

1 COMP  
2 ROBERT W. LUECK, ESQ.  
3 Nevada Bar No. 001489  
4 528 S. Casino Center Dr. #311  
5 Las Vegas, NV 89101  
6 (702) 385-7385  
7 In Proper Person

FILED

OCT 24 1 28 PM '08

*Ed Vogel*  
CLERK OF THE COURT

EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

8 ROBERT W. LUECK, an individual, )  
9 Plaintiff, )  
10 vs. )  
11 ED VOGEL, an individual; STEPHENS )  
12 MEDIA LLC dba LAS VEGAS )  
13 REVIEW-JOURNAL, DOES I-X AND )  
14 ROE CORPORATION I-X )  
15 Defendant. )

CASE NO.: A574351  
DEPT NO.: XVI

COMPLAINT

15 Plaintiff complains of the defendants and for cause of action, alleges and says  
16 that::

17 I.

18 Plaintiff is a resident of Clark County, Nevada and all events referenced in this  
19 complaint occurred in this county and state.

20 II.

21 Stephens Media, LLC is a Nevada registered limited liability company and is the  
22 corporate owner of the Las Vegas Review-Journal, a daily newspaper published and  
23 distributed primarily in Clark County, Nevada. At all times set forth hereafter in this  
24 complaint, Stephens Media was the owner of the Las Vegas Review-Journal and as  
25 such, is liable for the acts, errors and omissions of its employees and agents.

26 III.

27 Defendant Ed Vogel is a newspaper reporter employed by the Las Vegas Review-  
28 Journal and was so employed at all times set forth hereafter in this complaint

1 He was then and still is based in the Review-Journal bureau office located in Carson City,  
2 Nevada, the capital of the State of Nevada

3 IV.

4 At all times set forth hereafter except as otherwise stated, the plaintiff was  
5 employed as an attorney in the private practice of law in the State of Nevada and  
6 maintained an office for the practice of law in Las Vegas, Nevada.

7 V.

8 Plaintiff formerly served the citizens of Clark County, Nevada as a Family Court  
9 Judge in the Family Court Division of the Eighth Judicial Court from 1999 through  
10 December, 2004. Plaintiff was unsuccessful in his re-election bid in the fall of 2004 and  
11 starting in January, 2005, the plaintiff was unemployed and had no office or clients  
12 for the practice of law. Plaintiff immediately set about re-establishing himself in the  
13 practice of law by opening up his own law office which entailed getting all the necessary  
14 permits, licenses, phone service, equipment, furniture, hiring a secretary, etc.

15 VI.

16 Plaintiff was divorced from his ex-wife, Jane Johanson, in December, 1999 and in  
17 that divorce they agreed that she would have primary custody of their minor child and  
18 plaintiff would an agreed upon amount of child support to her for the support of their  
19 child. Plaintiff paid all child support obligations from January, 2000 through December,  
20 2004.

21 VII.

22 As of January, 2005, plaintiff's income was abruptly changed and went from  
23 \$138,000.00 to nothing. Under Nevada law, plaintiff was entitled to a modification of his  
24 child support obligations. Plaintiff requested that his ex-wife agree to a modification of the  
25 child support obligation while plaintiff was going through all the difficulties and  
26 uncertainties of starting a law practice from scratch. Despite the fact that the ex-wife was  
27 aware of plaintiff's difficult financial circumstances and future uncertainties, she refused  
28 to agree to any reasonable compromise during this time thereby forcing plaintiff to file a

1 motion to modify his child support obligation.

2 VIII.

3 The laws of the State of Nevada provides a mechanism by which individuals  
4 seeking such relief can petition the court and, due to the irrational intransigence of the  
5 plaintiff's ex-wife, plaintiff had no choice but to file a motion for modification in Family  
6 Court. By virtue of such filing, the plaintiff does not become a public figure and maintains  
7 his status as a private figure.

8 IX.

9 Notwithstanding these difficulties, plaintiff paid child support to the ex-wife albeit at  
10 a lower amount even during those times when plaintiff had little or no personal income  
11 while developing and building his law practice. Plaintiff tried repeatedly to encourage his  
12 ex-wife to work out a reasonable compromise but she continued to be irrational and  
13 intransigent and would not agree to anything.

14 X.

15 Due to procedural problems in getting the motion heard, a hearing could not be  
16 done until August 8, 2005. Plaintiff's ex-wife and her attorney on that date again refused  
17 to resolve a very simple case and forced plaintiff to go through with the contested  
18 hearing.

19 XI.

20 After waiting seven months, this very minor dispute was finally resolved with a  
21 court order. Plaintiff owed his ex-wife a very small amount of money which was paid up  
22 in full in September, 2005 with a cashiers' check payable to the ex-wife and her attorney.  
23 Plaintiff's law practice had developed enough at that point in time where plaintiff had a  
24 reliable cash flow sufficient to pay his business expenses and take out a salary sufficient  
25 to pay his personal living expenses which included being able to pay the child support  
26 obligation.

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XII.

This dispute was purely a private matter between the plaintiff and his ex-wife and never was in any way a public issue nor was it ever a matter of public concern since it affected no one other than those immediate parties.

XIII.

The divorce, when done, was a simple, uncontested divorce in 1999 and was a private matter and the court file was sealed in accordance with Nevada law at the time. Other than a very simple divorce decree, the public had no access to the file or the court proceedings.

XIV.

Any and all court proceedings that took place were closed to the public as is permitted by Nevada law and Eighth District Court Rules which properly reflect a policy of privacy for personal domestic relations affairs.

XV.

As of September, 2005, plaintiff had paid any disputed amounts in full and believed the case to be over with. However, plaintiff's ex-wife and her attorneys kept the case alive by appealing to the Nevada Supreme Court. The trial judge had denied any attorneys fees to them because it was such a small case that they had grossly over litigated and did not merit an award of attorney fees.

XVI.

In May, 2006, Plaintiff filed for election for the newly created seat in Family Court, Dept. M. Soon thereafter, Dawn Throne, one of the attorneys representing plaintiff's ex-wife, also filed for the same judicial position. Plaintiff alleges and believes that her filing for judicial office against plaintiff was done out of spite and was done as part of a plan between herself and her employer, Bruce Shapiro, Esq. to use this very minor child support case against him during the forthcoming campaign.

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XVII.

Since the disputes were personal and private matters of concern only to the plaintiff and his ex-wife, plaintiff filed a motion to set aside the order prepared by Ms. Throne after the hearing of August 8, 2005. In response to this motion, counsel for the ex-wife claimed that they had a right to use the information from the divorce case in the current campaign. It became very apparent that they had intentionally dragged these court proceedings out for a very long time so that they could use this case for political purposes in the future.

XVIII.

The District Court Judge presiding over the case, the Honorable Nancy Saitta, correctly recognized that the threatened misuse of information in this case violated rules of professional conduct for lawyers and issued a gag order sealing the entire file. She correctly perceived that those lawyers were attempting to use private information obtained in closed courtroom proceedings for political advantages for Ms. Throne in the pending primary election. This case was then, as it is today, a private matter that does not affect the public's business in any way.

XIX.

The plaintiff was successful in the primary election and was the runaway first place finisher with 25% of the vote in the primary election finishing far ahead of any other candidates. Ms. Throne came in dead last.

XX.

On or about September 13, 2006, plaintiff's ex-wife, aided by attorney Bruce Shapiro, Esq., filed a petition for a writ of mandamus/prohibition in the Nevada Supreme Court challenging the legality of the gag order issued in July, 2006 by the District Judge.

XXI.

Several exhibits from the lower court proceedings were attached to the petition and because the case was sealed, the Nevada Supreme Court Clerk's office removed those exhibits from the public copy of the petition. The petition was filed for political

1 purposes by Mr. Shapiro and Ms. Johanson in order to get private information about the  
2 divorce case out into the public record and to affect the outcome of the general election.  
3 After strongly supporting Ms. Throne in the primary election until she came in dead last,  
4 Mr. Shapiro was actively and openly supporting plaintiff's general election opponent,  
5 William Potter.

6 XXII.

7 The petition contained several false and misleading statements by them regarding  
8 the child support payments made by the plaintiff during the time of his transition from  
9 public office back into the private practice of law. Although they disclosed that plaintiff  
10 had paid some child support payments, they failed to disclose that such payments were  
11 made even when the plaintiff was earning little or no income at the time, they refused to  
12 disclose that plaintiff was entitled under Nevada law to modify his child support due to the  
13 large loss of income, they refused to disclose that any disputed amounts had been paid  
14 in full twelve months earlier and that the child support had been current ever since and  
15 they refused to disclose that this involved a very small amount of money. They also  
16 refused to acknowledge the fact that they had many opportunities to resolve the case in  
17 early 2005 and had done nothing whatsoever to resolve an extremely simple case. They  
18 intended to create and leave a very misleading impression of the plaintiff in the minds of  
19 the public prior to the general election.

20 XXIII.

21 As an attorney with deep experience in the appellate processes and having  
22 participated in cases involving news media publicity, Mr. Shapiro presumably knew that  
23 news media representatives may regularly review appeals and petitions filed in the  
24 Nevada Supreme Court. Petitions seeking extraordinary relief are public documents.

25 XXIII.

26 Sure enough, the petition came to the attention of Defendant Vogel some time  
27 prior to October 26, 2005. On the afternoon of October 25, 2006, plaintiff was contacted  
28 at his law office by Mr. Vogel who had a copy of the petition and who was seeking a

1 comment from the plaintiff. At the time of the call, the plaintiff was preparing a response  
2 to the petition as ordered by the Nevada Supreme Court. Plaintiff advised that he was  
3 also subject to the gag order and wasn't able to comment on the case directly.

4 XXIV.

5 During further discussions with Mr. Vogel, plaintiff advised Mr. Vogel that he was in  
6 the process of preparing the response to the court and that the response would contain  
7 detailed information in answer to the allegations. The response that was being prepared  
8 included numerous statements that plaintiff had a history of paying child support, that  
9 child support was paid during the times of plaintiff's financial distresses and that the  
10 plaintiff had long since paid any disputed amounts and had been current ever since.

11 XXV.

12 Based upon these discussions, defendant Vogel agreed that he would wait and do  
13 a story the next week after the responses had been filed. Plaintiff agreed to provide a  
14 copy directly to him since plaintiff knew that the Review-Journal would run a story anyway  
15 and plaintiff might as well get his materials directly to the reporter.

16 XXVI.

17 Plaintiff was strongly interested in receiving fair treatment from the defendants  
18 since early voting for the general election had already started and that any future story  
19 could adversely impact plaintiff's chances in the general election. As of that time, before  
20 any news story appeared, the plaintiff was considered the front runner in this particular  
21 race and had commissioned a poll showing that he was about 5 points ahead.  
22 Furthermore, plaintiff had just completed a mass mailing of 100,000 pieces directed  
23 primarily to Republican voters and was on the slate card being mailed to some 124,000  
24 Democratic voters by the Clark County Democratic Party.

25 XXVII.

26 On the morning of October 26, 2006, plaintiff awoke to read in the Review-Journal  
27 a story featured prominently on page 1B, the Nevada section, repeating false statements  
28 from the petition alleging that plaintiff failed to pay child support and that Judge, now

1 Justice Saitta, was covering up and trying to protect the plaintiff by sealing the entire file.  
2 A copy of this libelous story is attached hereto and incorporated herein as Exhibit 1.

3 XXVIII.

4 On Friday, October, 27, 2006, plaintiff faxed to defendant Vogel a copy of the  
5 response to the petition together with a transcript of the court hearing in July, 2006 when  
6 the gag order was issued by the District Judge. In those two documents, it was  
7 repeatedly stated that the child support disputes had been paid in full and had been paid  
8 a long time ago. These points were mentioned several times in both the response and in  
9 the transcript. The child support had, in fact, been paid long ago and since these  
10 payments were made by check, proof positive existed in the form of cancelled checks.

11 XXIX.

12 On Saturday, October 28, 2006, a follow up story written by defendant Vogel  
13 appeared in that day's edition of the newspaper. However, Mr. Vogel intentionally  
14 refused to disclose in his story any of the numerous statements that the child support had  
15 been paid in full and that it had been paid many months before. Furthermore, this story  
16 was buried well into the interior of the Nevada section B. The defendants refused to  
17 publicize the fact of the payment of child support as prominently as the accusations of  
18 non-payment. Such reportorial behavior constitutes a purposeful avoidance of the truth  
19 and a reckless disregard of the facts.

20 XXX.

21 The "libel genie" was now out of the bottle and the damage was done. Plaintiff  
22 had invested about \$100,000.00 of his own money into this campaign and it all went for  
23 naught thanks to the fact avoiding tabloid writers employed by the Review-Journal.  
24 These negative stories devastated plaintiff's campaign and had gone from being the front  
25 runner in this particular race to losing by ten points. Plaintiff was asked by various voters  
26 after the story appeared if it was true and replied that it was not. By the end of the  
27 campaign, plaintiff had no campaign funds left and no time within which to effectively  
28 counteract the libelous stories.

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XXXI.

At the time the libelous stories were published, plaintiff was a candidate for public office and, under Nevada law, the statements made were such that they could injure plaintiff's reputation as a candidate for public office and constitute libel per se if they would tend to cause persons not to vote for the plaintiff.

XXXII.

In a column published in the Review-Journal on Sunday, September 28, 2008, editor Thomas Mitchell stated: "I defy any army of a million bloggers with Blackberries and cell phone cameras to come anywhere close to the authority, accuracy, thoroughness, tenacity and time devoted by just the newsroom staff of the Review-Journal, much less the reporters and editors of the thousands of newspapers around the globe. It simply will never happen."

XXXIII.

If "authority, accuracy, thoroughness, tenacity and time" devoted to stories by the news staff of the Review-Journal are indeed the journalism standards applicable to the reporters employed by the newspaper, then apparently that memo never got to defendant Vogel for he did little or nothing to check the "facts" of his story and would not even wait for plaintiff to submit his formal reply to the story before it was published in the Review-Journal on October 26, 2006. This is a journalistic shame and a journalistic sham because this penny ante child support dispute going back months before the story appeared did not even qualify as "news" and it certainly wasn't breaking news. It involved only a few hundred dollars and was over long before there was a political campaign. The petition itself was filed on September 13, 2006, over a month before it became a story.

XXXIV.

While Nevada law does allow the news media the protection of the law in what is known as the "fair reporting privilege", that privilege is limited by Nevada law to "newsworthy" events in judicial proceedings and conditions the right of that privilege on

1 Vogel on Friday afternoon, October 27, 2006 and despite the wealth of information  
2 provided in those documents, defendant Vogel declined to report them in a fair, impartial,  
3 and accurate manner:

4 A. The response to the petition and the transcript repeatedly mentioned that  
5 the child support was paid and that it had been paid many months earlier  
6 and Dawn Throne, an attorney for Ms. Johanson, had acknowledged as  
7 much in the court hearing in July, 2006. But the fact of payment of child  
8 support was never reported.

9 B. This story was also embellished by still another reference to plaintiff's  
10 divorce from his first wife years earlier even though that divorce had nothing  
11 to do with the current court proceedings and that case was never mentioned  
12 in the court papers provided to defendant Vogel.

13 XXXVII.

14 Plaintiff's reputation was severely damaged by these news stories which appeared  
15 right in the middle of early voting and were a substantial factor in his election loss in the  
16 general election given that plaintiff had run a strong campaign, had a substantial network  
17 of billboards placed throughout the Las Vegas valley area, had conducted an extensive  
18 direct mail campaign and handed out thousands of brochures at political events and  
19 other gatherings.

20 XXXVIII.

21 On January 23, 2007, plaintiff served the defendants with a letter demanding a  
22 retraction and a copy of that letter is attached hereto as Exhibit 3. This letter sets forth in  
23 great detail the asserted inaccuracies

24 XXXIX.

25 During the course of his campaign in 2006, plaintiff spent approximately  
26 \$100,000.00 of his own money for his campaign expenses and has thereby been  
27 damaged by that sum and for all other consequential damages resulting from that  
28 election loss.

