

STATE OF NORTH CAROLINA

File No.

WAKE County

FILED

2008 OCT 30 PM 4: 15

In The General Court of Justice
District Superior Court Division

Name Of Plaintiff
KAY R. HAGAN

WAKE COUNTY, C.S.C.

APPLICATION AND ORDER

VERSUS

EXTENDING TIME TO

Name Of Defendants
ELIZABETH H. DOLE and THE ELIZABETH DOLE
COMMITTEE INC.

FILE COMPLAINT

G.S. 1A-1, Rule 3

APPLICATION

The undersigned requests permission to file a complaint in this action within twenty (20) days of any order granting this Application, as provided in Rule 3 of the Rules of Civil Procedure. The nature and purpose of the action are:

Name And Purpose Of The Action

To recover judgment for compensatory (trebled), punitive damages and attorney's fees resulting from Defendants': (a) conspiracy to produce and broadcast; and (b) their actual publication of an intentionally defamatory advertisement that injured Plaintiff's good name and reputation in the community. The broadcast of the advertisement by the Defendants constitutes defamation and libel under North Carolina law. Additional information on the nature of this action is attached to this application as Exhibit A.

Date: October 30, 2008

Signature

[Handwritten Signature]

Applicant
Attorney For Applicant

ORDER

The Court states that the nature and purpose of this action are as set forth above.

Therefore, it is ORDERED that permission is granted to the applicant to file a complaint in this action up to and including the date shown below.

File Complaint On Or Before
11-19-08

Date Of Order
10-30-08

(Date must be within 20 days of date of Order.)

Signature

[Handwritten Signature]

Assistant Clerk of Superior Court Clerk Of Superior Court

NOTE: Under Rule 3 of the Rules of Civil Procedure, upon entry of this Order, a summons shall be issued and the summons and a copy of this Order must be served in accordance with the provisions of Rule 4. A complaint must be filed in this action within the period provided above and that complaint must be served in accordance with the provisions of Rule 4 or by registered mail if the plaintiff so elects. If a complaint is not filed within the above period, the action shall abate.

EXHIBIT A

NATURE OF THE ACTION

1. Defendants produced, approved, paid for and caused to be disseminated the broadcast of a television advertisement that maligns Plaintiff's character and reputation using information Defendants know to be false.
2. The advertisement purposely misstates several fundamental facts about the Plaintiff. The broadcast of this advertisement throughout the State of North Carolina falsely implies that Plaintiff shares the views of an entity that calls itself the Godless Americans PAC.
3. The advertisement is defamatory because Defendants know, and knew prior to the production, approval and publication of the advertisement, that it contains both false statements and false implications about Plaintiff.
4. The false statements in the advertisement, when viewed through the eyes of an average person and in the context of the advertisement as a whole, are defamatory. These statements directly malign Plaintiff in her personal life and subject her to contempt.
5. Defendants intended for these statements to be defamatory and for the average person to interpret the advertisement in a derogatory fashion.
6. One egregious portion of the advertisement is the photograph of Plaintiff along with the voiceover that implies it is Plaintiff's voice and her statement. The voiceover, clearly presented to appear to be Plaintiff's, was an intentional attempt by Defendants to deceive the citizens of North Carolina and malign the Plaintiff and subject her to contempt. Plaintiff has never made such a statement. Despite knowing this, Defendants purposely made it appear that she did.
7. The truth, of which Defendants were well aware and reminded of again in a Cease and Desist Letter dated October 29, 2008, is that on September 15, 2008, Plaintiff attended a fundraiser in Boston at the home of Wendy Kaminer and Woody Kaplan. The event was hosted by Senator John Kerry and the Secure Our Senate Majority Host Committee, which included nine chairs and 25 other hosts.
8. Despite the Defendants' assertions in the advertisement, Plaintiff has never taken any contributions from the Godless Americans PAC. A simple review of Plaintiff's Federal Election Commission report reveals her campaign has never taken money from the Godless Americans PAC. Despite knowledge of these facts, Defendants broadcast the advertisement and have refused to cease broadcasting it.
9. The advertisement features two members of the Godless Americans PAC: Ellen Johnson and David Silverman. However, Plaintiff has not received any campaign contributions from these individuals. By using them in the footage as they did in the advertisement, Defendants falsely implied that Plaintiff has a relationship with them, shares their views and has accepted their donations. Defendants stated all of this knowing that such statements and implications were and continue to be false.

10. Speaking on CNN's "Situation Room" on October 29, 2008, Republican political consultant Alex Castellanos (the creator of the famous Jesse Helms "white hands" ad), stated that the Defendants' advertisement "seems to cross the line" and that "when you are making ads that say there is no God it usually means your campaign does not have a prayer."
[http://projects.newsobserver.com/under the dome/castellanos godless ad over the line](http://projects.newsobserver.com/under_the_dome/castellanos_godless_ad_over_the_line)
11. With each broadcast of this defamatory advertisement, Defendants continue their conspiracy to publish, and actual publication of, false information regarding Plaintiff's character.
12. Each airing of the advertisement further injures Plaintiff's good name and reputation in the community.
13. Through this action, Plaintiff seeks the restoration of her good name and reputation in addition to compensatory and punitive damages for Defendants intentional use of the defamatory advertisement.