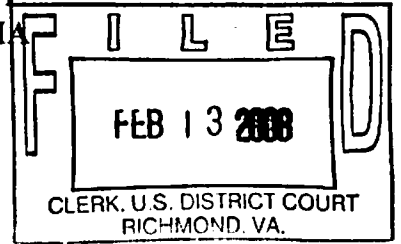


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)



VICTOR E. CRETELLA III)
113 East Church Street)
Frederick, Maryland)
Plaintiff)
v.)
DAVID L. KUZMINSKI)
2581 Pine Hurst Drive)
Petersburg, Virginia)
Defendant)
_____)

Case No. 3:08cv109

PLAINTIFF'S COMPLAINT WITH DEMAND FOR A JURY TRIAL

Plaintiff, Victor E. Cretella III, sues Defendant David L. Kuzminski and states:

1. Plaintiff Victor E. Cretella III ("Cretella" or "Plaintiff") is domiciled in and a citizen of the State of Maryland, residing in Frederick County.
2. Defendant David L. Kuzminski ("Kuzminski" or "Defendant") is domiciled in and a citizen of the Commonwealth of Virginia, residing in Petersburg City.
3. This Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 based upon the fact that the amount in controversy exceeds \$75,000 and there is a diversity of citizenship between the parties to this matter. This Court has venue over this action pursuant to 28 U.S.C. § 1391 based upon Defendant's residence in the Eastern District of Virginia.
4. **JURY DEMAND:** Plaintiff demands a jury trial on all issues so triable.

5. Plaintiff has been admitted to practice law in the State of Maryland since December, 1996. From January, 1997 until April, 2007, Plaintiff was employed as an attorney for the law firm of Gordon & Simmons in Frederick, Maryland. One of Plaintiff's clients was PublishAmerica, LLLP ("PublishAmerica"), which was (and still is) a book publisher located in Frederick, Maryland.

6. In early 2007, PublishAmerica identified a number of false and defamatory statements concerning it that had been published by Christine Norris ("Norris") on the Internet. In order to stop this tortious conduct, PublishAmerica hired Plaintiff to send Norris a cease and desist letter. In furtherance of this goal, Plaintiff served Christine Norris with a cease and desist letter on February 7, 2007; in this letter Plaintiff identified himself as PublishAmerica's attorney. When Norris continued publishing defamatory statements about PublishAmerica on the Internet after receiving the cease and desist letter, PublishAmerica served her with a second notice on or about February 15, 2007. After receiving that notice, Ms. Norris posted a message on the Internet claiming that she would comply with the cease and desist letter at least temporarily.

7. On February 16, 2007 at 10:15 a.m., David Kuzminski published the following statement about the cease and desist notices on the Internet:

I say it's time to report Vic Cretella to the Maryland Bar Association for attempted extortion. Let them sort it out and decide whether that's what he's involved in or not.

Let's not forget his law firm. They might not know what he's doing. They might not want the blackeye [sic] he's giving them.

[Http://www.absolutewrite.com/forums/showthreadd.php?t=55381&page=3](http://www.absolutewrite.com/forums/showthreadd.php?t=55381&page=3).

8. Less than an hour later, Defendant posted a copy of an e-mail, which he had purportedly sent to Plaintiff's employer, on the same website. The contents of this letter are as follows:

Perhaps your office is unaware, but Mr. Cretella seems to be involved in what I would characterize as extortion. I've enclosed a copy of the documentation that leads me to express this extreme displeasure with one of your lawyers because he appears to not only represent a business I consider to be among the sleaziest in the world, but to be actively consorting with them in furthering its unethical if not illegal methods. I fully intend to also report him to the Maryland State Bar Association for disciplinary action.

Defendant also indicated that he copied the e-mail to a number of "related offices in the Maryland State Bar Association and nearly every member of their Ethics Committee." When commenting on what he had done, he said: "Well, let's see Vic deal with this. . . . **Yes, this just went out in e-mail. They want to play rough, then let's level the playing field just a bit.**" (Emphasis in original).

9. Kuzminski reiterated his defamatory accusations several minutes later when he posted the following message on the website:

Okay, folks, if you want to help, send an e-mail to those addresses. . . . If you have documentation about PA or Vic, offer to give it to the Maryland State Bar Association to use in considering whether to administer disciplinary action to dear ole Vic.

Hey Vic, I hope you're reading this so you can include me on the offer you made to Christine.

10. Defendant's statements that Plaintiff committed extortion and acted unethically were published to numerous third parties. First, Kuzminski's statements were read by many

persons who accessed the AbsoluteWrite website through the Internet, including, but not limited to, persons with the following screen names: “Christine N.”, “Queen of Swords”, “Gabriel”, “rtilyarms”, “SouthernWriter1978”, “James D. Macdonald”, “Biol”, “victoriastrauss”, “maddog”, “zizban”, “spike”, “JimmyD1318”, “xhouseboy”, sonarbabe”, “PeeDee”, “Sean D. Schaffer”, “WildScribe”, “TemlynWriting”, “KCH”, “roach”, “Bartholomew”, “catslave”, “Atomic Bear”, “LeslieB”, “NCRomanceWriter”, “brainstorm77”, “Sarashay”, “JulieB”, “Julie Worth”, “AC Crispin”, “veinglory”, “Moon Daughter”, “Esopha”, “ChunkyC”, Vgrossack”, “briamnm”, “CaoPaux”, “aruna”, “Kate Thornton”, “Stormie”, “Caro”, “Sparhawk”, “roach”, “rekd”, “scribhneoir”, “Mom’sWrite”, “KimJo”, “Old Hack”, “Unimportant”, “rllgthunder”, Tina”, “Mmo”, “Merricat”, “Cathy C”, “MadScientistMatt”, “Ol’ Fashioned Girl”, “Cav Guy”, “Dawno”, “kristie911”, “sanremoave”, “kjh7073”, “Alan Yee”, and “Leva”.

11. Second, Defendant published his defamatory accusations in Maryland to Plaintiff’s employer and members of the Maryland State Bar Association on February 16, 2007. Specifically, the e-mail described in paragraph 8 was sent to and read by the users of the following e-mail addresses: officemail@gordonsimmons.com, praschke@oag.state.md.us, tmurphy@murphyslawmd.com, phe@eqmrh.com, tbcarnell@venable.com, lschwartz@paleyrothman.com, cpham@rosenbergmartin.com, ariana.arnold@usdoj.gov, joan.gordon@courts.state.md.us, wchilds@linowes-law.com, gayle.driver@montgomerycountymd.gov, gklakring@opd.state.md.us, tlerer@comcast.net, tlynch@milesstockbridge.com, tmaloney@jgllaw.com, gmartin@rosenbergmartin.com, john.miller@courts.state.md.us, almorgan@co.pg.md.us, jay.morstein@dlapiper.com,

praschke@oag.state.md.us, marc.rasinsky@courts.state.md.us, rosen@wilcalros.com, donald.sharpe@dlapiper.com, mdt@mygt.com, jbw@cwtm.net, pmw@paleyrothman.com, cswinner@fisherwinner.com, wandf@qis.net, jhoward@sagallaw.com.

12. When publishing the defamatory statements on the AbsoluteWrite website and to Plaintiff's employer and the Maryland Bar Association, Defendant intended to impute criminal and unethical conduct to Plaintiff in his professional capacity as an attorney at law. The persons to whom the defamatory matter was communicated understood defendant's words to have the intended meaning and that the defamatory matter was of and concerning Plaintiff, whose name was specifically referenced in Defendant's publications. In fact, many of the third parties who posted on the AbsoluteWrite website repeated Kuzminski's defamatory imputations or encouraged Kuzminski to bring ethics charges against Plaintiff. Thus, not only did these statements expose Plaintiff to public scorn, hatred, contempt, and ridicule to third persons, but these statements were defamatory per se in that they accused Plaintiff of criminal conduct as well as imputing "unethical" conduct inimical to Plaintiff's profession as an attorney.

13. All of Defendant's statements concerning Plaintiff were false, including Defendant's accusation that Plaintiff committed extortion and acted unethically.

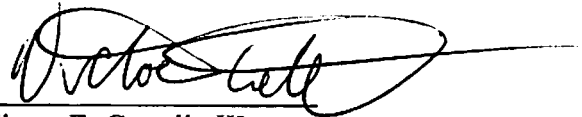
14. Defendant made these defamatory statements with actual malice, i.e. with knowledge of their falsity or with reckless disregard thereof, and with the intent to injure, disgrace and defame Plaintiff; in the alternative, Defendant made these defamatory statements without using due care to identify their falsity.

15. As a direct and proximate result of the publication of the untrue and defamatory

statements by Defendant, Plaintiff has been exposed to public hatred, contempt, and ridicule. Such defamatory and untrue statements have been a source of great embarrassment and humiliation to plaintiff. In particular Plaintiff's character and reputation for honesty and integrity has been impaired, as well as his standing in his profession and the community at large. The stigma caused by Defendant's defamatory statements will deter prospective employers and clients from hiring Plaintiff. Plaintiff has suffered a great wrong and injury on account of the above-mentioned actions of defendant, causing damage to Plaintiff in the sum of \$200,000.00.

WHEREFORE, Plaintiff demands Two Hundred Thousand Dollars (\$200,000.00) in compensatory damages, Two Hundred Thousand Dollars (\$200,000.00) in punitive damages, interest, costs, and such further relief as justice requires.

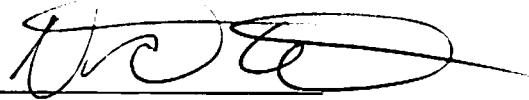
Respectfully Submitted,



Victor E. Cretella III
113 East Church St.
PO Box 151
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301-695-6804
301-631-9073 (fax)
vec@publishamerica.com
Plaintiff, pro se

JURY DEMAND

Pursuant to Fed. R. Civ. Proc. 38, Plaintiff in the above captioned matter demands a trial by jury of all issues so triable in this matter and respectfully requests that this matter be placed on the jury docket.



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