

223770

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

GLENN R. FUNK,

Plaintiff,

v.

SCRIPPS MEDIA, INC., and
PHIL WILLIAMS,

Defendants.

FILED
2016 FEB -4 PM 3:42

RICHARD H. COOPER, CLERK

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D.C.

Case No. 16C333

JURY DEMAND

COMPLAINT

The Plaintiff, for his Complaint against the Defendants, states as follows:

I. THE PARTIES

1. The Plaintiff is the District Attorney General for the 20th Judicial District in Nashville, Tennessee. Mr. Funk is a veteran trial attorney with twenty-nine years of experience. Mr. Funk is a member of the Westminster Presbyterian Church and serves on the board of directors of the YWCA of Nashville and Middle Tennessee, Tennessee Voices for Victims, the Vanderbilt Kennedy Center Leadership Council, the Rochelle Center, Room in the Inn and the Child Advocacy Center. He has also volunteered with the Special Olympics since 1994, and has served on the board of directors for the Down Syndrome Association of Middle Tennessee, Dismas House, and The Arc Davidson County, an organization that represents children and adults with intellectual and developmental disabilities.

2. Defendant Scripps Media, Inc. is a Delaware company duly authorized to do business in Tennessee. Scripps Media, Inc. owns and operates NewsChannel 5 (WTVF) in Nashville, Tennessee.

3. Defendant Phil Williams is chief investigative reporter for NewsChannel 5 and an employee of Scripps Media, Inc.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this dispute pursuant to Tenn. Code Ann. § 16-10-101.

5. This Court is the proper venue to hear this dispute pursuant to Tenn. Code Ann. § 20-4-104.

III. FACTUAL ALLEGATIONS

6. This is a lawsuit for defamation, civil conspiracy, and violation of the Tennessee Consumer Protection Act arising out of a patently false story published by the Defendants which alleges that Mr. Funk, in his role as District Attorney, extorted money from a criminal defendant, solicited a bribe, and even blackmailed a criminal defendant into dismissing a civil lawsuit.

7. On February 3, 2016, the Defendants published a defamatory story about Mr. Funk on the NewsChannel 5 website and via broadcast television with the headline "Explosive Allegations Emerge From David Chase Case: \$2 Million Requested To Make Case 'Go Away'". A true and correct copy of this story is attached hereto as Exhibit A (the "Story"). The written version and video are both

available at <http://www.newschannel5.com/news/newschannel-5-investigates/the-das-deals/explosive-allegations-emerge-from-chase-case> (last visited Feb. 4, 2016).

8. The Defendants begin the Story as follows:

It was one of the most controversial domestic violence cases in recent Nashville history. Last year, the case against Nashville developer David Chase went away after Nashville DA Glenn Funk agreed to drop the charges. But now *NewsChannel 5 Investigates* has uncovered even more salacious allegations surrounding that case -- allegations of extortion, possible bribery, even blackmail. Those allegations raise questions about a longtime Democratic political consultant, as well as the DA himself.

(Exhibit A (emphasis added).)

9. According to the Story, a political consultant working for David Chase requested \$2,000,000.00 from Chase's father to "make [the domestic violence case against Chase] go away." (emphasis added). The Defendants imply that this money was intended to pay a bribe to "someone."

10. Mr. Funk has had no contact with this political consultant (Bill Fletcher), whether by e-mail, telephone, or face-to-face conversation, during his tenure as District Attorney.

11. Next, the Story goes on to state, "At the time, David Chase's fate was in the hands of Funk, who had apparently been signaling for months that he was open to the possibility that there just might not be enough evidence to continue the case."

12. Then, the Story reads as follows:

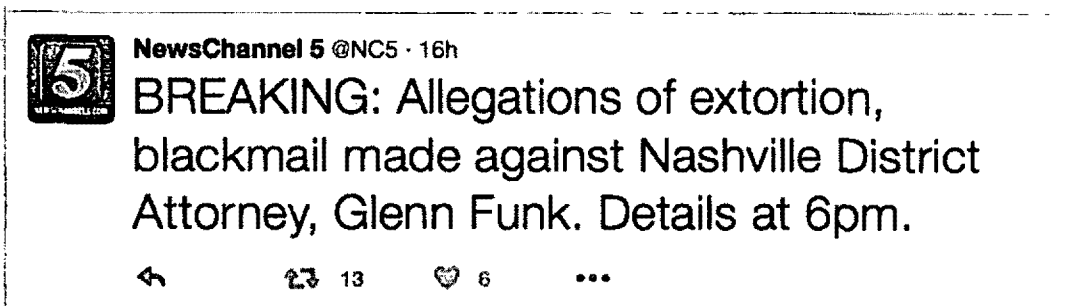
Attorney Manookian asked Sandy Chase, "Making it go away would have required a decision on Glenn Funk's part, correct?" "Well," she answered, "since he was in the control of the, dropping the charges or

not, I guess then the answer would be yes." "Did you get the sense that Bill Fletcher's request for \$2 million was to give to Glenn Funk?" the attorney asked. "I did not get that -- that feeling," Sandy Chase answered. "I didn't know what to think of it." But David Chase had harsh words for Funk after learning about the \$2 million request, texting his mother: "After today, Glenn Funk can rot in prison with everyone else."

13. The Defendants go on to claim that Mr. Funk not only solicited a \$2,000,000.00 bribe, but he also allegedly blackmailed David Chase into dismissing a civil lawsuit:

A few days after the Chases fired Bill Fletcher, according to the testimony, Funk's office sent word that the charges would be dismissed. But it turned out there was a catch. According to the testimony, David Chase was forced to drop a separate federal lawsuit he had filed against Metro for allegedly violating his civil rights -- a lawsuit where the DA himself could have become a witness. Chase sent this text: "I dropped the federal case against metro and [the] PD." "Had to," he explained, "in order to get my stuff dropped after Funk blackmailed me."

14. Significantly, prior to the broadcast, the official NewsChannel 5 Twitter account published the following Tweet:



Available at <https://twitter.com/NC5/status/695033283697119232> (last visited Feb. 4, 2016.)

15. The same day the Story was published, Mr. Funk published the statement attached hereto as Exhibit B, explaining that an Assistant District

Attorney handled Mr. Chase's case and that, after a thorough review of the evidence, the Assistant District Attorney decided to dismiss the charges primarily based on inconsistent statements made under oath by Lauren Bull (the victim), as well as other issues affecting Ms. Bull's credibility. The Assistant District Attorney's decision to dismiss the charges was approved by Mr. Funk. A true and correct copy of the State's Notice of Dismissal is attached hereto as Exhibit C.

16. Mr. Funk did not blackmail or attempt to blackmail David Chase. Although the dismissal of Mr. Chase's federal lawsuit, which included the Metropolitan Nashville Police Department as a defendant, was a condition precedent to having his criminal charges dismissed, conditioning dismissal of criminal charges on dismissal of a civil lawsuit (referred to as a "release-dismissal agreement") is routinely used by prosecutors throughout the United States, and such agreements were approved by the United States Supreme Court nearly thirty years ago.

17. Further, at no point has Mr. Funk solicited, been offered, or accepted any bribe, including during his tenure as District Attorney.

18. The above-referenced statements by the Defendants and the Story as a whole are reasonably capable of being understood as charging something defamatory against Mr. Funk.

19. The above-referenced statements that Mr. Funk extorted money from a criminal defendant, solicited a bribe, and blackmailed a criminal defendant into dismissing a civil lawsuit are false.

20. The above-referenced statements that Mr. Funk extorted money from a criminal defendant, solicited a bribe, and blackmailed a criminal defendant into dismissing a civil lawsuit were made recklessly. The Defendants published these statements with knowledge of falsity or with reckless disregard as to truth or falsity.

21. Defendant Williams published the above-referenced statements without adequately investigating the statements.

22. Defendant Williams published the above-referenced statements even though he had serious doubts about their truth.

23. The above-referenced statements and the Story as a whole, including the false allegations that Mr. Funk extorted money from a criminal defendant, solicited a bribe, and blackmailed a criminal defendant into dismissing a civil lawsuit, have caused damage to Mr. Funk's reputation in the community, which he has spent many decades building.

24. The Story is a garbled and one-sided account of the facts, and contains defamatory observations and comments.

IV. CAUSES OF ACTION

Libel

25. The Plaintiff incorporates the foregoing allegations as if fully set forth herein.

26. Defendants publicized libelous statements regarding the Plaintiff with actual malice, knowledge that they were false, or with reckless disregard of the accuracy of the statements.

27. The Plaintiff suffered actual injury as a result of these statements.

Defamation by Implication

28. The Plaintiff incorporates the foregoing allegations as if fully set forth herein.

29. Defendants publicized libelous statements regarding the Plaintiff with knowledge that they were false or with reckless disregard of the accuracy of the statements.

30. In publishing the statements, the Defendants juxtapose a series of facts so as to imply a defamatory connection between them.

31. The Plaintiff suffered actual injury as a result of these statements.

False Light

32. The Plaintiff incorporates the foregoing allegations as if fully set forth herein.

33. Defendants gave publicity to matters concerning Plaintiff that placed the Plaintiff before the public in a false light.

34. The false light in which the Plaintiff was placed would be highly offensive to a reasonable person.

35. Defendants had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the Plaintiff would be placed.

36. The Plaintiff suffered actual injury as a result of the Defendants' actions.

Civil Conspiracy

37. The Plaintiff incorporates the foregoing allegations as if fully set forth herein.

38. Defendants held a common design to accomplish by concerted action an unlawful purpose and/or a lawful purpose by unlawful means.

39. Defendants committed various overt acts in furtherance of the conspiracy to commit the torts of libel, defamation by implication, and false light, as set forth above.

40. The Plaintiff suffered actual injury as a result of the conspiracy.

Tennessee Consumer Protection Act

41. The Plaintiff incorporates the foregoing allegations as if fully set forth herein.

42. As set forth above, the Defendants have disparaged the services or business of the Plaintiff by false or misleading representations of fact in violation of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-104(b)(8).

WHEREFORE, Plaintiff respectfully requests the following relief:

1. That the Defendants retract the above-referenced defamatory statements;
2. All compensatory, consequential, and incidental damages to which the Plaintiff is entitled in an amount in excess of \$50,000,000.00;
3. Punitive damages in excess of \$150,000,000.00;
4. Treble damages and attorneys' fees pursuant to Tenn. Code Ann. § 47-18-109;
5. That all compensatory, consequential, incidental, and punitive damages be paid directly, and in its entirety, to non-profits dedicated to supporting women who have been victims of domestic assault and abuse;
6. That, to the extent the Defendants are unable to satisfy the judgment, the assets of NewsChannel 5 be sold to satisfy the judgment;
7. A jury of six (6) to try this cause;
8. Post-judgment interest;
9. Discretionary costs;
10. All costs be taxed against the Defendants; and
11. Such further relief as this Court may deem proper.

Respectfully submitted,

KAY, GRIFFIN, ENKEMA & COLBERT,
PLLC

By: 

JAMES D. KAY, JR. (#11556)
JOHN B. ENKEMA (#16670)
MICHAEL A. JOHNSON (#30210)
222 Second Avenue North
Suite 340M
Nashville, Tennessee 37201
615-742-4800

Attorneys for the Plaintiff