources, Duggan is liable. Second, the statements reveal either an affirmative attempt to mislead this court, or a lack of knowledge of the legal process that is especially troubling considering the affiants are lawyers. The affidavits carefully avoid specifics like when the conversations took place. (They took place before and in preparation for the conference.) Sweeney claims that he wanted to testify, but ignores that the case was never tried. No one testifies at conference, which was the last proceeding that occurred before plaintiff was fired. Even if Sweeney's ignorance of the procedure can be overlooked, Porten's certainly cannot. She is a workers' compensation lawyer, and has to know that it is impossible to be unprepared for a hearing that never took place.

Moreover, neither Porten nor Sweeney were present for the conference before the judge, at which plaintiff made a complete and zealous defense, rendered functionally impossible by the imbecilic actions of the City in laying off Traficanti *after* she reported a work related injury. Nevertheless, plaintiff submitted the appropriate materials to the judge, and made his argument. Plaintiff never got to a hearing; the one scheduled in March never went forward due to both counsels' representations at a settlement was being negotiated. Plaintiff was then terminated. Upon information

and belief, Lawrence has taken no subsequent action in the case. (Again, plaintiff has more to say, pending the waiver or release of the attorney-client privilege.)

**B. The Plaintiff Has And Continues To Sustain And Accumulate Damages.**

Duggan's defamatory statements are slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, for the purposes of this Opposition/Cross Motion it is not necessary to catalog the extensive and obvious actual and special damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]"). Suffice to say at this time that Duggan is apparently not content with the amount of the harm, and is obviously trying to cause more. The headline in the November 2008 Valley Patriot, "Fired Attorney's Firm Member Made Millions on Taxpayers" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City

over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. It is obvious that, coming on the heels of the Complaint, both gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation, and interfere with his right to petition. This is precisely the kind of activity that the anti-SLAPP Statute was enacted to prevent, as discussed next.

**III. Since The Defendant's Sole Objective In Bringing Counterclaims Is To Intimidate The Plaintiff's Exercise Of His Rights And Bringing His Complaint For Defamation, The Counterclaims Must Be Dismissed Pursuant To Mass. Gen. L. C. 231, § 59H**

The anti-SLAPP statute was enacted to protect citizens from lawsuits designed to chill their right to petition the government for redress of grievances. See *Duracraft Corp. v. Holmes Prod. Corp.*, 427 Mass. 156, 161 (1998); *Fabre v. Walton*, 436 Mass. 517, 520 (2002). The purpose of filing a SLAPP suit is not to prevail in the matter, but rather to use litigation to chill, intimidate, or punish citizens who have exercised their constitutional right to petition the government to redress a grievance. *Duracraft*, supra at 161-162; *Fabre*, supra at 520 n. 6; *Wynne v. Creigle*, 63 Mass. App. Ct. 246, 252 (2005). This describes exactly Duggan's counterclaim.

It is somewhat difficult to even address the counterclaim, it is so poorly conceived. It appears to aver that because plaintiff was a source to the Valley Patriot (which plaintiff of course disputes), plaintiff's reason for filing the defamation case must be to silence its reporting, and this constitutes "tortuous [sic] abuse of prosecution", which is neither a claim recognized in Massachusetts, nor even a phrase that appeared in a computer search of Massachusetts case law.

In any case, the only thing clear about the counterclaim is that it is 'based on' the plaintiff's "filing the First Complaint against Duggan"; that is by definition "petitioning activities alone and with

no substantial basis other than or in addition to the petitioning activities.” *Duracraft Corp. v. Holmes Prod. Corp.*, 427 Mass. at 167-168, quoting from G.L. c. 231, § 59H. It is a textbook SLAPP claim, brought solely for the same inappropriate reason Duggan wrote the articles in the November 2008 Valley Patriot, to “chill, intimidate, or punish” plaintiff for bringing this lawsuit, and that is grounds for its Dismissal under the anti-SLAPP statute.

### CONCLUSION

The defendants/counterclaim plaintiffs claims are based solely on the plaintiff filing this lawsuit to pursue valid, enforceable claims, and therefore Mass. Gen. L. c. 231, § 59H does not apply and the Special Motion to Dismiss must be Denied.

WHEREFORE, the plaintiff respectfully requests that the Defendants Special Motion be DENIED, and further that plaintiff’s Special Motion be ALLOWED, and the defendants/counterclaim Plaintiffs’ Counterclaim be DISMISSED, and that plaintiff be awarded his fees and costs as mandated by Mass. Gen. L. c. 231, § 59H.

Respectfully Submitted  
Plaintiff/Counterclaim Defendant

By his Attorney



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Carmine W. DiAdamo  
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Lawrence, MA 01840  
978-685-4271

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the Peter J. Caruso by hand and Michael Lambert by first class mail, on December 5, 2008.



Carmine W. DiAdamo



COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

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JOHN DOE ONE, and )  
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Defendants )  
\_\_\_\_\_ )

**AFFIDAVIT OF THE PLAINTIFF WILLIAM H. DIADAMO**

I, William H. DiAdamo hereby depose and state as follows:

1. I am an attorney in good standing licensed to practice in Massachusetts. I am not a public figure.
2. I am submitting this affidavit in support of:
  - a. Plaintiff's Opposition to the Special Motion to Dismiss pursuant to Mass. Gen. L. c. 231, § 59H of the defendant Thomas Duggan (Duggan);
  - b. Plaintiff's Cross Special Motion to Dismiss; and
  - c. Plaintiff's Motion for Authorization to Reveal Attorney-Client Communications.

## BACKGROUND

3. In approximately February, 2003, I was retained by the City of Lawrence, Massachusetts, to handle the defense of workers' compensation claims. I worked pursuant to an annual contract which paid me a flat fee of \$48,000, that did not change during the approximately 5 years I handled the cases.
4. Sometime in early 2007, I learned that Andrea Traficanti was not working (I do not recall how). I knew who she was, but to my memory never exchanged anything more than pleasantries with her to that point. (My office is located immediately adjacent to City Hall, I am familiar with many of the people that work there, and I frequently say hello and have brief conversations with many of them.)
5. I was later told by, I believe, Judy Perkins, the Lawrence official in charge of workers' compensation and the person to whom I reported, that Traficanti had filed a workers' compensation claim.
6. I defended the claim until the time I was terminated in June 2008. The specifics will be described in detail below.
7. About two months after I was terminated, on or about August 24, 2008, while I was away for the weekend I received a call from a client, a local businessman, who told me that the day before Tom Duggan had accused me of throwing the Traficanti case on his radio show "Paying Attention" on 980 AM WCAP.
8. I was very upset. When I returned home later that day, I downloaded the broadcast of Duggan's radio show from the Valley Patriot website, [www.valleypatriot.com](http://www.valleypatriot.com). (At that time, all of Duggan's radio shows were available to be downloaded and/or listened to on

the Valley Patriot website shortly after their broadcast. Sometime after I made my initial complaints, they were no longer available on that website, but moved to "payingattentionwithtomduggan.blogspot.com.")

9. The following is a transcript of the August 23, 2008 radio show, which was published on the Valley Patriot website<sup>1</sup>:

"I've been sitting on a story now for about a week and a half, two weeks, and it involves Attorney DiAdamo and the City of Lawrence."

Oh no! He's talking about Attorney DiAdamo. He's in trouble. That guy's got pull. He's got big pull. Could be in trouble here. I don't care.

I've got information now from the City of Lawrence from a number of other sources in the City of Lawrence that attorney DiAdamo who was representing the City of Lawrence during the Andea Traficanti disability case is being accused of throwing the case and has been fired by the City of Lawrence because he is being accused of throwing the case.

What we have learned is that attorney DiAdamo admitted to at least two members of the Sullivan administration that he is best friends with Ms. McCann's husband and that Ms. McCann's husband was in his office discussing the case on numerous occasions prior to him representing the City on the case. So I did a little research because I didn't really know who attorney DiAdamo is.

I know Carmine DiAdamo who has turned out to be his dad and I knew him very well from working on the School Committee and I always liked him an awful lot." "I think he did an awful lot for the school system at the time. And I started doing research to find out who his son is." "What does he do? And lo and behold, I get some information that attorney DiAdamo is making 100k a year as the special counsel of the Greater Lawrence Sanitary District. Now Jocko Ford is the counsel for the Greater Lawrence Sanitary District and I don't know what he's making but on top of that, attorney DiAdamo is making over \$100,000.

The City of Lawrence was paying him somewhere in the neighborhood of \$70 to \$75,000 dollars which means if nobody ever walks into this guy's law

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firm to have him represent them in any kind of trial, he's making 175,000 plus dollars a year with these two contracts alone.

And it's going to be interesting to see if there is going to be a BBO complaint. My understanding is that it's something that's being bantered about and is very possible.

Surprise, surprise!" "As I'm doing my research, I also find out you know it was the same attorney DiAdamo who was representing the City in the Lariviere case. What? In Methuen? The Lariviere case? Wow!

So now you've got he's representing the City during the Traficanti case. He's representing the City of Methuen during the Lariviere case, both of which he lost. And on top of that, he's pulling down \$100,000 a year to show up at one meeting every two months at the Greater Lawrence Sanitary District. You're going to be hearing an awful lot more about this story. Remember that you heard it here first.

Now I know that Jill Harmacinski is up at the Tribune taking notes and they are probably going to try to get it in the Tribune before we come out but they don't have the sources we have. So you pay attention to the Valley Patriot website. Pay attention to this program because as we get more information, and as we get closer to publication, I'm going to give you more of what I have on this story because there is more to this story. A lot more to this story and we're going to be breaking it for you as we can, as we can because I don't want to, I don't want to out my sources and if I gave you more stuff now, it would put people in a very compromising position. 978-454-4980.

How's that for a breaking news story guys? You like that one? They don't even care, one's reading and the other one's sleeping. If it's not national and its not abortion, neither one of you guys care what we are talking about.

[Other person] I'm not sleeping Thomas. I'm ducking under the table. That's your story and you can run with it.

[Duggan] Well, I mean I'm not making any accusation at all. I'm telling you what's been told to us. It's been verified. It's verifiable and it's going to be something that's going to be talked about a great deal in other news media outlets over the next 2 or 3 weeks, I can promise you that.

10. The following statements, *inter alia*, are untrue.
  - a. I did not throw or lose the Traficanti case, and aside from Duggan, have not been

accused of throwing the case to my knowledge.

- b. I am not “best friends” with McCann. I have no social relationship with McCann whatsoever, and McCann has never been the source of any money or referrals to me or his office. The statement was made, apparently, to justify why plaintiff would “throw” a case and lose at least one substantial client, and jeopardize his practice, for people with whom, in reality, he is merely acquainted.
  - c. I did not and do not make \$70,000 to \$75,000 per year representing Lawrence in worker’s compensation cases. I worked pursuant to a contract in which I made a flat fee of \$48,000 per year. This is easily verifiable, but was not.
  - d. I did not and do not make \$100,000 a year as special counsel to the GLSD to attend meetings, and certainly not to show up to one meeting every two months. This is equally easily to verify, and also was not.
  - e. I did not represent Methuen in *Lariviere v. Methuen, et al.*, Massachusetts Federal District Court Docket No. 05-11579EFH. In fact, I represented Lariviere against Methuen, a fact that was later corrected on the Valley Patriot website.
  - f. Upon information and belief, no BBO complaint has been filed, and any such filing would be frivolous, without merit and would be met with a lawsuit similar to the instant case.
11. Upon information and belief, Duggan pays the radio station for the time he broadcasts, and then sells advertising on program. Again, upon information and belief, the radio station is a commercial, for-profit venture for Duggan. Duggan also promotes the Valley Patriot newspaper, in which he sells advertising. Valley Patriot, Inc. is registered as a

domestic for-profit corporation. A copy of the Secretary of State Summary Screen is attached hereto as Exhibit A.

12. Upon information and belief, the Valley Patriot prints between 20,000 and 22,000 papers per month, and distributes them for free. It is also available on his website for download.
13. Upon information and belief, Duggan also sells advertising on his website.
14. Upon information and belief, the advertising Duggan sells is his sole means of support.
15. Neither the radio show, the newspaper nor the website are interactive public forums.
16. After the radio show, Carmine DiAdamo contacted Duggan by telephone on August 25, 2008, and followed up with a confirming letter on August 26, 2008. In that letter, we set forth the inaccuracies in his broadcast. A copy of the letter is attached hereto as Exhibit B.
17. From August 26, 2008, through September 25, 2008, several e-mails were exchanged. True and accurate copies of those e-mails are attached to us Exhibit C.
18. On August 27, 2008, I attended the monthly board meeting of the Greater Lawrence Sanitary District (GLSD), a public entity, and a long time and extremely important client both from a financial and professional point of view. The work they generated was interesting, challenging and, I believe, important. On their behalf, I had taken one case all the way to the Supreme Judicial Court on a matter that had, in my opinion, far reaching consequences for not only my client, but many public projects. (The case, incidentally, is *Greater Lawrence Sanitary District v. Town of North Andover*, 439 Mass 16 (2003)).

19. I do not attend all board meetings: GLSD has general counsel to handle day to day matters, and I have been designated as special counsel to handle significant and/or unusual problems involving litigation. The primary reason I attended that day was because of the Duggan broadcast. First, I was concerned because the broadcast explicitly mentioned the GLSD and suggested that the board was inappropriately wasting tax dollars to pay me \$100,000 a year to show up to a meeting every other month. Second, I was concerned because the broadcast implied that the Board was doing this because of my personal relationship with one of the board members, Frank McCann. Although the story was unquestionably false, I felt that I needed to inform them of the untrue statements made about them, and be available to answer any questions that I could regarding the rest of the story.

20. In his radio broadcast the following week, on August 30, 2008, Duggan said:

When we come back, we told you a story last week about an accusation about a lawyer that was representing Lawrence. We are going to give you an update on that. I spoke with Carmine DiAdamo this week while I was in the hot tub in the hotel and just trying to catch up on some of the research and stuff that we did and finding out what our source got correct and what our source got wrong and by proxy what I ended up getting wrong because my source gave it to me and I gave it to you.

One thing we always want to do on this program is make sure you have the accurate information and I don't mind if I'm wrong from time to time, I don't hide, I don't care if I'm embarrassed. If we get it wrong, we tell you we got it wrong. We'll be back after this on "*Paying Attention*".

[Commercial Break]

So last week we came in and we told you about a story that was going to be coming up because we got it from a source actually from an anonymous source initially then I called someone that was in the know over at Lawrence City Hall and asked them if they could confirm and/or deny what was going on and they said, "Oh yeah, it happened!" So we came in and we told you last week that

complaints were going to be filed against a city attorney, wasn't really a city attorney he was doing outside counsel for the city named Bill DiAdamo who is being accused at least behind the scenes of throwing a case. And, even though I was on vacation my phone line was going crazy and I was trying to get back to some people when I was back at the hotel. I had a nice conversation with Carmine DiAdamo and a couple of other conversations with people in City Hall to find out well what is the real story. We told you that he makes \$100,000 with the GLSD and from, maybe I'm remembering this wrong but from my conversations doing the followup on that this week it turns out that well he might have made a \$100,000 but it was not in one year. You know how the City of Lawrence pays their bills. Sometimes they're a year, two years, three years behind, five years, ten years depending on whose sending the bills out. So we have, at least what we have been able to confirm is that we got the amount wrong and we've only got about 3 minutes left so we're not going to go into detail about some of the other stuff we got wrong but here's what I will tell you.

I will tell you that we are going to continue to research this story, if our source is incorrect, well my general policy is when somebody gives me something and I run with it and it's wrong, they are no longer a source. So not only will they no longer be a source but we may at some point out them as a source because I don't want people to feed me information that's incorrect to feed a political agenda. And if that's the case, we don't know that it is, but if that's the case in this case, I will be just as harsh with them as I am with anybody else who is a politician or works for a politician who is, you know, trying to get the wrong information out there.

[other voice] "Is it a possibility the source just innocently got it wrong?"

[Duggan] No way.

[other voice] "Rather than having"

[Duggan] No way.

[other voice] "Rather than having bad motives?"

[Duggan] Nope. Absolutely not. This is one of those stories where it's either correct or it's incorrect, and if it's incorrect, the only way it can be incorrect if there was ill intent. You don't accuse someone of, especially a lawyer, they are very very touchy about their reputation, you don't accuse someone of throwing a case and just be wrong about it. It's something that you are either correct and the guy's a bad lawyer, or you are wrong and you had ill intent. And so we are going to continue to research that story. We will give you the accurate information as we get it, as I confirm it, I will be talking to people at GLSD this week to find out



what the actual pay was. We will be talking to people who were involved in the Andrea Traficanti disability case and I don't mean "Andrea" cause you can't go by someone of what she says, and we'll blow it out for you.

One thing that I did want to let everyone know about, it's really interesting when I go to the lake, Andrea and Frank are sometimes there, and anything that they tell me I've never repeated to Mike Sweeney, I've never repeated to Mike Sullivan, I've never repeated on the air, because it's off the record. Apparently that doesn't work the other way though because when I had my conversation with Carmine DiAdamo this week, he told me that Frank McCann within 2 days of me being at the lake last week, which was on Sunday, so by like Tuesday, Frank McCann had told them every single thing that I had said during our casual off-the-record, at-the-lake on vacation conversation. So as far as I'm concerned, I think we have a problem here. That's what I think.

21. We sent an email to Duggan on September 2, agreeing with him that if the story was false, it was clearly malicious. We offered to assist him in obtaining the GLSD documentation, which would be the first, and easiest, to demonstrating that either his statements, or those of his source, were demonstrably incorrect. We were not taken up on our offer. In fact, to my knowledge, Duggan took no action whatsoever at that time to either corroborate the story or disprove it.
22. At that time, I speculated that either Duggan did not have a source and had merely sensationalized some vague information or rumor that he heard, or was unwilling to reveal his sources and was stalling in the mistaken hope that the whole thing would just go away. Upon information and belief, Duggan is friendly with a number of elected and appointed officials, particularly in Lawrence and Methuen, and I thought that one or more might be his sources and he may be trying to protect them.
23. After communication with Duggan broke down, and to my knowledge, he took no further action with respect to investigating the falsity of his story, we sent Duggan a draft complaint on September 24, 2008. Several more e-mails were exchanged, all

of which are attached hereto, culminating in a confirmation of an offer to appear on the radio with Duggan to tell our side of the story. This offer had been made by attorney Paula Porten, Upon information and belief, Porten is Duggan's girlfriend, with whom he lives, who is also a reporter for the Valley Patriot and, upon information and belief, part owner of the Valley Patriot.

24. However, as we explained, though it should have been obvious to Porten as an attorney, we were not free to go on-air and defend ourselves due to the constraints of the attorney-client privilege, an issue that was identified in our initial August 26, 2008 letter. Upon information and belief, Duggan never sought to obtain a waiver of the attorney-client privilege so that we could explain our position.
25. The Complaint was filed on or about September 27, 2008, and subsequently served. A true and accurate copy of the Complaint is attached hereto as Exhibit D.
26. Duggan and the Valley Patriot filed Answers along with unverified counterclaims, copies of which are attached hereto as Exhibit E.
27. The counterclaims for "tortuous [sic] abuse of prosecution" are based solely on my filing of my claim for defamation.
28. In their Counterclaims, Duggan and the Valley Patriot allege, *inter alia*, that, "The Broadcast relied in [sic] information from William H. DiAdamo himself." This is untrue.
29. I have never "leaked" any story to Valley Patriot, nor have I disclosed any confidential or privileged information to the Valley Patriot.
30. I had never spoken to Thomas Duggan until after the Broadcast. He himself confirms this in an email from August 26, 2008.

31. I have certainly spoken to Paula Porten. She is an attorney specializing in workers' compensation cases, and I have had cases with her in the past. I have also spoken to her about matters of general local concern such as the previously mentioned Lariviere case. However, I never disclosed any confidential or privileged information to her about any case, and specifically about either the Padellaro or Traficanti case.
32. I did happen to see and speak to Porten at the DIA after the broadcast. I believe that the date was September 5, 2008. The conversation was cordial. I indicated to her that I was very interested in and concerned about the identity of the sources, and that I wanted to know who was defaming me.
33. Porten told me that she was present when the source told Duggan the story, and that the source was from Methuen.

#### **THE ATTORNEY CLIENT PRIVILEGE**

34. Much of the information that I have pertaining to the Traficanti case, and in particular my defense of the alleged "throwing" the case, involves my extensive communications with representatives of the City of Lawrence, and the background to those communications.
35. In order to establish my claims and defenses, I believe it is necessary for me to reveal certain communications between myself and my client, the City of Lawrence, pursuant to Rule 1.6 of the Massachusetts Rule of Professional Conduct.
36. In accordance with those rules, and in accordance with general fairness, we first notified the City, through City attorney Charles Boddy, that we anticipated issues involving the

attorney-client privilege and asked him to discuss this with the Mayor and his counsel. A copy of that letter is attached hereto as Exhibit F. We received no response.

37. Subsequently, we served deposition notices on Mayor Michael Sullivan and Michael Sweeney in connection with this lawsuit on or about November 10, 2008. We received no response.
38. Finally, we received a letter from Duggan's counsel that they intended to file a motion that would stay discovery, and the Special Motion to Dismiss was hand-delivered on or about November 24, 2008.
39. The following day, we served in hand to Mayor Sullivan, with a copy to Charles Boddy, a letter indicating that we intended to reveal communications with city employees which were necessary to our opposition and defense. (A copy of the letter is attached hereto as Exhibit G.)
40. On December 2, 2008, we received a letter from Stephen J. Brooks, stating that he represented Mayor Michael Sullivan and Michael Sweeney. Brook further stated that we were not authorized to disclose any confidential information, and that if we felt the need to, we were directed to petition the court. (A copy of the letter is attached hereto as Exhibit H.)
41. In accordance with their requests, we are filing here with Plaintiff's Motion for Authorization to Disclose Attorney-Client Communication.
42. Accordingly, what follows is a significantly abbreviated version of what happened without revealing any potentially privileged communication. At the hearing, plaintiff will

ask this Court to accept a far more detailed and revealing Affidavit which will go a great deal further in demonstrating the falsity of the defamatory statements made against me.

43. The behind-the-scenes communications and my extensive history with the city officials are absolutely necessary for me to reveal an order to protect my reputation and obtain a fair adjudication of my rights. This is especially true where on one hand, Attorney Michael Sweeney has already revealed alleged communications in his Affidavit in support of Duggan's Special Motion to Dismiss while, on the other hand, has apparently instructed his attorney to prevent me from doing the same.

#### **THE TRAFICANTI CASE**

44. After Traficanti filed her claim, as per Department of Industrial Accident (DIA) procedure, a denial was filed and the case was scheduled for a conciliation on April 17, 2007. The basis of Traficanti's claim was that Mayor Michael Sullivan was causing her stress disabling her from work.
45. On or about April 13, 2007, I had lunch with Mayor Michael Sullivan at the Chateau Restaurant.
46. The conciliation on the 17<sup>th</sup> was a quick affair and I do not believe Traficanti was present. Her attorney of record, Kathy O'Donnell, past president of the Massachusetts Bar Association, was also not present, but Michael Smith from her office appeared and produced records. The conciliator found enough evidence to move the case forward to conference.
47. I also learned at some point that Traficanti had apparently retained Marsha Kazarosian to represent her in a civil suit related to the harassment she allegedly received at work.

48. I obtained Traficanti's medical records and arranged for and obtained an independent medical examination.
49. I interviewed several witnesses and potential witnesses as part of my investigation.
50. I learned that Traficanti had filed a First Report of Injury on March 19, 2007, and the City filled out a Department of Industrial Accident Form 101, Employer's First Report of Injury or Fatality on the same day
51. I also learned that Traficanti had been terminated by letter dated March 21, 2007, *after* the injury was reported. The termination letter stated that Traficanti was being laid off due to "budgetary constraints" and that "this in no way reflects on your past service you made to the City of Lawrence."
52. The case was scheduled for a conference on May 31, 2007. I appeared and submitted a package that contained Traficanti's medical records and the independent medical examination report.
53. I also presented an oral argument to the judge that centered primarily around the fact that Traficanti was not doing her actual job as a supervisor in the Department of Public Works. I expected to demonstrate by testimony at hearing (there is no testimony at the Conference level), she spent the majority of her time doing work on behalf of the City Council, and in particular for her very good friend, Council Chairman Patrick Blanchette. She also spent a great deal of time out of the office ostensibly interacting with neighborhood groups, and was not available on numerous occasions when requested in City Hall. This was exacerbated by the fact that her boss, the director of the DPW, was Frank McCann, who was also her boyfriend. (They subsequently married in April 2008.)

Traficanti also took actions well outside her authority, such as loaning a necessary piece of equipment to Methuen. Rather than concentrate on DPW business, she was also spending a great deal of her time either arranging or going to fundraisers for city councilors, and was directing DPW workers to do work for constituents at the request of said councilors. In addition, other City Hall employees, and some private individuals, had made complaints about her activities in the way she treated people. Her methods and personality allegedly caused at least one person to leave the city employ, and the City was concerned that her methods and personality was going to lead to legal claims being made against the City.

54. With respect to the termination letter, I argued that the City would provide testimony at the time of hearing that from her contacts, Traficanti found out that she was about to be fired, and filed the Injury Report as a preemptive strike.
55. Traficanti's attorney also made a detailed presentation. She claimed, among other things, that on or about May 7, 2004, Mayor Sullivan called Traficanti into a meeting and demanded that she resign within 30 days, ostensibly because she loaned a piece of equipment to Methuen. The Mayor was also upset because he felt that Traficanti could not serve two masters and that she needed to sever ties to the City Council. From 2004 through the beginning of 2007, the mayor allegedly screamed and yelled at Traficanti on a nearly daily basis about work either done or not done by the DPW. Traficanti asserted that she had numerous witnesses who would testify to this, including numerous members of the administration and city Council. Traficanti also alleged that numerous adverse newspaper articles were caused by Mayor Sullivan or others at his request. Traficanti

also alleged that she made numerous allegations of harassment to other City Hall employees, but they were never investigated because of fear of the mayor. At one point, her computer and files were seized and investigated for no reason. She was told that the mayor had told other people that her office and cell phone were tapped. In late 2006, the mayor allegedly yelled at Traficanti with respect to the project to hot top street where his secretary's father lived. There were other complaints as well.

56. No one from the City of Lawrence appeared at the conference.
57. I have handled scores of Conferences at the Board over the last 15 or so years, and I was completely prepared. I presented a detailed argument (no testimony is allowed at conference) and submitted a conference package including an independent medical examination report.
58. [Frank McCann has since filed a lawsuit against the City, among others, for actions that were allegedly taken against him around the same time period. A copy of that complaint, pending in a Massachusetts Federal District Court, is attached hereto as Exhibit I.]
59. Judge Preston (who also decided the Padellaro case) presided at the conference, and awarded Traficanti benefits dating back to her last day of work on January 4, 2007, to that date and continuing. We appealed the case in a timely fashion. Traficanti was sent to the impartial physician, and eventually a hearing was scheduled for March 4, 2008.
60. As the hearing approached, I had numerous conversations with both of Traficanti's attorneys regarding settlement. By this time, as a courtesy, I was involved in the civil case as well as the workers' compensation case.



61. During this time, Traficanti contacted me directly on several occasions because, she said, she trusted me. I of course immediately informed both her attorneys of the contact, and told them that they should instruct their client not to call me directly. Nevertheless, she did call on several occasions and I did speak to her, to politely suggest that she contact me through her counsel. I assiduously avoided any substantive discussion.
62. I have had a good working relationship with Frank McCann since approximately 2000. I initially met Frank in connection with my representation of the GLSD, where he is, by his status as head of DPW, a board member. I also know him through my representation of the City; not surprisingly, many of the workers' compensation claims come from the DPW. As for the extent of our relationship, it has already been expressed in the original August 26, 2008 letter to Duggan:

This brings me to Frank McCann and Andrea Traficanti. I am paraphrasing but I believe the net effect of your broadcast was that Bill DiAdamo was "best friends" with Frank McCann and the implication was that he may well be the source of the GLSD business. Note that Frank has 1 vote out of 7 and is not a member of the ad hoc legal committee. Do not accept this letter as even a hint I am dissociating myself or Bill from Frank. However, our social relationship with Frank and, for that matter Andrea, is non-existent. Simply put, we have not shared so much as a munchkin with either of them. We see Frank at meetings where substantial issues are discussed, involving both GLSD and, when we were representing the City, DPW. We also see Frank in the courtyard outside of City Hall and our office. All conversations are amicable and, candidly, I am very impressed with his grasp of complex issues which are critical to the City and which, apparently, have eluded elected officials who, I respectfully suggest would do well to acquaint themselves with the problems so that they can better serve their constituents. Without tedious explanation, let me say one of the issues could well involve in excess of one hundred million dollars. Numbers like that catch my attention.

63. I appeared at the Board on or about March 4, 2008 with Kathy O'Donnell and Traficanti. At that point, we reported to the judge that we were very near an agreement in principle

to resolve both the workers compensation and civil claims, and that we expected to have the paperwork done in the near future.

64. Most of what happened from this point on concerns communications with City officials. For that reason, until the attorney-client privilege issue is addressed, I will simply state that I had a number of subsequent conversations with opposing counsel about resolving the matter; however, my services were terminated on or about June 3, 2008. The files were promptly turned over to successor counsel. I do not believe that any action was taken on the case by Lawrence.

65. At the time my services were terminated, the case could have been rescheduled for a hearing if the settlement could not be finalized.

66. I did learn that a status conference was scheduled (I do not know by whom) on November 17, 2008. I do not believe anyone from Lawrence, including their attorney, appeared.

67. With respect to me, nothing further occurred, until I received the phone call about Duggan's broadcast in August

#### **POST FILING OF THE COMPLAINT**

68. On or about November 7, 2008, Duggan published that month's edition of the Valley Patriot. A true and accurate copy of The Valley Patriot of November 2008, is attached hereto as Exhibit J.

69. The headline of November's Valley Patriot is "Fired Attorney's Firm Member Made Millions On Taxpayers." The sub-headline is "Andrea Traficanti files for permanent disability." The resulting story then begins with a discussion of the Traficanti case, and

then shifts to a discussion of legal fees and then rent payments made to plaintiff's counsel Carmine DiAdamo.

70. On page 12, under the byline "Paying Attention with Tom Duggan" there's a headline, "Defending the First Amendment and protecting confidential sources" which claims that I gave the Valley Patriot privileged information. This is untrue
71. Upon information and belief, Duggan owns a majority of the Valley Patriot newspaper and website. Duggan is listed as the President of Valley Patriot, Inc., and President of the Editorial Board.
72. Upon information and belief, the headline and stories published in the Valley Patriot November 2008 were retaliation for filing the complaint, and intended to embarrass me, hurt my reputation and injure my law practice. They were clearly intended to make me withdraw or unfavorably compromise my valid claims, and implicitly threaten the further lies and more substantial damage will be forthcoming to not only me but my family and my father if we do not bend to their extortionate methods.
73. After receipt of the Answers and Counterclaim, on or about November 10, 2008, Plaintiff scheduled the following depositions on the following dates: Paula Porten on November 25, Thomas Duggan on November 26, Mayor Michael Sullivan on December 2, and Michael Sweeney on December 3.
74. This Motion was not served until after those deposition had been scheduled. I believe the real reason for the Motion was to prevent those depositions.

## DAMAGES

75. Duggan's statements directly attacked my reputation and my ethics, and are slander per se. I have also sustained damage to my reputation, and Duggan seems intent on causing as much emotional distress as possible.
76. Certainly, it is significant that the two affidavits Duggan produced are by competing local lawyers.
77. I am also concerned about what Duggan and/or the sources might try, as evidenced by the articles in the November Valley Patriot. As Duggan said, "I was hoping that your (Carmine's) obsession for "revenge" to "punish" my sources would eventually be tempered by the fact that you (BILLY) have way more to lose here than I do if this goes forward."
78. The parties have not yet been able to conduct discovery, but if Duggan does have a source in City Hall that did say I threw the case, and this is the reason I was terminated, those are easily quantifiable damages.

Signed under the pains and penalties of perjury on this the 5th day of December, 2008.



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William H. DiAdamo

**EXHIBIT A**



The Commonwealth of Massachusetts  
William Francis Galvin

Secretary of the Commonwealth, Corporations Division  
One Ashburton Place, 17th floor  
Boston, MA 02108-1512  
Telephone: (617) 727-9640

**VALLEY PATRIOT, INCORPORATED** Summary Screen

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The exact name of the Domestic Profit Corporation: VALLEY PATRIOT, INCORPORATED

Entity Type: Domestic Profit Corporation

Identification Number: 000859308

Date of Organization in Massachusetts: 01/26/2004

Current Fiscal Month / Day: 12 / 31

The location of its principal office:

No. and Street: 47 BRIGHTWOOD AVENUE  
City or Town: NORTH ANDOVER State: MA Zip: 01845 Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:  
City or Town: State: Zip: Country:

Name and address of the Registered Agent:

Name:  
No. and Street:  
City or Town: State: Zip: Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	THOMAS JAMES DUGGAN JR.	47 BRIGHTWOOD AVENUE NORTH ANDOVER, MA 01845 USA	
TREASURER	CHARLES CLARK ORMSBY	64 WHITE BIRCH LANE NORTH ANDOVER, MA 01845 USA	January 31, 2005
SECRETARY	PAULA LYNNE PORTEN	47 BRIGHTWOOD AVENUE NORTH ANDOVER, MA 01845 USA	January 31, 2005
DIRECTOR	RALPH EDWIN WILBUR	27 MARBLERIDGE ROAD NORTH ANDOVER, MA 01845 USA	January 31, 2005

business entity stock is publicly traded:

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
CNP	\$0.00000	5,040	\$0.00	5,040

Consent     Manufacturer     Confidential Data     Does Not Require Annual Report  
 Partnership     Resident Agent     For Profit     Merger Allowed

Select a type of filing from below to view this business entity filings:

- ALL FILINGS
- Administrative Dissolution
- Annual Report
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- Articles of Amendment

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Comments

**EXHIBIT B**

**VIA EMAIL  
AND FIRST CLASS MAIL**

August 26, 2008

Tom Duggan  
Valley Patriot  
P.O. Box 453  
North Andover, MA 01845

*RE: Radio Show*

Dear Tom:

First, thank you for returning my two calls of August 25<sup>th</sup> during the evening of the same date even though you were on vacation. I informed you that I had listened with great interest to a tape of your radio program, apparently broadcast over the weekend, on Monday. I also told you that it is an immutable rule in my family that I do not fight my children's battles because they are more than capable of defending themselves. However, since my son Bill was out of the office and I know more history of the genesis of our representation of clients you alluded to, I could answer questions immediately without doing research or otherwise working too hard. (After I dictated this, Bill came into the office, reviewed it, and made some revisions where he had more direct knowledge. That is why both of us signed it.) I also told you that the information you reported that was elicited from an "informer" was not opinion subject to interpretation. It was patently false and carried the odious stench of malice. Because of this, everyone can rest assured that all resources in this office will be directed to flushing out the source and taking appropriate action. While you did not disclose any information about your informer (nor would I have expected you to), after I reflected on it, my office may well be looking for two people, one in the City and one out of town.

My general thesis with you was that if I am telling the truth as hereinafter provided, the real story here is not the conduct of this office, it is what information was provided, what was the motive, and what provoked the mayor's action. Investigating these matters, which I intend to do, will lead me to the source or sources. Moreover, as we discussed, you have no interest in damning or injuring anyone with false information. Rather, a story should only resonate if an informer's information is reliable and not blatantly false and the falsity is easily verifiable. All of that said, let's deal with the objective reality.



You stated on the air that DiAdamo Law Office was receiving \$70,000 to \$75,000 a year from the City for workers' compensation representation and \$100,000 a year from the GLSD. (I believe you characterized the work as attending meetings even though GLSD has a general counsel.)

With respect to worker's compensation, we were engaged under a contract that paid \$48,000 a year. Apparently, the initial communicator of the information either wanted to distort the amount or was too incompetent to determine the real figure. I do recognize that at times there is a kernel of truth in a silly allegation. As you know, the City of Lawrence, with chronic budget problems frequently pays bills in a very erratic manner. It would not surprise me to find that they neglected to pay bills during the budgetary process and made up for it by making three \$24,000 payments in one year to make up for a payment they did not make in a prior year. Simply put, anyone doing business with the City knows that, in effect, tax-free loans to the City are made during its periods of delinquency.

I want to add as an aside, that I told you, in my judgment, the amount of the contract could have been easily reduced if representatives of the City responded to any of our numerous requests to sit down, discuss the program and the contract, and act in a more professional manner. I do not want to waste much time detailing this, as obviously it's an issue that can be revisited at a later date. Most significantly, the contract amount is the same amount that was being paid to our predecessors back to the administration of the last Mayor (however, it was being paid to two parties). There is also a story behind that story, but we need to deal with the immediate issues and, similarly, I leave that for another day.

Astonishingly, somebody also provided you with information that we received \$100,000 a year from the GLSD, presumably to attend meetings. We are special counsel for the GLSD for litigation matters. We bill hourly. During the year 2008, our billing has been \$0 because, obviously, no conflicts are being pursued or defended. This morning, after our telephone call, I had my office manager attempt to take a look at 2007. Billing that year was divided between work performed in 2006 and 2007. This is a guess, but it appears to me that very roughly \$25,000 to \$30,000 would have been due and owing for work performed in 2007. I do not want to bore you with the details but a substantial portion of the funds relate to an issue that could have cost Greater Lawrence taxpayers millions and millions of dollars. The same taxpayers should be comforted by the fact that the GLSD Board is comprised of very conscientious individuals who take a far more professional approach to serious problems than I've seen in other units of government. I should also add that approximately 8 years ago, when very significant conflicts were ongoing, I suggested, and the GLSD adopted, a plan for an ad hoc legal committee to discuss legal services, the cost of legal services and how to keep this process entirely open so no expenses were hidden.

This brings me to Frank McCann and Andrea Traficanti. I am paraphrasing but I believe the net effect of your broadcast was that Bill DiAdamo was "best friends" with Frank McCann and the implication was that he may well be the source of the GLSD business. Note that Frank has 1 vote out of 7 and is not a member of the ad hoc legal committee. Do not accept this letter as even a hint I am dissociating myself or Bill from Frank. However, our social relationship with Frank and, for that matter Andrea, is non-existent. Simply put, we have not shared so much as a munchkin with either of

them. We see Frank at meetings where substantial issues are discussed, involving both GLSD and, when we were representing the City, DPW. We also see Frank in the courtyard outside of City Hall and our office. All conversations are amicable and, candidly, I am very impressed with his grasp of complex issues which are critical to the City and which, apparently, have eluded elected officials who, I respectfully suggest would do well to acquaint themselves with the problems so that they can better serve their constituents. Without tedious explanation, let me say one of the issues could well involve in excess of one hundred million dollars. Numbers like that catch my attention.

Please note that we cannot further discuss this because of the attorney-client privilege. Apparently, however, it is incomprehensible to your source that we can maintain a civil, working relationship with individuals who we are not in formal conflict with, and are integral to the operation of City government and who, indeed, have to interact with us when employees in their department are injured in the workplace. We are frequently retained for our ability to communicate with the other side, which, ironically, is apparently the reason we were fired here. In other words, it is mystifying to them that we know how to act like gentlemen and not like petulant children. (I almost forgot. I was originally engaged by the GLSD in 1993 to discharge the executive director. While I was doing this a law firm in Boston was handling multiple dispute issues. A series of articles in the local paper disclosed (don't hold me to the figures, it was 15 years ago) that the legal fees were between \$250,000 and \$300,000 a year. I was asked to take over these matters and conclude them. I have represented GLSD since. Frank McCann was not on the Board at the time of my engagement and therefore did not participate in the decision to hire me.)

Now let me address the most dispiriting issue of all. During your program you simply (albeit sensationally) informed your audience that you had been given information that we took a dive in the defense of the Traficanti worker's compensation case, did not defend it, and this could be causally related to our relationship with both parties. In many allegations, malicious people impart half-truths in order to cast someone in a false light. In this case, we are light years away from even that circumstance. The Traficanti conference came up before an Industrial Accident Board Judge after a conciliation that was attended by both lawyers. On behalf of the City we arranged for an Independent Medical Examination. Naturally, there was information prepared by opposing counsel to the contrary. Bill made an aggressive presentation against her position, essentially arguing that she was the cause of stress at City Hall, not the recipient. Lawyers can only speculate as to why Judges come down on one side or the other, but the speculation in this case arises to the level of high probability, not reasoned guess. The representatives of the City of Lawrence terminated Andrea Traficanti's employment AFTER she filed for worker's compensation benefits. If there is one big no-no at the Industrial Accident Board, which exists to protect workers, it is taking action to unilaterally and pre-emptively thwart a workers' right to pursue or remedy, i.e., firing them after they make a claim. In my 42 years of practice, I would overwhelmingly expect that result if any employer acted in that fashion. I cannot say any more because of the attorney-client privilege even though there is much more to this. I can say no representative of the City showed up for the conference even though ample notification was given.

Lastly, in your newscast and informally you alluded to ethics complaints to be filed before the BBO. As a trial lawyer for over forty-two years, one gets hardened off to feelings of anger, acrimony

and accusations. However, a bright line is drawn when someone questions our ethics. Accordingly, I shall embark upon finding the informer(s), and am also unrelentingly going to flush out the reason for the mayor's action. As I told you on the telephone, all my contracts provide for termination in 30 days. No one should be locked into a lawyer. I can be fired because I have a big nose, someone does not like the way I dress, or simply because somebody does not like me. That's life. Conversely, however, I will not be disengaged for a false, unlawful, malicious unsupported reason. Someone has to pay for that. Since it should not be particularly difficult to identify the culprit or culprits, I cannot wait to see who the actors attempt to throw under the bus. Lawrence fails to thrive because of this kind of conduct and before I pack my bags, maybe I should do my part to stop it.

Very truly yours,

Carmine W. DiAdamo

William H. DiAdamo

**EXHIBIT C**



William DiAdamo <wdiadamo@gmail.com>

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## DiAdamo/Valley Patriot

2 messages

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William DiAdamo <william@diadamo.com>

Tue, Aug 26, 2008 at 2:32 PM

To: "Tom Duggan Jr." <tdugjr@aol.com>

Tom:

As promised, I enclose my comments concerning your broadcast. If you sense my stridency, it is because not only are our ethics questioned, but our (and your) intelligence as well.

Presumably, my office has gone into the tank for two people who we know casually and provide us no economic benefit whatsoever. Simply put, I go to Florida during the winter and do not need Lawrence DPW to plow my driveway.

Lastly, since I expect my opposition to read this, gulp and attempt to find a new offense, you should be informed that Andrea called this office and spoke to Bill directly while the claim pended. Naturally, her attorneys were promptly notified. Again the attorney-client privilege, at present, prevents a more detailed response. However, if any participant is excited by this the privilege need only be waived and we will be happy to expound.

William DiAdamo  
DiAdamo Law Office LLP  
40 Appleton Way  
Lawrence, MA 01840  
978-685-4271  
[william@diadamo.com](mailto:william@diadamo.com)



Duggan Letter 082608.pdf

81K

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TDUGJR@aol.com <TDUGJR@aol.com>

Tue, Aug 26, 2008 at 4:00 PM

To: william@diadamo.com

Hi Bill,

Thanks for making an effort to inform me further about the seemingly false information I was given regarding your involvement with the GLSD and the City of Lawrence RE: Frank McCann.

As I am reading through the PDF you and your dad sent I do want to clear up at least one part that you either inferred or were misinformed about. it is this passage:

*"This brings me to Frank McCann and Andrea Traficanti. I am paraphrasing but I believe the net effect of your broadcast was that Bill DiAdamo was "best friends" with Frank McCann and the implication was that he may well be the source of the GLSD business. Note that Frank has 1 vote out of 7 and is not a member of the ad hoc legal committee."*

Referring to the underlined portion above; at no time did I know, infer or say out loud that Frank was, may be, cold be or thought about being the source of GLSD business. It was not part of the story I was told and it was not part of the story i told on the air. I only want to clarify this because as we both look for the truth here it is important not to waste time chasing ghosts.

I think if you listen to the tape over again you will see that this is simply an error on your part.

As I told your dad last night, I am more than happy to tell your side of the story and will be more than happy to hang anyone who purposely gave me misinformation to further a political agenda. I am very proud of my credibility in the community for the very reason that people know if I get something wrong I will correct it immediately that way my readers or listeners ALWAYS have the most accurate information on a news story even if that means I look like a dope for being wrong.

I have never met you ( I don't think) and have always had a good relationship (as limited as it was) with your dad while I was on the School Committee.

My ONLY interest is to get and report news stories (CORRECTLY) before the Eagle Tribune gets wind of them .... sometimes in doing so, it is hard to verify with three or four sources because I always run the risk of tipping off people (or the Trib) as to what I am interested in covering. I do apologize as this was the case here and it seems as though I am the one with the egg on my face.

I am nothing if not fair and will be more than happy to continue following whatever political battle lead to this happening and where it leads ...no matter who may be involved.

When I return I will be happy to get the documents to verify your pay and will ABSOLUTELY correct the record if misinformation was given by me no matter where it came from.

On that you of course have my word.

**Tom Duggan**  
**The Valley Patriot**  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

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William DiAdamo <wdiadam@gmail.com>

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## Radio Show Response

2 messages

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William DiAdamo <william@diadamo.com>

Tue, Sep 2, 2008 at 10:00 AM

To: "Tom Duggan Jr." <tdugjr@aol.com>

TOM:

We listened to your program this weekend (one hour and 57 minutes was a long time to wait for the three minutes relevant to us) and concluded that very public action has to be taken. You pondered revealing your source after further investigation because if the story was as false as it now appears, it was clearly malicious. We concur! You can do whatever you think is right, but we now have had enough time to reflect on the utter disregard of the potential damage (or, indeed, the delight in causing it) that motivated your source.

If you really want to feel the depth of our anger, personalize it. Imagine Paula having to come home to her kids making less money because someone had maliciously planted a story which, if true, would be the worst imaginable blow to her professional standing. A client and income were lost and could undoubtedly spread to relationships with other clients. She would not be the only one living with the financial harm and diminution of reputation, her kids would suffer equally. Since the DiAdamo Law Office is now partially associated with very gray hair, the financial blow is more than manageable and pales in relation to the one to be inflicted on the snake who started this.

Now, let's forget the rant and deal with this. It's been my experience that cowards are frequently liars and malicious liars are always cowards. It's important to note that both share a common trait – when revealed or exposed they lie again. Having been burned in the first confrontation the second accusation generally deals with "something they heard" or "a half truth." Expect your source to blame or quote someone else, but don't believe them. It is not unusual for this type of low-life to try to seek advantage by pointing to someone who feels rancor or acrimony because of something that occurred in the heat of battle (which, of course is where we live). Frequently, they'll point to someone else as a source to divert attention from their conduct.

We mention this not because we need assistance in dealing with it, but would like to be notified of any further defamation or distorted facts so that we can respond immediately.

Again, do what you think is right. We have already narrowed the source to one of two people (a third is a remote possibility), We will await further information so that we can be 100% sure before we take the strongest legal and ethical action against that person, as well as others who are complicit and should have known better.

Carmine and William DiAdamo

P.S. We almost forgot, with respect to your analysis of GLSD billing, your call over there is likely to provoke a delay and some inquiry. We are happy to call them in advance, volunteer to attend to the removal of the attorney-client information from the billings, and suggest that the documents be released. Unlike Lawrence's political thicket, which impacts the delivery of legal services, the GLSD is a valued, well meaning client which we have had the pleasure of representing in some very difficult legal matters.

William DiAdamo

DiAdamo Law Office LLP  
40 Appleton Way  
Lawrence, MA 01840  
978-685-4271  
[william@diadamo.com](mailto:william@diadamo.com)

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TDUGJR@aol.com <TDUGJR@aol.com>

Wed, Sep 3, 2008 at 2:32 PM

To: [william@diadamo.com](mailto:william@diadamo.com)

In a message dated 9/2/2008 11:01:32 A.M. Eastern Daylight Time, [william@diadamo.com](mailto:william@diadamo.com) writes:

| We listened to your program this weekend (one hour and 57 minutes was a long time to wait for the three  
| minutes relevant to us)

One observation:

It is very telling that you only listen to hear something relevant to you and don't care about anything else, .....  
very telling!

Tom Duggan  
The Valley Patriot  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

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It's only a deal if it's where *you* want to go. Find your travel deal [here](#).

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William DiAdamo <wdiadamo@gmail.com>

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## Follow up

2 messages

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William DiAdamo <wdiadamo@gmail.com>

Fri, Sep 5, 2008 at 12:00 PM

To: "Tom Duggan Jr." <tdugjr@aol.com>

It looks like I am going to be tied up today. I will plan to give you a call next week.

William H. DiAdamo  
Sent from my iPhone

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tdugjr@aol.com <tdugjr@aol.com>

Sat, Sep 6, 2008 at 6:06 PM

To: wdiadamo@gmail.com

Tuesday or Wednesday around noon for a drink OR I am a VERY Late night guy if you want to have a drink outside the city somewhere quiet (as long as you are buying!)

It looks like I am going to be tied up today. I will plan to give you a call next week.

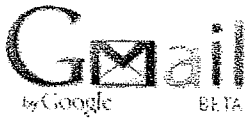
William H. DiAdamo

[Quoted text hidden]

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Looking for spoilers and reviews on the new TV season? [Get AOL's ultimate guide to fall TV.](#)

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William DiAdamo <wdiadam@gmail.com>

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## Radio Show

4 messages

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William DiAdamo <william@diadamo.com>

Fri, Sep 12, 2008 at 2:04 PM

To: "Tom Duggan Jr." <tdugjr@aol.com>

TOM:

I've waited long enough. You said you were going to further investigate this matter and perhaps voluntarily disclose informers if the information was as it appeared to be – absolutely false. Three false and malicious statements were made – 70,000 from Lawrence, 100,000 from the GLSD, and Bill DiAdamo went in the tank. It appears that none of these are being further investigated. Indeed, since they are absolutely false, I've always known what the investigation would disclose. Therefore, I was never really giving you sufficient time to investigate. Rather, I was giving you enough time to come to grips with what you have done and provide us with the information we desire – the identity of and the information provided by the culprits.

I am not interested in playing tag or trying to determine whether a meeting should occur in public or in private or in Lawrence or out of town or what the time of the meeting should be. Candidly, I have absolutely nothing to discuss. The story concerning us is over. The only remaining story, as I have written to you in the past, relates to the informers' actions, relationships, relationships with each other and motives.

Since I have not been provided with the information, at the moment, you and the radio station are the defendants. I suspect there will be more after you and the station owner or manager have been deposed.

I have had the good taste in our prior communications not to come on strong so that you could take appropriate action. The only thing I've really got back were comments on my interest in local affairs (as if I needed to tune in to a radio station to satisfy a public participation requirement). Let me now say what I suppose I should have said at the beginning. There's an easy way or a hard way. Your choice is to come clean or keep quiet. If you choose the latter course, I will do what I have to do, and approach other media outlets to enlist their support to shine a light on the "profiles in courage" you dealt with.

I am going to leave the state on Sunday morning and will return late Thursday. At the time I'll commence the legal work involved.

For what it's worth, review MGL c. 231, §93 noting that there is a difference between libel and slander and also noting that financial damage has already occurred as well as other actual damage. There is no need to respond to this. I'm looking for prompt information, not a pen pal.

CWD

Carmine DiAdamo  
DiAdamo Law Office LLP

40 Appleton Way  
Lawrence, MA 01840  
978-685-4271  
[william@diadamo.com](mailto:william@diadamo.com)

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TDUGJR@aol.com <TDUGJR@aol.com>  
To: [william@diadamo.com](mailto:william@diadamo.com)

Fri, Sep 12, 2008 at 6:22 PM

Carmine,

PLEASE!

You sustained no damage as the result of my broadcast, you had already been fired and there was no slander on the part of me or the radio station. But, if that is the road you want to go down there will be no more communication from me (though the story *will* go on). When this started I was not your enemy and I was not one of the people out to get you. I accommodated you to the best of my ability given the time line and the confidential restraints I am under.

AND if it was THAT important to you, you could have provided me with your bills to the City of Lawrence, the City of Methuen and GLSD rather than sending me on a fishing expedition which (with my schedule) is going to take some time.

I also did due diligence to inform my listeners that you were disputing the original story and went on the radio the following week to present my audience with your side of the issue along with the promise of a follow up. (Sorry that didn't come fast enough for you but I DO have a life).

So .....let me get this straight, you call me in Disney under false pretenses of.... YOUR WORDS ..."courtesy and friendship" (and using my dead father as part of that pretense) and I take time away from my family vacation to informally point you in the right direction without betraying my word to my sources, (you're welcome) we engage in a personal conversation, you make *outright* threats of *revenge* against "any and all" of my sources but feed me this line of bull about how you are not coming after me and how I am only doing my job, you then continue to email me obsessively and have your son call me at home as if you are the only story I should be working on and then....As a thank you for that courtesy you try to lure me into "friendly" meeting with you and your son (again) under false pretenses .....so that you can extract information to SET ME UP for a lawsuit?

SHOCKING!

Tom Duggan  
The Valley Patriot  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

---

Psssst...Have you heard the news? There's a new fashion blog, plus the latest fall trends and hair styles at StyleList.com.

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William DiAdamo <wdiadam@gmail.com>

Sat, Sep 13, 2008 at 10:47 AM

To: "Tom Duggan Jr." <tdugjr@aol.com>

Tom

You still have no idea what I am talking about.

I am planning to proceed next week. If you would like to talk you can reach me from 7 to 8 tonight at home, 978-475-0279.

Carmine

William H. DiAdamo  
Sent from my iPhone

[Quoted text hidden]

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TDUGJR@aol.com <TDUGJR@aol.com>

Sat, Sep 13, 2008 at 1:45 PM

To: wdiadam@gmail.com

In a message dated 9/13/2008 11:47:55 A.M. Eastern Daylight Time, wdiadam@gmail.com writes:

Tom

You still have no idea what I am talking about.

I am planning to proceed next week.

Why don't you just go play golf and stop fighting your kids battles for him.

If you would like to talk you can reach me from 7 to 8 tonight at home, 978-475-0279.

Carmine

If I don't know what you are talking about you DO know what I am talking about.

You are threatening to file a suit against me and my station after I gave you every courtesy I could (obviously more than you deserved) under the restrictions I am currently stuck with ...I even pointed you in the right without giving up my sources and told your side of the story on the air.

By the way .....YOU'RE WELCOME!

[Quoted text hidden]

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William DiAdamo <wdiadamo@gmail.com>

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## Complaint

4 messages

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William DiAdamo <william@diadamo.com>

Wed, Sep 24, 2008 at 1:39 PM

To: "Tom Duggan Jr." <tdugjr@aol.com>

Tom:

I enclose herewith draft of a proposed lawsuit. You may view it as the "prior notice" that you did not give to us prior to the general dissemination of absolutely false information. You made noises like you wanted to investigate and rectify your conduct, but, having in mind the time elapsed and the outrageousness of the allegations, we are now treating it as what we thought it was in the first place, just noise.


This is being forwarded to you so you can discuss the consequences with Paula and engage counsel. The purpose of the original discussion is for you to determine whether or not you want to accept service or have the deputy sheriff serve the complaint upon you on Monday, the date the document will be filed in Court. The real purpose of this communication is to advise you to engage counsel because we will be moving that the Court expedite this matter and order depositions at the earliest possible time so that we can determine to what extent each of the proposed culprits is liable.

I should add that I'm not interested in any further protestations to the effect that you were acting appropriately or your busy schedule has prevented further investigation. We have hinted in prior communications that we are reasonably sure of the sources of the story, the motives for slipping the information to you and what we intend to do to ensure that this odious behavior is confronted straight up and a very bright line is shined on the culpable parties.

Affirmation of your certitude and rectitude are best left to the media you control, the Dewey Club or North Andover card games; I am more comfortable with assertions under oath where the consequences are very real. You were shown a large door to walk through; you apparently chose a dark cellar.

Finally, Tom, don't misconstrue the fact that my father is listed as counsel. This is from me. My father is counsel because (1) he is the best lawyer I know, (2) he will do what is necessary and proper, and (3) if I let someone else handle it, he would be madder at me than you. He wants at it.

William DiAdamo  
DiAdamo Law Office LLP  
40 Appleton Way  
Lawrence, MA 01840  
978-685-4271  
[william@diadamo.com](mailto:william@diadamo.com)

 Duggan Complaint.pdf  
126K

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TDUGJR@aol.com <TDUGJR@aol.com>  
To: william@diadamo.com

Wed, Sep 24, 2008 at 1:59 PM

And yet I am STILL to receive from you any documentation on your bills

Tom Duggan  
The Valley Patriot  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

In a message dated 9/24/2008 2:40:18 P.M. Eastern Daylight Time, [william@diadamo.com](mailto:william@diadamo.com) writes:

You made noises like you wanted to investigate and rectify your conduct, but, having in mind the time elapsed and the outrageousness of the allegations, we are now treating it as what we thought it was in the first place, just noise.

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TDUGJR@aol.com <TDUGJR@aol.com>  
To: william@diadamo.com

Wed, Sep 24, 2008 at 3:16 PM

Bill,

The fact is: I reported a story about a public figure who was PUBLICLY representing the city of Lawrence in a PUBLIC case. I reported it as it was relayed to me and confirmed.

I was then given information by your dad that the original story may not be exactly correct. I relayed that information to my audience (satisfying my obligation to present a fair picture of what was going on) and I also notified my listeners that I would do follow up research and updates on the story (which I now cannot do because you have threatened a lawsuit).

You were, in fact, fired by the city of Lawrence after losing the Andrea case. That firing came BEFORE my radio show, it was not caused by it.

Depositions go both ways my friend, and I have quite a few questions of my own if it gets to that level.

Tom Duggan  
The Valley Patriot  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

In a message dated 9/24/2008 2:40:18 P.M. Eastern Daylight Time, [william@diadamo.com](mailto:william@diadamo.com) writes:

I should add that I'm not interested in any further protestations to the effect that you were acting appropriately or your busy schedule has prevented further investigation.

[Quoted text hidden]

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TDUGJR@aol.com <TDUGJR@aol.com>

Thu, Sep 25, 2008 at 7:56 AM

To: [william@diadamo.com](mailto:william@diadamo.com)

Bill & Carmine,

This is to inform you in writing of the offer made to you yesterday (and once previously) on the phone by Attorney Paula Porten giving you the opportunity (again) to appear on the Paying Attention! Radio Program on WCAP in LOWELL to tell your side of the story or dispute anything you feel was stated inaccurately on previous shows in regard to your being fired by the city of Lawrence while I continue my investigation.

I will make available as much time as you feel you need, should you choose to come in or call in to the show on any Saturday between 10am and noon. The studio number is 978-458-9123.

Please also know that if you precede with filing a complaint against us, we will vigorously defend ourselves, introduce emails, phone conversations, call witnesses and file appropriate counter claims, ethics and BBO complaints.

I was hoping that your (Carmine's) obsession for "revenge" to "punish" my sources would be eventually tempered by the fact that you (BILLY) have WAY more to lose here than I do if this goes forward. But, be on notice from here on in, there will be no further communications between us and the investigation I began a month or so ago will continue on my time schedule.

Tom Duggan  
The Valley Patriot  
[www.valleypatriot.com](http://www.valleypatriot.com)  
978-557-5413

In a message dated 9/24/2008 2:40:18 P.M. Eastern Daylight Time, [william@diadamo.com](mailto:william@diadamo.com) writes:

[Quoted text hidden]

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