



NAILAH K. BYRD
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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
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By: ELIZABETH A. RADER 0038756

Confirmation Nbr. 2095975

ELIZABETH RADER AND FRIENDS OF BETSY
RADER, ET AL

CV 20 939125

vs.

JERRY CIRINO AND REPUBLICAN SENATE
CAMPAIGN, ET AL

Judge: JOSEPH D. RUSSO

Pages Filed: 14

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

Elizabeth Rader)
8283 Fairmount Road)
Novelty, OH 44072)

Friends of Betsy Rader)
548 East Town St)
Columbus, OH 43215)

Plaintiffs,)

vs.)

Republican Senate Campaign Committee)
88 East Broad Street, Suite 1650)
Columbus, OH 43215)

Jerry Cirino)
8651 Kirtland Chardon Rd.)
Kirtland, OH 44094)

Friends of Cirino)
c/o Beverly Vitaz, Treasurer)
8075 North Orchard Road)
Concord, OH 44077)

Jane/ John Does 1-10)
Address Unknown,)
Address Unknown,)

Defendants.)

CASE NO.

JUDGE

**COMPLAINT FOR DEFAMATION,
FALSE LIGHT AND OTHER RELIEF**
(Plaintiffs demand a trial by jury on all
issues triable of right by a jury.)

Plaintiffs, for their complaint and claim for relief, state and allege the following:

1. This is a civil action under state law for defamation and false light.

2. This action arises out of a television ad (“Attack Ad”) authorized and approved by Defendant Jerry Cirino and placed and paid for by the Republican Senate Campaign Committee with numerous television stations located in Cuyahoga County, Ohio.
3. Through the Attack Ad, Defendants with actual malice have published and are publishing false and defamatory statements about Elizabeth Rader, a civil rights attorney and Mr. Cirino’s Democratic opponent in the race for State Senate District 18.

I. PARTIES

4. Plaintiff Elizabeth Rader, also known as Betsy Rader, is an attorney who focuses her law practice upon the representation of victims of discrimination and sexual harassment, and who is the Democratic candidate for Ohio State Senate District 18. Ms. Rader resides in Geauga County, Ohio.
5. Plaintiff Friends of Betsy Rader is the campaign committee for Elizabeth Rader’s Ohio State Senate District 18 campaign formed pursuant to R.C. 3517.081. Friends of Betsy Rader has its address in Franklin County, Ohio.
6. Defendant Republican Senate Campaign Committee (“RSCC”) is an Ohio political action committee as defined in R.C. 3517.01(A)(8) and formed pursuant to R.C. 3517.107. RSCC has its address in Franklin County, Ohio.
7. Defendant Jerry Cirino is the Republican candidate for Ohio State Senate District 18. Mr. Cirino resides in Lake County, Ohio.
8. Defendant Friends of Cirino is the campaign committee for Jerry Cirino’s Ohio State Senate District 18 campaign formed pursuant to R.C. 3517.081. Friends of Cirino has its address in Lake County, Ohio.

9. Defendants Jane/John Does 1-10 are other unknown individuals and/or entities wholly or partially owned by and/or affiliated with one or more of the Defendants named herein that may also be liable for the actions and inactions set forth in this lawsuit. Plaintiffs will amend this Complaint in the event the identities of any such individuals or entities are discovered and add them as additional defendants.

II. JURISDICTION AND VENUE

10. This Court has personal jurisdiction over the Defendants as each resides in Ohio.
11. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 2305.01.
12. Venue is proper in this Court as the acts or omissions that give rise to this claim relate to business transactions between RSCC, Mr. Cirino, and four television stations (WEWS TV, WJW-TV FOX 8, WKYC, and Cleveland 19 WOIO) licensed to operate in the Cleveland area and the cable company Spectrum located in Cleveland, Ohio. All television stations are located in Cuyahoga County, Ohio. WEWS is located at 3001 Euclid Ave, Cleveland, OH, 44115. WJW-TV FOX 8 is located at 5800 S. Marginal Rd., Cleveland, OH 44103. WKYC is located at 1333 Lakeside Ave, Cleveland, OH 44114. Cleveland 19 WOIO is located at 1717 E. 12th St., Cleveland, OH, 44114. Spectrum is located at 3441 Steelyard Dr., Cleveland, OH 44109.
13. The four television stations airing the ad about Ms. Rader at the direction of Defendants are located in and target messaging to Cuyahoga County. The Attack Ad about Ms. Rader were published in Cuyahoga County as well as throughout Northeast Ohio. Defendants

have purposefully availed themselves of services within Cuyahoga County by purchasing advertising with television and cable stations operating in Cuyahoga County and publishing the defamatory statements about Ms. Rader at issue in this case to Cuyahoga County and its surrounding area.

III. FACTUAL BACKGROUND

A. Betsy Rader has a stellar reputation for handling sexual harassment claims properly and standing up for victims of sexual harassment, and makes her living from handling such claims and providing training on this topic.

14. Elizabeth Rader is an attorney and the principal of Betsy Rader Law LLC with a practice that focuses upon representing victims of workplace discrimination and sexual harassment. She also provides training to organizations on how to comply with sexual harassment laws. Ms. Rader opened this firm in 2015.
15. Prior to the ad published by Defendants, Ms. Rader had a sterling reputation in the community as an advocate for women and other workers, and as an attorney who respects the rights of women and stands up for victims of sexual harassment.
16. Ms. Rader is on the Board of the Ohio Employment Lawyers Association, the Ohio bar association for attorneys who focus their practices upon the representation of victims of workplace discrimination and harassment. She is also a member of the National Employment Lawyers Association, the national bar association for attorneys who focus their practices upon the representation of victims of workplace discrimination and harassment.

17. Ms. Rader serves as a volunteer for victims of sexual harassment with the Legal Network for Gender Equity through the National Women's Law Center. She has served as co-chair of the Women in Law Section of the Cleveland Metropolitan Bar Association and served on the Board of the Ohio Women's Bar Association. She is a member of the Cleveland Employment Inn of Court and a Life Member of the 8th District Judicial Conference due to her excellent professional reputation.
18. Due to her stellar reputation in regard to the proper response to allegations of sexual harassment, Ms. Rader has been hired to provide training to organizations and has been invited to participate as a speaker on panels regarding proper sexual harassment training and legally compliant employment policies and procedures.
19. Due to her stellar reputation in regard to the professional handling of allegations of sexual harassment, Ms. Rader has been utilized as a resource and quoted by the media regarding best practices in regard to compliance with the laws pertaining to sexual harassment.
20. Due to her stellar reputation as an advocate for victims of sexual harassment, Ms. Rader has been sought after as an attorney to represent women seeking to bring causes of action for sexual harassment, and such women reside in Cuyahoga County and other parts of Northeast Ohio, the area in which the Attack Ad has been and is being disseminated.
21. Due to her stellar reputation as an advocate for victims of sexual harassment, Ms. Rader has received referrals of clients from attorneys in Cuyahoga County and other parts of Northeast Ohio in which the Attack Ad has been and is being disseminated.

B. Defendants with actual malice published and continue to publish false and defamatory statements on Cleveland television and cable stations regarding Ms. Rader and her conduct in a case alleging sexual harassment.

22. Ms. Rader is the Democratic candidate for the Ohio State Senate in District 18 for the November 3, 2020 election. Ms. Rader is running against Defendant Jerry Cirino, the Republican candidate for the Ohio State Senate in District 18 for the November 3, 2020 election.
23. On or about October 8, 2020, the RSCC began running the Attack Ad about Ms. Rader on four television stations in the Cleveland area as well as Spectrum cable, which Attack Ad continues to run at the time of the filing of this Complaint. In a Statement of Authorization, Defendant Cirino authorized the RSCC to purchase the broadcast time on his behalf. See Exhibit 1. The Statement of Authorization indicates that “all broadcast advertisements for which the OH RSCC seeks to purchase broadcast time have been approved by me or will have been so approved before they are submitted to stations for broadcast.” Id.
24. The words of the Attack Ad are: “Harassed. Groped. Assaulted. When a woman reported sexual harassment in the workplace, corporate lawyer ‘Betsy Rader’ turned her back on the victim and defended the company bosses and when more women complained of a ‘sexually hostile work environment,’ Betsy Rader admitted they were harassed and fought them anyway, even though the judge called the company’s behavior ‘disturbing to say the least.’ A victim had the courage to say me too and Betsy Rader betrayed her. Betsy Rader doesn’t belong in the state senate.”
25. These unprivileged statements of fact by Defendants are untrue, materially false and defamatory, and published with actual malice. Defendants knew these statements were

false or acted with reckless disregard as to the truth or falsity of the statements. yet published them anyway.

26. Counsel for Plaintiffs sent Cease and Desist letters to the RSCC and the four Cleveland television stations on October 9, 2020, which were delivered on October 12, 2020. On October 12, a Cease and Desist letter was also sent to Spectrum. Upon learning that Jerry Cirino had authorized and approved the ads, Counsel for Plaintiffs also sent Mr. Cirino and his campaign committee, Friends of Cirino, Cease and Desist letters on October 14, 2020. The letter to Mr. Cirino was sent to his personal email address on the afternoon of October 14, 2020 and hard copies were also sent via overnight mail.
27. The Cease and Desist letters were all accompanied by a copy of Judge Ann Aldrich's Order *dismissing* the case against the company which was referenced in the Attack Ad, and the letters noted, among other things, that Ms. Rader had not worked for the corporate defendant in the case until 1994 and that no allegations of misconduct by the company occurred after 1992.
28. After receipt of the Cease and Desist letters on the morning of October 12 and the afternoon of October 14, the defamatory Attack Ad continued to run on television through the evening of October 14, and on information and belief continues to be published through the date of the filing of this Complaint.
29. Although the Attack Ad did not give any information identifying the case, the Attack Ad quotes language from a case filed in 1995. Judge Aldrich's Order granting summary judgment to the defendant company in that case noted that none of the women claiming sexual harassment worked at the defendant company after 1992. She ruled that no charges of harassing behavior had been made after 1992 and dismissed the case because

no claims of ongoing improper behavior were alleged after 1992 and none were found to be ongoing, and so no injunctive relief was appropriate. See Exhibit 2.

30. Judge Aldrich did not rule that sexually harassing behavior had in fact occurred nor did Ms. Rader admit that behavior constituting sexual harassment had occurred. See Exhibit 2.
31. Ms. Rader did not work at the defendant company until 1994, at which time she was hired as part-time junior in-house counsel. Part of her role at the company was to provide sexual harassment training and ensure the company's compliance with state and federal employment laws. Judge Aldrich's Order makes clear that Ms. Rader was part of the solution, not part of the problem, regarding the 1991 and 1992 sexual harassment allegations described in the Judge's Order.
32. The Judge's Order, which Defendants RSCC and Mr. Cirino had at the time they first published the Attack Ad, and the Cease and Desist letters received on or about October 12, 2020, and October 14, 2020, contain information sufficient to demonstrate that Defendants had knowledge of the material falsehood or acted with reckless disregard as to the truth or falsity of the statements, and yet published and continued to publish the defamatory ads.
33. Furthermore, the underlying case is a 1995 case for which the documents, such as the Judge's Order, are not even publicly available through on-line systems such as PACER. Defendant RSCC and/or the candidate Mr. Cirino had to have conducted extensive research to obtain these documents and were aware from their research that Ms. Rader did not even work at the defendant company at the time charges of sexual harassment

were made and did not work at the company at the same time as the women who made charges of sexual harassment.

34. Defendants' Attack Ad nevertheless continued to be published after the Defendants' receipt of the Cease and Desist letters through October 14, 2020, and on information and belief continue to be published in Cuyahoga County and the surrounding area through the date of the filing of this Complaint.

FIRST CLAIM FOR RELIEF: DEFAMATION

35. Plaintiffs incorporate all previous allegations as if fully restated herein.

36. Defendants published and distributed the Attack Ad including false and defamatory statements about Ms. Rader to the public at large.

37. Defendants published and distributed the defamatory Attack Ad about Ms. Rader knowing that the allegations within it were false or with reckless disregard as to the truth or falsity of the statements.

38. As a direct and proximate result of the defamatory statements, Ms. Rader and her campaign committee, Friends of Betsy Rader, have suffered and will continue to suffer damages for which Defendants are liable, including but not limited to, harm to Ms. Rader's reputation and career prospects, harm to Ms. Rader's candidacy for State Senate, campaign expenses incurred to rebut the false statements made in the Attack Ad, emotional distress, humiliation, embarrassment, and economic opportunities.

39. The Defendants intentionally, wantonly, recklessly, and maliciously defamed Ms. Rader, and thus are liable for punitive or exemplary damages.

SECOND CLAIM FOR RELIEF: FALSE LIGHT

40. Plaintiffs incorporate all previous allegations as if fully restated herein.
41. Defendants published and distributed the Attack Ad about Ms. Rader to the public at large.
42. The statements made in the Attack Ad about Ms. Rader's career published by the Defendants were misrepresentations about Ms. Rader that would be highly offensive to a reasonable person and would place Ms. Rader in a false light.
43. Defendants published and distributed the Attack Ad about Ms. Rader knowing that the allegations within it were false or with reckless disregard as to the truth or falsity of the statements.
44. As a direct and proximate result of the Attack Ad which portrayed Ms. Rader in a false light, Ms. Rader and her campaign committee, Friends of Betsy Rader, have suffered and will continue to suffer damages for which Defendants are liable, including but not limited to, harm to Ms. Rader's reputation and career prospects, harm to Ms. Rader's candidacy for State Senate, campaign expenses incurred to rebut the false statements made in the Attack Ad, emotional distress, humiliation, embarrassment, and economic opportunities.
45. The Defendants intentionally, wantonly, recklessly, and maliciously portrayed Ms. Rader in a false light, and thus are liable for punitive or exemplary damages.

PRAYER

WHEREFORE, Plaintiffs each seek judgment against Defendants as follows:

- i. For compensatory damages the Plaintiffs prove at trial, in excess of \$25,000, together with punitive damages and attorneys fees;
- ii. For costs, and
- iii. For such other relief as this Court deems just and proper.

Respectfully submitted,

/s/Elizabeth Rader

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JURY DEMAND

The Plaintiffs hereby demand a jury trial as to all issues so triable.

/s/Elizabeth Rader

Elizabeth Rader (0038756)

Attorney for Plaintiffs

EXHIBIT 1

Statement of Authorization by Jerry Cirino

STATEMENT OF AUTHORIZATION

I, Jerry Cirino, a legally qualified candidate for the office of Ohio State Senate District 18, hereby confirm that the Ohio Republican Senate Campaign Committee is authorized to purchase broadcast time on my behalf in the 2020 General Election. Any and all broadcast advertisements for which the OH RSCC seeks to purchase broadcast time have been approved by me or will have been so approved before they are submitted to stations for broadcast.

This certification shall remain in full force and effect unless explicitly revoked in writing.

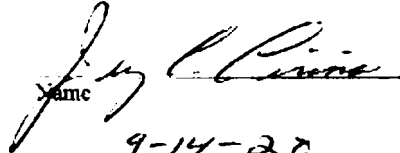

Name
Date 9-14-20

EXHIBIT 2

Relevant Section of Judge Aldrich's Order

statute. 42 U.S.C. § 2000e-5(g)(1). As noted above, this Court assumes, for the purpose of deciding this motion, that State Chemical did violate Title VII. However, a finding that a violation occurred does not mandate an injunction; rather, the issue is left to the discretion of the trial judge. See EEOC v. Monarch Mach. Tool Co., 737 F.2d 1444, 1449 (6th Cir. 1980).

Generally speaking, the EEOC may be entitled to injunctive relief where it proves that the employer discriminated and the employer fails to show that violations are not likely to recur. EEOC v. Harris Chernin, Inc., 10 F.3d 1286, 1292 (7th Cir. 1993). Accordingly, if the employer shows that it has discontinued the discriminatory conduct, that there is no longer any evidence of such discrimination, and that injunctive relief is not needed, then it is appropriate to deny injunctive relief. See Monarch, 737 F.2d at 1448; Manning v. International Union, 466 F.2d 812, 815 (6th Cir. 1972), cert. denied, 410 U.S. 946 (1973).

Here, State Chemical has shown that the violations are not continuing and are not likely to recur. No employees have filed any charges of discrimination against State Chemical since June, 1992, which is over four years ago. State Chemical avers, through its in-house counsel, that it is making every effort to eliminate illegal discrimination in the work place. The EEOC does not dispute this evidence, and instead relies on its original allegations, all of which date back at least four years. Thus, the undisputed facts show that State Chemical is no longer violating Title VII and that it is not likely to repeat its discriminatory conduct, so that injunctive relief

is not needed. Therefore, State Chemical is entitled to summary judgment on the EEOC's claim for injunctive relief. Accord EEOC v. Clayton Residential Home, Inc., 874 F. Supp. 212, 215-16 (N.D. Ill. 1995) (granting summary judgment to defendant on claim for injunctive relief where defendant had only one unresolved charge of discrimination in three and three-quarter years and had instituted an anti-discrimination policy).

V.

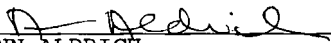
This is not to say that this Court in any way condones State Chemical's alleged behavior. The conduct alleged by State Chemical's former employees is disturbing, to say the least. However, neither this Court nor the EEOC has been given a "roving commission" to eradicate disturbing behavior. Instead, this Court must follow the law and determine whether the discrimination claims are properly before it. In this case, they are not.

VI.

For the foregoing reasons, this Court finds that there are no genuine issues of material fact and that State Chemical is entitled to judgment on each of the EEOC's claims. Accordingly, this Court grants State Chemical's motion for summary judgment and dismisses the case.

This order is final and appealable.

IT IS SO ORDERED.


ANN ALDRICH
UNITED STATES DISTRICT JUDGE

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