



M^oCRANEY | MONTAGNET | QUIN | NOBLE
ATTORNEYS AT LAW | PLLC

July 24, 2023

VIA EMAIL TO: info@mississippitoday.org &
VIA UNITED STATES CERTIFIED MAIL & HAND DELIVERY TO:

Deep South Today d/b/a Mississippi Today
Attn: Mary Margaret White
750 Woodlands Parkway, Suite 100
Ridgeland, Mississippi 39157

Re: Notice of Suit pursuant to Miss. Code Ann. § 95-1-5

Dear Ms. White:

I am sending this correspondence to you as the agent for service of process and chief executive officer of Deep South Today d/b/a Mississippi Today.¹ This correspondence is former-Governor Phil Bryant's statutory notice that Mississippi Today defamed him in publications made on August 11, 2022, and May 8, 2023. Bryant demands that Mississippi Today publicly apologize for making the false and libelous accusations, that Mississippi Today publicly retract the false and libelous accusations, and that Mississippi Today publish full-and-fair corrections of the false and libelous accusations. The apology, retractions, and corrections must be made within ten (10) days of the service of this correspondence to comply with Miss. Code Ann. § 95-1-5.

Bryant is a public figure. The elements of a defamation claim brought by a public figure are:

1. a false and defamatory statement concerning the plaintiff;
2. an unprivileged publication to a third party;
3. fault amounting to actual malice on the part of the publisher; and
4. either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.

Weems & Weems, *Miss. Law of Torts*, §§ 11-1, 11-9 (2nd ed., Dec. 2022 update). The accusations at issue satisfy these elements.

¹ Deep South Today is referred to herein as Mississippi Today. All references to Mississippi Today should be considered references to Deep South Today.

EXHIBIT

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1. The false and libelous accusations

a. August 11, 2022

On August 11, 2022, you authored an article titled “Reporting with impact: 2022 mid-year report.” The article contained a link to Mississippi Today’s 2022 Impact Report. Your article directed readers to the report.

The first section of the report is titled “Important Stories.” The first series of stories addressed within that section is “The Backchannel.” The report states as follows regarding “The Backchannel” series:

Anna Wolfe, our poverty and investigative reporter, began publishing her investigative series “The Backchannel”, which revealed former Gov. Phil Bryant’s role in a sprawling welfare scandal. Each part of the series delved further into *Bryant’s misuse and squandering of at least \$77 million in federal funds* meant to assist nearly 588,000 of the state’s poorest residents.

Bryant did not misuse and squander at least \$77 million in federal funds, and Wolfe’s investigative series did not reveal that he did. Mississippi Today’s accusation that Bryant misused and squandered at least \$77 million of federal funds injures Bryant’s reputation; it exposes him to “public hatred, contempt or ridicule;” it “degrade[s] him in society;” and it “lessen[s] him in public esteem or lower[s] him in the confidence of the community.” *Id.* at § 11:3 (quoting *Franklin v. Thompson*, 722 So. 2d 688 (Miss. 1998), which cited *Fulton v. Mississippi Publishers Corp.*, 498 So. 2d 1215, 1217 (Miss. 1986), and quoted *Ferguson v. Watkins*, 448 So. 2d 271, 275 (Miss. 1984)). The accusation is false and libelous.

b. May 8, 2023

On May 8, 2023, Mississippi Today authored and published an article titled “Anna Wolfe and Mississippi Today win Pulitzer Prize for ‘The Backchannel’ investigation.” The following language is contained within that article:

The investigation, published in a multi-part series in 2022, revealed for the first time *how former Gov. Phil Bryant used his office to steer the spending of millions of federal welfare dollars* — money intended to help the state’s poorest residents — *to benefit his family and friends, including NFL Hall of Fame quarterback Brett Favre.*

Bryant did not use his office to steer the spending of millions of federal welfare dollars to benefit his family and friends, and Wolfe’s investigative series did not reveal that he did. Mississippi Today’s accusation that Bryant steered the spending of millions of federal welfare dollars to benefit his family and friends injures Bryant’s reputation; it exposes him to public hatred, contempt, and ridicule; it degrades him in society; and it lessens him in public esteem and lowers him in the confidence of the community. The accusation is false and libelous.

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2. Publication

“Publication requires a communication of the statement to another person or persons.” *Id.* at § 11-5. Mississippi Today published the libelous statements on its website. The above-referenced publications are found at the following links:

1. <https://mississippitoday.org/2022/08/11/reporting-with-impact-2022-mid-year-report/>
2. <https://mississippitoday.org/2022-impact-report/>
3. <https://mississippitoday.org/2023/05/08/anna-wolfe-mississippi-today-pulitzer/>

“The author of defamation is liable for any secondary publication which is the natural consequence of his act; this rule applies both to libel and slander.” *Id.* The republication of your libelous claims by traditional and social media outlets is a natural consequence of your actions. Accordingly, you are liable for the reputational and other damage caused by these republications.

3. Actual Malice.

The Mississippi Law of Torts explains the actual malice requirement as follows:

In order to recover for defamation, public officials and public figures must prove by clear and convincing evidence that the defendant acted with “actual malice.” “Actual malice,” sometimes also referred to as “*Times* malice,” is a term of art with a very precise meaning. A person’s ill will or personal spite does not constitute actual malice. Actual malice is present when a statement is made “with knowledge that it was false or with reckless disregard of whether it was false or not.” “Knowledge of falsity” needs no elaborate definition. “Reckless disregard” means that the defendant made the false publication with a high degree of awareness of probable falsity, or that he “entertained serious doubts as to the truth of his publication.” Negligence, either with regard to knowledge of the falsity or reckless disregard, is not sufficient to establish actual malice.

Id. at § 11-9 (footnoted citations omitted). Mississippi Today knew the accusations were false when it made them or acted with reckless disregard for whether the accusations were false. Accordingly, the actual malice element of defamation is satisfied.

4. Libel Per Se

“Under Mississippi law, all libel is actionable per se, meaning the plaintiff need not prove special harm.” *In re Murray*, No. 20-01587-KMS, 2023 WL 310344, *5 (S.D. Miss. Jan. 18, 2023) (quoting *Brewer v. Memphis Publ’g Co.*, 626 F.2d 1238, 1245-46 (5th Cir. 1980)). “The Mississippi Supreme Court has held that, where a defamatory statement is actionable per se, damages need not be pled or proved, but are presumed to have resulted from the defamatory statement.” *Miss. Law of Torts* at § 11:16 (citing *Henry v. Collins*, 253 Miss. 34, 158 So. 2d 28, 32 (1963), judgment

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rev'd on other grounds, 380 U.S. 356, 85 S. Ct. 992, 13 L. Ed. 2d 892 (1965); *Travis v. Hunt*, 224 Miss. 193, 79 So. 2d 734, 735 (1955)).

Under Mississippi law, Mississippi Today's written accusations are actionable per se. Accordingly, Bryant does not need to plead or prove damages to sustain his libel claim.

5. Punitive Damages, Attorneys' Fees, and Costs

"The Supreme Court has stated that '[i]t is rarely the case that the compensatory damages to which the plaintiff is entitled . . . can be adequately measured by the extent of his pecuniary loss and, when malice is shown . . . exemplary damages may be awarded.'" *Miss. Law of Torts* at § 11-18 (quoting *Henry v. Pearson*, 253 Miss. 62, 158 So. 2d 695, 703 (Miss. 1963), judgment rev'd on other grounds, 380 U.S. 356, 85 S. Ct. 992, 13 L. Ed. 2d 892 (1965)).

"The Mississippi Supreme Court has, in at least one decision, endorsed the awarding of punitive damages for defamation even in the absence of an award of actual damages." *Id.* The Court explained:

Where the defamation complained of is actionable per se, it is generally held that punitive damages may be awarded even though the amount of actual damages is neither found nor shown, for in such a case the requirement of showing actual damages as the basis of an award of exemplary damages is satisfied by the presumption of injury which arises from a showing of libel or slander that is actionable per se.

Id. (quoting *Newson v. Henry*, 443 So. 2d 817, 824 (Miss. 1983), which quoted 50 Am. Jur. 2d, *Libel and Slander* § 352 (1970)). Considering the malicious nature of the publications and that they are but two instances in a barrage of defamatory accusations, Bryant would likely recover punitive damages in a libel action against Mississippi Today.

Bryant would also likely recover attorneys' fees and costs in a libel action against Mississippi Today. *Cronier v. ALR Partners, L.P.*, 309 So. 3d 556, 559 (Miss. Ct. App. 2020). As the Mississippi Court of Appeals observed, "an actual award of punitive damages is not a prerequisite for an award of attorney's fees; rather, attorney's fees are warranted where 'the awarding of punitive damages would have been justified,' even if punitive damages are not awarded." *Id.* (quoting *Tunica County v. Town of Tunica*, 227 So. 3d 1007, 1029 (Miss. 2017)).

CONCLUSION

The Mississippi Supreme Court has explained that "[w]hile a newspaper publishing company is granted some leeway in its reporting, they may not misstate the facts or otherwise misconstrue the truth." *Whitten v. Commercial Dispatch Pub. Co., Inc.*, 487 So. 2d 843, 846 (Miss. 1986). The libelous statements at issue misstate the facts and misconstrue the truth. Moreover, they are integral to a malicious and concerted effort within Mississippi Today to harm former-Governor Bryant with a steady stream of outright lies, baseless speculation, and irresponsible innuendo.

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Bryant demands that Mississippi Today publicly apologize for making the false and libelous accusations, that Mississippi Today publicly retract the false and libelous accusations, and that Mississippi Today publish full-and-fair corrections of the false and libelous accusations.

Sincerely,

MCCRANEY MONTAGNET QUIN & NOBLE, PLLC



William M. Quin II

*Attorney for the Honorable Phil Bryant,
64th Governor of the State of Mississippi*