

CAUSE NO. A-179,090

TOM GILLAM, III	§	IN THE DISTRICT COURT OF
	§	
VS.	§	JEFFERSON COUNTY, TEXAS
	§	
KLEIN INVESTMENTS,	§	
INC., ET AL	§	58th JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION FOR
TEMPORARY RESTRAINING ORDER AND
TEMPORARY INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW TOM GILLAM, III, (hereinafter "Plaintiff")

requesting injunctive relief against KLEIN INVESTMENTS, INC., PHILIP
KLEIN, RONNIE LINDEN, FOX RADIO 1340 AM, and SHERIFF
MITCH WOODS (hereinafter "Defendants") and would show the Court the
following:

I.

Plaintiff is a resident of Port Arthur, Jefferson County, Texas.

Defendant, KLEIN INVESTMENTS, INC., may be served by serving
Mr. Philip Klein at 808A North Memorial Highway, Nederland, Texas.

Defendant, Philip Klein is a resident of Nederland, Jefferson County,
Texas, and may be served at 808A North Memorial Highway, Nederland,
Texas.

Defendant, Ronnie Linden, is a resident of Port Arthur, Jefferson County, Texas, and may be served at 525 11th Street, Port Arthur, Jefferson County, Texas 77640.

Defendant, Fox Radio 1340 AM, is a corporation or some other type of business entity doing business within Jefferson County, Texas. Said defendant may be served by serving its Station Manager or person in charge at 27 Sawyer Street, Beaumont, Jefferson County, Texas 77702.

Defendant, Mitch Woods, is the Sheriff of Jefferson County, Texas and may be served at his office located at the main County Courthouse in Beaumont, Jefferson County, Texas.

II.

Defendant Klein Investments, Inc., and/or Defendant Klein produces and/or edits for a web site known as the Southeast Texas Political Review and is responsible for the writings and/or postings thereon. Presumably, Defendant Klein Investments and/or Defendant Klein periodically changes material and/or posts new material upon said site. Recently, said Defendants posted material upon said site which defames Plaintiff causing him serious injury and damage. See Exhibit "A" attached hereto and incorporated by reference. The Klein Defendants may have also posted other material upon said web site which has injured Plaintiff. Any mention or reference of

Plaintiff upon any current or past version of said web site constitutes evidence which must be preserved for inspection, study, copying and examination for a civil action. If said evidence is not preserved and Plaintiff not given an opportunity to inspect, investigate, examine, study and/or obtain possession of said foregoing evidence as well as any other information, items or communications which may shed light upon the matters referenced above and/or any other references the Klein Defendants have made about Plaintiff, Plaintiff would likely be denied the opportunity to present important evidence at trial.

III.

In light of the foregoing, it will be necessary for the Court to enter an Order allowing Plaintiff's counsel to inspect, have examined by experts, reproduce and/or obtain possession of any and all such evidence, whatsoever nature or condition, which may related to the defamatory statement(s) made by Defendants. If this evidence is not preserved and Plaintiff is not given an opportunity to inspect and investigate, examine, reproduce and/or obtain possession of any of the foregoing mentioned evidentiary items which may substantiate the cause of the occurrence in question, Plaintiff will be denied the opportunity to present evidence crucial to his case. Therefore, Plaintiff will have no adequate remedy at law because, without the ability to inspect,

examine, investigate, reproduce and/or obtain possession of the evidence in question, any action at law for damages will be severely curtailed and, in all likelihood, affixed with a burden that will be insurmountable.

IV.

Defendant Philip Klein also purportedly has a weekly radio show on Defendant Fox News 1340 AM KOLE. Upon information and belief, Defendant Klein may be heard upon said station at times other than his regularly scheduled radio show. Defendant Klein has made defamatory and untrue statements about Plaintiff upon said radio station.

V.

Defendant Fox Radio 1340 AM has permitted Defendant Linden to have and operate a radio show which is heard throughout the Golden Triangle and the surrounding area. Defendant Linden has made defamatory comments about Plaintiff upon his radio program.

VI.

Defendant Fox Radio 1340 AM maintains tapes, tape recordings, or digital storage capability whereby radio programs which Defendant Fox broadcasts or has broadcast in the past, are preserved and stored. Defendant Fox would thereby have possession of past radio programs, and other on air comments or statements made by Defendant Klein and Defendant Linden.

VII.

Jefferson County operates and maintains a videotape surveillance system at the Jefferson County Sub-Courthouse in Port Arthur. The Jefferson County Sheriff's Department is responsible for the operation and maintenance of said system and has custody and control over any surveillance videotape. Sheriff Mitch Woods is the County Sheriff of Jefferson County. Plaintiff requests that the Jefferson County Sheriff's Department preserve, maintain, without modifications, deletions, subtractions or editing, and make available later for copying, the surveillance videotape for March 27, 2007.

VIII.

Therefore, Plaintiff hereby requests a Temporary Restraining Order and Temporary Injunction to prevent Defendants, or any one of them, their agents, representatives, employees, or insurers, from changing, erasing, deleting, modifying, repairing, secreting, testing, destroying, altering, removing, and/or tampering with:

- 1) All material posted upon the web site (including each and every page within the web site as well as links to and from the web site) known as the Southeast Texas Political Review from January 1, 2006 to the present;
- 2) All material which Defendant Philip Klein and/or Defendant

Klein Investments has posted any other web site or upon any place on the internet pertaining in any way to Plaintiff;

3) Any posting or information placed upon the internet or any web site by Defendant Linden;

4) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Philip Klein;

5) Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Philip Klein, or anyone at or under his direction;

6) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Ronnie Linden; and

7). Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Ronnie Linden, or anyone at or under his direction.

8). Surveillance tape showing the Sub-Courthouse on March 27, 2007.

IX.

If Plaintiff's application is not granted, harm is imminent because evidence of comments made and the party or parties responsible may be destroyed, removed, altered, deleted, or otherwise be spoiled as evidence.

That harm will likely be irreparable because Plaintiff may will unable likely to fully reconstruct and determine the nature and extent of all defamatory comments. Plaintiff has no adequate remedy at all if such evidence is destroyed, deleted, removed, altered or otherwise rendered unusable for the above stated reasons. The rights involved are unique and irreplaceable, so that it will be impossible to accurately measure in monetary terms the damages caused by Defendants' conduct if such were to occur. There is insufficient time to serve notice on Defendants and hold a hearing on this application. Plaintiff stands willing and able to post bond.

X.

In order to preserve the status quo, the items and/or documents described and the rights of Plaintiff during the pendency of any civil action, each Defendant should be cited to appear and show cause why it should not be temporarily restrained as requested above.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

A. A Temporary Restraining Order be issued without notice to Defendants restraining such Defendants, their respective agents, servants, employees, relatives and insurers, from directly or indirectly secreting, destroying, modifying, deleting, repairing, editing, recording over, changing, removing, tampering with, or testing:

- 1) All material posted upon the web site (including each and every page within the web site as well as links to and from the web site) known as the Southeast Texas Political Review from January 1, 2006 to the present;
- 2) All material which Defendant Philip Klein and/or Defendant Klein Investments has posted any other web site or upon any place on the internet pertaining in any way to Plaintiff;
- 3) Any posting or information placed upon the internet or any web site by Defendant Linden;
- 4) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Philip Klein;
- 5) Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Philip Klein, or anyone at or under his direction;
- 6) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Ronnie Linden; and
- 7). Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Ronnie Linden, or anyone at or under his direction.
- 8). Surveillance tape showing the Sub-Courthouse on March 27, 2007.

B. The Court set a date or date certain and parameters to allow Plaintiff, Plaintiff's attorneys, experts, photographers, and any others as deemed necessary by Plaintiff, to review, inspect, examine, photograph and videotape, or until such time as this Court or some other Court with jurisdiction over this matter shall address such matters.

C. Plaintiff prays that a Temporary Injunction be issued, after notice to Defendants and an evidentiary hearing: Restraining Defendants, their respective agents, servants, representatives, employees, insurers, directly or indirectly, during the pendency of this action or any related civil action, from secreting, destroying, editing, modifying, deleting, repairing, recording over, changing, removing, tampering with, or testing:

1) All material posted upon the web site (including each and every page within the web site as well as links to and from the web site) known as the Southeast Texas Political Review from January 1, 2006 to the present;

2) All material which Defendant Philip Klein and/or Defendant Klein Investments has posted any other web site or upon any place on the internet pertaining in any way to Plaintiff;

3) Any posting or information placed upon the internet or any web site by Defendant Linden;

4) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Philip Klein;

5) Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Philip Klein, or anyone at or under his direction;

6) All recordings, tape recordings, digital media capture of any and all on air radio comments made by Defendant Ronnie Linden; and

7). Any and all written material including but not limited to notes, queue cards, programming, outlines, made by Defendant, Ronnie Linden, or anyone at or under his direction.

8). Surveillance tape showing the Sub-Courthouse on March 27, 2007.

Plaintiff requests that the Court set a date and parameters so as to allow Plaintiff and Plaintiff's attorneys, experts, photographers, consultants, and any others deemed necessary by Plaintiff, to review, inspect, examine, photograph, copy and/or videotape any documents, communications or media involved herein.

THE STATE OF TEXAS

COUNTY OF JEFFERSON

BEFORE ME, the undersigned Notary Public, on this day personally appeared Gerald W. Eddins, who, after being duly sworn, stated under oath that he is an attorney for the plaintiff in this action; that he has read the above petition; and that every statement contained in the petition is within his personal knowledge and is true and correct.

/s/ Gerald W. Eddins
Gerald W. Eddins

SUBSCRIBED AND SWORN TO BEFORE ME on this the 10th day
of April, 2007.

/s/ Effie L. Keffer
NOTARY PUBLIC, State of Texas

My commission expires:
8/26/07

NO. A-179090

TOM GILLAM, III

IN THE DISTRICT COURT §

§
§

VS.

JEFFERSON COUNTY, TEXAS §

§

KLEIN INVESTMENTS, INC.,
ET AL.

§

§

58TH JUDICIAL DISTRICT

DEFENDANTS' FIRST AMENDED ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, KLEIN INVESTMENTS, INC. AND PHILIP KLEIN, Defendants herein, and files their First Amended Answer in response to Plaintiff's Original Petition, and in support would show as follows:

GENERAL DENIAL

1. Defendant, Klein Investments, Inc., generally denies each and every, all and singular, the allegations in Plaintiff's live petition, and demands strict proof thereof by a preponderance of the evidence, in accordance with the Texas Rules of Civil Procedure and the Texas Constitution.

2. Defendant, Philip Klein, generally denies each and every, all and singular, the allegations in Plaintiff's live petition, and demands strict proof thereof by a preponderance of the evidence, in accordance with the Texas Rules of Civil Procedure and the Texas Constitution.

AFFIRMATIVE DEFENSES

3. Defendants Affirmatively plead the defense of truth.

WHEREFORE, PREMISES CONSIDERED, KLEIN INVESTMENTS, INC. AND PHILIP KLEIN pray that upon final hearing hereof, judgment be entered that Plaintiff recover nothing from Defendants, that Defendants have judgment in its favor, and that all costs of court be taxed against Plaintiff. Defendants further prays for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

LINDSAY & MORGAN, PLLC

/s/ John S. Morgan

JOHN S. MORGAN
Texas Bar No. 14447475 710
North 11th Street Beaumont, Texas
77702 Telephone: (409)
833-1196 Facsimile: (409)
832-7040 ATTORNEY FOR
DEFENDANT KLEIN
INVESTMENTS, INC. AND PHILIP
KLEIN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been furnished to the following counsel of record, via facsimile, on this the 7th day of June, 2007.

Gerald W. Eddins
Eddins & Bennett Law Firm

Via Facsimile (409)
861-4591 Via Facsimile
(409) 833-4483

Brent W. Coon
Brent Coon & Associates

Via E Serve

Mitch Templeton
Chambers Templeton Cashiola & Thomas

LLP

Via E Serve

Thomas Rugg
Jefferson County District Attorney

/s/ John S. Morgan

JOHN S. MORGAN

NO. A-179090

TOM GILLAM, III

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IN THE DISTRICT COURT

VS.

JEFFERSON COUNTY, TEXAS

KLEIN INVESTMENTS, INC.,
ET AL.

58TH JUDICIAL DISTRICT

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, KLEIN INVESTMENTS, INC., PHILIP KLEIN AND RONNIE LINDEN, Defendants herein, and files their Motion for Summary Judgment, and in support would show as follows:

INTRODUCTION

Plaintiff has sued these Defendants for defamation, claiming they defamed Judge Gillam by making comments regarding an incident that occurred in Judge Gillam's office. In order to proceed, Plaintiff must demonstrate that the Defendants acted with "actual malice" at the time they made the allegedly defamatory statements. For the reasons set forth below, Plaintiff cannot demonstrate "actual malice as a matter of law." Therefore, this case should be dismissed on summary judgment.

SUMMARY JUDGMENT STANDARDS

A motion for summary judgment is governed by Tex. R. Civ. P. 166a(c), which provides in relevant part: "The motion for summary judgment...shall be rendered forthwith if (i) the deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth in the motion or response, and (ii) the pleadings, admissions,

affidavits, stipulations of the parties, and authenticated or certified public records, if any, on file at the time of the hearing, or filed thereafter and before judgment with permission of the court, show that, except as to the amount of damages, there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the issues expressly set out in the motion or in an answer or any other response....". Summary judgment for a defendant is proper when a defendant negates at least one element of each of plaintiff's theories of recovery, *Gibbs v. General Motors Corp.*, 450 S.W.2d 827, 828 (Tex. 1970); or pleads and conclusively establishes each element of an affirmative defense, *City of Houston v. Clear Creek Basin Authority*, 589 S.W.2d 671, 678 (Tex. 1979); *Nixon v. Mr. Property Management Co.*, 690 S.W.2d 546, 549 (Tex. 1985).

CONTROLLING LEGAL STANDARDS

Judge Gillam is a public figure [*Huckabee v. Time Warner Entertainment Co., L.P.*, 19 S.W.3d413 (Tex. 1999)], and therefore the Plaintiff must demonstrate that the alleged defamatory statements were made with "actual malice." *Collin v. Cowles Media Co.*, 501 U.S. 663, 111 S.Ct. 2513 (1991), citing *New York Times Company v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710 (1964). In *Masson v. New Yorker Magazine*, 501 U.S. 496, 111 S.Ct. 2419(1991), the United States Supreme Court held that a public figure can escape summary judgment in a defamation case **only** if the evidence in the record will permit a reasonable finder of fact by **clear and convincing evidence**, to conclude that the defamer published the defamatory statement with "actual malice" as defined by the United States Supreme Court. "Actual malice" means that the publisher had direct knowledge that the material was false,

or the publisher published it with reckless disregard of whether it was false or not. *Id. See also, United States Constitution, Amendment 1.*

Therefore, in order to recover in this case, the Plaintiff must demonstrate: 1) There is clear and convincing evidence; 2) to conclude that the Defendants published the alleged defamatory statements with actual malice; and 3) "actual malice means that the defendants had knowledge that it was false or they published it with reckless disregard of whether it was false or not." *Masson.*

Plaintiff's Petition alleges that the Defendants, in a website known as the "Southeast Texas Political Review," published defamatory statements about the Plaintiff claiming that he had engaged in inappropriate sexual conduct. A copy of this allegedly defamatory writing is attached to the Original Petition as Exhibit A. Plaintiff then sued for libel and sought actual and punitive damages.

A. Summary Judgment Evidence

The summary judgment evidence conclusively establishes that Plaintiff cannot demonstrate "actual malice" with clear and convincing evidence. The Affidavit of Mr. Klein (Exhibit "1") specifically rebuts the legal standards that the Plaintiff must satisfy, and also the evidence produced as Exhibit "2", pursuant to a subpoena from the Examiner, demonstrates that an incident occurred at the office of Judge Gillam, and therefore the Defendants were entitled to make the commentary at issue. See Exhibit "2", a copy of the website commentary.

CONCLUSION

For the reasons set forth above, the Plaintiff cannot establish actual malice as a matter of law and therefore this case should be dismissed by this Honorable Court on Summary Judgment.

WHEREFORE, PREMISES CONSIDERED, KLEIN INVESTMENTS, INC., PHILIP KLEIN AND RONNIE LINDEN pray that upon final hearing hereof, judgment be entered that Plaintiff recover nothing from Defendants, and that Defendants have judgment in its favor, and that all costs of court be taxed against Plaintiff. Defendants further prays for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

LINDSAY & MORGAN, PLLC

/s/ John S. Morgan

JOHN S. MORGAN
Texas Bar No. 14447475
710 North 11th Street
Beaumont, Texas 77702
Telephone: (409) 833-1196
Facsimile: (409) 832-7040
ATTORNEY FOR DEFENDANT
KLEIN INVESTMENTS, INC.,
PHILIP KLEIN and RONNIE LINDEN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been furnished to the following counsel of record, via facsimile, on this the 7th day of September, 2007.

Gerald W. Eddins
EDDINS & BENNETT LAW FIRM

Via Facsimile (409) 861-4591

Brent W. Coon
BRENT COON & ASSOCIATES

Via Facsimile (409) 833-4483

Mitch Templeton
CHAMBERS TEMPLETON CASHIOLA & THOMAS LLP

Via E Serve

Thomas Rugg
JEFFERSON COUNTY DISTRICT ATTORNEY

Via E Serve

/s/ John S. Morgan

JOHN S. MORGAN

CAUSE NO. A-179,090

TOM GILLAM, III

VS.

KLEIN INVESTMENTS,
INC., ET AL

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IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

58th JUDICIAL DISTRICT

PLAINTIFF'S ANSWERS TO INTERROGATORIES


TO: Defendants, Klein Investments, Inc., and Philip Klein, by and through their attorney of record Mr. John Morgan, Lindsay & Morgan, 710 N. 11th Street, Beaumont, TX 77702

COMES NOW, Plaintiff, TOM GILLAM, III, and pursuant to Rule 197 of the Texas Rules of Civil Procedure, files the attached Answers to Interrogatories propounded by the Defendants, Klein Investments, Inc., and Philip Klein.

Respectfully submitted,

EDDINS & BENNETT LAW FIRM
P. O. Box 12847
Beaumont, TX 77726 77643
(409) 861-4590
Fax: 409-861-4591

By



Gerald W. Eddins
State Bar No. 06408500

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this the 13th day July, 2007, a copy of Plaintiff's Answers to Interrogatories was delivered via fax and regular mail, or certified mail, return receipt requested, to opposing counsel of record herein:

John S. Morgan
Lindsay & Morgan, PLLC
710 North 11th Street
Beaumont, TX 77702
Fax: 832-7040

A handwritten signature in black ink, appearing to read "Gerald W. Eddins", written over a horizontal line.

Gerald W. Eddins

Plaintiff's Answers to Interrogatories by Defendant, Philip Klein

1. For the person answering these interrogatories, please state your full name, current residence address, telephone number, age, date of birth and place of birth, social security number, driver's license number and state of issuance.

ANSWER

Tom Gillam, III
216 E. 17th Street
Port Arthur, TX 77640
(409)985-7161
Age: 52
D/B: 7/29/1954
SSN: 451-02-8775
Texas DL#: 07486685

2. For the person answering these interrogatories. Please state your complete criminal record, if any including felonies or crimes involving moral turpitude, including traffic violations. Please include the charges, the date, city or county, and state where the offense was charged, and the disposition thereof.

ANSWER

Traffic ticket by Port Arthur PD – 11/9/06 – Failure to yield right of way. Port Arthur, Texas. Received deferred disposition.

Traffic ticket by DPS – June 6, 2003 – Speeding and failure to provide proof of financial responsibility. Port Neches, Texas. Paid fine.

3. Please set forth, in your own words, all of the material facts regarding the matters at issue in Plaintiff's live petition. Cite specific names, locations, dates, times, places and events, to the extent that they are applicable.

ANSWER

February 27, 2007, I was working after hours in my office at the Sub-Courthouse. After I had left the building, my coordinator knocked on the courthouse door to get my attention, which caused the glass to crack, after she had locked her keys in the office. Philip Klein published on The Southeast Texas Political Review that I was engaged in a sex act when a third person walked in. This story is patently false. He also mentioned the story on his radio program.

4. Has the plaintiff ever been a party to any other lawsuit, whether Plaintiff or Defendant to any case involving slander or tortious interference, commercial litigation, personal injury lawsuit, etc. If so, please state where, when, the nature of the suit or claim, the person or party involved, the name address and phone number of your attorney, and the disposition of each lawsuit claim.

ANSWER

Class action suit for racial discrimination and a hostile work environment of African American employees of Ameripol Synpol, Inc., against Ameripol Synpol. Settled in mediation the summer of 1999. The attorney was Kevin Jordan, 905 Orleans, Beaumont, Texas. Phone: 409-835-3322.

Dana Graham v. Jefferson County/Tom Gillam – settled in mediation.
Ha Penny Nguyen v. Jefferson County/Tom Gillam – pending.

5. Please state the name, business and residence address, telephone number, and fields of expertise of any experts you or your attorney has retained who will not be called to testify as an expert witness in the trial of this case and whose opinions and/or mental impressions have been reviewed by a testifying expert. For each such expert, state the mental impressions and opinion held by the expert and the facts known to the expert (regardless of when the factual information was acquired) which relate to or forms the basis of the mental impressions and opinion held by the expert.

ANSWER

None at this time.

6. State whether you or your attorney have control or possession of any statements statements in any form of person regarding any of the events or happenings in this lawsuit. If so, please state the form of the statement, the date of such statement, and of the name of the person having custody of such statement.

ANSWER

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, we have copies of The Southeast Texas Political Review, recordings tendered pursuant to Court Order by KOLE Radio and a Press Release dated April 12, 2007 by Philip Klein, Ronnie Linden and KOLE, all of which you already have.

7. Please identify each and every communication (whether oral or written) that you have give or made to any person, entity, or organization, or to any other state or federal

administrative agency regarding the Defendants or any of the events at issue in the Plaintiff's live Petition or in Defendant's affirmative defenses.

ANSWER

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, explanation to El Freddie Lee, executive secretary of Texas East Diocese of the Churches of our Lord Jesus Christ about what he saw on the website April 12, 2007.

8. Has plaintiff responded to any inquires from any source (whether oral or written) pertaining to Defendants of ha Plaintiff otherwise given any references or made any statements (whether oral or written) pertaining to Defendants. If so, Pleas identify the parties or persons to whom any reference or statements were made, the substance of the commentary regarding Plaintiff in those references, etc.

ANSWER

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, I do not remember making any statements pertaining to Defendant.

9. Identify and describe all documents (with the exception of attorney-client privileged communications) generated be Plaintiff regarding the Defendants and/or the matters at issue in Plaintiffs' live Petition or in Defendants' live affirmative defenses. In this interrogatory, the term "identify" means proving the date of the document, the parties or person to whom it was addressed, the parties or persons receiving such document, and describe or set forth the contents of the documents.

ANSWER

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, see Press Release dated April 11, 2007.

10. Set forth every reason you allege that Klein Investigations or Philip Klein have slandered or defamed Plaintiff.

ANSWER

On the website Southeast Texas Political Review 2007, Mr. Klein stated I engaged in an inappropriate sexual act with a woman at the courthouse. This is patently false, malicious and defamatory. As a Port Arthur City Council member, Mr. Klein several years ago, published an article referring to me as a monkey. In January 2007, published an article falsely accusing me of openly endorsing Judge Shelton.

11. Please set forth each every individual by name, address and telephone number, whom you anyway to the matters at issue in this lawsuit. Additionally, please state with specificity the date, location, witness and subject matter and content of any such discussions.

ANSWER

My wife, children, staff have all seen the courthouse video, and the articles that have been on the website Southeast Texas Political Review.

My family includes my wife, Rosanna Gillam, my children:

Leah Henry, 1120 Marshall Avenue., Port Arthur, TX (543-3006)

Katrina Leday, 550 Harriet, Beaumont, TX 77705 (543-6261)

Lydia Gillam, 398 Hwy. 365, Apt. 175, Port Arthur, TX 77642 (543-3103)

Della Gillam, 398 Hwy. 365, Apt. 175, Port Arthur, TX 77642 (724-2505)

On March 27, 2007, my son, Tom Gillam, IV, told me a friend told him about the article on The Southeast Texas Political Review. His address is 216 E. 17th Street, Port Arthur, TX.

Bobbie Mitchell called me and told me about an e-mail she received that I was caught having sex in the courtroom. Her address is 920 W. 15th Street, Port Arthur, TX

Michael Senegal called me about what he heard was on the website Southeast Texas Political Review. His phone number is 460-0140.

Willie Lewis called me about Don Collins passing out copies of the Southeast Texas Political Review in a night club saying I was caught having sex in the courthouse. His address is 2301 Lakeshore Drive, Port Arthur. Phone number: 985-9576.

Angel San Juan, a television reporter, called me from Channel 6 News to ask me about Southeast Texas Political Review website and about the Philip Klein and Ronnie Linden radio shows on March 24th and March 26th.

12. Set forth any and all facts that you have to demonstrate that these Defendants acted with "actual malice" on the occasion in question in publishing the information at issue in this lawsuit.

ANSWER

See Southeast Texas Political Review article pertaining to the alleged incident and comments made by Philip Klein. I have received telephone calls from San Antonio, Corpus Christi, Houston, Austin, Texas and so forth where it was read on the Internet website. Will supplement.

13. Identify by full name, address and phone number, and all employees of Plaintiff, including all members of the courts' staff, during the years 2005 through the present.

THE STATE OF TEXAS

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COUNTY OF JEFFERSON

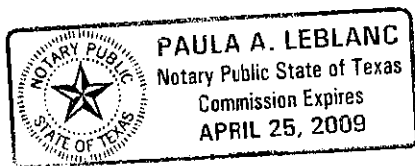
BEFORE ME, the undersigned authority, on this day personally appeared TOM GILLAM, III, who, after being duly sworn, upon oath stated:

"I, TOM GILLAM, III, do hereby state under oath that the foregoing Answers to Defendant's Interrogatories are true and correct to the best of my knowledge and belief."



TOM GILLAM, III

SUBSCRIBED AND SWORN TO BEFORE ME by the said TOM GILLAM, III, on this, the 12 day of July, 2007.





NOTARY PUBLIC--STATE OF TEXAS

CAUSE NO. A-179,090

TOM GILLAM, III § IN THE DISTRICT COURT OF
VS. § JEFFERSON COUNTY, TEXAS
KLEIN INVESTMENTS, § 58TH JUDICIAL DISTRICT
INC., ET AL §

PLAINTIFF'S RESPONSE TO REQUEST FOR PRODUCTION

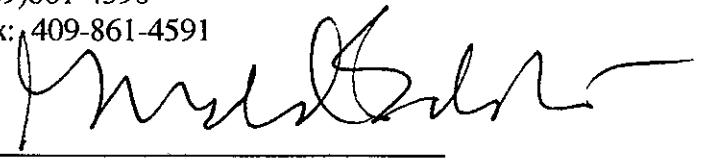
TO: Defendants, Klein Investments, Inc., and Philip Klein, by and through their attorney of record Mr. John S. Morgan, Lindsay & Morgan, 710 North 11th Street, Beaumont, TX 77702.

COMES NOW, Plaintiff, TOM GILLAM, III, and pursuant to the Texas Rules of Civil Procedure files this his Response to Request for Production propounded by Defendants, Klein Investments, Inc., and Philip Klein.

Respectfully submitted,

EDDINS & BENNETT LAW FIRM
3450B N. Dowlen Road
Beaumont, TX 77706
P. O. Box 12847
Beaumont, TX 77726
(409)861-4590
Fax: 409-861-4591

By



Gerald W. Eddins
State Bar No. 06408500

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this the 13th day of July, 2007, a copy of the foregoing Response to Request for Production was forwarded via facsimile and regular mail, or certified mail, return receipt requested to opposing counsel of record herein.

Mr. John S. Morgan
Lindsay & Morgan, PLLC
710 North 11th Street
Beaumont, TX 77702
Fax: 832-7040



Gerald W. Eddins

Plaintiff's Response to Request for Production Propounded by Defendants, Klein Investments, Inc., and Philip Klein

1. For the person answering these requests, a copy of your birth certificate, driver's license, and social security card.

RESPONSE:

Attached are plaintiff's birth certificate and driver's license. Plaintiff has provided his social security number.

2. A copy of the pleadings and all deposition transcripts in each lawsuit to which Plaintiff has been a party.

RESPONSE:

Plaintiff does not have possession of any copies of any pleadings or deposition transcripts to which plaintiff has been a party.

3. Any and all newspaper articles, magazine articles, recordings of radio or TV news broadcasts, or the like, which in any way relate to the incidents or damages alleged in this lawsuit.

RESPONSE:

Please refer to the articles in The Southeast Texas Political Review, recordings tendered pursuant to Court Order by KOLE Radio and a Press Release dated April 12, 2007 by Philip Klein, Ronnie Linden and KOLE, all of which you already have.

4. Each and every statement you or your attorneys or their agents or investigators have obtained from this Defendant or from any other witness or employees or from any agents, representatives, servants or employees which are in any way relevant to the incident or damages alleged in this lawsuit.

RESPONSE:

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, none at this time.

5. Any investigator's report or reports of investigations done in connection with the incidents made basis of the lawsuit. This would include any reports of any governmental agencies or any reports of private investigators. (We are not requesting any investigation done by or on behalf of your attorney to the extent such material constitutes attorney work product.

RESPONSE:

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, none at this time.

6. All photographs, drawings, diagrams, or any other written or graphic material depicting the scene of the incidents in question.

RESPONSE:

None.

7. Please attach all settlement agreements of any kind, including "Mary Carter" agreements between yourself and any other party or non-party to this case.

RESPONSE:

None.

8. Produce the following:

All written reports of each and every expert witness whom you will or may call as a witness at trial.

All documents, photographs, and other tangible items which each expert considered, referred to, or relied upon in arriving at or formulating each conclusion or expert opinion.

A true and correct copy of each expert's current curriculum vitae or list of qualifications and educational background.

RESPONSE:

None at this time.

9. Produce all written or recorded statements of this Defendant or any of his agents, servants, employees or representatives, regarding any matter at issue in this lawsuit, regardless whether or not signed.

RESPONSE:

KOLE has tendered copies of radio shows conducted by Philip Klein and Ronnie Linden, both of which are in a better position to access these items.

10. Any documents or tangible items which substantiate your claims, if any, that Plaintiff is entitled to the relief he seeks.

RESPONSE:

Family's good name and my reputation severely damaged since March 24, 2007. People in grocery stores, restaurants, and so forth now have complexes when speaking if they speak even the level of respect is not there anymore.

11. Produce any and all documents or tangible items which you intend to introduce into evidence at trial, or use in a demonstrative fashion at trial.

RESPONSE:

Objection is made to this request as it is outside the scope of discovery and requires plaintiff to marshal evidence. Subject to these objections:

Surveillance videotape

Website articles

Recordings of radio shows

12. The complete file of Plaintiff with reference to Defendant.

RESPONSE:

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege.

13. The complete investigative file made by Plaintiff of the incidents at issue in this lawsuit. This request includes any and all witness statements, documents pertaining to the events at issue, investigation pertaining to the allegations made by Defendant, or any other written documents whatsoever pertaining to the Defendant or to any matter at issue in your live counterclaim.

REPOSENSE:

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, none.

14. All correspondence between Plaintiff pr Plaintiff's attorneys and each expert identified by defendant in response to defendant's interrogatories or requests for disclosure to Plaintiff's concerning his or her employment as an expert in this lawsuit, including subjects to be addressed by the expert, fee agreements and facts of the case.

RESPONSE:

None.

15. All reports, photograph, slides charts, compilations of data, and other documents provided by Plaintiff or Plaintiff's attorneys to each expert identified by Plaintiff in response to Defendant's interrogators or requests for disclosure to Plaintiff.

RESPONSE:

None.

16. All documents and tangible things, including all reports, physical models, compilations of data, standards, codes, regulations, treaties, publications, supporting data, and other documents prepared or relied upon by each expert identified by defendant in response to defendant interrogatories or request for disclosure to plaintiff. The disclosure of material prepared by expert used for consultation is also included in the scope of this request if such material has been reviewed by an expert who may testify at trial.

RESPONSE:

None.

17. All statements, whether written, recorded, or videotaped, or the transcriptions of oral statements, made by plaintiff's past or present agents or employee relating to defendant's claims in the suit.

RESPONSE:

Plaintiff objects to this question as overly broad, unduly burdensome, outside the scope of permissible discovery and violates attorney-client privilege. Subject to said objections, none.

18. Any and all documents or tangible items demonstrating that this Defendant acted with "actual malice" in publishing the information at issue pertaining to the Plaintiff.

REPSONSE:

Southeast Texas Political Review and Press Release by Defendants and tape recording of March 31, 2007 radio show.

CERTIFICATION OF VITAL RECORD

CITY OF PORT ARTHUR

TEXAS DEPARTMENT OF HEALTH
BUREAU OF VITAL STATISTICS
CERTIFICATE OF BIRTH

STATE OF TEXAS

BIRTH NO. 142-

NOTE THE INFORMATION CALLED FOR ON THE REVERSE SIDE

1. PLACE OF BIRTH a. COUNTY Jefferson		2. USUAL RESIDENCE OF MOTHER (Where does mother live?) a. STATE Texas		b. COUNTY Jefferson	
b. CITY (If outside corporate limits, write RURAL and give precinct no.) OR TOWN Port Arthur		c. CITY (If outside corporate limits, write RURAL and give precinct no.) OR TOWN Port Arthur		d. STREET ADDRESS (If rural, give location) 1200 Carver Terrace	
c. FULL NAME OF HOSPITAL OR INSTITUTION (If NOT in hospital or institution, give street address or location) St. Mary's Hospital		3. CHILD'S NAME (Type or print) a. (First) Tom b. (Middle) - c. (Last) Gillam III			
4. SEX male	5a. THIS BIRTH SINGLE <input checked="" type="checkbox"/> TWIN <input type="checkbox"/> TRIPLET <input type="checkbox"/>	5b. IF TWIN OR TRIPLET (This child born) 1ST <input type="checkbox"/> 2ND <input type="checkbox"/> 3RD <input type="checkbox"/>	6. LEGITIMATE? yes	7. DATE OF BIRTH July 29, 1954	
FATHER OF CHILD					
8. FULL NAME a. (First) Tom b. (Middle) - c. (Last) Gillam Jr.		9. COLOR OR RACE negro			
10. AGE (At time of this birth) 27 YEARS	11. BIRTHPLACE (State or foreign country) Louisiana	12a. USUAL OCCUPATION Employee	12b. KIND OF BUSINESS OR INDUSTRY Sabine Towing Co.		
MOTHER OF CHILD					
13. FULL MAIDEN NAME a. (First) Della b. (Middle) Mae c. (Last) Berry		14. COLOR OR RACE negro			
15. AGE (At time of this birth) 25 YEARS	16. BIRTHPLACE (State or foreign country) Louisiana	17a. USUAL OCCUPATION Housewife	17b. KIND OF BUSINESS OR INDUSTRY Home		
18. CHILDREN PREVIOUSLY BORN TO THIS MOTHER (Do NOT include this child) a. How many OTHER children are now living? 1 b. How many OTHER children were born alive but are now dead? 0 c. How many OTHER children were stillborn (born dead after 20 weeks pregnancy)? 0			19a. INFORMANT Della Mae Gillam		
			19b. ADDRESS		
20. I hereby certify that I attended the birth of this child who was born alive on the date stated above at 5:00 A. M.					
21a. ATTENDANT'S SIGNATURE H. H. Goldblum, M.D.			21b. ATTENDANT AT BIRTH M.D. <input type="checkbox"/> D.O. <input type="checkbox"/> MIDWIFE <input type="checkbox"/> OTHER (Specify)		
21c. ATTENDANT'S ADDRESS Port Arthur, Texas			21d. DATE SIGNED 7/29/54		
22a. REGISTRAR'S FILE NO. 1292	22b. DATE REC'D BY LOCAL REGISTRAR 8/3/1954	22c. REGISTRAR'S SIGNATURE Thelma Siebelitz			

167211

This is a true and correct reproduction of the original record as recorded in this office. Issued under authority of Section 191.051, Health and Safety Code.

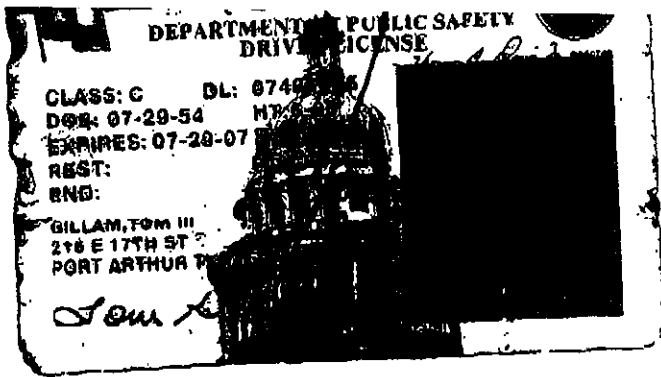
ISSUED:

JUL 11 2007

Florida Goodman

Local Registrar

WARNING: It is Illegal to Duplicate This Copy.



my social security card is missing, I am ordering a new one

CAUSE NO. A-179,090

TOM GILLAM, III

VS.

KLEIN INVESTMENTS,
INC., ET AL

§
§
§
§
§
§

IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

58th JUDICIAL DISTRICT

PLAINTIFF'S RESPONSE TO REQUEST FOR DISCLOSURE

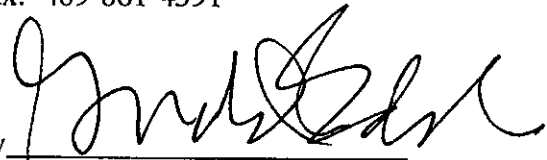
TO: Defendants, Klein Investments, Inc., and Philip Klein, by and through their attorney of record Mr. John Morgan, Lindsay & Morgan, 710 N. 11th Street, Beaumont, TX 77702

COMES NOW, Plaintiff, TOM GILLAM, III, and pursuant to Rule 194 of the Texas Rules of Civil Procedure, files this his Response to Request for Disclosure propounded by the Defendants, Klein Investments, Inc., and Philip Klein.

Respectfully submitted,

EDDINS & BENNETT LAW FIRM
P. O. Box 12847
Beaumont, TX 77726 77643
(409) 861-4590
Fax: 409-861-4591

By



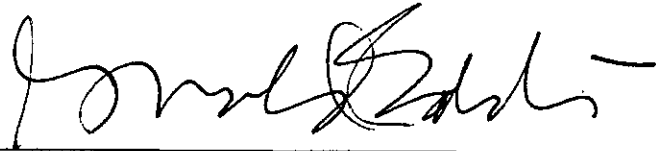
Gerald W. Eddins
State Bar No. 06408500

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this the 13th day July, 2007, a copy of Plaintiff's Response Request for Disclosure was delivered via fax and regular mail, or certified mail, return receipt requested, to opposing counsel of record herein:

John S. Morgan
Lindsay & Morgan, PLLC
710 North 11th Street
Beaumont, TX 77702
Fax: 832-7040

A handwritten signature in black ink, appearing to read "Gerald W. Eddins", written over a horizontal line.

Gerald W. Eddins

Plaintiff's Response to Request for Disclosure

Disclose fully the following:

- (a) The correct name of the parties to the lawsuit;

ANSWER:

Tom Gillam, III
Philip Klein
Klein Investments, Inc.
Ronnie Linden
KOLE Radio

- (b) The name, address, and telephone number of any potential parties;

ANSWER:

None known to plaintiff at this time.

- (c) The legal theories of your claims and/or defenses and their factual basis;

ANSWER:

Defendants defamed my character, reputation and family's good name by publishing false statements about me on a website known as the Southeast Texas Political Review and by making false and untrue statements about me on the radio.

- (d) Your version of the amount and your method of calculating economic damages of the Plaintiff;

ANSWER:

Discovery just beginning, will supplement.

- (e) The name, address and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

ANSWER:

The parties to this lawsuit: Tom Gillam, III, Philip Klein, Ronnie Linden and KOLE Radio

My wife, children, staff have all seen the courthouse video, and the articles that have been on the website Southeast Texas Political Review. My family includes my wife, Rosanna Gillam, my children:

Leah Henry, 1120 Marshall Avenue., Port Arthur, TX (543-3006)
Katrina Leday, 550 Harriet, Beaumont, TX 77705 (543-6261)
Lydia Gillam, 398 Hwy. 365, Apt. 175, Port Arthur, TX 77642 (543-3103)
Della Gillam, 398 Hwy. 365, Apt. 175, Port Arthur, TX 77642 (724-2505)
On March 27, 2007, my son, Tom Gillam, IV, told me a friend told him
about the article on The Southeast Texas Political Review. His address is
216 E. 17th Street, Port Arthur, TX.

Bobbie Mitchell called me and told me about an e-mail she received that I
was caught having sex in the courtroom. Her address is 920 W. 15th
Street, Port Arthur, TX

Michael Senegal called me about what he heard was on the website
Southeast Texas Political Review. His phone number is 460-0140.

Willie Lewis called me about Don Collins passing out copies of the
Southeast Texas Political Review in a night club saying I was caught
having sex in the courthouse. His address is 2301 Lakeshore Drive, Port
Arthur. Phone number: 985-9576.

Angel San Juan, a television reporter, called me from Channel 6 News to
ask me about Southeast Texas Political Review website and about the
Philip Klein and Ronnie Linden radio shows on March 24th and March
26th.

- (f) For any testifying expert;
- (1) the expert's name, address and telephone number;
 - (2) the subject matter on which the expert will testify;
 - (3) the general substance of the expert's mental impressions and
opinions and a brief summary of the basis for them;
 - (4) if the expert is retained by, employed by, or otherwise subject to the
control of the responding party:
 - (A) all documents, tangible things, reports, models, or data
compilations that have been provided to, reviewed by, or prepared by or for the
expert in anticipation of the expert's testimony; and
 - (B) the expert's current resume and bibliography;

ANSWER:

None at this time.

(g) All insurance policies, indemnity and insuring agreements, regardless whether coverage is at issue;

ANSWER:

Not applicable.

(h) All settlement agreements;

ANSWER:

None.

(i) All witness statements;

ANSWER:

None at this time.

(j) All medical records and bills that are in any way related to the injuries or damages Plaintiff asserted or, any other condition or injury that contributes to Plaintiff's problems or present condition;

ANSWER:

None at this time.

(k) All medical records and bills obtained by the responding party by you, your attorneys, adjusters, agents or employees, by virtue of an authorization furnished by the requesting party.

ANSWER:

Not applicable.

(l) The name, address and telephone number of any person who may be designated as a responsible third party.

ANSWER:

None known at this time.