

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

P.D. & ASSOCIATES and P.D.,

Plaintiffs,

-against-

HALANA RICHARDSON,

Defendant.

AFFIRMATION IN SUPPORT

Index No.: 53694/2019

Daniel S. Szalkiewicz, an attorney duly admitted to practice before the courts of the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. I am a member of Daniel Szalkiewicz & Associates, P.C., attorneys for plaintiffs P.D. & ASSOCIATES and P.D. (“Plaintiffs”). I am familiar with all the facts and circumstances set forth in this affirmation.

2. I submit this affirmation in support of Plaintiffs’ application for a take-down order, temporary restraining order, and preliminary injunction pursuant to CPLR §§ 6313 and 6301.

3. This case is very simple. The defendant has engaged in a crusade to “expose the plaintiff[s] to public contempt, ridicule, aversion or disgrace or induce an evil opinion of [them] in the minds of right-thinking persons, and to deprive [them] of their friendly intercourse in society” through the postings of well over one hundred false and defamatory online reviews, postings, blogs, comments, and social media accounts. (*See Rinaldi v. Holt, Rinehart & Winston, Inc.*, 42 N.Y.2d 369, 379 [1977]).

4. The Court needs only a cursory review of Complaint, and the multitude of derogatory and offensive comments to confirm that the statements are defamatory. These defamatory statements go to the heart of the Plaintiffs' professional life and have attempted to destroy their ability to obtain new clients by claiming the law firm and its principal steals money, accepts bribes, misrepresents facts to judges, and throws cases. Therefore, the statements are classified as libelous per se (*See Liberman v. Gelstein*, 80 N.Y.2d 429, 435 [1992]) (slander per se "consist[s] of statements (i) charging plaintiff with a serious crime; (ii) that tend to injure another in his or her trade, business or profession; (iii) that plaintiff has a loathsome disease; or (iv) imputing unchastity to a woman").

5. When searching Plaintiffs' name on Google, over 41,900 results are generated, and defendant's defamatory content appears as the **third and eighth results on the first page alone**. Each day the statements are allowed to remain in circulation on the internet, the Plaintiffs' harm multiplies as its professional reputation is unlawfully sullied.

PLAINTIFFS' REQUEST TO SEAL THE RECORD SHOULD BE GRANTED

6. The statements contained in the Complaint are devastating to Plaintiffs and the matter should be sealed. The statements go to the heart of Plaintiffs' profession as a prestigious lawyer and law firm, and defendant has threatened to use the legal system to continue to destroy Plaintiffs' good name.

7. The Court in *Doe v. New York Univ.*, (6 Misc.3d 866, 786 N.Y.S.2d 892 [N.Y. Sup. Ct., 2004]) provided an extensive analysis into allowing a Plaintiff to proceeding anonymously:

When a court is deciding whether to allow a plaintiff to proceed anonymously, the ultimate inquiry must be whether "the plaintiff has a substantial privacy right which outweighs the `customary and constitutionally-embedded presumption of openness in judicial proceedings'" (*Milani, Doe v Roe: An Argument for Defendant Anonymity When a Pseudonymous Plaintiff Alleges a Stigmatizing Intentional Tort*, 41 Wayne L Rev 1659, 1681 [1995]). Some guidelines for the exercise of this discretion in considering anonymity requests have been recognized including:

"[W]hether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of a sensitive and highly personal nature; whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;. . . whether the action is against a governmental or private party; and . . . the risk of unfairness to the opposing from allowing an action against it to proceed anonymously" (id. at 1682).

Plaintiffs' anonymity should be permitted "where a substantial privacy interest is involved" (id. at 1684). Embarrassment or economic harm to the plaintiffs is insufficient, but factors to consider as to whether plaintiffs' situation is "compelling," involving "highly sensitive matters" including "social stigmatization," or "where the injury litigated against would occur as a result of the disclosure of the plaintiff's identity" (id.). Further, the fact that plaintiffs' action seeks monetary damages does not affect the plaintiffs' request to proceed anonymously, since monetary damages may be the only relief appropriate or available to those claiming "psychological suffering" that has occurred in the past and is not amenable to injunctive or other equitable relief

8. Plaintiffs can demonstrate that the allegations go beyond embarrassment, but involves highly sensitive matters, and it is imperative the record be sealed.

9. Though a reading of the record of Ms. Richardson's case reveals her claims to be entirely devoid of merit, to accuse Plaintiffs of bribery, lying to a judge, throwing a case, and stealing a client's money is more than just embarrassing, it creates a social stigmatization that no attorney should ever be forced to have associated with his or her name.

ANNEXED EXHIBITS

10. Annexed hereto as Exhibit “1” is a true and accurate copy of Plaintiffs’ Summons and Complaint, filed March 8, 2019.

11. Annexed hereto as Exhibit “2” is a is a true and accurate copy of the search results list of defamatory websites created concerning Plaintiffs.

12. No previous application has been made for the relief requested herein.

WHEREFORE, for all of the foregoing and, as discussed in Plaintiffs’ Memorandum of Law and Plaintiffs’ Complaint, it is critical that this application be entertained by the Court expeditiously and a takedown order, temporary restraining order and preliminary injunction be granted, if Defendant fails to appear, on an ex parte basis.

Dated: March 8, 2019
New York, New York



Daniel S. Szalkiewicz