

FILED

09/19/2008

J.BISHOP

Superior Court of California
County of Riverside

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9 ROY HOLMGREN

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13 ROY HOLMGREN,

14 Plaintiff,

15 vs.

16 ABOUT MURRIETA BLOG, an
17 association or business of
18 unknown form;
19 MURRIETABLOGSPOT.COM,
20 an association or business of
21 unknown form;
22 JEFFREY W. KLEINER; and
23 DOES 1 through 20,
24 Inclusive,

25 Defendants.

CASE NO. RIC494950

FIRST AMENDED COMPLAINT
FOR DEFAMATION / FALSE LIGHT

26 *Plaintiff, upon information and belief, hereby alleges as follows:*

- 27 1. Plaintiff ROY HOLMGREN is a resident of Murrieta, California.
- 28 2. Defendant About Murrieta Blog (“hereinafter referred to as MURRIETA BLOG”) is an association or business of unknown form which operates from Murrieta, California.
3. Defendant Murrietaopinion.blogspot.com “hereinafter referred to as MURRIETA OPINION” is an association or business of unknown form which operates from Murrieta, California. JEFFREY W. KLEINER is an individual who either

1 operates the blogsite or is otherwise a major contributor to the libelous statements
2 referenced below. Defendant JEFFREY W. KLEINER is a resident of Murrieta
3 and falls within the personal jurisdiction of this Court.

4 4. All of the statements or acts, upon which this action is based, were made or
5 conducted within the boundaries of this Court's jurisdiction. Many of the
6 statements were made from computers located at or from residences located on
7 Elizabeth Lane, Murrieta, CA, or Alexandrine Court, Oceanside, CA.

8 5. DOES 1 through 20 are the operators or bloggers of the other Defendants and are
9 directly responsible for the harm and damages alleged herein. Each such
10 defendant is unknown to the Plaintiff at this time because the defendants hide
11 behind the veil of the Internet to cover up their nefarious and tortious activities.
12 Once the true identities of these persons are uncovered, Plaintiff will amend this
13 complaint accordingly.

14 6. Each of the defendants is working with the other in some capacity and is jointly
15 and/or severally liable in whole or part for the damages alleged herein.

16 **FIRST CAUSE OF ACTION**

17 **FOR DEFAMATION**

18 7. Plaintiff hereby incorporates Paragraphs 1 through 6 as though fully set forth and
19 alleged herein.

20 8. Within the last calendar year and continuing to the present day, the Defendants,
21 and each of them, caused and are causing unprivileged false statements of alleged
22 fact to be published on the Internet. These false statements of alleged facts are of
23 and concerning the Plaintiff. MURRIETA BLOG and MURRIETA OPINION
24 both have caused to be published the false material referenced in this complaint
25 and have conspired to do the same. These statements were originally published
26 in and around September 2007, and are continuously published to the present day
27 on Defendant's public website. If not ordered by this Court to remove the illegal
28 defamatory content, Defendants will continue to publish false and defamatory

1 information about Plaintiff and others.

2 9. The untrue, misleading and absolutely false statements of alleged fact include, but
3 are not limited to, the following published statements made by Defendants and
4 more than likely personally authored by Defendant KLEINER himself:

5 a. That Plaintiff is a stalker and “dangerous.” Stalking is a statutory crime in
6 California and this statement is defamatory per se’. Plaintiff is specifically
7 referred to as the “Murrieta Stalker” and “proven stalker.” The truth of the
8 matter is that Plaintiff has not stalked anyone and has committed no crimes
9 of “stalking” anyone.

10 b. That Plaintiff has “threatened” or engaged in “physical threats” against the
11 author of the defamatory material on MURRIETA OPINION. The truth
12 of the matter is that Plaintiff has not threatened anyone, including
13 JEFFREY W. KLEINER.

14 c. That Plaintiff is married to an illegal alien. This is not true.

15 d. That Plaintiff has committed crimes concerning the “destruction of
16 property” and “[h]aving damage to your property.” This material is
17 defamatory per se’ and the truth of the matter is that Plaintiff has not
18 destroyed any property.

19 e. That the Murrieta Police Dcpartment has somehow documented alleged
20 criminal activity by Plaintiff. Plaintiff has spoken with the Murrieta Police
21 Department and cannot find any complaints against him. Again, the
22 statements by Defendants suggest, *innuendo*, criminal conduct on the part
23 of the Plaintiff and such statements are defamatory per se’.

24 f. That Plaintiff had somehow stolcn intellectual property belonging to
25 someone associated with Defendants. Plaintiff has not interfered with any
26 established right of any Defendant or other person to his knowledge.

27 g. That Plaintiff engaged in an illegal invasion of privacy against Defendants.
28 The truth of the matter is that, if anyone has invaded the rights of privacy

- 1 and to be left alone, the Defendants have by intentionally publishing false
2 and defamatory material about Plaintiff.
- 3 h. That Plaintiff is somehow physically threatening to the family of Defendant
4 JEFFREY KLEINER. This is false.
- 5 i. That Plaintiff was involved in vandalizing a sports utility vehicle belonging
6 to Defendant JEFFREY W. KLEINER.
- 7 j. That Plaintiff had "an insane, sick obsession to attack and hurt members of
8 Rescue Murrieta." Again, in this same context, it is also said that, "Roy
9 just takes his anger and obsessions to extremes. Dangerous extremes.
10 Stalking."
- 11 k. That Plaintiff "begs" for money on the side of the road. This is patently
12 false and places Plaintiff in a false light.
- 13 l. That Plaintiff was "cheating with a blog owner." The context given to this
14 statement refers specifically to Plaintiff's marital status. This is false and
15 incredibly defamatory.
- 16 m. That Plaintiff or those associated with him have engaged in voter fraud.
17 This 'statement of fact' is absolutely false.
- 18 10. The person identified as "voteoutrepublicans" on the Defendants' blogsite is more
19 than likely one JEFFREY W. KLEINER, defendant herein. KLEINER
20 specifically refers to Plaintiff as a "danger to this community" and "**Roy is truly**
21 **very dangerous to his neighbors. If he finds a bloggers name he will try to do**
22 **as much damage to the person, both on the blog and literally contacting you**
23 **and trying to hurt your property. He has mental problems and emotional**
24 **problems he can't control.**" Such published statements are false and defamatory.
- 25 11. The above referenced statements are alleged to be of a factual nature and are not
26 privileged or otherwise protected by the First Amendment. Furthermore, such
27 facts continue to be published on a daily basis and have not been removed. There
28 is no privilege to publicize false facts, unfounded allegations of criminal behavior,

- 1 or other defamatory matter. Moreover, these specific comments do not read like
2 other opinions made by KLEINER such as, "Holmgren represents a small group
3 of conservative pieces of shit."
- 4 12. The statements made by Defendants have invaded the legitimate interests of the
5 Plaintiff in maintain his privacy, honor, and reputation in the community.
- 6 13. The statements made by the Defendants were and are false and unprivileged.
- 7 14. The statements referenced above are in "writing," as defined by law, and have
8 exposed Plaintiff to hatred, ridicule, contempt, and disgrace and have injured
9 Plaintiff in his business dealings.
- 10 15. The statements charge Plaintiff with crimes that he never committed or would
11 commit.
- 12 16. The statements injure Plaintiff in his trade, business, profession or livelihood and
13 are intended by the Defendants to do so.
- 14 17. The statements referenced on Defendants' website, where not otherwise protected
15 by the First Amendment (i.e., opinions, political speech, etc.), by their natural
16 consequence, did actually cause damages to Plaintiff as a matter of law.
- 17 18. This suit relates only to the speech of the Defendants which is factually false,
18 injurious to reputation as a matter of law, and which is defamatory.
- 19 19. Certain opinions of the Defendants as referenced above conveyed a provably false
20 assertion of fact or facts with respect to alleged crimes, mental health, business
21 dealings, and of and concerning Plaintiff's wife.
- 22 20. The average reader of the statements concerning stalking and other alleged
23 criminal conduct would regard the statements as being defamatory.
- 24 21. The statements referenced above have been published as a matter of law and
25 continue to be published to this day.
- 26 22. The publication of these materials was intentional in that the Defendants knew or
27 should have known that the matter was false, in reckless disregard of known facts,
28 or with the simple intention of harming Plaintiff.

- 1 23. All persons reading the defamatory statements know that such statements refer
2 directly to Plaintiff.
- 3 24. Plaintiff is not a public figure and has never cast himself into any position
4 whereby he is in the public light. Even if he were a public figure, the statement
5 made against him were and are published with actual malice.
- 6 25. Defendants made no reasonable attempt to confirm or deny the horrific statements
7 made of and concerning Plaintiff as alleged herein.
- 8 26. Defendants did not have a good faith belief in the truth of any of the factual
9 averments made by them and published as alleged herein.
- 10 27. Defendants are not television, radio, or newspaper defendants within the meaning
11 of California law.
- 12 28. Plaintiff has suffered both general and special damages as a result of the actions
13 of the Defendants as referenced herein.
- 14 29. Plaintiff has suffered loss of his good name, reputation, and respect within the
15 community as a result of the egregious conduct of the Defendants.
- 16 30. Defendants will continue to post false information concerning Plaintiff unless
17 stopped by this Court.
- 18 31. Damages continue to be sustained by Plaintiff by the day as a result of the
19 continual posting of false and defamatory statements about him.
- 20 32. The conduct of the Defendants was fraudulent, oppressive, malicious, and
21 intended to suppress the rights of Plaintiff. As such, punitive damages should and
22 must be assessed against the Defendants. Plaintiff seeks up to and including 1/3
23 of the net worth of each of the Defendants in amounts to be proven at trial.

24 **PRAYER**

25 WHEREFOR, Plaintiff prays for relief as follows:

- 26 1. For special damages in an amount to be proven at time of trial.
- 27 2. For general damages of not less than \$25,000.00.
- 28 3. For injunctive relief aimed at the removal of false information being

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published by Defendants on the Internet.

4. For out of pocket costs associated with the filing of this suit.

5. For costs of suit.

6. For punitive damages in an amount sufficient to deter the Defendants from intentionally or recklessly publishing false statements of alleged fact of and concerning the Plaintiff.


7. For any and all other relief as may be deemed appropriate to make Plaintiff whole for his losses.

8. For declaratory relief.

Respectfully submitted:

DATED : 9/18/08

ACKERMAN, COWLES & ASSOCIATES



RICHARD D. ACKERMAN, ESQ.,
Attorneys for Plaintiff,
ROY HOLMGREN.