

Velva L. Price
District Clerk
Travis County
D-1-GN-16-004267
Chloe Jimenez

NO. D-1-GN-16-004267

<p>AUSTIN CHILDREN'S DENTISTRY, INC, §</p> <p style="padding-left: 40px;">Plaintiff, §</p> <p>v. §</p> <p>ROBERT G. WILLIAMS, DDS, §</p> <p style="padding-left: 40px;">Defendants. §</p>	§ § § § § § § § § §	<p style="text-align: right;">IN THE DISTRICT COURT</p> <p style="text-align: right;">TRAVIS COUNTY, TEXAS</p> <p style="text-align: right;">419th JUDICIAL DISTRICT</p>
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PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

The Plaintiff Austin Childrens Dentistry, Inc. d.b.a Austin Children's Dentistry ("ACD") sues the Defendant Robert G. Williams, DDS. and in support thereof would show the Court the following:

DISCOVERY CONTROL PLAN

1. Discovery in this case shall be conducted under Level 2 of Tex. R. Civ. P. §190.3 because this suit involves damages in excess of \$100,000.01 but less than the jurisdictional limits of the Court.

PARTIES

2. The Plaintiff Austin Children's Dentistry is a professional corporation formed under the laws of the state of Texas and is engaged in the business of providing quality pediatric dentistry services in central Texas. The principal place of business of ACD is in Travis County, Texas.
3. The Defendant Robert G. Williams, DDS (Dr. Williams), a natural person, is a citizen of the State of Texas, and conducts business in Dallas County, Texas. Upon information and belief, Dr. Williams may be served at his place of business located at 11661 Preston Road, Suite 104, Dallas, Dallas County, Texas 75230 or wherever he may be found.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this suit because it involves damages to the business and goodwill of ACD in excess of \$3.7 million dollars.
5. Venue is proper in Travis County as provided in §15.017 of the TEX. CIV. PRAC. & REM. CODE ANN. The domicile of ACD is in Travis County, Texas.

BACKGROUND FACTS

6. Upon information and belief, Defendant Dr. Robert G. Williams is a practicing forensic odontologist and is in the business of providing independent consultations to public and private clients. Dr. Williams is not a pediatric dentist nor does he have extensive history or experience in pediatric dentistry care or conditions.
7. On or about Friday, July 15, 2016, around 2:36 PM, the Dr. Williams caused a forensic odontology report ("Report") to be published to the public by the Travis County Medical Examiners Office (TCMEO) related to the review of case #ME-16-01377 involving the death of a minor dental patient of ACD. Dr. Williams was aware that his report would be publicly published when he provided it to the TCMEO.
8. The report purported to be a review of the *ante-mortem* dental records regarding the dental patient which were supplied to the TCMEO by ACD as requested. Additionally, the report claimed to review *post-mortem* records of the dental patient including 31 dental radiographs and 3 dental photographs.
9. The report's analysis section indicates that Dr. Williams noted that two *ante-mortem* occlusal radiographs taken on 3/29/2016 showed 8 partially erupted teeth, (4 upper, 4 lower anterior primary teeth) which appeared to be "free of any dental disease and/or had pulpotomies performed." The analysis section also stated that the "teeth had also been prepared to have stainless steel crowns placed subsequent to the completion of the dental pulpotomies."
10. The opinion section of Dr. Williams' odontology report concluded that, "*One can only speculate as to why any treatment was performed considering no indication of dental disease or pathology was seen in the dental radiographs dated 03/29/16. Written records indicate that no decay was seen on the dental visit dated 07/21/2015. It is possible that the partially erupted teeth may have had a congenital enamel*

defects but not necessarily requiring treatment with the child of this age. No evidence that the child was in any type of pain was ever noted in the dental record and no pulp vitality test was ever performed." This statement was clearly alarming, damaging and controversial to ACD as it concluded, either directly or indirectly, that the dental procedures performed upon the deceased minor patient lacked dental necessity and were unjustified. The statement called into question whether the professional and business practices of ACD and the treating dentist, Dr. Michael Melanson, were honest and ethical. Dr. Williams' statements resulted in a TCMEO ruling of an "undetermined" cause of death instead of a "natural" designation due to his claim of a lack of the presence of a disease process requiring dental treatment.¹

11. The publication of Dr. Williams' statements caused immediate, intense and critical news-media stories and public scrutiny. The initiation of regulatory investigations of ACD and treating dentist Dr. Melanson soon followed. However, it would be discovered that Dr. Williams' statements was grossly incorrect and without a reasonable basis.
12. Shocked by the statements expressed in Dr. Williams' odontology report, ACD took immediate steps to suspend Dr. Melanson from seeing patients and conducted an internal review of the allegations made by Dr. Williams. The internal review concluded that the treatment provided to the patient in #ME-16-01377 was dentally necessary, was appropriate and was provided in response to the initiating concerns that were appropriately raised by the minor patient's own parent. ACD further concluded that a close review of the dental patient's records and radiographs should have never lead to the statements expressed by Dr. Williams.
13. In addition to internal reviews, ACD sponsored independent expert reviews by national experts to review the patient records and radiographs taken of Dr. Melanson's treatment of the patient and to assess the concerns expressed in Dr. Williams' odontology report. The expert reviews concluded that the clear dental necessity for Dr. Melanson's treatment was obvious and supported in the record entries and radiographs that were not even noted or referred to by Dr. Williams in the short and brief conclusions contained in his report.
14. On or about 07/25/16, an ACD representative discussed the problems found in the odontology report, including the statements implying the lack of dental need for treatment of the patient at issue, with TCMEO Chief Medical Examiner, Dr. J. Keith

¹ The TCMEO Medical Examiner report ME-16-01377 at page 5 clarifies that the manner of death for an intraoperative death is generally classified as 'natural' if the death is due to a known and recognized complication of an appropriate treatment for natural disease.

Pinckard. Dr. Pinckard indicated that he had no objection to direct discussions with Dr. Williams regarding the odontology report and promised that if in fact Dr. Williams agreed to correct the report that the TCMEO would accordingly issue an amended report. ACD began efforts to reach out to Dr. Williams.

15. On or about 07/26/16, an ACD representative faxed a letter to the office of Dr. Williams setting out the problems raised with the odontology report.² The letter included the expert reviews of the matter by independent consultants and requested Dr. Williams' reconsideration of his report.
16. On or about 07/27/16, an ACD representative discussed the odontology report and the findings of the independent expert consultants directly with Dr. Williams. Dr. Williams indicated that in response to the independent expert report findings, he conducted an additional review and consulted with a pediatric dentist. Dr. Williams agreed with the findings made by independent experts that justified the necessary and appropriate dental work planned and performed by Dr. Michael Melanson. He also acknowledged the concerns and risks regarding "Nursing Caries/Baby Bottle Syndrome" and the need for immediate dental treatment in those cases.³ Dr. Williams understood the devastating effects that the incorrect statements in his odontology report were having on the career of Dr. Melanson and the business of ACD. Dr. Williams agreed that it was absolutely necessary to amend his odontology report and promised expedite a revised odontology report to the TCMEO correcting and clarifying his opinion statements in accord with the additional review. Dr. Williams further agreed to work with ACD to assist in clarifying the misleading perceptions which were based upon the odontology report.
17. On or about 07/28/16, ACD made a formal request to the TCMEO for a copy of the revised autopsy report in Case #ME-16-01377.
18. Later, on or about 07/28/16, an ACD representative called the TCMEO to clarify the status of the pending autopsy report revision in Case #ME-16-01377. The ACD representative received a return call from TCMEO Chief Administrator Sarah Scott. Ms. Scott indicated that the TCMEO would not issue a revised report and would release a statement later regarding the matter. When challenged with the fact that Dr. Williams had already agreed to revise his odontology report and that Dr. Pinckard, the Chief Medical Examiner had agreed to amend the report in accordance with Dr. Williams determination, Ms. Scott responded by indicating that Dr. Williams had

² The letter and independent expert consultant reports sent to Dr. Robert G. Williams were also copied to the TCMEO.

³ Also known as Early Childhood Caries or (EEC).

“changed his mind last night” and that they would not provide an explanation because they considered it “an internal matter.” Ms. Scott would later issue a statement indicating that “...there will be no change in either the consulting forensic odontologist’s report nor the cause and manner of death as originally issued by the medical examiner.”

19. The defamatory and disparaging actions of Dr. Robert G. Williams and the TCMEO in knowingly failing to correct the erroneous and misleading statements made in the odontology report of Case No. ME-16-01377 is unacceptable and intentionally malicious.
20. Dr. Williams and the TCMEO have conspired to conceal the problems evident in the autopsy report of Case No. ME-16-01377 and have maliciously allowed the erroneous report to damage the business reputation and goodwill of ACD and destroy the professional career of Dr. Michael Melanson despite numerous good faith attempts on behalf of ACD to resolve the issue in a clear, accurate and amicable manner.

FIRST CAUSE OF ACTION-DEFAMATION BY LIBEL

21. Plaintiff incorporates by reference paragraphs 1 through 19 above as if fully set forth in this claim.
22. The actions of the Defendant Dr. Williams constitute defamation by libel of the business of ACD.
23. The Defendant Dr. Williams caused to be published an odontology report containing findings and statements that *per se* or *per quod* falsely and in a defamatory manner indicated that the dental treatment performed on the patient in Case No. ME-16-01377 was unnecessary and that no dental disease process was present in the patient.
24. The false and defamatory statements published by the Defendant Dr. Williams caused injury to the business reputation and goodwill of ACD.

SECOND CAUSE OF ACTION-BUSINESS DISPARAGEMENT BY LIBEL

25. Plaintiff incorporates by reference paragraphs 1 through 24 above as if fully set forth in this claim.

26. The actions of the Defendant Dr. Williams constitute business disparagement by libel of the business of ACD.
27. The Defendant Dr. Williams caused to be published an odontology report containing findings and statements that defamed the character and reputation of the business ethics of ACD by indicating that the dental treatment performed on the patient in Case No. ME-16-01377 was unnecessary and that no dental disease process was present in the patient.
28. The Defendants false and defamatory statements published by the Defendant Dr. Williams caused injury to the business reputation and goodwill of ACD and required ACD to incur expenses necessary for the defense of ACD's reputation and the response to investigations by regulatory agencies.

DAMAGES

29. Plaintiff incorporates by reference paragraphs 1 through 28 above as if fully set forth in this claim.
30. As a proximate cause of the Defendants' acts of defamation by libel and business disparagement by libel, the Plaintiff ACD has suffered damages in an amount that is within the jurisdictional limits of the court.
31. Plaintiff seeks recovery of its damages.

EXEMPLARY DAMAGES

32. Plaintiff incorporates by reference paragraphs 1 through 31 above as if fully set forth in this claim.
33. Defendant's actions were intentional, wanton and malicious. Plaintiff seeks to recover exemplary damages due to Defendant's conduct.

CONDITIONS PRECEDENT

34. All conditions precedent have either been performed or have occurred.

JURY DEMAND

35. Plaintiff hereby demands a trial of this matter by jury.

REQUEST FOR DISCLOSURE

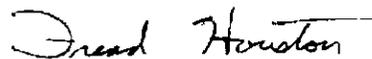
36. Plaintiff requests that the Defendants disclose, within 50 days of service of this request, the information or material described in TRCP Rule 194.2.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests that the Defendants be cited to appear and answer; that this court enter judgment for Austin Children's Dentistry for all of its direct, actual, indirect, consequential and exemplary damages, as well as for interest and costs, and for such other and further relief to which the Plaintiff is justly entitled at law or in equity.

Respectfully submitted,

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