

IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID POWERS, SR.,

Plaintiff,

vs.

COX ENTERPRISES ,
doing business as WPXI-TV,

Defendant.

Civil Division

No. **GD - 10 - 601979**

CIVIL COMPLAINT

Code: 008

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Samuel J. Cordes
Pa.I.D. No. 54874

Samuel J. Cordes & Associates
245 Fort Pitt Boulevard
Pittsburgh, PA 15222
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JURY TRIAL DEMANDED

DEPT. OF COURT RECORDS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

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CIVIL COMPLAINT

Plaintiff, David Powers, Sr., by undersigned counsel files this Complaint and in support thereof alleges as follows:

1. Plaintiff David Powers is an adult individual residing at 1 McKinley Drive, McKees Rocks, Allegheny County, Pennsylvania 15136.

2. Defendant Cox Enterprises, Inc., d/b/a WPXI-TV, (hereafeter Cox or WPXI) is a Pennsylvania corporation with a principal place of business at 4145 Evergreen Road Pittsburgh, Allegheny County, Pennsylvania 15214.

3. Defendant Cox is licensed by the Federal Communications Commission to operate, and operates a television station. As part of that operation, Defendant broadcasts daily news programs which reaches a large audience in Western Pennsylvania, Ohio and West Virginia, and also is available on the Internet at <http://www.wpxi.com>.

4. On or about December 20, 2009, WPXI broadcast a news story in which its anchor reported that "Only on 11" David Powers, "a teacher [was] "in trouble again, this time convicted of having drugs."

5. David Powers is a teacher, but has never been “in trouble”, and never was “convicted of having drugs,” or indeed of any criminal offense.

6. During WPXI’s broadcast, Defendant’s reporter Renee Kaminski, then reported that Powers is a veteran in the Montour School District, and has been teaching and coaching kids there for more than two decades.

7. Defendant’s reporter Kaminski then falsely reported that Powers had been arrested by the Pittsburgh Police for possession of heroin.

8. Powers has never been arrested by the Pittsburgh Police, and a fortiori has never been arrested for possession of heroin

9. Defendant’s reporter Kaminski then falsely reported that Powers had been “convicted today” of possession of heroin.

10. Powers ever has been convicted (on that day or otherwise) of possession of heroin, or any other crime.

11. Defendant’s reporter then reported that 46-year-old Powers was the basketball coach and taught seventh and eighth grade at the David Williams Middle School in Montour for more than 20 years, but it off the job “after his drug conviction in another court, Allegheny County criminal court.”

12. While Defendant’s reporter Kaminski was correct that Powers was the junior high basketball coach, and had taught for more than 20 years, Defendant’s and Kaminski’s claim that Powers had a “drug conviction in the Allegheny County criminal court” was false. Powers never has been convicted of possession of drugs, or any drug-related offense.

13. Defendant’s reporter, Kaminski then falsely reported that Powers pled guilty to heroin

possession stemming from his arrest at a North Side intersection on December 12, 2009.

14. Powers never pled guilty to heroin possession, was never arrested for such a crime, and indeed has never been arrested for anything.

**Count I
Defamation**

15. Plaintiff incorporates paragraphs 1 through 14 as if fully restated herein.

16. Defendant's report that Plaintiff was "in trouble again, this time convicted of having drugs," is false.

17. Defendant's report that Plaintiff had been arrested by the Pittsburgh Police for possession of heroin is false.

18. Defendant's report that Plaintiff had been "convicted today" of possession of heroin is false.

19. Defendant's report that Plaintiff had a drug conviction in Allegheny County criminal court is false.

20. Defendant's report that Plaintiff pled guilty to heroin possession is false.

21. Defendant's report that Plaintiff was arrested for drug possession at a North Side intersection on December 12, 2009 is false.

22. Defendant's aforesaid statements were defamatory in that they tend to lower Powers' reputation in the estimation of the WPXI-TV viewers, both broadcast and on the internet, and also would tend to deter third persons from associating with him.

23. Defendant's statements were understood by Plaintiff's employer, business associates, friends and acquaintances, of Plaintiff and his family to apply to Plaintiff.

24. Defendant's statement was understood by business and personal friends and acquaintances of Plaintiff and his family to be defamatory.

25. Defendant broadcast the aforesaid statements negligently

26. Defendant failed to properly supervise its reporter and anchor and therefore allowed both to broadcast the aforesaid false and defamatory information without first conducting even rudimentary journalistic research.

27. As just one example, the City of Pittsburgh Bureau of Police Offense/Incident Report dated December 12, 2009, showed that the person arrested—David Allen Powers, was age 22. See (Offense Report, attached as Exhibit 1).

28. Nonetheless, Defendant's reporters identified Plaintiff as being 46-years-old who taught seventh and eighth grade for 20 years!

29. Defendant's publication of this false and defamatory information was undertaken with actual malice. Defendant either knew its information was false or was recklessly indifferent to whether it was true or false.

30. As a direct and proximate result of the false and defamatory statements by Defendant, Powers has been greatly hurt and injured in his good name and reputation.

31. As a direct and proximate result of the aforesaid broadcast, Powers has sustained emotional distress, humiliation, and embarrassment.

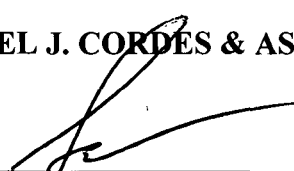
32. As a direct and proximate result of the aforesaid broadcast, Powers has suffered a loss of reputation.

WHEREFORE, Plaintiff demands judgment against Defendant, and compensatory and punitive damages in an amount exceeding \$25,000.00.

JURY TRIAL DEMANDED

Respectfully submitted,

SAMUEL J. CORDES & ASSOCIATES



Samuel J. Cordes
Pa. I.D. No. 54874

245 Fort Pitt Boulevard
Pittsburgh, PA 15222
(412) 471-8500

Attorney for Plaintiff



**CITY OF PITTSBURGH BUREAU OF POLICE
OFFENSE / INCIDENT REPORT**

YEAR 09	CCR# 294574
PAGE	

OFFENSE / INCIDENT



OFFENSE / INCIDENT TITLE AND SECTION NUMBER

13(a)(16) Possession of Controlled Substance - Heroin :: 13(a)(32) Paraphernalia - Use or Possession

DATE / TIME OCCURRED FROM 12/12/2009	0310 Hrs.	DATE / TIME OCCURRED TO 12/12/2009	0311 Hrs.	DATE / TIME REPORTED 12/12/2009	0311 Hrs.
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LOCATION OF OCCURRENCE (INCLUDE APT. # OR BUILDING NAME, IF APPLICABLE) Meadville St & Television Hill St Pittsburgh, PA 15214	CENSUS 2509	ZONE 1
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REPORTING OFFICER / PERSON(S) AND I.D. NUMBER(S) Seese, Braden 4140 :: Beatty, Anthony A 4163	ZONE / DIVISION 1	VEHICLE / ASSIGNMENT 3111
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NO ALARM INCIDENT

ARRESTEE INFORMATION

NAME (Last, First Mi)	SEX	RACE	AGE	ADDRESS
Benson, Matthew Allen	M	White	28	1 McKinley Dr Pittsburgh, PA 15136 <i>COILED to POWERS</i>
Powers, David Allen, 2	M	White	22	1413 Pine Hollow Rd Pittsburgh, PA 15136 <i>COILED to POWERS</i>

ADDITIONAL OFFICERS

REPORTING OFFICER / PERSON(S) AND I.D. NUMBER(S)	ZONE / DIVISION	VEHICLE / ASSIGNMENT
Krawchyk, Roger T. 3886	1	3124
Brennen, Billy T 4113	1	3125

NARRATIVE

SEE 3.0

*PITTSBURGH POLICE
02/11*

SUPERVISOR REVIEW Reviewed and Accepted by Sgt Amanda R. Aldridge 3153	DATE: 12/12/2009
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VERIFIED STATEMENT

I, David Powers, Sr. declare under penalty of perjury that the statements set forth in the **Civil Complaint** are true and correct to the best of my knowledge, information and belief.

David A Powers
David Powers, Sr.

1/27/10
Date