

3. Plaintiffs Karen Andrea Niehans and Samuel R. Niehans are residents of Jamestown and registered voters in Guilford County. They are registered Democrats who moved to North Carolina from Wisconsin in 2016 and voted in North Carolina for the first time in the 2016 General Election.

4. Plaintiff Gabriel Arthur Thabet is a resident of Greensboro and a registered voter in Guilford County. He is a registered Republican and has voted in Guilford County in each Presidential Election since 2004.

5. Defendant William Clark Porter, IV, is, on information and belief, a resident of Greensboro.

JURISDICTION AND VENUE

6. This is an action for defamation under North Carolina law. This Court has jurisdiction over this action pursuant to N.C. Gen. Stat. § 1-75.4 in that this action is between natural persons who are all present and domiciled within this State. The amount in controversy is in excess of \$25,000 under N.C. Gen. Stat. § 7A-243.

7. Venue is proper in this County under N.C.G.S. § 1-82.

FACTS

A. The 2016 General Election

8. The 2016 General Election took place on November 8, 2016. In the weeks prior to November 8, 2016, for the 17-day period beginning October 19 and ending on November 5, 2016, voters were able to cast their ballots early using one-stop absentee voting.

9. In Guilford County, voters were able to vote early during the first week of early voting at the Guilford County Board of Elections. After that first week, and for the balance of

the early voting period, Guilford County voters were able to vote in various locations around the county.

10. Each of the Plaintiffs in this case took advantage of one-stop absentee voting and voted in the 2016 General Election prior to Election Day.

B. The Defendant Libels The Plaintiffs

11. After Election Day, on November 17, 2016, Defendant filed two documents with the Guilford County Board of Elections which are at issue here. Both documents were filed on a form styled "Election Protest." On each form, Defendant is listed as the "person filing the protest" and both forms state that he is a "[r]egistered voter" eligible to vote in the protested election. Both forms also list Defendant as the sole witness "to any misconduct alleged by you in this protest."

12. Both forms answer "[y]es" to the question "[h]ave you read and reviewed the North Carolina law pertaining to election protests as set out in G.S. 163-182.9 through G.S. 163-182.14 and current North Carolina State Board of Elections regulations pertaining to election protests." Both forms, in a line designated "Signature of Protester," also contain a signature of "William Porter" with the added words "authorized by /spr."

13. In one of the "Elections Protests," it states that:

Upon review of early voting files from other states, it appears that nine (9) individuals cast ballots in both North Carolina and another state. Casting a ballot in more than one state is a clear violation of North Carolina and federal elections laws.

The form does not state the source of the "early voting files from other states."

14. That same form goes on to state that "[i]n violation of the statutes provided for above, invalid ballots were cast by the following persons known to have voted in multiple

states.” Among nine voters alleged to have votes in multiple states are Plaintiffs Bouvier and Mr. and Ms. Niehans who are listed in the document filed by both name and street address.

15. The other form of Election Protest filed by Defendant states that:

Upon review of the North Carolina Department of Corrections active prisoner and parole database and ballots cast for candidates for this election, it appears that at least eight ballots were cast by persons adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that would also be a felony if it had been committed in this State, and without those persons having first been restored to the rights of citizenship in the manner prescribed by law.

16. That form goes on to state that “[i]n violation of the statutes provided for above [N.C. Gen. Stat. §§ 163-55(a)(2) and 163-82.1(c)(2)], invalid ballots were cast by the following persons adjudged guilty of a felony.” The form goes on to list Plaintiff Thabet as one of the nine alleged felons not entitled to vote.

17. Contrary to the allegations made by Defendant in his first “Election Protest,” Plaintiffs Bouvier and Mr. and Ms. Niehans voted only in North Carolina during the 2016 General Election and did not vote in any other state.

18. Contrary to the allegations made by Defendant in his second “Election Protest,” Plaintiff Thabet was a person “restored to the rights of citizenship in the manner prescribed by law,” and not prohibited from voting by reason of felony status.

19. Defendant’s false accusations against Plaintiffs subjected them to adverse publicity both locally, state-wide, and even nationally, as various media reported the allegations and then elaborated on them. This embarrassment and harm to their reputations was compounded by the fact that a public hearing was noticed and held to consider Defendant’s accusations which was further reported in the media. Defendant’s “Elections Protests” were ultimately dismissed as meritless.

FIRST CLAIM FOR RELIEF – LIBEL

20. The allegations of Paragraphs 1 through 20 are realleged and incorporated herein by this reference.

21. The statements made by Defendant concerning Plaintiffs in his “Election Protests” were false publications wrongly accusing Plaintiffs of a crime, namely illegal voting. Defendants’ false statements also tended to subject Plaintiffs to ridicule, contempt or disgrace. Those libelous statements were false when made, were made without regard to their truth and falsity, were made without justification, and were made for the purpose and with the intent of damaging the reputations of Plaintiffs or with reckless disregard of their affect on the reputations of Plaintiffs.

22. Those statements have impeached, injured, and damaged Plaintiffs.

23. As an actual and proximate cause of Defendant’s conduct in making such false statements, Plaintiffs have sustained harm, including damages in an amount to be determined at trial but reasonably believed to be in excess of \$25,000.

SECOND CLAIM FOR RELIEF – PUNITIVE DAMAGES

24. Paragraphs 1 through 23 of this Complaint are realleged and incorporated herein by this reference.

25. Defendant made the statements and took the actions described above with malice or reckless disregard of their falsity in order to harm Plaintiffs.

26. Defendant acted willfully and/or wantonly in making the statements described above.

27. Pursuant to N.C. Gen. Stat. § 1D-1, Plaintiffs are entitled to punitive damages for Defendant’s conduct.

WHEREFORE, Plaintiffs pray to the Court that:

A. A preliminary and permanent injunction enter against Defendant and any and all persons in active concert or participation with him forbidding any further filing of Election Protests containing false and defamatory statements concerning these Plaintiffs or any other registered North Carolina voter;

B. Plaintiffs receive actual damages in an amount sufficient to compensate them for their damages resulting from Defendant's conduct;

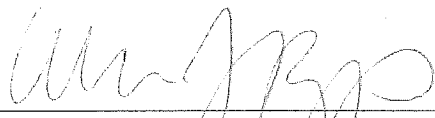
C. Plaintiffs be allowed recovery of punitive damages pursuant to Chapter 1D of the North Carolina General Statutes;

D. Plaintiff be allowed recovery from Defendant of the costs and expenses incurred in this action, including attorney's fees;

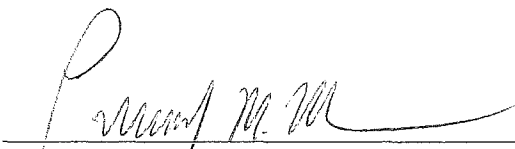
E. Plaintiffs receive trial by jury of all issues so triable; and

F. Plaintiffs obtain such other and further relief as may be just and proper.

This the 8th day of February, 2017.



Anita S. Earls, N.C. Bar #15597
Allison J. Riggs, N.C. Bar #40028
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
Anita@southerncoalition.org
Allison@southerncoalition.org



Pressly M. Millen, N.C. Bar # 16178
Ripley Rand, N.C. Bar # 22275
Womble Carlyle Sandridge & Rice, LLP
P.O. Box 831
Raleigh, NC 27602
Telephone: 919-755-2150
Facsimile: 919-755-6067
pmillen@wcsr.com
rrand@wcsr.com

Counsel for Plaintiffs