

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

2009 JUN -1 PM 4:31
WAKE COUNTY, C.S.C.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
09 CVS _____

THOMAS H. FETZER,

BY _____)

Plaintiff,)

v.)

CURTIS WRIGHT, and
SEA-COMM, INC.,

Defendants.)

VERIFIED COMPLAINT

Thomas H. Fetzer complaining of defendants Curtis Wright and Sea-Comm, Inc., alleges and says:

1. Thomas H. Fetzer is a citizen and resident of Wake County, North Carolina.
2. Upon information and belief, Defendant Curtis Wright is a citizen and resident of New Hanover County, North Carolina.
3. Upon information and belief, Mr. Wright is an employee or agent of Defendant Sea-Comm, Inc.
4. Upon information and belief, Defendant Sea-Comm, Inc. ("Sea-Comm") is a corporation organized and existing under the laws of North Carolina with its principal office in Greenwich, Connecticut.
5. Mr. Fetzer is currently and has since early March 2009 been a candidate for the North Carolina Republican Party Chairman ("the Chairmanship").
6. Mr. Wright is the host of a radio program entitled "The Morning Beat with Curtis Wright" on two radio stations in New Hanover County, North Carolina, 93.7 FM and 106.3 FM,

collectively known as “The Big Talker FM.” These radio stations (collectively “The Big Talker FM”) are owned and operated by Sea-Comm.

7. The theme of Mr. Wright’s radio program includes news and political commentary by Mr. Wright.

8. Mr. Wright openly and assertively supports one of Mr. Fetzer’s opponents for the Chairmanship, Mr. Marcus Kindley.

9. At some time prior to May 19, 2009, the Big Talker FM website posted a written endorsement of Mr. Kindley entitled “NCGOP Chair: A Time For Proven Leadership.” Upon information and belief, Mr. Wright authored this endorsement.

10. At some time on or before May 18, 2009, an unknown person authored an anonymous letter that contained assertions about Mr. Fetzer (the “Anonymous Letter”). The Anonymous Letter was “post-dated”, bearing a date of May 25, 2009, even though it was mailed on May 18, 2009.

11. The allegations about Mr. Fetzer in the Anonymous Letter are entirely false.

12. The Anonymous Letter was written in an inflammatory and provocative style, with no attribution or identification of the author. This letter also contained alleged “facts” that on their face called into question the truth of the Anonymous Letter.

13. The Anonymous Letter also makes a threat against Mr. Fetzer’s Chairmanship campaign, which appears to be a blackmail attempt to force Mr. Fetzer to withdraw his candidacy for the Chairmanship.

14. The Anonymous Letter is an obvious attempt to discredit Mr. Fetzer with salacious and untrue allegations and to cause Mr. Fetzer with withdraw his candidacy for the Chairmanship.

15. The letter contains a list of “CC” recipients, one of which includes Mr. Kindley. However, the list of “CC” recipients does not include Mr. Wright.

16. The postmark of the letter shows that it was mailed on May 18, 2009 from the Research Triangle Region of North Carolina.

17. Mr. Fetzer received his copy of the Anonymous Letter via U.S. Mail at his home in Raleigh on May 19, 2009.

18. Even though Mr. Wright was not listed as a “CC” recipient of the Anonymous Letter and even though the letter was mailed on May 18, 2009, Mr. Wright obtained possession of the Anonymous Letter by May 19, 2009 and emailed a copy the letter to others at 11:08 p.m. on May 19, 2009.

19. Mr. Wright sent this email to 93 email recipients, most of which were the County Chairs of the North Carolina Republican Party (“NC GOP”).

20. The County Chairs are instrumental in garnering votes for the Chairmanship.

21. Mr. Wright’s email was signed: “Curtis Wright, The Morning Beat, THE BIG TALKER FM.”

22. Upon information and belief, in sending the stated e-mail, and at all times relevant to the allegations herein, Mr. Wright was acting within the scope of his employment and agency as an employee of Sea-Comm.

23. Prior to republishing the Anonymous Letter, Mr. Wright did not contact or seek any comment from Mr. Fetzer or his staff on the contents of the Anonymous Letter. Upon information and belief, Mr. Wright undertook no investigation whatsoever of the source or truth of the statements made in the Anonymous Letter prior to republishing the Anonymous Letter.

24. A recipient of the Anonymous Letter, having received it under the circumstances in which it was sent, would have serious doubts about the truthfulness of the allegations contained in the letter. Upon information and belief, Mr. Wright indeed knew the allegations were false or had serious doubts about the truthfulness of the Anonymous Letter.

25. Mr. Wright also attached to his email a letter from another candidate for the Chairmanship, Mr. Chad Adams. This letter, authored by Mr. Adams himself, contained truthful statements—indeed, admissions—by Mr. Adams about his personal life, specifically about an incident of marital infidelity.

26. In the text of Mr. Wright's email, and in reference to the Anonymous Letter and to Mr. Adams' letter, Mr. Wright stated "This is an embarrassment....how can the NCGOP move on with this mess at hand? If 'we' have copies of these, so does the 'enemy'."

27. By sending the Anonymous Letter along with Mr. Adams' truthful letter, and by commenting equally on both letters in the text of his email, Mr. Wright equated Mr. Adams' truthful statements about himself with the false statements about Mr. Fetzer, implying that both letters were truthful.

28. Upon information and belief, Mr. Wright intended the recipients of his email to take as true the statements about Mr. Fetzer in the Anonymous Letter.

29. Mr. Wright, referring to the Anonymous Letter and Mr. Adams' letter, also stated "So, do County Chairs withhold these from the delegates and the membership? If so, when the Dems bring such out, what will be the retort?" In doing so, Mr. Wright encouraged the County Chairs to republish the Anonymous Letter to all North Carolina GOP members.

30. Upon information and belief, Mr. Wright intended the County Chairs to republish the Anonymous Letter to all North Carolina GOP members.

31. Mr. Wright's email also stated, in reference to Mr. Adams' and Mr. Fetzer's candidacies for the Chairmanship, that "We have better choices!" Upon information and belief, Mr. Wright sent this email in an effort to discredit two candidates for the Chairmanship, and thereby support the candidacy of Mr. Kindley, whom Mr. Wright has endorsed for the Chairmanship. However, Mr. Wright did so by republishing false statements about Mr. Fetzer and with a complete disregard for the lack of truthfulness of these false statements.

32. Upon information and belief, Mr. Kindley is a regularly-scheduled guest on Mr. Wright's radio show, appearing each Wednesday morning. Mr. Wright sent his email just a few hours before Mr. Kindley was scheduled to appear on his show on May 20, 2009.

33. The false and defamatory statements made in the Anonymous Letter and republished by Mr. Wright were made with actual malice, that is, with the knowledge that the statements were false or with a reckless disregard of the falsity of those statements, and with a wrongful, willful, and wanton intent to injure Mr. Fetzer, including but not limited to harming Mr. Fetzer's bid for the Chairmanship.

34. Mr. Wright intended to defame, injure, belittle, and disparage Mr. Fetzer by depriving him of the respect, confidence, and esteem essential to Mr. Fetzer's status in the community and in commerce.

35. Mr. Wright's actions were undertaken out of spite, personal ill will, and personal, actual malice toward Mr. Fetzer with the intention of damaging his professional, business, and personal reputation.

36. Mr. Wright intended to deprive Mr. Fetzer of his good name, reputation and esteem of his clients, professional associates, friends and acquaintances, and to hold Mr. Fetzer up to public scorn, contempt, ridicule and disgrace.

FIRST CLAIM FOR RELIEF
(Libel Per Se)

37. Plaintiff incorporates by reference the allegations in Paragraphs 1 through 36 as though fully set forth herein.

38. The false and defamatory statements made in the Anonymous Letter were republished or caused to be made by the Defendants.

39. These statements were published to the Recipients and were understood by the recipients of the Email to refer to Mr. Fetzer.

40. These statements, when considered alone and without innuendo, tend to charge Mr. Fetzer with a crime or offense involving moral turpitude, to charge Mr. Fetzer with dishonesty as a “hypocrite”, to disgrace and degrade Mr. Fetzer, to hold Mr. Fetzer up to public ridicule and contempt, and to cause Mr. Fetzer to be avoided and shunned.

41. As a direct and proximate result of Mr. Wright’s and Sea-Comm’s knowing publication of the false statements and/or their publication of false statements with reckless disregard to their truth or falsity, Mr. Fetzer has suffered substantial harm to his good name and reputation.

42. This harm is continuing.

43. Mr. Fetzer is entitled to an award of compensatory damages against Defendants in an amount to be determined at trial, for the injury to Mr. Fetzer’s good name and reputation.

44. Defendants acted with willful and wanton disregard of Mr. Fetzer’s rights, entitling Mr. Fetzer to an award of punitive damages against Defendants.

SECOND CLAIM FOR RELIEF

(As an Alternative Claim to the First Claim for Relief, Libel Per Quod)

45. Plaintiff incorporates by reference the allegations in Paragraphs 1 through 44 as though fully set forth herein.

46. In the alternative, these statements, when considered in the context of Mr. Fetzer's bid for the Chairmanship, and the entirety of the Anonymous Letter and Mr. Wright's email and the manner in which they were distributed, tend to charge Mr. Fetzer with a crime or offense involving moral turpitude, to charge Mr. Fetzer with dishonesty, to disgrace and degrade Mr. Fetzer, to hold Mr. Fetzer up to public ridicule and contempt, and to cause Mr. Fetzer to be avoided and shunned.

47. Mr. Fetzer has invested substantially in his public reputation since his first campaign for elected office, over 20 years ago. His personal investment in this reputation has been substantially diminished by Mr. Wright's republication of the false statements about Mr. Fetzer.

48. Mr. Fetzer is entitled to an award of compensatory damages against Defendants in an amount to be determined at trial, for the injury to Mr. Fetzer's good name and reputation.

49. Defendants acted with willful and wanton disregard of Mr. Fetzer's rights, entitling Mr. Fetzer to an award of punitive damages against Defendants.

THIRD CAUSE OF ACTION
(Unfair and Deceptive Trade Practices)

50. Plaintiff incorporates by reference the allegations in Paragraphs 1 through 49 as though fully set forth herein.

51. At all relevant times, Mr. Wright was engaged in commerce as applied by Chapter 75 of the North Carolina General Statutes.

52. Mr. Wright's conduct, as specifically set forth in this Complaint, constitutes an unfair or deceptive act or practice, which has injured and will continue to injure Mr. Fetzer in his business. Mr. Wright's conduct has resulted and will continue to result in damage to Mr. Fetzer.

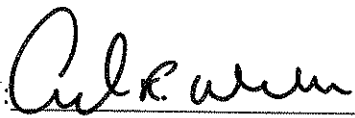
53. As a direct and proximate result of Mr. Wright's unfair and deceptive conduct, Mr. Fetzer has been damaged and is entitled to a judgment against Defendants for money damages, trebled, plus pre- and post-judgment interest and costs.


WHEREFORE, Plaintiff Thomas H. Fetzer prays that the Court:

1. Award damages against the Defendants, jointly and severally, in an amount in excess of \$10,000, to be specifically determined at trial;
2. Treble Mr. Fetzer's actual damages;
3. Award punitive damages in an amount to be specifically determined at trial;
4. A jury trial on all issues;
5. The costs of this action to be taxed against the Defendants, including an award of reasonable attorney fees.
6. Award such other relief as the Court may deem just and proper.

This, the 1st day of June, 2009.

WILLIAMS MULLEN

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

VERIFICATION

COMES NOW, Thomas H. Fetzer, being first duly sworn, and deposes and says:

That he has read the foregoing Verified Complaint and knows the contents thereof; that the same are true of his own knowledge, except as to those matters and things therein alleged on information and belief, and as to those matters and things, if any, he believes them to be true.

This, the 1 day of ~~May~~, 2009.

Handwritten scribbles and initials

Thomas H. Fetzer
Thomas H. Fetzer

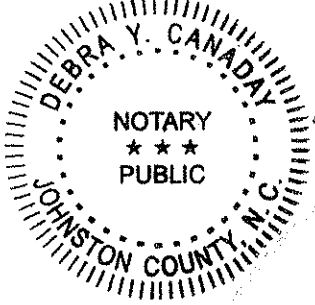
Sworn to and subscribed before me this, the 1 day of ~~May~~, 2009.

Debra Y. Canaday
Notary Public

My Commission expires:

11-13-2013

(Notarial stamp or seal)



Handwritten notes and scribbles, including "5:30" and "Debra Y. Canaday"