

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

FINANCIAL FIDUCIARIES, LLC,)	
a Wisconsin limited liability company,)	
and THOMAS BATTERMAN,)	
A Wisconsin resident,)	
)	Case No. 3:19-CV-0874
Plaintiffs,)	
)	
v.)	Jury Demanded
)	
GANNETT CO., INC.,)	
a foreign corporation,)	
)	
Defendant.)	

COMPLAINT

Plaintiffs, Financial Fiduciaries LLC and Thomas Batterman, by and through their attorneys, Rathje Woodward LLC, hereby make their complaint against the Gannett Co. Inc. as follows:

Introduction

1. This is a defamation case concerning an article initially published on August 21, 2018 in the Wausau Daily Herald concerning a petition filed in Marathon County Probate Court on September 9, 2015, almost three years earlier.

2. The headline of the defamatory article reads: “Wisconsin financial advisor accused of violating a dead man’s trust, mishandling \$3 million.”

3. However, the Court appointed successor trustee, asked by the presiding judge to investigate any allegations of wrongdoing, had already determined on February 18, 2016 that “[a] review of the records shows no embezzlement, theft, or false records of any nature.”

4. More than two years after the accusations of mismanagement of funds were utterly discredited, defendant published a defamatory article that is neither true nor fair and is littered with

false statements of fact about plaintiffs and their character and has caused damage to plaintiffs' business and reputation.

The Parties

5. Plaintiff Financial Fiduciaries, LLC ("Fiduciaries") is and was at all times relevant hereto a Wisconsin limited liability company located in Wausau, Marathon County, Wisconsin. Fiduciaries at all times relevant hereto and prior to the publication of defamatory statements as listed below enjoyed a reputation of honesty and integrity within the community.

6. Fiduciaries is a wholly owned subsidiary of WTC, Inc. which is a privately-owned Wisconsin corporation with Wisconsin citizenship.

7. Plaintiff Thomas Batterman is and was at all times relevant hereto a citizen and resident of Marathon County, Wisconsin. Mr. Batterman at all times relevant hereto and prior to the publication of defamatory statements as listed below enjoyed a reputation of honesty and integrity within the community.

8. Defendant, Gannett Co., Inc. is a Delaware corporation headquartered at 7950 Jones Branch Drive, McLean, Virginia 22107. Gannett Co., Inc. is a citizen of Delaware and Virginia for purposes of jurisdiction and at all times relevant hereto acted through its brand name, the Wausau Daily Herald and published the defamatory article through its associated brands such as the Green Bay Press-Gazette, the Appleton Post-Crescent, the Oshkosh Northwestern, and the Stevens Point Journal.

Jurisdiction and Venue

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 because the parties are of diverse citizenship and the amount in controversy exceeds the jurisdictional minimum.

10. Venue is proper in this District because defendant is subject to personal jurisdiction in Marathon County, Wisconsin by virtue of its ongoing business activities conducted under the brand name Wausau Daily Herald.

The Facts

11. The Article has severely damaged and continues to damage Mr. Batterman and Financial Fiduciaries, including but not limited to lost clients, difficulties attracting new clients and lost merger opportunities.

12. Financial Fiduciaries, LLC is a registered financial advisor and its manager is Mr. Batterman. This business is largely dependent upon their good reputation and public trust.

13. Joseph Geisler was Tom Batterman's long-time client and business associate.

14. Mr. Geisler was a shareholder in WTC, Inc., the sole member of Fiduciaries.

15. In 1988, Mr. Geisler established the Joseph R. Geisler Revocable Living Trust (the "Geisler Trust"), with the intention of benefitting his spouse.

16. Mr. Geisler named himself as the initial Trustee.

17. Mr. Geisler later named Vigil Asset Management Group as the successor trustee of the Geisler Trust, which was owned by Mr. Batterman. In 2000, Vigil Asset Management Group's operations were assumed by Vigil Trust. In 2011, in the course of amending the Geisler Trust in other respects, Mr. Geisler amended his trust to provide that Vigil Trust would be the successor trustee.

18. Vigil Trust was a registered trade name for Investors Independent Trust Company, a Colorado trust company doing business in Wisconsin under that name.

19. Investors Independent Trust Company sold to Midwest Trust Company in the fall of 2016 and Midwest Trust Company became the owner/operator of the Vigil Trust tradename.

20. Mr. Batterman had no ownership or financial interest in Investors Independent Trust Company or Midwest Trust Company (hereafter, "Vigil Trust"), the entity that was the successor trustee of the Geisler Trust at the time Mr. Geisler died.

21. According to the Geisler Trust, on Mr. Geisler's death, the successor trustee was to account for all assets, pay off debts and other expenses, use the remaining Trust assets for the benefit of a surviving spouse and distribute the remaining funds to the remainder beneficiaries.

22. The Trust provided the successor trustee with discretion as to management and liquidation of the Trust assets and named four beneficiaries in the event that Mrs. Geisler predeceased Mr. Geisler; the remaining beneficiaries were the Superior, Wisconsin, Diocese of the Catholic Church for educational purposes; the Bruce High School Wisconsin, to fund scholarships for the students who will be pursuing a college education; the Alzheimer's Association for research; and the American Cancer Society.

23. Mr. Geisler executed an Amendment to the Geisler Trust in March 2011-three years before his incapacitation and death.

24. The 2011 Amendment maintained the American Cancer Society as a beneficiary of the Trust but instructed that the bequest to the American Cancer Society be paid through "local fund-raising events such as Relay for Life in such manner and for such purposes as the organization sees fit."

25. Mr. Geisler became incapacitated in late 2013 at the age of 88. On January 1, 2014, Vigil Trust became the successor trustee of the Geisler Trust.

26. Mr. Geisler's wife predeceased him, and Mr. Geisler passed away on December 27, 2014.

27. Vigil Trust, as successor trustee, immediately undertook efforts to administer the Geisler Trust assets so that it could determine the proper amount to be distributed to the four beneficiaries.

An Internal Dispute at the American Cancer Society

28. A representative of the American Cancer Society, Deborah Richards, learned of the Geisler Trust gift and was concerned that a \$750,000 gift in one lump sum would skew the Relay for Life's budget for the following years to such an extent that Relay for Life fundraising goals would not be realistic.

29. Ms. Richards was also concerned that a highly-publicized \$750,000 gift could have the effect of dampening the public's enthusiasm for American Cancer Society's Relay for Life fundraising events.

30. Ms. Richards spoke with her immediate supervisors at American Cancer Society and American Cancer Society's senior management in charge of the Relay for Life program approved receiving periodic payments from the Geisler Trust rather than a \$750,000 lump sum amount.

31. However, the decision of the Relay for Life management created internal disagreement with American Cancer Society's Major Gifts division, which wanted the gift to be made in a single lump sum.

32. In mid-July 2015, American Cancer Society's headquarters notified the Vigil Trust that it wanted the lump sum payment rather than periodic payments. Vigil Trust immediately adjusted the investment structure to anticipate a near-term lump sum payment.

33. Vigil Trust paid the American Cancer Society \$80,000 of its gift under the originally established long-term payout plan in June, 2015.

34. Distribution of the Geisler Trust gift that was to fund scholarships for graduating seniors from Bruce High School attending college was also funded in June of 2015.

35. By the middle or end of August 2015, the entire gift for the Alzheimer's Association and the Diocese and the remainder of the gift for American Cancer Society were prepared to be distributed in lump sums.

36. However, the funds were not distributed because the American Cancer Society and the other beneficiaries refused to sign the documents necessary to affect the distributions.

37. Instead, on September 11, 2015, American Cancer Society filed a petition in probate court seeking to remove Vigil Trust as trustee of the Geisler Trust and to obtain appointment of a successor trustee.

38. As reasons for the removal, American Cancer Society alleged, among other things, that Mr. Batterman engaged in theft, embezzlement, and falsification of records, claiming that Mr. Batterman was the acting trustee of the Geisler Trust.

39. Mr. Batterman filed a 16- page affidavit with 146 pages of supporting documentation highlighting inaccuracies in the petition and disputing American Cancer Society's claims.

40. Following a hearing on October 23, 2015, Judge Moran appointed a new successor trustee, Terrence Byrne, on November 10, 2015 to assume the administration of the Geisler Trust and to investigate the accusations of the American Cancer Society.

41. Mr. Byrne retained a certified public accountant to assist with the investigation.

42. On February 18, 2016, Mr. Byrne reported to the beneficiaries and later to Judge Moran that, "[a] review of the records shows no theft, embezzlement, or false records of any nature."

43. Vigil Trust filed a motion to require the beneficiaries to pay its attorney's fees in light of the findings. The beneficiaries filed competing motions objecting to Vigil Trust's motion and requesting reimbursement by Vigil Trust of their own fees.

44. Bruce Schools filed an amended petition seeking to add Financial Fiduciaries, WTC and Thomas Batterman personally as parties to be potentially liable for the beneficiaries' attorney's fees claims. Judge Moran subsequently dismissed both Financial Fiduciaries and WTC from the lawsuit.

45. Judge Moran ruled on September 18, 2017, that Vigil Trust failed to provide notice as required by Wisconsin's statutes, and took issue with some other administrative actions of the trustee, but he found no evidence of theft, embezzlement, fraud or false records of any nature.

46. Notwithstanding the successor trustee Byrne's and the Court's findings, on August 21, 2018, the Wausau Daily Herald and other Gannett newspapers published an on-line article titled "Wisconsin financial advisor accused of violating a dead man's trust, mishandling \$3 million," which continues to be available on-line (hereinafter the "Article").

47. The Article was investigated and written by Sam Wisneski, a college student working as an intern at the Wausau Daily Herald.

48. On Friday, August 24, 2018, a consultant for Financial Fiduciaries and Mr. Batterman spoke with and provided a statement supporting plaintiffs' requests for retraction. The publisher, Mr. Treinen, has declined that request but suggested that Mr. Batterman provide a more detailed listing of the errors in the Article.

False Statements Of Fact In The Article

49. As a whole, the Article is erroneous and paints a false and unfair picture of Mr. Batterman as a thief who, acting as trustee, stole money from a trust, causing four separate charities to lose money, all of which is false.

50. The Article falsely identifies the trustee overseeing the administration of the Geisler Trust as Mr. Batterman when it was Vigil Trust.

51. Mr. Batterman had no authority to bind Vigil Trust and the record demonstrates that anything Mr. Batterman did on behalf of Vigil Trust was either at its direction or with its approval.

52. The Article's innuendo is impossible to miss: Tom Batterman is a bad financial advisor who takes advantage of elders and cannot be trusted with other people's money.

53. The Article contains a gratuitous report about Mr. Batterman's arrest for DUI with a picture of his "mug shot" without, mentioning that Mr. Batterman has filed a Motion to Dismiss that action.

54. The Article contains links to so-called "Related" stories about elder abuse and embezzlement.

55. The lengthy article also contains a video clip supporting the article, photographs of records from the case, and photographs of Financial Fiduciaries' building. The article purports to be a deep dive into the records of the case, including the Fiduciary graphics.

56. Following is a list the erroneous statements and implications of the Article:

	Defamatory Statement	Why It Is False
56.a	Headline: "Wisconsin financial advisor accused of violating dead man's trust, mishandling \$3 million."	The word "mishandling" connotes something inappropriate was done with the funds of the trust. The February 18, 2016 Byrne Report conclusively established that the funds were

		never mishandled and the issues in the case involved disagreements about administrative decisions, not mishandling of funds.
56.b	“But the financial advisor Joe Geisler entrusted to administer his trust put that money in jeopardy, according to a lawsuit filed in Marathon County.”	<p>The court and successor trustee Byrne found American Cancer Society’s allegations of defalcation to be untrue long before Gannett published the Article. No money was ever in jeopardy. The Trust earned money under Vigil Trust’s administration. Mr. Geisler did not entrust the administration of his trust to Mr. Batterman. Mr. Geisler selected Vigil Trust to administer his trust, which was run by a company in which Mr. Batterman has no ownership interest or position. The two persons responsible for the administration of trusts for which Vigil Trust is trustee are Herbert McPherson and Janice Smith.</p> <p>While Mr. Batterman assisted the successor trustee Vigil Trust in implementing the actions they desired, he did so only at the direction or with the approval of Vigil Trust.</p>
56.c	“The advisor, Tom Batterman, is accused of defrauding the charities, committing numerous breaches of trust and conspiring with his finance to milk the fund for trustee fees.”	The American Cancer Society’s accusations were determined to be false and Mr. Batterman was exonerated long before the Article was published.
56.d	“It was not the first time Batterman had been accused of mishandling clients’ money.”	Batterman has never previously been accused of mishandling clients’ money. Although there was an initial accusation by the American Cancer Society, that accusation was completely disproved two years before the Article was published.
56-e	“When Vigil became the trustee, it would be Batterman’s job to honor Geisler’s wishes, completing the donations to the four charities. That’s where things went awry.”	It was not “Batterman’s job” to honor Geisler’s wishes, although he tried to ensure that Mr. Geisler’s wishes were honored and effectuated. It was Vigil Trust’s job. Batterman was not the successor trustee of the Geisler Trust. Vigil Trust was the successor trustee. While Mr. Batterman assisted the successor trustee Vigil Trust in implementing

		decisions, he did so only at the direction or with the approval of Vigil Trust.
56.f	“Nearly one year after Geisler died, only \$80,000 of the \$3 million trust had been distributed and Vigil was removed as trustee.”	This statement falsely blames Fiduciaries and Mr. Batterman for the delay in distribution of the Geisler Trust assets to the beneficiaries. The court record established conclusively that the money for Bruce School graduates was distributed to a trust for their benefit in June, 2015 and that by mid-August 2015 Alzheimer’s Association, the Diocese and American Cancer Society all had the paperwork in their possession to take full distribution of their interests and their shares were prepared to be distributed. The delay in distribution was due to the beneficiaries and was due to their own actions or inactions, not the trustee’s.
56.g	“According to accusations and judgments made in the court documents, this is what happened: Two weeks after Geisler’s death, Batterman and his fiancée, Deborah Richards, began talking about the trust via Richards’ work email. They planned for Batterman to donate American Cancer Society’s portion of the trust to different Relay for Life Events that Richards would be planning. The increase in money raised for each event would make Richards eligible for salary increases according to the American Cancer Society petition to the court.”	This statement is false because the uncontroverted evidence within the court record is that the instructions to the Trustee to pay the gift out to American Cancer Society over a period of time were not Ms. Richards’ instructions, but instructions approved by multiple levels of the Relay for Life Division of American Cancer Society. The statement is false because the uncontroverted testimony in the court record is that the amount of money raised had no impact on Richards’ salary. Moreover, there were no “judgments” in the court documents supporting the report of “what happened.” The use of the word “judgments” has legal significance and suggests that the court make findings to the effect of the reported characterizations of “what happened.” Further, the American Cancer Society made baseless allegations of fraud and mismanagement in its petition, but the independent successor trustee Byrne and Judge Moran found no basis for the allegations.
56.h	“In Batterman’s affidavit, he explained how he and Richards decided to donate it in this way...”	Mr. Batterman and Ms. Richards did not “decide” to donate money in any way. Ms. Richards’ supervisors in the Wisconsin office

		of American Cancer Society initially approved the disbursement of the Geisler Trust gift over time.
56.i	“Batterman should have taken the decision of how the trust is administered to a higher level of administration, the American Cancer Society says.”	Mr. Batterman was not the successor trustee. Also, the uncontroverted evidence in the court record that Vigil Trust’s policy was always to start with the most local office of a national charity when a charity is a beneficiary. If the decisions about the gift need to be made elsewhere, the organization should work with their staff to provide clear policies and procedures to indicate what they want to do.
56.j	“When the national offices of the American Cancer Society found out about the trust, they knew that they wanted it in a lump sum, contrary to the decision that Richards made on behalf of the organization to have it paid to her events over 10 years.”	Ms. Richards did not decide how the gift to the American Cancer Society was to be paid out.
56.k	“From Geisler’s death to November 9, 2015, when Batterman and Vigil were removed as trustees, they collected about \$30,000 in fees from the Trust, according to Batterman’s affidavit.”	Mr. Batterman and the “Vigil” identified in the Article as Batterman’s company were not the successor trustee of the Geisler Trust and were therefore not “removed.” It also fails to acknowledge uncontroverted evidence in the record that the trust gained more than \$50,000 of additional value net of Vigil Trust’s expenses from Mr. Geisler’s date of death until the trust was divided up in preparation for distribution.
56.l	“RELATED: Five ways to fight elder abuse” – hyperlink.	This link in the middle of the on-line article unfairly and irresponsibly suggests that Mr. Batterman and Financial Fiduciaries were involved in “elder abuse.”
56.m	“RELATED: Accountant accused of embezzling over \$155,000 near Stratford” – hyperlink.	This link in the middle of the on-line article unfairly and irresponsibly suggests that Mr. Batterman and Financial Fiduciaries were involved in “embezzlement.” This is particularly false and defamatory given that Judge Moran and the successor trustee Byrne found no embezzlement or theft occurred.

56.n	“The four charities, led by the American Cancer Society, filed petitions and statements all in agreement: Batterman should be removed and an independent successor should be appointed.”	Mr. Batterman was not the successor trustee. The repeated characterizations of Mr. Batterman as the successor trustee inaccurately and unfairly associated Mr. Batterman with some wrongdoing alleged in American Cancer Society against Vigil Trust in its role as successor trustee.
56.o	“In November 2015, Judge Moran ordered Vigil and Batterman to be removed.”	The November 11, 2015 order removed the successor trustee Vigil Trust and put in place as successor trustee Terrence Byrne. Mr. Batterman was not “ordered removed.”
56.p	“Byrne was to distribute the money to the beneficiaries and review Batterman’s conduct with the fund. He delivered the money within about a month.	As noted above, Vigil Trust (i) distributed \$80,000 to American Cancer Society within six months of Mr. Geisler’s death and (ii) the bequest to Bruce High School by funding the scholarship on June 19, 2015 – less than six months. Vigil Trust agreed on July 9 to distribute to American Cancer Society the cash that had been liquidated from securities allocated to the American Cancer Society bequest and proposed that a further distribution on another investment awaits its maturity on August 31, 2015 to avoid early cancellation fees. The delay in distribution was due to the American Cancer Society’s refusal to sign the required paperwork (W-9, Receipt and Release) for delivery of the funds and chose instead to file the lawsuit. The same was true of the Diocese and the Alzheimer’s Association, whose funds were available for distribution by no later than August 31, 2015.
56.q	“The federal Securities and Exchange Commission did find that Batterman committed wrongdoing for other business practices over a period of three years. *** This is the second time that Batterman was found guilty of wrongdoing by the SEC.”	The SEC did not “find that Batterman committed wrongdoing” and Mr. Batterman has not been found “guilty” of anything. “Wrong doing” and “found guilty” pertain to criminal conduct and proceedings, not administrative proceedings pertaining to detailed disclosure rules that concluded in consent decrees that specifically stipulate that the findings are neither admitted or denied. There is no element of either SEC order that references “wrongdoing” with respect to misappropriation of client funds. The 2018

		order related to Financial Fiduciaries having “constructive” custody of funds due to the structure that was set up to help Vigil Trust discharge its administrative responsibilities and an insufficient disclosure of that relationship. The 1997 order had to do with the SEC determining that Vigil Asset Management Group had “constructive” (<i>i.e.</i> , not actual) custody of client funds without following the proper procedures for a firm maintaining custody of funds and without filling in the correct boxes on the annual filings with the SEC.
56.r	“The SEC declined to comment on whether the fines and violations were related to the Geisler trust.”	The SEC decision shows that the 2018 settlement was in no way related to the Geisler Trust. The Article created the false impression that the two matters were connected.
56.s	“Batterman’s legal troubles were compounded when he was pulled over by Rothschild police on his 61 st birthday April 10, 2018. ‘I handcuffed Thomas, checked the handcuffs for tightness, and double-locked them,’ the Rothschild Police report says.”	This reporting has no relevance to the subject matter of the Article and evidences a malicious intent to harm Mr. Batterman and his reputation. Gannett does not routinely report DUI arrests and publish mug shots of DUI recipients or quote police officers concerning their DUI arrests. Mr. Batterman’s arrest for “OWI” is not logically related in any way to the Geisler Trust. The publication of this information and his “mug shot” appear to have been included for no other reason than to smear Mr. Batterman’s reputation. The Article, if it were indeed attempting to be fair, would have also noted that Mr. Batterman has filed a motion to dismiss the charges.
56.t	“Jan. 16, 2015 Tom Batterman and fiancée begin emailing about donating Geisler trust money to her events.”	In the context of the article and the graphic titled “The journey of Joe Geisler’s trust,” this statement denotes improper communications and improper use of Geisler Trust funds, when in fact, a Geisler Trust beneficiary was the American Cancer Society’ through “local fund-raising events such as Relay for Life in such manner and for such purposes as the organization sees fit.” The referenced “fiancée,” Deborah Richards, was an American Cancer Society representative

		responsible for fund raising for local Relay for Life events.
56.u	“June 12, 2015 American Cancer Society contacts Batterman, his first contact with a Geisler trust beneficiary.”	Judge Moran found that American Cancer Society was first notified “shortly after the death of Mr. Geisler,” not six months after his death. Also, Mr. Batterman was not the trustee, and therefore not responsible for contacting the Geisler Trust beneficiaries.

57. The entire court record pertaining to Case No. 15-PR-32, filed September 11, 2015 in Marathon County, Wisconsin, including the affidavit of Thomas Batterman dated October 15, 2015, the reports of Successor Trustee Terrence J. Byrne, the September 18, 2017 transcript of the probate court’s ruling, the transcripts of the hearings and trial on the beneficiaries’ petitions, and the SEC consent decrees were available to Gannett before the Article was published.

58. As required by Wisconsin Statutes Ann. § 895.05(2), Mr. Batterman and Fiduciaries demanded that Gannett retract the Article as erroneous or issue corrections as required by § 895.05(2) on August 30, 2018 and September 1, 2015.

59. Rather than retracting the Article and issuing the requested correction, Gannett republished the defamatory Article under the guise of updating the Article without correcting the false statements of fact or issuing the necessary corrections.

60. The Article has severely damaged and continues to damage Mr. Batterman and Fiduciaries, including but not limited to lost clients, diminished ability to obtain new clients and lost merger opportunities. Annualized revenue from lost clients far exceeds \$300,000.

61. Fiduciaries and Batterman demand trial by jury.

COUNT ONE
Defamation

62. Fiduciaries and Mr. Batterman incorporate by reference the allegations contained in paragraphs 1 through 61 of this complaint as though fully set forth herein.

63. Gannett published defamatory statements about Fiduciaries and Batterman starting on August 21, 2018 and continuing thereafter to the general public in the Article.

64. Gannett published or caused these defamatory statements to be published by posting the Article on its website.

65. Gannett's false and defamatory statements were of and concerning Fiduciaries and Mr. Batterman, and contained the false statements that Fiduciaries and Mr. Batterman mismanaged and misappropriated client funds.

66. Gannett's false and defamatory statements were published with the intent to harm Fiduciaries and Mr. Batterman's good names and reputations by falsely accusing Fiduciaries and Mr. Batterman of criminal acts.

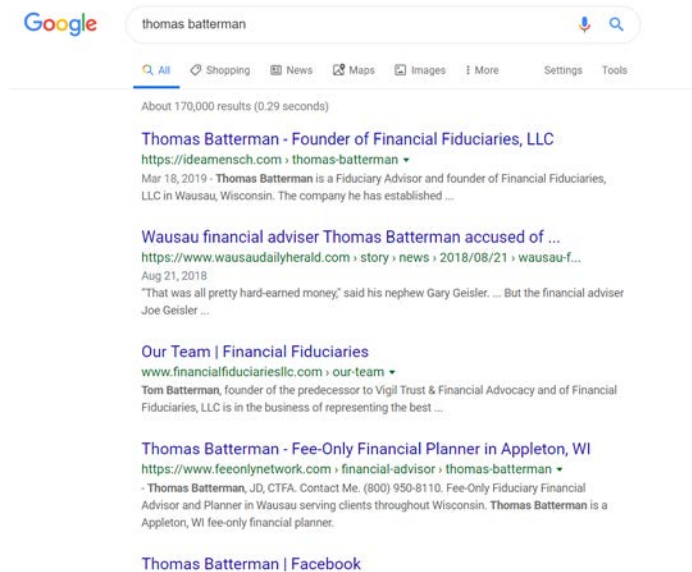
67. Gannett published these false and defamatory statements with actual malice and knowledge that the statements were false, or with reckless disregard of whether they were false or not.

68. Gannett continues to engage in the publication of the defamatory statements concerning Fiduciaries and Mr. Batterman.

69. Since posting, the false and defamatory statements published by Gannett regarding Fiduciaries and Mr. Batterman have remained available to millions of Internet users, many of whom may have made copies of the false and defamatory statements and/or distributed them by electronic mail or other means and/or re-posted them to other blogs, Internet forums, and message

boards, and Fiduciaries and Mr. Batterman have no means of removing these false and defamatory statements from the Internet.

70. Online searches for Batterman or Fiduciaries now prominently feature the Article. For example, this screenshot was taken on October 21, 2019:



71. In carrying out the aforementioned conduct, Gannett acted negligently, willfully, maliciously, and/or with reckless indifference to the consequences of its actions against Fiduciaries and Mr. Batterman.

72. As a direct and proximate result of Gannett's intentional and malicious publication of false and defamatory statements, Fiduciaries and Mr. Batterman have been and will continue to be damaged and injured in their respective character and reputation.

COUNT TWO
Preliminary and Permanent Injunction

73. Fiduciaries and Mr. Batterman incorporate by reference the allegations contained in paragraphs 1 through 72 of this complaint as though fully set forth herein.

74. Some or all of the improper and unlawful conduct of defendant alleged above is continuing and will continue in the future absent injunctive relief from the Court, and Fiduciaries and Mr. Batterman will continue to be damaged by the same.

75. In the absence of the entry of a temporary, preliminary and permanent injunction by the Court, Fiduciaries and Mr. Batterman will suffer serious and irreparable harm and injury, including but not limited to damage of their respective reputations.

76. The entry of a temporary, preliminary and permanent injunction will not unduly harm or burden Gannett because it is required as a matter of law to refrain from disseminating defamatory statements regarding plaintiffs.

77. Public policy favors the entry of a temporary, preliminary and permanent injunction because, *inter alia*, such relief will prevent unlawful conduct and will preserve and protect Fiduciaries' and Mr. Batterman's respective reputations.

WHEREFORE, plaintiffs Financial Fiduciaries, LLC and Thomas Batterman demand judgment from defendant Gannett Co., Inc. as follows:

- A. For entry of a temporary, preliminary and permanent injunction preventing defendant Gannett Co., Inc. from disseminating any false and defamatory statements regarding plaintiffs;
- B. For an entry of a temporary, preliminary and permanent injunction requiring defendant to remove the false and defamatory statements regarding plaintiffs published by defendant from the Internet;
- C. For an entry of an order requiring defendant to post a retraction of all of the false and defamatory statements published by defendant, as well as a written apology to be published in the defendant's various publications that published the Article;

- D. For an award of actual and presumed damages in excess of \$75,000;
- E. For an award of punitive damages in accordance with Wis. Stats. § 895.043(6);
- F. For an award of costs, interest and attorney's fees; and
- G. For any other relief that this Court deems just and proper.

Dated: October 24, 2019

Respectfully submitted:

/s/ Charles L. Philbrick

Charles L. Philbrick

David P. Hollander

Rathje Woodward LLC

10 E. Doty Street, Suite 507

Madison, WI 53703

(608) 960-7430

cphilbrick@rathjewoodward.com

dhollander@rathjewoodward.com

*Attorneys for plaintiffs Financial Fiduciaries, LLC
and Thomas Batterman*