

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

SAVE-A-LIFE FOUNDATION, INC.,)

Plaintiff,)

v.)

No. 07 CH 12022)

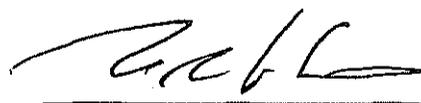
PETER HEIMLICH, JASON HAAP and)
ROBERT BARATZ,)

Defendant.)

**MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

NOW COMES plaintiff, SAVE-A-LIFE FOUNDATION, INC., by its counsel, ANCEL,
GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C., and moves this court for leave
to file its Second Amended Complaint.

Respectfully submitted,

By: 

Thomas G. DiCianni

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

SAVE-A-LIFE FOUNDATION, INC.,)

Plaintiff,)

v.)

No. 07 CH 12022)

PETER HEIMLICH, JASON HAAP and)
ROBERT BARATZ,)

Defendant.)

**SECOND AMENDED VERIFIED
COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

NOW COMES plaintiff, SAVE-A-LIFE FOUNDATION, INC., by its counsel, ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C., and for its Second Amended Complaint against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, states the following:

Introduction

1. Plaintiff, SAVE-A-LIFE FOUNDATION, INC. ("Save-A-Life"), is a not-for-profit corporation organized under the laws of the State of Illinois and qualified under Section 501(c)(3) of the United States Internal Revenue Code. Save-A-Life's headquarters is located in Cook County, Illinois, and it does business in Cook County and throughout the nation. Save-A-Life is a national affiliate of the Department of Homeland Security Citizen Corps, and its programs have been promoted and supported by many local and national organizations.

2. Save-A-Life's mission is to train bystanders, particularly school age children, in age appropriate life supporting first aid ("LFSA") skills to provide in emergency situations prior to arrival of emergency medical service ("EMS") professionals. Save-A-Life was founded in 1993, and has since organized and sponsored programs that have trained over 1.6 million children in LFSA

throughout the nation. Save-A-Life has 13 branches or satellites in seven separate states, has letters of intent to bring its training to 30 additional states, and is presently registered to do business in all 50 states and Puerto Rico.

3. Save-A-Life is funded by state and local government grants and earmarked appropriations, and grants and contributions from private businesses and other entities. Save-A-Life has received grants and contributions to support its programs from organizations such as Chicago Public Schools ("CPS"), Blue Cross/Blue Shield of Illinois, Ronald McDonald House Charities, and other entities. Save-A-Life's funding sources are publicly disclosed, it provides quarterly financial and activity reports to its private and governmental funders, and undergoes a full audit annually by an independent auditing firm.

4. Save-A-Life's programs are taught by EMS professionals. The LFSA skills taught in Save-A-Life's programs include emergency recognition, scene safety, use of 911, bleed control, opening an airway, rescue breathing, CPR, the Heimlich Maneuver, and other basic and more advanced LFSA techniques.

The Heimlich Connection

5. The Heimlich Maneuver is a life saving measure for choking victims involving a thrust delivered to the victim's abdomen, creating a burst of air expelling the obstruction. It derives its name from Dr. Henry Heimlich, who pioneered the technique. Dr. Heimlich is the founder and President of the Heimlich Institute, located in Cincinnati, Ohio.

6. Until early 2007, Dr. Henry Heimlich served on Save-A-Life's Medical Advisory Board. He developed a close affiliation with Save-A-Life, appeared at functions promoting Save-A-Life, and made guest appearances at Save-A-Life programs where he would demonstrate the

Heimlich Maneuver. Prior to early 2007, discussions were underway and plans were made to merge Save-A-Life and the Heimlich Institute, and for Save-A-Life to take ownership of the Heimlich Institute's assets and become the repository for Dr. Heimlich's personal papers and other materials related to the Heimlich Maneuver.

7. Defendant PETER HEIMLICH is the son of Dr. Henry Heimlich. Defendant PETER HEIMLICH, upon information and belief, is a resident of the State of Georgia.

8. Defendant JASON HAAP is a resident of Cincinnati, Ohio. He operates an internet blog known as the Cincinnati Beacon.

9. Defendant ROBERT BARATZ, on information and belief, is a resident of the State of Massachusetts, and is the proprietor of an organization called the National Council Against Health Care Fraud. On information and belief, defendant Baratz is in the business of acting as a paid expert witness in proceedings where alternative medicine practices are at issue.

10. For reasons unknown to Save-A-Life, a family feud has developed in which defendant PETER HEIMLICH has publicly and repeatedly stated that his mission is to discredit and destroy the reputation of his father, Dr. Henry Heimlich. Defendant PETER HEIMLICH has operated a web site dedicated to exposing what he contends are fraudulent acts by Dr. Henry Heimlich. Defendants HAAP and BARATZ have conspired and acted in concert with defendant PETER HEIMLICH in his demonstrated mission against Dr. Henry Heimlich.

The Defendants' Concerted Action

11. In the spring of 2006, shortly after the Edwardsville Intelligencer, a newspaper located in Edwardsville, Illinois, reported that a 12 year old girl who was trained in a Save-A-Life program offered at her school used the Heimlich Maneuver to save the life of her friend who was

choking on a piece of food, defendants began an organized and concerted campaign to destroy Save-A-Life. Defendants' campaign against Save-A-Life was motivated solely because of its close affiliation with Dr. Henry Heimlich. The campaign began with harassment of Save-A-Life employees and Board members in Illinois and elsewhere.

12. In the fall of 2006, after WGN television in Chicago broadcast a story about Dr. Heimlich attending a Save-A-Life program at a CPS south loop school where the Heimlich maneuver was being taught, defendants targeted Chicago media and other contacts in their organized campaign to destroy Save-A-Life. The campaign continued with harassment of Save-A-Life supporters and Board members with a barrage of contacts, questions and demands, and making false, inflammatory and defamatory communications with media in the Chicago area about Save-A-Life, its employees and its programs, and demanding that the media outlets act on defendants' information.

13. On November 17, and 18, 2006, ABC-7 in Chicago aired a sweeps week report critical of Save-A-Life by reporter Chuck Goudie. In that report Goudie:

- (a) On information and belief, relied on and reported information and innuendo fed to him by defendants, without disclosing defendants' bias and ulterior motives.
- (b) Accused Save-A-Life of deceiving its contributors into providing funding for Save-A-Life by exaggerating the background and experience of its President and founder, Carol Spizzirri. That statement was false and defamatory. No organization, business or government agency or officer has made or supported funding of Save-A-Life based on Carol Spizzirri's background and experience.
- (c) Stated that Save-A-Life's instructors were unpaid, and therefore its funding was unaccounted for and misappropriated. That statement was false and defamatory. In fact, Save-A-Life's instructors are paid, and none of its funds are misappropriated. All of its funds are accounted for in every way.

- (d) Interviewed defendant Baratz and aired statements by him in which he accused Save-A-Life of deceiving its contributors, and of misappropriation and failing to account for its funds. Goudie never disclosed defendant Baratz's bias, ill will, or wrongful motives. Defendant Baratz's statements were false and defamatory.
- (e) Stated that Save-A-Life's teaching the Heimlich Maneuver in its programs was inappropriate and inconsistent with prevailing national guidelines or standards. This statement was disparaging of Save-A-Life's product, and was false.
- (f) Stated that Save-A-Life overstated the number of CPS students it trained, and reported that CPS Chief Executive Officer Arne Duncan also doubted Save-A-Life's report on the number of CPS students it trained. This statement was false and defamatory. Save-A-Life has accurately reported the number of CPS students it trained, which is documented. On information and belief, Arne Duncan has never expressed doubt about the number of CPS students trained through Save-A-Life programs.
- (g) Stated that Save-A-Life intentionally released false reports about how Christina Spizzirri, the 18-year old daughter of Save-A-Life's founder, Carol Spizzirri, was killed in a car accident. That statement was false and defamatory. Neither Carol Spizzirri, Save-A-Life nor any of its employees or agents has lied about any of the circumstances surrounding Christina Spizzirri's death.

14. After the ABC-7 report was aired, defendants immediately claimed credit for the report, and as part of their ongoing scheme to destroy Save-A-Life for its affiliation with Dr. Heimlich, transmitted the defamatory report to numerous state and federal legislators and government agencies responsible for approving funding for Save-A-Life, companies, civic organizations and other entities engaged in business arrangements with Save-A-Life or contemplating such arrangements, and other supporters and partners of Save-A-Life. Defendants have also harassed and stalked such entities by sending numerous e-mails, letters and other communications calling attention to the ABC-7 report or portions of it, and making inquiries and

demands related to the report or making other false, negative and critical comments and innuendo about Save-A-Life.

15. As a direct and proximate result of the foregoing, Save-A-Life has sustained damages in that it has lost business opportunities and arrangements with third-parties, funding, and has expended money in repairing and responding to the damage done to its reputation by defendants' conduct.

Count I
Tortious Interference With Prospective Economic Advantage
Heimlich, Haap and Baratz

16. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 15 as paragraph 16 of Count I.

17. Defendants interfered with Save-A-Life's prospective economic advantages, opportunities and relationships in the following ways:

- A. Save-A-Life was in partnership with other entities to provide LFSA training for the CPS "Education to Careers" program. The partnerships were expanding for even additional programs, of which Save-A-Life was to be an integral part. Defendants transmitted the defamatory ABC-7 report to CPS, followed with questions and allegations regarding the report, and demanded responses from CPS. As a proximate result of defendants' actions, Save-A-Life's role in the Education to Careers program has been significantly limited.
- B. Save-A-Life was in the process of creating a community granting program partnership with the United States Conference of Mayors ("USCM"). Defendants transmitted the defamatory ABC-7 report to representatives of the USCM, followed with questions and allegations regarding the report, and demanded responses from the USCM. As a proximate result of defendants' actions, all plans for the partnership were halted.
- C. Save-A-Life had a positive relationship with Emil Jones, Jr., the President of the Illinois State Senate, who at the time of the defamatory ABC-7 report served as a Save-A-Life spokesman. Defendants transmitted the defamatory ABC-7 report to Senator Jones' office, called Senator Jones' office

repeatedly, followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, Senator Jones severed his ties with Save-A-Life.

- D. Save-A-Life had been working with the City of Miami, had a branch in the Miami Mayor's office, and had been providing LFSA training in Miami-Dade schools. Defendants transmitted the defamatory ABC-7 report to the Mayor's office, followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, the City of Miami has terminated its relationship with Save-A-Life.
- E. Save-A-Life presented a pilot training program to the State of Vermont to provide LFSA programs in Vermont schools. Defendants transmitted the defamatory ABC-7 report to State of Vermont officials, followed with questions and allegations about the report, demanded responses, and demanded that a Manchester, Vermont newspaper that had published complimentary observations about the Save-A-Life program retract those comments. As a result of defendants' actions, the State of Vermont review process for the Save-A-Life pilot program was delayed, and Save-A-Life expended significant amounts of time and funds to repair the damage to its relationship with the State of Vermont caused by defendants.
- F. Save-A-Life had a six-year relationship with Comcast Corp., in which Comcast Corp. supported and participated in Save-A-Life events and promotions. Defendants transmitted the defamatory ABC-7 report to Comcast Corp., followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, Comcast Corp. has severed its ties with Save-A-Life.
- G. Save-A-Life had an ongoing relationship with the Altria Group, in which it provided periodic funding and support for Save-A-Life programs and participated in Save-A-Life's promotional events. Defendants transmitted the defamatory ABC-7 report to Altria, followed with questions about allegations in the report, and demanded responses. As a proximate result of defendants' actions, Altria has severed its relationship with Save-A-Life.
- H. Save-A-Life was designated to receive significant funding from the United States Department of Defense ("DOD") to implement the National Guard's Youth Challenge Program. Review of the program had moved significantly through the DOD's appropriations process when defendants transmitted the defamatory ABC-7 report to the DOD, followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, Save-A-Life was removed from consideration as a funding recipient from the DOD. Save-A-Life spent significant time and

funds to repair its relationship with the DOD, and ultimately secured a much more limited role in the Youth Challenge Program than it would have absent defendants' conduct.

- I. Save-A-Life worked with the Philadelphia School Preparedness Committee to implement LFSA training in Philadelphia schools, and was a partner with the Philadelphia schools in a billboard campaign. Defendants transmitted the defamatory ABC-7 report to officials of the Philadelphia schools, followed with questions and allegations about the report, and demanded responses. As a result, the Philadelphia School Preparedness Committee severed its relationship with Save-A-Life.
- J. Save-A-Life had developed an agreement to pilot Save-A-Life's LFSA programs in Putnam County, New York. Defendants transmitted the defamatory ABC-7 report to Putnam County EMS officials, followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, the pilot was canceled.
- K. Save-A-Life is and has been a Citizen Corps. affiliate of the United States Department of Homeland Security ("DHS"). Prior to the ABC-7 report, Senate Bill 3533, known as the CRSI Act, was enacted in which Save-A-Life was intended to be the primary provider of LFSA training. "CRSI" is an acronym for "Community Response System Initiatives," a title that was crafted after Christina Spizzirri, Carol Spizzirri's deceased daughter. Defendants transmitted the defamatory ABC-7 report to DHS, followed with questions and allegations about the report, and demanded responses. As a proximate result of defendants' actions, the CRSI Act programs have not been implemented by DHS.

18. The foregoing actions by defendants constituted tortious interference with prospective economic advantage, in that defendants' actions were taken solely to deter and discourage companies, partners, legislators, government agencies and other supporters of Save-A-Life from affiliating, supporting, promoting, or partnering with Save-A-Life, as part an ongoing scheme to discredit Dr. Henry Heimlich and Save-A-Life for its affiliation with him.

19. Defendants' actions were taken maliciously, without any legitimate purpose, and solely to damage Save-A-Life.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendants, PETER HEIMLICH, JASON HAAP and ROBERT BARATZ, and award the following relief:

- A. A preliminary and permanent injunction prohibiting defendants from continuing their tortious conduct;
- B. Compensatory damages and costs in an amount in excess of \$50,000;
- C. Punitive damages in an amount in excess of \$50,000.

Count II
Defamation Per Se
Baratz

20. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 15 as paragraph 20 of Count II.

21. During the ABC-7 report, defendant BARATZ stated that federal and state funding agencies have been defrauded by Save-A-Life.

22. Defendant BARATZ's statements constitute defamation *per se* in that they impugn the financial integrity of Save-A-Life in its business.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendant ROBERT BARATZ for the following relief:

- A. Compensatory damages and costs in an amount in excess of \$50,000;
- B. Punitive damages in an amount in excess of \$50,000.

Count III
Defamation Per Quod
Baratz

23. Plaintiff Save-A-Life adopts and realleges paragraphs 1 - 15 as paragraph 23 of Count III.

24. During the ABC-7 report, defendant BARATZ stated that federal and state funding agencies have been defrauded by Save-A-Life.

25. Defendant BARATZ's statements constitute defamation *per quod*.

WHEREFORE, plaintiff, SAVE-A-LIFE FOUNDATION, INC., prays this Court enter judgment in its favor and against defendant ROBERT BARATZ and award the following relief:

- A. Compensatory damages and costs in an amount in excess of \$50,000;
- B. Punitive damages in an amount in excess of \$50,000.

Respectfully submitted,

By: _____

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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Carol Spizzirri

Thomas G. DiCianni
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