

STATE OF INDIANA)
) SS:
COUNTY OF PULASKI)

PULASKI SUPERIOR COURT

GENERAL TERM, 2013

WINAMAC, INDIANA

SANDRA HURD,

Plaintiff

v.

TRACEY SHORTER, Individually

Defendant.

CAUSE NO. 66D01-1310-CT- 006

FILED
NOV 01 2013

COMPLAINT

COUNT I – DEFAMATION PER SE

Sandra J. Young
CLERK PULASKI SUPERIOR COURT

Comes now the Plaintiff, Sandra Hurd for Count I of her Complaint against Tracey Shorter alleges and says:

1. That Tracey Shorter is an individual domiciled in Winamac, Pulaski County, Indiana;
2. That Sandra Hurd is an individual domiciled in Winamac, Pulaski County, Indiana;
3. That the Court has jurisdiction of the individuals herein and jurisdiction of the general class of action contained in this Complaint;
4. That at all relevant times herein, up until August 27, 2013, Sandra Hurd was serving as the County Home Superintendent for Pulaski County, a position she had held for five (5) years and had been reappointed to on January 1, 2013;
5. That around or about the beginning of July 2013, Sandra Hurd discovered that she may be making a clerical error in reporting federal records;

6. That around or about the beginning of July 2013, Sandra Hurd contacted the appropriate agency to learn the process of correcting her clerical error;

7. That upon information and belief, on or about 12:00 a.m. July 24, 2013, Tracey Shorter and Patrick Kavanaugh, a former employee of the County Home, entered into Sandra Hurd's office and began searching her computer, desk drawers, and a locked filing cabinet;

8. That upon information and belief, Tracey Shorter willfully and wantonly ordered Patrick Kavanaugh to break into Sandra Hurd's locked filing cabinet;

9. That such actions are outside the scope of employment of a Commissioner and constitutes criminal behavior;

10. That Tracey Shorter made a copy of the documents she found in Sandra Hurd's office;

11. That on or about July 29, 2013, Tracey Shorter held an Executive Session of the Pulaski County Commissioners in which she accused Sandra Hurd of committing Medicaid fraud;

12. That on or about July 30, 2013, Sandra Hurd filed paperwork with the appropriate agency to self-report and fix her clerical error;

13. That on or about August 15, 2013, Sandra Hurd was suspended from her job with pay for a period of ten days for intentionally falsifying federal records;

14. That on or about August 22, 2013, Tracey Shorter received a letter from the agency confirming that Sandra Hurd did not commit Medicaid fraud, that Sandra Hurd self-reported her clerical error, and that she was in the process of submitting paperwork to fix her clerical error;

15. That on or about August 27, 2013, Tracey Shorter held an Emergency Public meeting in which she terminated Sandra Hurd for intentionally falsifying federal records;

16. That the accusation and dismissal of Sandra Hurd for falsifying federal records represents a communication with defamatory imputation;

17. That Tracey Shorter knew, or had reason to know, the accusation that Sandra Hurd falsified federal records was false when there was a letter stating that Sandra Hurd had only committed a clerical error;

18. That accusing and terminating Sandra Hurd for falsifying federal records was done deliberately by Tracey Shorter and created a high probability of harm to Sandra Hurd;

19. That Sandra Hurd's termination for falsifying federal records was done at a meeting open to the public and placed on public record;

20. That subsequent to the termination, Tracey Shorter continued to slander and defame the reputation and character of Sandra Hurd by causing a criminal investigation against her with the Indiana State Police for falsifying federal records and stealing County Home property;

21. That the Indiana State Police conducted an investigation and recommended that criminal charges should not be pursued;

22. That the Pulaski County Prosecutor's Office did not pursue criminal charges against Sandra Hurd;

23. That "[a] communication is defamatory *per se* if it imputes: (1) criminal conduct" *Kelley v. Tanoos*, 865 N.E.2d 593, 596 (Ind. 2007) (citing *Rambo v. Cohen*, 587 N.E.2d 140, 145 (Ind. Ct. App. 1992));

24. That the accusation of falsifying federal records and stealing imputes serious criminal conduct with devastating implications;

25. That "[i]n cases of defamation *per se*, the jury may presume damages because 'the law presumes the plaintiff's reputation has been damaged, and the jury may award a

substantial sum for this presumed harm, even without proof of actual harm.” *Glasscock v. Corliss*, 823 N.E.2d 748, 757 (Ind. Ct. App. 2005) (quoting *Rambo*, 587 N.E.2d at 145);

26. That Tracey Shorter has damaged the reputation and name of Sandra Hurd by leaving a cloud of suspicion with the public as to what acts or misdeeds may or may not have been committed by Sandra Hurd to suspension and termination by suggesting criminal conduct;

27. That Tracey Shorter intended to damage the character and reputation of Sandra Hurd within the community and her statements were made with reckless disregard of the effect of said statements, and with no ability to prove the truth of any of said statements;

28. That Tracey Shorter has done nothing to publically correct or repair the erroneous and malicious impression that her actions created to damage the character and reputation of Sandra Hurd in the community;

29. That because of the actions of Tracey Shorter, Sandra Hurd is having, and will continue to have, a difficult time securing employment in her line of work because of these false and malicious statements;

30. That as a direct result of the actions of Tracey Shorter, Sandra Hurd has suffered irreparable harm and monetary damages, in an amount to be determined by the Court.

WHEREFORE, Plaintiff Sandra Hurd, prays for judgment against Tracey Shorter for the damages incurred by Sandra Hurd as a result of the slanderous, libelous, and defamatory statements made by Tracey Shorter, in an amount to fairly and fully compensate Plaintiff for all losses, injuries and damages; for the costs of this action and attorney’s fees; and for all other relief proper in the premises.


SANDRA HURD

COUNT II – SLANDER PER SE

Comes now the Plaintiff, Sandra Hurd and for Count II of her Complaint against Tracey Shorter alleges and says:

31. That Sandra Hurd realleges the material allegations contained in rhetorical paragraphs 1 through 30 of Count I of the Complaint, the same as if fully set forth herein;

32. That Tracey Shorter has made statements on several occasions alleging that Sandra Hurd falsified federal records;

33. That Tracey Shorter knew the falsity of her statements when there was a letter stating that Sandra Hurd had not falsified federal records and only committed a clerical error;

34. That Tracey Shorter orally communicated these false accusations to County Home employees;

35. That at an Emergency Meeting of the Pulaski County Commissioners, Tracey Shorter communicated her false accusations to third parties since the meeting was open to the public and placed on public record;

36. That subsequent to the termination, Tracey Shorter continued to slander and defame the reputation and character of Sandra Hurd by alleging criminal wrongdoing against her with the Indiana State Police for falsifying federal records and stealing County Home property;

37. That the Indiana State Police conducted an investigation and recommended that criminal charges should not be pursued;

38. That the Pulaski County Prosecutor's Office did not pursue criminal charges against Sandra Hurd;

39. That “[a] communication is defamatory *per se* if it imputes: (1) criminal conduct” *Kelley v. Tanoos*, 865 N.E.2d 593, 596 (Ind. 2007) (citing *Rambo v. Cohen*, 587 N.E.2d 140, 145 (Ind. Ct. App. 1992));

40. That the accusation of falsifying federal records and stealing imputes serious criminal conduct with devastating implications;

41. That “[i]n cases of defamation *per se*, the jury may presume damages because ‘the law presumes the plaintiff’s reputation has been damaged, and the jury may award a substantial sum for this presumed harm, even without proof of actual harm.’” *Glasscock v. Corliss*, 823 N.E.2d 748, 757 (Ind. Ct. App. 2005) (quoting *Rambo*, 587 N.E.2d at 145);

42. That Tracey Shorter intended to damage the character and reputation of Sandra Hurd within the community and her statements were made with reckless disregard of the effect of said statements, and with no ability to prove the truth of any of said statements;

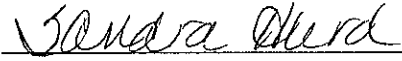
43. That Tracey Shorter has done nothing to publically correct or repair the erroneous and malicious impression that her actions caused to damage the character and reputation of Sandra Hurd in the community;

44. That because of the actions of Tracey Shorter, Sandra Hurd is having, and will continue to have, a difficult time securing employment in her line of work because of these false and malicious statements;

45. That as a direct result of the actions of Tracey Shorter, Sandra Hurd has suffered irreparable harm and monetary damages, in an amount to be determined by the Court.

WHEREFORE, Plaintiff Sandra Hurd, prays for judgment against Tracey Shorter for the damages incurred by Sandra Hurd as a result of the slanderous and defamatory statements made by Tracey, in an amount to fairly and fully compensate Plaintiff for all losses, injuries and

damages; for the costs of this action and attorney's fees; and for all other relief proper in the premises.


SANDRA HURD

COUNT III – LIBEL PER SE

Comes now the Plaintiff, Sandra Hurd and for Count III of her Complaint against Tracey Shorter alleges and says:

46. That Sandra Hurd realleges the material allegations contained in rhetorical paragraphs 1 through 45 of Count I and Count II of the Complaint, the same as if fully set forth herein;

47. That Tracey Shorter has printed statements on several occasions alleging that Sandra Hurd falsified federal records;

48. That Tracey Shorter knew the falsity of her statements when there was a letter stating that Sandra Hurd had not falsified federal records and only committed a clerical error;

50. That at an Emergency Meeting of the Pulaski County Commissioners, Tracey Shorter communicated her false accusations that would be published for public record;

51. That “[a] communication is defamatory *per se* if it imputes: (1) criminal conduct” *Kelley v. Tanoos*, 865 N.E.2d 593, 596 (Ind. 2007) (citing *Rambo v. Cohen*, 587 N.E.2d 140, 145 (Ind. Ct. App. 1992));

52. That the accusation of falsifying federal records and stealing imputes serious criminal conduct with devastating implications;

53. That “[i]n cases of defamation *per se*, the jury may presume damages because ‘the law presumes the plaintiff’s reputation has been damaged, and the jury may award a substantial sum for this presumed harm, even without proof of actual harm.’” *Glasscock v. Corliss*, 823 N.E.2d 748, 757 (Ind. Ct. App. 2005) (quoting *Rambo*, 587 N.E.2d at 145);

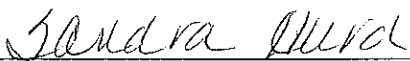
54. That Tracey Shorter intended to damage the character and reputation of Sandra Hurd within the community and her statements were made with reckless disregard of the effect of said statements, and with no ability to prove the truth of any of said statements;

55. That Tracey Shorter has done nothing to publically correct or repair the erroneous and malicious impression that her actions created to damage the character and reputation of Sandra Hurd in the community;

56. That because of the actions of Tracey Shorter, Sandra Hurd is having, and will continue to have, a difficult time securing employment in her line of work because of these false and malicious statements;

57. That as a direct result of the actions of Tracey Shorter, Sandra Hurd has suffered irreparable harm and monetary damages, in an amount to be determined by the court.

WHEREFORE, Plaintiff Sandra Hurd, prays for judgment against Tracey Shorter for the damages incurred by Sandra Hurd as a result of the libelous, and defamatory statements made by Tracey Shorter, in an amount to fairly and fully compensate Plaintiff for all losses, injuries and damages; for the costs of this action and attorney’s fees; and for all other relief proper in the premises.


SANDRA HURD

COUNT IV – INVASION OF PRIVACY BY FALSE LIGHT

Comes now the Plaintiff, Sandra Hurd and for Count IV of her Complaint against Tracey Shorter alleges and says:

58. That Sandra Hurd realleges the material allegations contained in rhetorical paragraphs 1 through 57 of Count I, Count II, and Count III of the Complaint, the same as if fully set forth herein;

59. That Tracey Shorter has made libelous and slanderous statements on several occasions alleging that Sandra Hurd falsified federal records and stole property from the County Home;

60. That Tracey Shorter had knowledge of the falsity of the publicized fact when there was a letter stating that Sandra Hurd had not falsified federal records and only committed a clerical error; further, there was appropriate paperwork for the items allegedly stolen by Sandra Hurd; and following an investigation by ISP, no criminal wrongdoing was found;

61. That Tracey Shorter communicated these false accusations to third parties at an Emergency Hearing of the Pulaski County Commissioners that was open to the public and placed on public record;

62. That subsequent to Sandra Hurd's termination, Tracey Shorter filed a false police report against Sandra Hurd with the Indiana State Police for falsifying federal records and stealing County Home property;

63. That Tracey Shorter has created publicity that has unreasonably placed the character and reputation of Sandra Hurd within the community in a false light as Tracey Shorter's statements were made with reckless disregard of the truth and the effect of said statements, and with no ability to prove the truth of any of said statements;

64. That Sandra Hurd has suffered great emotional and mental suffering as evidenced by residents of Pulaski County questioning and accusing her of committing criminal behavior at the County Home;

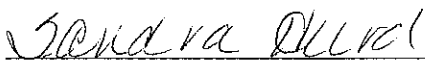
65. That Tracey Shorter has done nothing to publically correct or repair the erroneous and malicious impression that her actions created to damage the character and reputation of Sandra Hurd in the community;

66. That the false light of falsely accusing Sandra Hurd of committing criminal conduct would be highly offensive to a reasonable person;

67. That because of the actions of Tracey Shorter, Sandra Hurd is having, and will continue to have, a difficult time securing employment in her line of work because of these false and malicious statements;

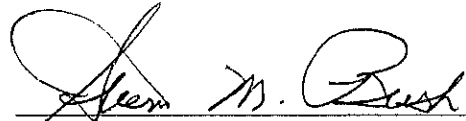
68. That as a direct result of the actions of Tracey Shorter, Sandra Hurd has suffered irreparable harm and damage.

WHEREFORE, Plaintiff Sandra Hurd, prays for judgment against Tracey Shorter for the damages incurred by Sandra Hurd as a result of the slanderous, libelous, and defamatory statements made by Tracey Shorter that casted her in a false light to the public at large, in an amount to fairly and fully compensate Plaintiff for all losses, injuries and damages; for the costs of this action and attorney's fees; and for all other relief proper in the premises.


SANDRA HURD

PRAECIPE FOR JURY TRIAL

Comes now the plaintiff, Sandra Hurd, by counsel, Steven M. Bush, and request
trial by jury in this cause of action.


STEVEN M. BUSH, #3041-15
ATTORNEY FOR PLAINTIFF