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ATTORNEYS AT LAW | PLLC

December 22, 2023

VIA EMAIL TO: hfl@visecarter.com

Deep South Today d/b/a Mississippi Today & Anna Wolfe
c/o: Henry Laird
2510 14th Street, Ste. 1125
Gulfport, Mississippi 39501

Re: Notice of Suit Under Miss. Code Ann. § 95-1-5(1)

Dear Henry:

Pursuant to Miss. Code Ann. § 95-1-5(1), former-Governor Phil Bryant sends this correspondence to notify Anna Wolfe that she defamed him in articles dated December 19, 2023, and to notify Mississippi Today that it is liable for Wolfe's defamation. The pieces are titled "Mississippi Welfare Funds Would Up in a Ghanaian Gold Bar Hoax, Court Filing Alleges" and "Court Filing Alleges Gov. Phil Bryant Directed Welfare Funds for Illegal Volleyball and Concussion Drug Projects." I am directing this correspondence to your attention consistent with our previous discussion in which you indicated that you are authorized to accept this notice on behalf of Wolfe and Mississippi Today.

Former-Governor Bryant demands (1) that Mississippi Today and Wolfe publish full-and-fair corrections of White's false and defamatory statements that are prominently displayed on Mississippi Today's webpage and promoted in the social media accounts of Mississippi Today; (2) that Mississippi Today and Wolfe publicly apologize for having made false, misleading, and defamatory statements concerning former-Governor Bryant; and (3) that Mississippi Today and Wolfe issue public retractions within ten (10) days after service of this notice. This demand is intended to comply with Miss. Code Ann. § 95-1-5(2).

I. Wolfe's false and defamatory statements

A. "Bryant bit."

In the article titled "Mississippi Welfare Funds Would Up in a Ghanaian Gold Bar Hoax, Court Filing Alleges," Wolfe wrote:

But after months of stringing the scientist along, Martin finally told Vanlandingham he would have to first put up \$25,000 to help pay for a "geological analysis" for the land that Martin said his overseas investor required.

Vanlandingham tried to find the money, but the scientist's contacts had dried up and he was experiencing deep personal financial problems, according to his texts.

EXHIBIT

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He was forced to sell his family's home to pay the taxes for Prevacus, he said, and ask his mom for a loan to get into a rental. Martin tried to put him at ease by saying things like, "I know what we are doing is pleasing to God."

Vanlandingham tried to get Favre to secure the \$25,000 through an investment in Prevacus from one of his fellow professional athletes, but they wouldn't bite.

Then Favre suggested they ask the then-Mississippi governor for help and offer him stock in the company. Bryant bit. The men met with several others for dinner in Jackson at Walker's Drive-In in late December of 2018.

(emphasis added). The most reasonable interpretation of Wolfe's writing is that Bryant committed to investing \$25,000 of public or private funds in Prevacus at the December 2018 meeting. Bryant did not commit to investing \$25,000 of public or private funds in Prevacus at this meeting or any other occasion. Wolfe's statement is false, intentionally misleading, and defamatory.

B. Purported threats for continued reporting

Wolfe also wrote in the article above that "Bryant, who is suing Mississippi Today for defamation and *has sent threats to the news outlet for continuing to report this story*, declined through an attorney to answer questions about this story or respond to allegations in the latest court filing." (emphasis added).

Wolfe similarly wrote in the article titled "Court Filing Alleges Gov. Phil Bryant Directed Welfare Funds for Illegal Volleyball and Concussion Drug Projects" that "[t]hrough his attorney, Bryant declined to answer questions about the allegations made in the Dec. 12 filing. Bryant, who is suing Mississippi Today for defamation, *has sent threats to the news outlet for continuing to report this story, including basic updates about public court documents.*" (emphasis added).

These statements are false, intentionally misleading, and defamatory. Bryant did not threaten Mississippi Today "for continuing to report this story," nor has he threatened Mississippi Today for reporting on "basic updates about public court documents."

To be clear, Anna Wolfe emailed Denton Gibbes on December 14, 2023, seeking information from Bryant, despite knowing Bryant is represented by counsel and engaged in a lawsuit against Mississippi Today and its chief executive officer, Mary Margaret White. I have previously instructed Wolfe to stop attempting to communicate with Bryant through anyone other than me. Wolfe's email to Gibbes reads:

Hey Denton,

I'm working on a story about the latest filing in the MDHS civil suit. In it, MCEC alleges that Bryant directed funds to the volleyball stadium and Prevacus projects. It also suggests Bryant traveled to Ghana in August of 2019 because Prevacus'

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founder had lost money to a scammer in the country. A press release says Bryant was in the country mid-August 2019 to strengthen ties between investors in Mississippi and Ghana. That appears to reference the situation with Prevacus. Regardless, which investors were Bryant representing and what became of this visit? The latest filing also references a text from Bryant to Favre in which Bryant is discussing efforts to secure MDHS funds for the volleyball project, uses a sunglasses smiley emoji and says "funny how that happened." But this text doesn't appear in Bryant's text production. Do we know what happened to it? Bryant sent "funny how that happened" shortly after sending a text, which does appear in the production, where Bryant says, "Met with Nancy tonight. We are pushing forward." Can you give me a call or provide any comment for this story?

Gibbes forwarded Wolfe's email to me. I emailed Wolfe and copied you and Gibbes. My email reads:

Ms. Wolfe:

Denton Gibbes forwarded your email to him to me. As you are well aware, Governor Bryant has sued your publication and Mary Margaret White. I have copied their attorney on this email.

I have previously advised you to cease communications with Bryant and anyone on his behalf. You should communicate with me, and only me, and through Mr. Laird.

Any further attempts to obtain information from my client directly or indirectly that do not go through me will result in my seeking sanctions from the court against Mississippi Today. This is your final warning.

Within an hour, I followed up with you. My email to you reads:

I feel like we've developed a good rapport.

In that vein, as a courtesy to you, I'll tell you that the text message that Wolfe references has nothing to do with volleyball or Prevacus and was not responsive to the subpoenas served on Bryant on the MCEC/MDHS case. Wolfe should tread very carefully in her upcoming article.

On the following day, you emailed me with a series of questions. Your email reads:

Mississippi Today would like to know for a story it is preparing the answers to some questions about Mr. Bryant's trip to Ghana in August 2019.

What was the purpose of the visit?

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Will he tell us the details on how and when he started and ended planning the trip?

In the MCEC civil litigation, it alleges that Jake Vanlandingham asked for Mr. Bryant's help with allegedly being scammed in an investment or investments in Ghana. Did Mr. Bryant have any involvement with trying to help Mr. Vanlandingham, and if so, what are the details of that involvement?

I responded to you within 10 minutes of receiving your email. My email to you reads:

I'm driving to Frisco, TX. I'll speak with the governor after I arrive. I don't know if he's inclined to engage with Mississippi Today, considering its well-documented penchant for lying and defamation. If a statement is made, it will come from me and I can't write it while driving.

What follows is not for publication -

I believe the Ghana trip had to do with assisting with a malaria outbreak. I think there was a Mississippi company that made some device that could help. I'm sure the trip had several people and a documented schedule. I'm confident that I can retrieve more information about it.

Nancy New's lawyer wrote in a counterclaim that "upon information and belief" Bryant knew about Vanlandingham's investment loss and traveled to Ghana to recoup it, or something to that effect. That's an absurd claim that's wholly devoid of evidentiary support. Bryant didn't know anything about Vanlandingham's investment or loss or involvement with anything having to do with Ghana. If Wolfe writes otherwise, I promise you that she's the next defendant in our case.

Wolfe should ask where the proof is for all things New alleged on information and belief. New's claims are ridiculous.

You followed up with me on December 18, 2023, asking, "Does Mr. Bryant have a statement?" I responded approximately an hour later, writing, "Not for MS Today. Given its previous writings and the statements of its employees, we do not believe MS Today is trustworthy or reliable."

As is plain from the actual communications, I reminded Wolfe that I had already warned her about her attempts to obtain information from my client without my involvement. I told Wolfe and you that I would seek sanctions from Mississippi Today if Wolfe ever again attempted to obtain information from my client through third-party intermediaries. I also said that Bryant would sue Wolfe for defamation if she reported that Bryant's trip to Ghana was related to Vanlandingham's investment.

These are accurate statements of fact. Wolfe's mischaracterization of my communications is an outright lie calculated to mislead her readership.

II. Defamation

The four essential elements of former-Governor Bryant's defamation claim against Wolfe and Mississippi Today are as follows: (1) a false and defamatory statement concerning Bryant; (2) an unprivileged publication of the false and defamatory statement to a third party or third parties; (3) fault amounting to actual malice by you; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Hudson v. WLOX, Inc.*, 108 So. 3d 429, 434 (Miss. Ct. App. 2012). Wolfe's statements satisfy all four of these elements.

A. Wolfe's statements are false.

Wolfe has no evidence to support her claim that Bryant directed \$25,000 to Vanlandingham or Prevacus. Similarly, Wolfe has no proof that Bryant threatened Mississippi Today or her for continuing to report "this story, including basic updates about public court documents." As Wolfe has done on multiple prior occasions, she lied.

B. Wolfe's statements are defamatory.

A defamatory statement "tends to injure one's reputation, and thereby expose him to public hatred, contempt or ridicule, degrade him in society, lessen him in public esteem or lower him in the confidence of the community." *Weems & Weems, Miss. Law of Torts*, § 11-1(b) (citing, *Lawrence v. Evans*, 573 So. 2d 695 (Miss. 1990); *Fulton v. Mississippi Publishers Corp.*, 498 So. 2d 1215, 1217 (Miss. 1986) (citing, *Ferguson v. Watkins*, 448 So. 2d 271, 275 (Miss. 1984)). Wolfe claims that Bryant illegally or improperly misdirected public funds and that Bryant threatened her and Mississippi Today for reporting such. These false claims satisfy the defamation standard.

C. The statements at issue were published to third parties.

"Publication requires a communication of the statement to another person or persons." *Id.* at § 11-1(d). Wolfe's statements were published on the internet and social media for anyone with an internet connection to read. The statements can be found within articles at the following links:

<https://mississippitoday.org/2023/12/19/court-filing-phil-bryant-directed-welfare-spending/>

<https://mississippitoday.org/2023/12/19/welfare-funds-ghana-scam-prevacus/>

D. The statements were made with 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. Ill will or personal spite does not constitute actual malice.

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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 § 11-2(a) (internal citations omitted). Wolfe knew her statements were false when she published them, and she did so with the intent to harm Bryant.

Wolfe’s most recent defamatory remarks are part of a years-long campaign to harm Bryant. For instance, on December 16, 2021, former-United States Representative Ronnie Shows interviewed Wolfe on his radio program to discuss her reporting of a scandal involving the expenditure of federal welfare funds by employees and contractors of the Mississippi Department of Human Services (MDHS). Mississippi Today published an edited interview transcript on its website.¹ The following exchange occurred during the interview:

Shows: Like they say, follow the money. Follow the money and you’ll find out.

Well, Anna, what’s your next step in your story? Are you going to keep staying on top of it or what?

Wolfe: Oh yeah. I think the big questions that I have now that I’m trying to answer are the big questions that everyone has about how far up the chain this is going to go. *And if the people that are investigating this and have the power to do something about it, if they’re really going to go after everyone that they should, and everyone who should be held accountable, namely the former governor Phil Bryant.*

Wolfe accused Bryant of committing a crime; she said prosecutors should “go after” him; and she implied that a jury should hold Bryant “accountable.” Wolfe’s comments are false, slanderous, and inconsistent with the information she gathered during her reporting. The Journalist’s Resource interviewed Mississippi Today editor-in-chief Adam Ganuchau and Wolfe to obtain “tips for journalists navigating . . . complex investigations.”² The Journalist’s Resource noted the following concerning Wolfe’s attempt to determine whether Bryant violated any laws in conjunction with the MDHS scandal:

¹ <https://mississippitoday.org/2021/12/23/anna-wolfe-mississippi-welfare-fraud-case/> (emphasis added).

² <https://journalistsresource.org/media/mississippi-today-welfare-scandal/>.

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Wolfe did reach out to legal experts to try to report whether laws had been broken, but the case was too “sprawling” for those experts to comment definitively, Ganucheau says.

In other words, Wolfe knew that Bryant was not a defendant in the criminal litigation; she knew Bryant was not a defendant in the civil litigation; and she could not find a “legal expert” to support her accusation against Bryant. Undeterred, Wolfe accused Bryant of illegality anyway. This conduct satisfies the definition of constitutional actual malice.

E. 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 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, Wolfe’s accusation is actionable per se. Accordingly, Bryant does not need to plead or prove damages to sustain his libel claim.

III. False Light

The elements of a false light invasion of privacy claim are (1) the false light in which Wolfe placed Bryant would be highly offensive to a reasonable person, and (2) Wolfe had knowledge of or acted in reckless disregard as to the falsity of her accusations and the false light in which Bryant would be placed. *Weems & Weems, Mississippi Law of Torts* § 13:5, *False Light Invasion of Privacy* (2nd ed., Dec. 2022 Update) (citing *Cook v. Mardi Gras Casino Corp.*, 697 So. 2d 378, 382 (Miss. 1997); *Prescott v. Bay St. Louis Newspapers, Inc.*, 497 So. 2d 77, 79 (Miss. 1986)). As with his defamation claims, Bryant must prove Wolfe acted with actual malice to establish the fault element of his false light claim. *Time, Inc. v. Hill*, 385 U.S. 374, 87 S.Ct. 534, 17 L.Ed.2d 456 (1967).

The false light in which Wolfe placed Bryant would be highly offensive to a reasonable person. Wolfe had knowledge of or acted in reckless disregard of the falsity of her accusations and the light in which it placed Bryant. Accordingly, Wolfe is liable for false light invasion of privacy.

IV. Respondeat Superior

Wolfe made her false and libelous accusation while acting within the course and scope of her employment with Mississippi Today. Wolfe had actual or apparent authority to make her false and libelous accusations. Mississippi Today is vicariously liable for the damage caused by Wolfe’s false and libelous accusations under the common law doctrine of respondeat superior. The doctrine

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of respondeat superior also renders Wolfe and Mississippi Today jointly and severally liable for any judgment returned in Bryant's favor on his libel and false light claims against Wolfe.

V. 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 Wolfe's statements and that they are components of a campaign of intentionally false and defamatory accusations that Mississippi Today personnel have made about Bryant, Bryant will likely recover punitive damages in a civil action against Wolfe and Mississippi Today.

Bryant will also likely recover attorneys' fees and costs in a civil action against Ganucheau and 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)).

VI. Insurance Coverage

Bryant has discovered that Mississippi Today only carries \$1 million of liability coverage for the claims asserted in the Madison County litigation. \$1 million of insurance coverage is woefully inadequate to pay for the compensatory and punitive damages, attorneys' fees, costs, and pre-and post-judgment interest that Bryant seeks against the defendants in the Madison County action and will seek against Wolfe and Mississippi Today should Bryant amend his suit to assert additional claims. Each defendant should strongly consider demanding that Mississippi Today's insurance carrier attempt to settle the case within policy limits. Each defendant should also consider

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obtaining independent counsel to defend their interest in avoiding an excess verdict and jeopardizing their assets.

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). Wolfe’s libelous statements misstate the facts and misconstrue the truth. Moreover, they are integral to a malicious and concerted years-long scheme within Mississippi Today to harm former-Governor Bryant with a steady stream of lies, factual errors, baseless speculation, and irresponsible innuendo.

Bryant demands that Wolfe fully and fairly (1) apologize for making the false and libelous accusations, (2) retract the false and libelous accusations, and (3) correct the false and libelous accusations. Bryant further demands that Mississippi Today publish Wolfe’s apology, retraction, and correction of the false and libelous accusations in a manner as conspicuous as the false and defamatory remarks.

Wolfe’s and Mississippi Today’s failures to timely comply with this demand will result in Bryant immediately seeking leave of court to amend his suit against White and Mississippi Today to add defamation and false light claims against Wolfe and an additional respondeat superior claim against Mississippi Today. Leave of court is “freely given when justice so requires.” Miss. R. Civ. P. 15(a). Considering the circumstances, the court will likely grant leave to amend if Bryant requests.

Sincerely,



William M. Quin II