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Instrument: COMPLAINT

Control #: 202308101753

Index #: E2023008829

Date: 08/10/2023

Time: 5:18:10 PM

Return To:
MICHAEL THAD ALLEN

Nicosia, Nicholas

McMurray, Nathan
Barnhart, Rachel

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
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JAMIE ROMEO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
MONROE COUNTY

NICHOLAS NICOSIA,

PLAINTIFF

vs.

NATHAN MCMURRAY and RACHEL
BARNHART,

DEFENDANTS.

Index No. E2023008829

DATE: August 8, 2023

COMPLAINT AND JURY DEMAND

Plaintiff, Nicholas Nicosia, brings this complaint for defamation of his person and trade defamation and tortious interference with his business, Nicosia Dental, for the hate crime hoax perpetrated against him by Nathan McMurray and Rachel Barnhart.

After a small party at his residence, Defendants, who did not even attend, started publicly exclaiming and publishing, up to the present, statements that Nicosia had held a “racist Juneteenth spoof party.” Bizarrely, the party was not even held during the month of June (it was held July 7). Nevertheless, Defendants claimed that a guest, Jerrod Jones, who happens to be Black, was openly mocked and humiliated because of his race. Barnhart, a county politician and self-proclaimed “progressive,” who is white, jumped on the bandwagon, exclaiming, “It’s really easy to cancel the Nicosias!” Barnhart also claimed that a likeness of herself had been put on “spikes” simulating “violence” and “death,” and also that she was sexualized by a stripper at the party.

Of course, nothing of the sort took place. But the hate crime hoax ginned up by Defendants proved immune to the truth. It was reported as fact in the Rochester media and has ruined Nicosia’s life. Nicosia suffered real, tangible damage. In August 2022 alone, his dental practice plummeted 36.3% and never recovered; long-trusted employees walked out after receiving death threats, and Nicosia himself was and is targeted to this day by hate mail and threats of violence instigated by Defendants.

PARTIES

1. Plaintiff Nicolas Nicosia has been a dentist for 32 years and the sole owner of a private dental practice, Nicosia Dental, in Rochester, New York. He resides in Rochester, New York..

2. Defendant Nathan McMurray is a failed politician and attorney at the firm, Advocates for Justice, which has developed a practice in bringing dubious claims of racial hatred and discrimination against municipalities. At all relevant times, he has been practicing law in the state of New York, in particular in the Rochester, New York area.

3. Defendant Rachel Barnhart is a Monroe County Legislator residing in Monroe County, New York.

JURISDICTION AND VENUE

4. This court has jurisdiction under NY CLS CPLR § 301 because Plaintiff's cause of action arises under the New York common law of defamation and tortious interference.

5. Venue is proper in the Supreme Court of Monroe County because Plaintiff resides and maintains his place of business within the jurisdiction of this Court, and all of the acts and omissions giving rise to Plaintiff's claims were expressly aimed at this forum, many of them published within the forum, and therefore come within the jurisdiction of this Court.

FACTS

A. Introduction

6. Hate crime hoaxes have been defined by the Black scholar, political scientist, and public intellectual, Professor Wilfred Reilly as a "cottage industry" in which individuals, in this case

exemplified by Nicosia, are smeared as “racists” over invented stories of extreme discrimination.¹

As described by Professor Reilly, hate crime hoaxes may not constitute real, actionable crimes, but often involve false allegations or elaborate hoaxes to make it seem as if racism or racist crimes occurred. The defining feature of a hate crime hoax is the hoax: false allegations of racism or outrageous acts of racial discrimination for the purpose of attracting media attention.

7. These hoaxes have become so distressingly common that attorneys such as Defendant McMurray or self-anointed “progressive” politicians such as Barnhardt can and do promote their careers by ginning up hate crime hoaxes, regardless of the damage done, not only, in this case, to Nicosia but to race relations in municipalities such as Rochester.

8. Basically, Defendants are the boys and girls who cry, “Wolf!”

9. To promote their hate crime hoax, Defendants spread false, malicious statements about specific facts concerning a private party at Plaintiff’s home, which they knew to be false or which they published with reckless disregard for the truth.

10. Defendants made these false statements about a private individual, specifically Nicosia, to further their own political careers and for their own financial gain.

11. Defendants’ false statements were reckless and malicious, through which Defendants created the widespread belief that Nicosia had thrown a “racist” party to mock the Juneteenth holiday.

12. June 19 is the day memorialized among freedmen and women as the final day of liberation of enslaved Blacks, when approximately 2000 Union troops arrived in Galveston Bay, Texas on June 19, 1865 at the conclusion of the Civil War. Juneteenth was recently made a national holiday. To associate the party at Nicosia’s residence with a spoof of Juneteenth was itself bizarre

¹ See e.g. Wilfred Reilly interview, Breaking Down the Illusion of Systemic Racism, NTD, October 7, 2020, avail. at https://www.ntd.com/breaking-down-the-illusion-of-systemic-racism-wilfred-reilly_515177.html; Wilfred Reilly, *Hate Crime Hoax*, (Regnery Publishing, 2019).

because the party, held on July 7, 2022, was after the July 4 holiday, with no connection to Juneteenth.

13. Defendants' false and malicious statements had the intended effect of "cancelling" Nicosia, including forcing his removal from organizations, boards, and social clubs. This severely damaged his life-long dental practice, which he took over from his father, and operated in good standing in Rochester for his entire career. Defendants' hate crime hoax caused threats of harm and violence to be directed at Nicosia, his employees, and even his children, who had nothing to do with the July 7 party.

14. Defendants' false statements were intended to harm Plaintiff and his business, as Defendant Rachel Barnhart even bragged, in a public statement on or around August 12, 2022, tweeting, "It's really easy to cancel the Nicosias!"

15. But it should not be "easy" to spread false and malicious statements or destroy any New York citizen's life and reputation. In particular, the politician Defendant Barnhart brags to this day of "canceling" her own constituents who reside in her district.

B. The July 7, 2022 Patio Party

16. On July 7, 2022, Plaintiff's wife hosted a small, private gathering.

17. Politically, Nicosia has been mostly an independent, and has voted for and supported both Democratic candidates and Republican candidates. Nicosia is now a registered Democrat. His wife, however, and her friends are politically conservative.

18. The gatherings' theme was vaguely political, both celebrating national and local conservative politicians and ridiculing local democratic politicians, including Defendant Barnhardt. There was also a "Happy Birthday" banner as part of the décor.

19. Approximately 10 guests attended the gathering.

20. One partygoer invited a friend, whom Nicosia otherwise did not know, Fire Captain Jeff Krywy. Nicosia had never met Captain Krywy before July 7, 2022.

21. Decorations for the party included American flags, red, white, and blue bunting, decorations commemorating Fourth of July, Juneteenth, cardboard snowflakes, a happy birthday banner, and cut outs of national and local politicians.

22. None of these decorations mocked Juneteenth, sexualized Barnhart, projected “violence,” signified “death,” and neither can these decorations be remotely construed as “spoofing” Juneteenth or ridiculing Black Americans. One small Juneteenth sign was approximately 9” tall and proclaimed, “Juneteenth Freedom Day.” It was placed upright in a planter of oregano. **Exhibit A.** There were also cocktail napkins promoting the Rochester candidate for the 25th Congressional District, La’ron Singletary, who is Black and Rochester’s former Police Chief. Id.

23. No reasonable person can consider these items “racist” or “spoofing Juneteenth.”

24. The party was “potluck style.” So all the guests brought food to share, including macaroni and cheese, pizza, pasta salad, fried chicken, arancini, and fruit salad. Desserts were also brought by guests and included cupcakes, pies, and cookies.

25. During the gathering, Nicosia was surprised when Captain Krywy showed up at the private gathering with his fire crew, on duty. Nicosia initially thought that the fire crew was responding to a gas leak or some other emergency. It turned out that they had come to enjoy the patio party. Among the firefighters was Jerrod Jones, who is Black.

26. Nicosia welcomed the fire crew to his home, including, of course, Jones. Nicosia offered them food and beverages.

27. The crew accepted bottled water but declined food, with the exception of fireman Jerrod Jones, who ate a cupcake.

28. The fire crew stayed at the gathering approximately 30-40 minutes.

29. During that time, a guest, not Nicosia or his wife, gave Captain Krywy a Fourth of July hat and other items in a gift bag. The contents of this gift were unknown to Nicosia or his wife. The guest selected the gift for Captain Krywy without any prior knowledge of Nicosia or his wife.

C. The Hate Crime Hoax Begins: Defendant McMurray Knowingly Spreads False Statements

30. Weeks after the patio party, Defendant McMurray on behalf of Jerrod Jones filed a complaint against Captain Krywy and the city of Rochester for the fire crews' attendance at the gathering. Nicosia does not sue based on these false statements, which are protected by Jerrod Jones' petitioning right. However, Defendant McMurray immediately embarked upon a public smear campaign of false statements far beyond his client's petition, intended to ruin Nicosia's business and reputation. '

31. Defendant Nathan McMurray held and holds himself out as Jerrod Jones' attorney.

32. Defendant McMurray is a failed, would-be "progressive" politician hoping to revive his dismal political career after repeated unsuccessful runs at political office.

33. Defendant McMurray works for an organization that holds itself out as "Advocates for Justice."

34. Defendant McMurray has developed a practice of bringing frivolous lawsuits over hate crime hoaxes on behalf of clients, in addition to other meritless lawsuits.² The claims McMurray brings are frequently dismissed when the supposed racial discrimination he alleges proves baseless.³

² See e.g. <https://www.thebatavian.com/mike-pettinella/maziarz-lawsuit-vs-wrotb-voluntarily-dismissed/612923>, reporting Attorney McMurray's involvement in voluntarily withdrawn frivolous lawsuit against Western Regional Off-Track Betting.

³ See e.g. <https://www.whec.com/top-news/irondequoit-faces-racial-discrimination-lawsuit-over-town-committee-called-icare/> (coverage of Attorney McMurray's dismissed hate crime hoax case against Town of Irondequoit); *Bellavia v. Orleans Cty.*, No. 22-CV-842 (JLS)(JJM), 2023 U.S. Dist. LEXIS 47647 (W.D.N.Y. Mar. 21, 2023) (dismissing Attorney McMurray's purported civil rights suit).

35. This time around, Defendant McMurray's brought a complaint on behalf of Fireman Jerrod Jones, alleging racial discrimination against Captain Krywy and the municipal Fire Department.

36. Yet the facts alleged by McMurray centered solely on Nicosia's home and the July 7 party and contained many false statements about Plaintiff and the July 7 party.

37. At a public press conference on August 11, 2022, Defendant McMurray characterized the July 7, 2022 patio party as a "Juneteenth spoof party." In the press conference, Defendant McMurray openly defamed Nicosia.

38. The day before, on August 10, 2022, Defendant McMurray knowingly and recklessly posted false and malicious information about Nicosia on Twitter, writing "Black Rochester Firefighter Forced to Attend Juneteenth Spoof Party While on Duty."

39. Defendant McMurray, claiming this as a fact, further falsely alleging that the party "featured shocking displays of racism and misogyny."

40. Defendant McMurray later identified Nicosia and his place of business by name and address, setting off an avalanche of hate mail and harassment of Nicosia.

41. As McMurray knew, the party had no Juneteenth theme, and it was not a "spoof" of Juneteenth. In fact, the party was held in July, weeks after the celebration of Juneteenth. As McMurray knew, the party had no displays of "misogyny."

42. Defendant McMurray made the false statement of fact that the party had large Juneteenth signs on the lawn.

43. The party did not feature large Juneteenth flags on the lawn, nor did it mock Juneteenth. The gathering at Plaintiff's home had no signs mocking Juneteenth.

44. Defendant McMurray has continued to make false and malicious statements about the July 7, 2022 gathering; and these false statements continue to the present day.

45. At the McMurray press conference (August 11, 2022), in which Defendant McMurray smeared Nicosia as a “racist,” Defendant McMurray also falsely and maliciously stated there were “signs mocking Juneteenth under which there were buckets of fried chicken” at the July 7, 2022 gathering. Apparently, it is Defendant McMurray’s belief that fried chicken is per se racist, which would make every Kentucky Fried Chicken and Popeyes in the United States “racist.”

46. Be that as it may, at the July 7 gathering, Nicosia did not have “buckets of fried chicken” displayed under signs “mocking Juneteenth”--this much was a plain statement of fact which Defendant McMurray knew was false or made with reckless disregard of the truth.

47. Although Nicosia served two buckets of Kentucky Fried Chicken, these were served along with pasta salad, pizza, macaroni and cheese, fruit salad, and assorted desserts (the latter according to McMurray are apparently not “racist”). Yet no food was served “under” a sign, let alone a sign “mocking Juneteenth.”

48. At McMurray’s August 11, 2022 staged press conference, McMurray further falsely and maliciously stated that the fireman Jerrod Jones was “taunted by the homeowner” at the July 7 party.

49. Neither Nicosia, nor his wife “taunted” Jerrod Jones. In fact, Nicosia and his wife offered Mr. Jones food and thanked him for his service to the city of Rochester along with the other four firemen. Jerrod Jones was observed at the party relaxing with his legs outstretched petting the family’s Labrador. Jerrod Jones was not singled out.

50. Defendant McMurray recklessly and maliciously made these false statements about Nicosia in order to perpetuate a hate crime hoax against the city of Rochester, its fire department, and Nicosia.

51. That same day, Defendant McMurray recklessly and maliciously made a false statement that the party had “a stripper dressed up as a locally prominent elected official,” apparently referring to the local politician Defendant Barnhart.

52. The gathering at Plaintiff’s home did not have a “stripper.”

53. Defendant McMurray recklessly and maliciously tweeted and retweeted false statements about the July 7, 2022 gathering at Plaintiff’s home in order to portray Plaintiff as racist and somehow misogynistic, at least with regard to the local politician Rachel Barnhart.

54. On August 12, 2022, Defendant McMurray tweeted that Plaintiff and his wife were “open racists [that] led state boards, sponsored pro teams, the Chamber of Commerce, hosted political galas, even ran hospitals...” These statements were also knowingly false when made.

55. In a malicious effort to destroy Nicosia’s business and career, on August 12, 2022, Defendant McMurray tweeted, “What are you doing about your relationship with Dr. Nicholas Nicosia now that he’s been exposed as a racist who hosts parties with his racist friends to mock the emancipation of enslaved Black people with extremely offensive *racist jokes and actions?*” (emphasis added). Defendant McMurray knew that Nicosia did not commit any so-called “offensive racist actions”; or Defendant McMurray made this statement with reckless disregard for the truth. Nicosia made no “racist jokes” at the party.

56. This tweet shows the ill-will of Defendant McMurray in directing all parties to cancel business and end all relationships with Nicosia.

57. Another false statement that Defendant McMurray knew to be false or made with reckless disregard for the truth was an email he sent on December 19, 2022, captioned “Regarding Scott Peters” and sent to Meghan Dorritie, a lawyer in private practice. Defendant McMurray stated, referring to Nicosia, that he had held a “racist party”:

That party featured images of Donald Trump, a burlesque dance display by a person pretending to be (mocking) Democratic County Legislator Rachel Barnhart, and the images of other Democratic leaders on stakes throughout the yard.

There were no images of Democratic leaders “on stakes” throughout the yard. There was no “burlesque dance” mocking Democratic County Legislator Rachel Barnhart. But defendant McMurray made these statements knowing they were false. He again repeated some of his other favorite false statements that “numerous decorations show[ed] racist imagery, such as buckets of fried chicken under signs for Juneteenth, which were clearly placed around the yard to denigrate the holiday.”

58. To this, Defendant McMurray added that Scott Peters “was there voluntarily and was part of the clique of organizers.”

59. Defendant McMurray made the factual statement that Scott Peters, incoming Chief of Police of the Town of Irondequoit, attended the Nicosia patio party and was “one of the party organizers.”

60. Peters was not even at the party and Nicosia does not know Peters.

61. This misrepresentation did double duty. First, Defendant McMurray, who has been associated with the “defund the police” movement and who has sued the municipality of Irondequoit over claims of “racism,”⁴ smeared Nicosia as somehow associated with “racist” police. Second, Defendant McMurray was able to smear Scott Peters with false allegations that he had organized a “racist” party, adding in his email: “Scott Peters (*also a party attendee and member of the clique of organizers*) should not contradictorily be rewarded, hired as the police chief of a large town” (emphasis added).

⁴ https://www.thedailynewsonline.com/news/local/jacobs-mcmurray-square-off-on-issues/article_b8c7c9bb-d903-5304-80f8-0b22a08227f1.html.

62. It is never enough for Defendant McMurray to call others “racists” by falsely attributing to them nonexistent actions; he invariably seeks directly to destroy their careers.

63. Scott Peters has also sued Defendant McMurray for his false representations and hate crime hoax, which is currently pending as *Scott Peters, et al. v. Nathan D McMurray*, No. E2023000441 (Supreme Court of Monroe County).

64. Defendant McMurray spread this false information intentionally, to stir up a mob to “cancel” Nicosia (and others) and then celebrated the achievement.

65. The campaign was successful. Nicosia was forcibly removed or forced to resign from charitable work and service to the community. This damage to Nicosia’s reputation occurred in addition to the destruction of his business and career.

D. Specific False Statements Knowingly Spread by Defendant Barnhart

66. Defendant Rachel Barnhart also participated in the hate crime hoax against Nicosia, recklessly and maliciously spreading false statements about Nicosia and the July 7, 2022 gathering at his home.

67. Defendant Barnhart participated in Defendant McMurray’s August 11, 2022 publicity stunt and hate crime hoax about the July 7, 2022 gathering. Defendant Barnhart smeared Nicosia by saying that the patio party “reduc[ed] me to a sexual object . . . , that was deliberate.”

68. As a local politician and self-proclaimed “progressive,” Defendant Barnhart (who did not attend the party) was mocked at the party for her political viewpoints. But she was not mocked as a “sexual object.”

69. A sign made of foam board, such as a typical campaign sign that politicians routinely place in their constituents’ front yards, was placed as a backstop to a “corn hole” game. See **Exhibit B**. As **Exhibit B** shows, Defendant Barnhart was not portrayed in a sexual manner at the party.

Defendant Barnhart's picture was taken from her own press conference in which she posed before a graffiti scrawl stating, "Fuck the Pigs," to which she pointed in full approval and endorsement.

70. Defendant Barnhart's press conference was made public over Twitter by the local journalist Gino Fanelli, yet Defendant Barnhart has never accused journalist Fanelli of "sexualizing" her or portraying her in a way that signaled "death" or "violence."

71. In fact, it is Barnhart who signals "violence" in the photo by clearly endorsing a vulgar threat to "Fuck the Pigs." Id. See https://twitter.com/GinoFanelli/status/1295743625259868162?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1295805526543085569%7Ctwgr%5Ecd0458addaf96a25953ddf7bad83796f15cab9dc%7Ctwcon%5Es3_&ref_url=https%3A%2F%2Fwww.mrctv.org%2Fblog%2Fny-lawmaker-speaksagainst-new-police-station-in-front-defaced-sign-reading-f-pigs.

72. No reasonable person can claim that this image "sexualizes" Barnhart, signifies "death," or signifies "violence" toward Barnhart.

73. But at Defendant McMurray's August 11, 2022 publicity stunt about the July 7, 2022 gathering, Defendant Barnhart recklessly and falsely stated that Nicosia's party had "put[] the faces of elected officials on spikes in the ground" as "violent imagery that signals death."

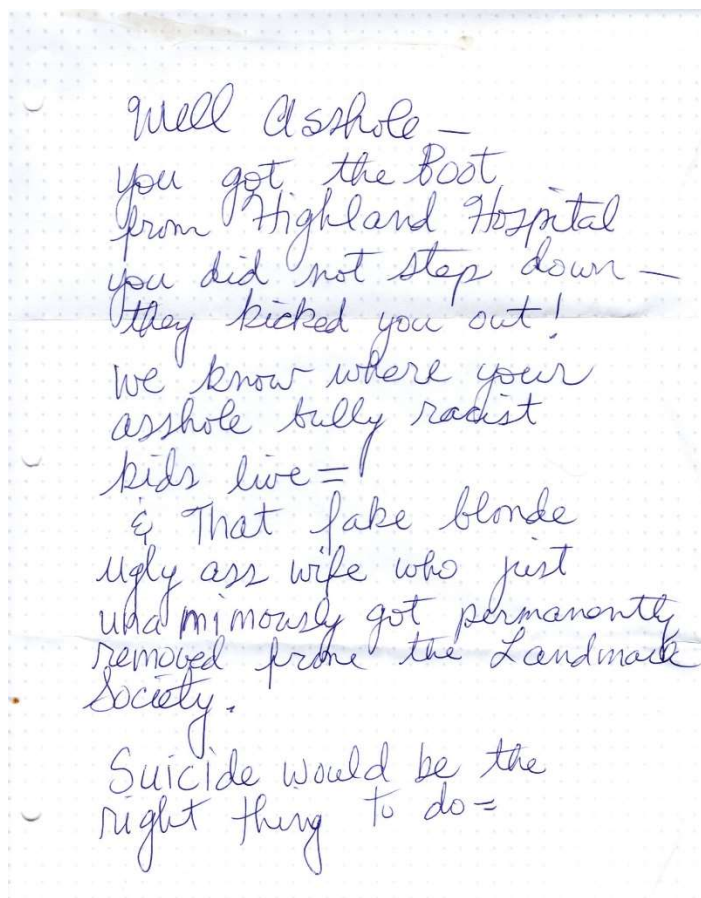
74. No reasonable person can consider the sign to be supported by "stakes" or "spikes."

75. Defendant Barnhart's made these false statements knowingly and with reckless disregard for the truth in order to harm and "cancel" Plaintiff.

76. Defendant Barnhart celebrated the hate crime hoax. On August 12, 2022, Defendant Barnhart tweeted, "it is really easy to cancel the Nicosias."

E. The Aftermath: The Destruction of Nicosia Dental; Congressman Joseph Morelle Uses the Hate Crime Hoax to Torpedo his African American Challenger for the 25th Congressional District

77. Predictably, this attack on Plaintiff's dental practice resulted in a barrage of violent and hateful messages towards Plaintiff's dental practice and his family. This led to the immediate resignation of his employees. This hate campaign continues to the present day. As an example, in the week before filing, Nicosia received the following message at his dental practice urging him to commit suicide and threatening his children:



Well asshole -
you got the boot
from Highland Hospital
you did not step down -
they kicked you out!
we know where your
asshole bully racist
kids live =
& That fake blonde
ugly ass wife who just
unanimously got permanently
removed from the Landmark
Society.
Suicide would be the
right thing to do =

78. After Defendant McMurray's first press conference, Nicosia Dental immediately lost four employees. One hygienist had worked for Dr. Nicosia for seven years, but the defamatory campaign caused her to resign.

79. Another associate dentist resigned with his assistant, giving the reason that they did not “feel safe” and feared being attacked.

80. Finally Dr. Nicosia’s office manager of over seven years gave notice because she could not cope with the avalanche of hate mail and crank calls as well as the hate-filled social media barrage directed at the business.

81. Nicosia Dental’s revenue immediately plummeted over 30% in the last three weeks of August 2022, a direct result of Defendants’ defamatory campaign. Nicosia’s business never recovered.

82. The total lost fees in 2022 was over \$190,000, and these losses have continued to the present day. The damage to Nicosia Dental constitutes a total, permanent loss and devaluation of his business totaling 5 million dollars.

83. Besides ruining the reputation of Nicosia and destroying approximately 30%-40% of the value of his business, the only other achievement of McMurray and Barnhart’s hate crime hoax has been to torpedo the political campaign of La’Ron Singletary, a Black Republican congressional candidate.

84. Ironically, La’Ron Singletary, the former Police Chief of Rochester, was at that time a Black candidate for New York’s 25th Congressional District. He campaigned as a Republican, promoting the slogan, “People over Politics.” On information and belief, Singletary is the object of Defendant Barnhart’s endorsement of statements such as, “Fuck the Pigs,” which demeans as brutish farm animals Black police officers who have served Rochester.

85. On August 12, 2022, Joseph Morelle, running as a democratic candidate for New York’s 25th Congressional District, jumped on the hate-crime-hoax bandwagon. Morelle tweeted, “Nicholas Nicosia . . . host[] of the racist party mocking Juneteenth, w[as] among the earliest financial supporters of La’Ron Singletary and . . . contributed donations totaling over \$1000.”

86. Apparently, to Defendants and Morelle, supporting a Black candidate for political office against a 66-year-old, white, Democratic male candidate was another sign of “racism.” Thus, Rochester was treated to the spectacle of white politicians such as Morelle and Barnhart and the failed white politician McMurray talking down to a Black man and distinguished police officer for associating with the wrong sort of people.

87. The party at Plaintiff’s home did not mock Juneteenth. But La’Ron Singletary lost the election in November.

88. Because of Defendants’ actions and interference with his business, Plaintiff suffered emotional harm, direct damages in the immediate decline of revenue to his business, and indirect damages in an amount to be determined at trial.

COUNTS

COUNT 1: DEFAMATION

89. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

90. Defendants made the following false statements, without limitation, with the intent to expose Nicosia to public contempt, hatred, ridicule, aversion, and disgrace:

91. Statements, without limitation, by Defendant Nathan McMurray:

- The July 7, 2022 party was a “Juneteenth spoof party.”
- Nicosia forced Jerrod Jones to attend.
- Nicosia displayed large Juneteenth signs on the lawn mocking Juneteenth.
- Nicosia served buckets of fried chicken underneath signs mocking Juneteenth.
- Nicosia taunted Jerrod Jones.

- Nicosia had a stripper at the July 7 patio party dressed up as a locally prominent elected official (apparently Barnhart).
- Democratic politicians were put on “stakes.”
- The party featured a “stripper” who allegedly mocked Rachel Barnhart in a “a burlesque dance display.”
- The party was attended by incoming Irondoquoit Police Chief Scott Peters.
- The party was co-organized by incoming Irondoquoit Police Chief Scott Peters.

92. Statements, without limitation, made by Defendant Rachel Barnhart:

- Signs had sexual content, reducing her to a “sexual object.”
- Barnhart’s head was placed on “spikes.”
- Barnhart was portrayed in a “sexual manner” at the party.
- Barnhart’s picture portrayed “violent imagery that signals death.”

93. All of these statements were published by Defendants without privilege or authorization to the public.

94. Defendants published all of the statements knowing they were false or with reckless disregard for the truth.

95. Defendants made their defamatory statements with spite and ill will.

96. Nicosia suffered immediate harm as a result of Defendants’ smear campaign and defamation in the form of lost revenue to his business, which declined 30%-40%, in the form of emotional harm, and other direct and indirect damages to be proven at trial.

COUNT 2: Defamation of Business

97. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

98. Defendants made their defamatory statements as alleged in Count 1 with the intent to cause damage to Nicosia's business, Nicosia Dental. Defendant Barnhart specifically stated, "It's really easy to cancel the Nicosias!"

99. Defendants made their defamatory statements knowing that they were false or with reckless disregard of the truth.

100. Defendants made their defamatory statements with spite and ill will.

101. Nicosia, was the sole owner of Nicosia Dental, suffered immediate harm as a result of Defendants' smear campaign and defamation in the form of lost revenue to his business, which declined 30%-40%.

COUNT 3: Tortious Interference with Contractual Relations

102. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

103. Nicosia, through his business Nicosia Dental, had valid contracts between, without limitation, himself and his third-party patients, clients, and customers.

104. Nicosia, through his business Nicosia Dental, had valid contractual relationships with additional third parties, including his employees, including assistants, office managers, associate dentists, among others.

105. Defendants knew of the existence of Nicosia Dental, whose address they published in their defamatory statements, and Defendants knew of the contractual relationships maintained by Nicosia through his business, Nicosia Dental.

106. Defendants malicious, false statements and smear campaign against Nicosia interfered with these contractual negotiations without justification and procured the breach and cancellation of contracts and business relationships by employees and patients, clients, and customers with Nicosia Dental. Approximately 30%-40% of Nicosia's patient base exit from the business. Four employees quit.

107. Nicosia has suffered damage in the form of the permanent deterioration of the value of Nicosia Dental of approximately \$5 million, the loss of patient fees, diminished revenue and profits, among other direct and indirect damages.

108. Defendants are liable to Nicosia for the full pecuniary loss of the benefits of his contractual relationships with which Defendants interfered, in an amount to be proven at trial.

COUNT 4: Tortious Interference with Prospective Business Relations

109. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

110. Nicosia, through his business Nicosia Dental, had valid business relationships between, without limitation, himself and his third-party patients, clients, and customers.

111. Nicosia, through his business Nicosia Dental, had valid business relationships with additional third parties, including his employees, including assistants, office managers, associate dentists, among others.

112. Defendants knew of the existence of Nicosia Dental, whose address they published in their defamatory statements, and Defendants knew of the business relationships maintained by Nicosia through his business, Nicosia Dental.

113. Defendants interfered with Plaintiff's business relationships by, without limitation, making malicious, false statements and embarking on a smear campaign against Nicosia and Nicosia Dental.

114. The sole purpose of Defendant’s smear campaign and hate crime hoax was to interfere with Nicosia’s business relationships, without justification, and Defendants used wrongful means.

115. Nicosia Dental and Nicosia’s business relationships were injured, causing a devaluation of the business of \$5 million. Approximately 30%-40% of Nicosia’s patient base exit from the business. Four employees quit.

116. Nicosia has suffered damage in the form of the permanent deterioration of the value of Nicosia Dental of approximately \$5 million, the loss of patient fees, diminished revenue and profits, among other direct and indirect damages.

117. Defendants are liable to Nicosia for the full pecuniary loss of the benefits of his contractual relationships with which Defendants interfered, in an amount to be proven at trial.

REQUEST FOR RELIEF

WHEREFORE, the Plaintiff Nicolas Nicosia, prays this Honorable Court for the following relief on all counts:

- i. Declare Defendants liable for defaming Nicholas Nicosia and his business, Nicosia Dental;
- ii. Declare Defendant’s liable for tortious interference with contractual relations and prospective business relations;
- iii. Order Defendants to pay Nicosia all direct and indirect damages in an amount to be determined at trial, in particular but not limited to the destruction of Nicosia Dental;
- iv. Order Defendants to pay Nicosia punitive damages;
- v. Order such other legal and injunctive relief as the Court finds just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE

Respectfully Submitted,



DATE: August 8, 2023

Michael Thad Allen, Esq. (Reg. No. 5358726)

ALLEN HARRIS PLLC

PO Box 404

Quaker Hill, CT 06375

Tel: (860) 772-4738

m.allen@allen-lawfirm.com

For PLAINTIFF/PETITIONER

SUPREME COURT OF THE STATE OF NEW YORK
MONROE COUNTY

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
MONROE COUNTY

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
MONROE COUNTY

EXHIBIT A





SUPREME COURT OF THE STATE OF NEW YORK
MONROE COUNTY

EXHIBIT B

Rachel Barnhart picture taken from her own press conference in front of sign “Fuck the Pigs” from Twitter feed of Gino Fanelli, WXXI News

See

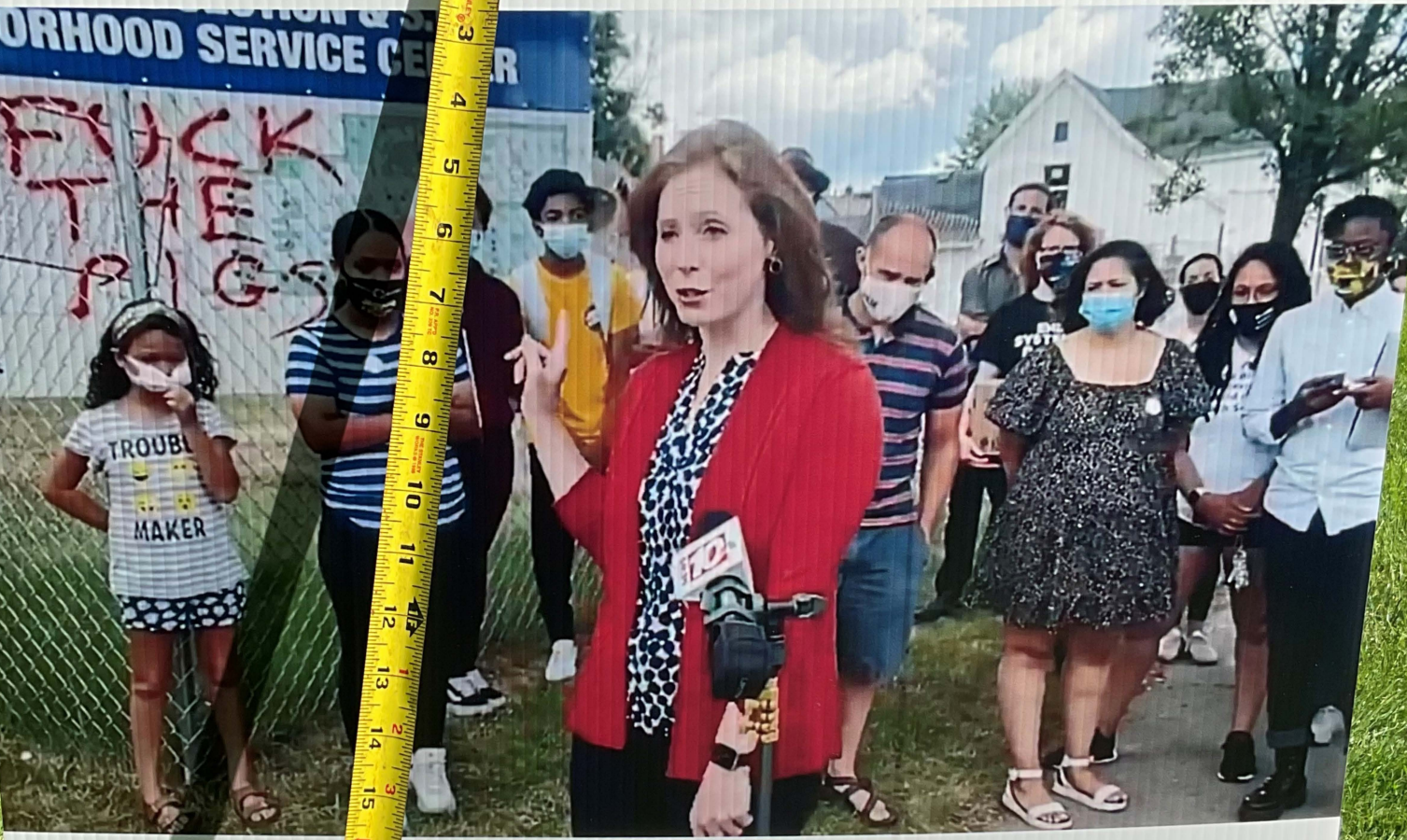
[https://twitter.com/GinoFanelli/status/1295743625259868162?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1295805526543085569%7Ctwgr%5Ecd0458addaf96a25953ddf7bad83796f15cab9dc%7Ctwcon%5Es3 &ref_url=https%3A%2F%2Fwww.mrctv.org%2Fblog%2Fny-lawmaker-speaks-against-new-police-station-in-front-defaced-sign-reading-f-pigs](https://twitter.com/GinoFanelli/status/1295743625259868162?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1295805526543085569%7Ctwgr%5Ecd0458addaf96a25953ddf7bad83796f15cab9dc%7Ctwcon%5Es3&ref_url=https%3A%2F%2Fwww.mrctv.org%2Fblog%2Fny-lawmaker-speaks-against-new-police-station-in-front-defaced-sign-reading-f-pigs).

NEIGHBORHOOD SERVICE CENTER

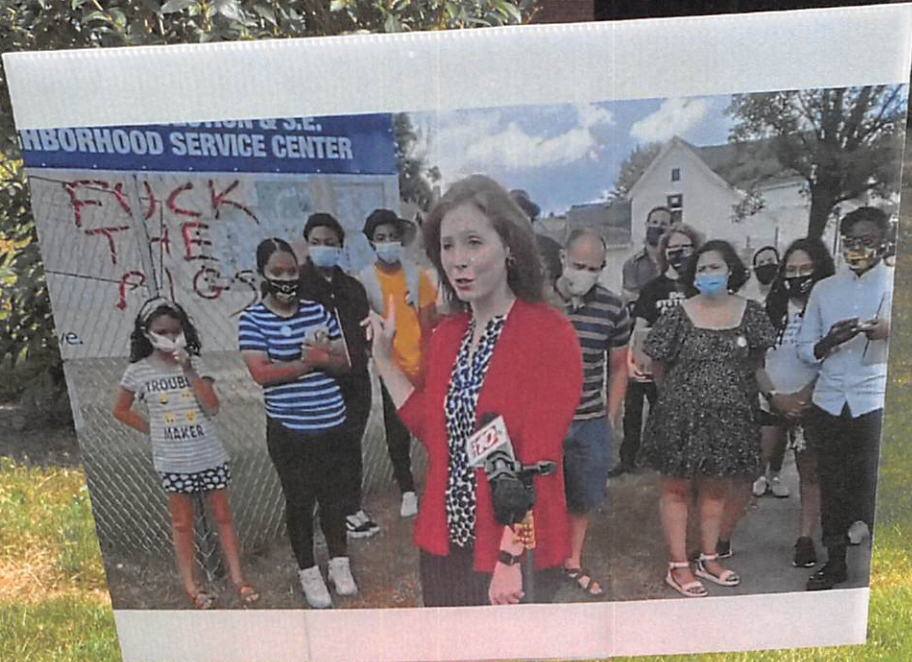
FUCK
THE
POLICE

TROUBLE
MAKER

12



Placement of picture of Rachel Barnhart at the corn hole game



Placement of picture of Rachel Barnhart in the yard



Second poster of Rachel Barnhart



TEXAS



All three posters placed in the
Nicosia yard

