

Billy Quin

From: Billy Quin
Sent: Sunday, March 3, 2024 1:24 PM
To: 'Henry F. Laird'
Cc: Miranda Allen
Subject: Notice of Suit Under the Broadcaster's Right to Correct Statute, 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 and Mississippi Today that Wolfe defamed Bryant in a February 28, 2024, article titled "State withheld 'Backchannel' texts from New defense teams for years, lawsuit alleges." Mississippi Today is liable for Wolfe's libel because it published it and because she was acting in the course-and-scope of her employment when she made her defamatory comments.

I am sending this correspondence to you as the authorized agent of Wolfe and Mississippi Today. Please notify me immediately if you are not authorized to accept this notice on their behalf. I will personally serve either or both upon such notice.

Bryant demands that Wolfe and Mississippi Today publish full-and-fair corrections of their false and defamatory statements that are prominently displayed on Mississippi Today's webpage and promoted in its social media accounts; that Wolfe and Mississippi Today publicly apologize for having made false, misleading, and defamatory statements concerning Bryant; that Wolfe and Mississippi Today issue public retractions within 10 days of receiving this notice; and that Wolfe and Mississippi Today ensure that the false and defamatory remarks are removed from its website, social media accounts, and elsewhere.

This demand is intended to comply with Miss. Code Ann. § 95-1-5(2). Should Wolfe and Mississippi Today fail to comply with this demand, Bryant will include these claims in his upcoming amended complaint.

I. Wolfe's false and defamatory statements

In the February 28, 2024, article, Wolfe wrote, "Investigators gathered text messages revealing that during Bryant's last year in office, the governor consulted Jake Vanlandingham, the CEO of the experimental concussion drug firm called Prevacus, and former NFL quarterback Brett Favre while hundreds of thousands of federal welfare funds flowed to their project. Texts show Bryant, who as governor oversaw the welfare agency, then agreed to accept interest in the company after he left his post."

Later in the article, Wolfe wrote, "In mid-January of 2020, while Vanlandingham was dealing with the subpoena from the auditor's office, he was simultaneously making arrangements with Bryant to give him 'a company package for all your help.' Bryant had just left office; texts indicate he was waiting until that date to enter into business with Prevacus."

These statements are of and concerning Bryant; they are clearly directed toward Bryant; they are false; and they are defamatory.

II. Bryant's defamation cause of action

The four elements of Bryant's defamation claim against Mississippi Today and John Doe are (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; 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).

A. Wolfe's statement is false.

Bryant did not agree to accept an interest in Prevacus after he left office, nor did he agree by text or otherwise to accept a “company package” in Prevacus. Wolfe’s claim that Bryant agreed to accept a payoff from Prevacus in exchange for help he provided the company in office is absolutely false.

B. Wolfe’s statements are defamatory in nature.

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)). Additionally, words imputing guilt or commission of a criminal offense involving moral turpitude and infamous punishment and words imputing a want of integrity or capacity, whether mental or pecuniary, in the conduct of a profession, trade, or business are slanderous per se as a matter of law. *Speed v. Scott*, 787 So. 2d 626, 632 (Miss. 2001).

Wolfe accused Bryant of criminality and corruption while serving as governor. Her accusation is slanderous per se.

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

Publication requires a communication of the statement to another person or persons.” *Miss. Law of Torts* at § 11-1(d). Wolfe’s statement obviously satisfies the publication element.

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. 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.

at § 11-2(a) (internal citations omitted).

Wolfe’s most recent false and defamatory statements are part of a years-long scheme to harm Bryant. Acts in furtherance of the scheme have been committed by Wolfe, Mary Margaret White, Adam Ganucheau, and a John Doe defendant. Wolfe made her statement with knowledge that it was false or in reckless disregard of its falsity and the harm it would cause Bryant.

E. Special harm is presumed.

All libelous statements in this state are considered libelous per se. Accordingly, special harm is presumed.

III. Bryant’s false light invasion of privacy cause of action

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).

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

IV. Bryant's respondeat superior cause of action

Wolfe made her false and defamatory accusations 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 defamatory accusations under the common law doctrine of respondeat superior. The doctrine of respondeat superior also renders Wolfe and Mississippi Today jointly and severally liable for any judgment returned in Bryant's favor on his defamation and false light claims against Wolfe.

V. Bryant's entitlement to 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.

(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 statement and that it is a component of a years-long campaign to destroy Bryant's reputation with false and defamatory claims, Bryant will likely recover punitive damages in a civil action against Mississippi Today, White, Ganucheau, Wolfe, and John Doe (assuming the fictitious defendant is not one of the aforementioned individuals). Bryant will also likely recover attorneys' fees and costs in a civil action against these defendants. *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 insurance coverage for defamation and false light invasion of privacy claims. \$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. The attorneys' fees and costs of bringing this suit alone should exceed that amount.

Wolfe should strongly consider demanding that Mississippi Today's insurance carrier immediately settle this case within policy limits. Wolfe should also consider obtaining independent counsel to defend her interest in avoiding an excess verdict that places her at risk of financial disaster. An adverse verdict in the Madison County litigation will not be dischargeable in bankruptcy. *Matter of Scarbrough*, 836 F.3d 447, 455 (5th Cir. 2016).

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.*,

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Inc., 487 So. 2d 843, 846 (Miss. 1986). Wolfe's continued defamatory statements misstate the facts, misconstrue the truth, and are integral to a Mississippi Today's ongoing malicious scheme to destroy Bryant's reputation.

Bryant showed Mississippi Today, Wolfe, White, and Ganuchau grace for too long. No more. Every actionable false and defamatory statement published by Mississippi Today and its employees about Bryant that we discover will be included in this suit. As Bryant has already explained, it is time for Mississippi Today, White, Ganuchau, and Wolfe to put up admissible evidence to support their defamation or admit their claims are baseless. This case is not going away.

Sincerely,

William M. Quin II



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