

STATE OF VERMONT

SUPERIOR COURT
CHITTENDEN UNIT

CIVIL DIVISION
DOCKET NO. _____

DAVID BLITTERSDORF,

Plaintiff

v.

BRIAN DUBIE, individually and d/b/a
FRIENDS OF BRIAN DUBIE, and
CORY BLISS,

Defendants.

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES Plaintiff David Blittersdorf, by and through his attorneys, Dinse, Knapp & McAndrew, P.C., and hereby alleges and avers as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 4 V.S.A. § 31(1).
2. Venue is proper in this Court based on 12 V.S.A. § 402(a) because one or more of the parties reside in Chittenden County.

Parties

3. Plaintiff David Blittersdorf ("Mr. Blittersdorf") is a resident of Charlotte, Vermont, located in the County of Chittenden.
4. Defendant Brian Dubie is a resident of Essex Junction, Vermont, located in the County of Chittenden.
5. "Friends of Brian Dubie" is the name under which Brian Dubie is running his campaign for governor.

Dinse,
Knapp & McAndrew, P.C.
209 Battery Street
P.O. Box 988
Burlington, VT 05402-0988
(802) 864-5751

6. Corry Bliss is a resident of Burlington, Vermont, located in the County of Chittenden. Defendant Bliss is Defendant Dubie's campaign manager.

7. At all relevant times, Defendant Bliss was Defendant Dubie's employee, agent or servant, and was acting within the scope of his employment and/or agency.

Factual Background

8. Mr. Blittersdorf repeats and re-alleges paragraphs 1 through 7 as if fully set forth herein.

9. Defendant Dubie and his campaign, "Friends of Brian Dubie," pays for, operates and controls a website known as www.shumlinsethics.com (hereinafter "the website") and is responsible for the content on that website.

10. Defendant Dubie personally authorizes, ratifies and/or approves of the content on the website.

11. The website purports to set forth a list of Defendant Dubie's gubernatorial opponent's so-called "Top Eleven Ethical Lapses." Exhibit A. Among the list of so-called "ethical lapses" is the following:

3. Conflict of interest: Shumlin campaign contributor and board appointee used position to score millions in tax breaks for himself.

Peter Shumlin appointed one of his largest campaign contributors to a board where he used his position to write policies that resulted in millions of dollars of tax breaks for himself . . . Last year, Blittersdorf was appointed by Peter Shumlin to the Clean Energy Development Fund, where he used his position to write policies that resulted in his companies receiving \$4.3 million in state tax credits – a clear conflict of interest.

"This is a shocking level of corruption," Dubie campaign manager Corry Bliss said. "Once again, Peter Shumlin is not being honest. Trading more than \$4 million in taxpayer money for campaign donations once again shows Peter Shumlin will say or do anything to get elected. We again call on Peter Shumlin to give back the \$8,000 he received personally from David Blittersdorf and explain to the public what he promised him in exchange for his \$28,000 in campaign contributions."

12. Defendants' statements on the website falsely accuse Mr. Blittersdorf of "corruption," improperly using his position on the Clean Energy Development Fund to "score millions in tax breaks for himself," buying tax credits with campaign donations, and other unethical conduct.

13. In addition to his false and defamatory statements on the website, Defendant Dubie's campaign manager continued his defamation of Mr. Blittersdorf in statements to the press. In the October 21, 2010 issue of the Burlington Free Press, Defendant Bliss is quoted as saying: "Was this pay-to-play? Is this a deal Peter [Shumlin] struck?" Exhibit B. Defendant Bliss made this statement to the reporter with the plan, purpose, and intent that it be published in the Burlington Free Press. These purported rhetorical questions falsely accuse Mr. Blittersdorf of unethical conduct.

14. On October 25, 2010, Mr. Blittersdorf telephoned Defendant Dubie and asked that he stop impugning his character but Defendant Dubie chose, instead, to continue publishing defamatory statements about Mr. Blittersdorf.

15. On October 26, 2010, Mr. Blittersdorf, through his attorneys, requested by letter that Defendants remove the above-described false and defamatory statements from the website and cease making such statements about him. Exhibit C.

16. Rather than respond to that letter privately, Defendants issued a statement releasing the letter to the public and re-asserting the false and defamatory statements about Mr. Blittersdorf. Exhibit D.

17. In their reckless zeal to impugn Defendant Dubie's political opponent, Defendants have maliciously chosen to attack Mr. Blittersdorf with false and defamatory statements.

Count I: Defamation

18. Mr. Blittersdorf repeats and re-alleges paragraphs 1 through 17 as if fully set forth herein.

19. The above-described statements are false and defamatory.

20. In making the above-described statements, Defendants acted negligently, or with actual malice in that they knew of the falsity of those statements or made them with reckless disregard of whether they were true or false.

21. The above-described statements were injurious to Mr. Blittersdorf's trade, business and/or occupation, as well as to his reputation.

22. As a direct result of the above-described statements, Mr. Blittersdorf has suffered actual harm including, but not limited to, impairment of his reputation and standing in the community, humiliation, embarrassment, and mental pain.

23. Defendant Dubie is vicariously liable for the tortious conduct of Defendant Bliss and other agents, employees or servants working for him.

24. Defendant Dubie independently authorized, ratified and/or approved of the above-described defamatory statements.

25. Defendants acted with willful and malicious intent, and with a reckless and wanton disregard for the rights of Mr. Blittersdorf.

WHEREFORE, Plaintiff David Blittersdorf requests the following relief:

1. Just and reasonable compensatory damages.
2. Punitive damages.
3. All costs in this action, including but not limited to attorneys' fees.
4. Such other relief as may be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff David Blittersdorf demands a jury trial pursuant to V.R.C.P. 38.

DATED at Burlington, Vermont this 28 day of October, 2010.

DINSE, KNAPP & McANDREW, P.C.

By: 

Ritchie E. Berger, Esq.
209 Battery Street
P.O. Box 988
Burlington, Vermont 05402
802-864-5751

Counsel for David Blittersdorf

Dinse,
Knapp & McAndrew, P.C.
209 Battery Street
P.O. Box 988
Burlington, VT 05402-0988
(802) 864-5751