

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

Case No.: 50-2020-CA-000737-XXXX-MB

LARRY KLAYMAN,
Plaintiff,

v.

COMMIE GIRL INDUSTRIES, INC., (WONKETTE)

and

REBECCA SCHOENKOPF,
Defendant.

**MOTION TO DISMISS, MOTION TO STRIKE AND MOTION TO TRANSFER CAUSE OF
ACTION TO COUNTY COURT**

Comes now, Defendants Commie Girl Industries (Wonkette) and Rebecca Schoenkopf, by their undersigned counsel, and file this motion to dismiss for failure to state a claim upon which relief can be granted, motion to strike Plaintiff's and to transfer the cause of action to county court pursuant to Fla. R. Civ. Pro 1.060, and for other relief this honorable court deems proper.

I. GENERAL ALLEGATIONS

1. On or about January 22, 2020, Plaintiff Larry Klayman filed the instant lawsuit in a pleading entitled, "Complaint for Damages."

2. Mr. Klayman filed the lawsuit, "as a citizen and resident of Boca Raton, Florida. "Mr. Klayman is also a member of the Florida Bar and indicates same in the Complaint. However, in a possible violation of Florida Bar Rules, Mr. Klayman lists an address in Washington, D.C.
3. Plaintiff claims he was damaged "in this county and judicial circuit." He alleges no damages with any specificity whatsoever.
4. Plaintiff acknowledges both Defendants are located and operate outside of Florida.
5. Plaintiff applauds himself throughout the Complaint, such that there is a clear admission he is a public figure:
 - a. He says he has "achieved through significant effort a professional reputation."
 - b. He notes a run for U.S. Senate.
 - c. He notes he is an "author, columnist and syndicated radio talk show (host)."
 - d. He notes his reputation exists "nationally and internationally."
 - e. He has a syndicated national radio talk show "on Radio America."
 - f. He calls himself a "prominent figure."
6. There are multiple instances of alleged defamation identified in the "First Defamatory Publication." He claims:
 - a. On or about October 24, 2019, "Defendants published" an article, entitled "You Know When You Wake up Mad at Your Wife for

Something She Did in Your Dream?" It is attached as Exhibit 1 to the Complaint. In it, Mr. Klayman cites the statement, "Empaneling fake grand juries is one of Klayman's favorite hobbies, after sexual harassment and filling bullshit lawsuits." He adds bold emphasis to "sexual harassment."

- b. Mr. Klayman also notes another article, which states, "You may remember Mr. Superlawyer Klayman from some of his greatest hits, such as suing all the black people, trying to subpoena Bill Clinton's penis, and suing Robert Mueller, the DOJ, FBI, NSA, Jeff Bezos, and others..." Mr. Klayman claims this is, "effectively publishing that Mr. Klayman is racist," as he did not, "sue all black people."
- c. In conjunction with the above statement, Klayman objects that he "tried to subpoena Bill Clinton's penis," and claims the statement is "objectively false."
- d. The next allegedly offensive statement Klayman notes is, "Klayman is a grifter who screams his bigoted conspiracy theories at his computer to try to make money off other white supremacists." Mr. Klayman claims this is false and without any basis. He also claims he cannot be "white supremacist" because he is "of Jewish origin."
- e. The next allegedly offensive statement Klayman notes, references him "posting incoherent rants to Youtube..." He claims this is false.

- f. The next allegedly offensive statement Klayman notes, references his “conspiracy fantasies.” He claims this is false.
 - g. The next allegedly offensive statement Klayman notes, references he is “batshit.” He claims this means “batshit crazy” and is false.
- 7. There are multiple instances of alleged defamation identified in the “Second Defamatory Publication.” He claims:
 - a. On or about June 26, 2019, “Defendants published” an article, entitled, “Imagine if Your Stalker was Larry Klayman.” It is attached as Exhibit 2 to the Complaint. In it, Mr. Klayman claims the entire article is devoted to mispresenting the Hearing Committee Report and views and deliberations of the DC Bar.
 - b. Based on several noted statements, Mr. Klayman claims Defendants “knowingly, intentionally, deliberately and falsely attacked Plaintiff Klayman’s qualifications and abilities to practice his profession as a lawyer.”
 - c. The incorporated comments include references to Mr. Klayman being, “bad at his chosen profession,” that “nobody ever said Superlawyer Larry Klayman is good at ‘lawyer,’” and otherwise critiques the matters contained within the DC Bar case.
- 8. About 7 (a), Mr. Klayman claims he has, “never sexually harassed nor have been found to have sexually harassed anyone.” Mr. Klayman notes Defendants appear to rely upon what he calls a “non-binding report,”

which he claims is “still the subject to appeal.” He claims the use of the term “sexual harassment” is therefore false and defamatory or with “reckless disregard for the truth.” He otherwise denies the remainder of the allegations and claims actual malice to “injure Plaintiff Klayman’s goodwill and reputation both personally and professionally.”

9. He otherwise denies the remainder of the allegations and claims actual malice to “injure Plaintiff Klayman’s goodwill and reputation both personally and professionally.”

10. As a result, three causes of action have been alleged against both defendants:

- a. “Defamation Per Se.”
- b. “Defamation.”
- c. “Defamation by Implication”

II. **Judicial Notice of History of Abuse by Plaintiff**

11. Bragging to media, Mr. Klayman once described his litigation tactics as, “It’s a little like a MIRV nuking a missile,” referring to the use of a weapon with several warheads to take down an incoming threat, “If only one in 10 gets through, you’ve accomplished something. You’ve got to keep punching.”

12. Mr. Klayman has also said he is “testing the limits of the law. Win or lose, I want to make a point.” He goes on to say, “you gather information along the way — even if you don’t like the result, you get discovery.” The so-

called Leftist Media Strike Force targets the “evil forces of the leftist media,” vowing to “use whatever legal means exist to eradicate their sleaze.”¹

13. The Southern Poverty Law Center has described Mr. Klayman, as “a pathologically litigious attorney and professional gadfly notorious for suing everyone from Iran's Supreme Leader to his own mother. He has spent years denouncing Barack Obama as a crypto-Communist Muslim, convening meaningless “citizens grand juries,” and railing against an endless list of enemies.”²

14. The Ninth Circuit Court of Appeals, in an October 2016 decision, upheld a decision by the District Court for the District of Nevada to deny Mr. Klayman's pro hac vice application. In a detailed opinion reviewing Mr. Klayman's professional history, the Ninth Circuit found that Mr. Klayman had, for more than twenty years, demonstrated a pattern of inappropriate and unprofessional behavior which justified denying his pro hac vice admission. In fact, on no fewer than fourteen occasions, courts have sanctioned Mr. Klayman, denied or revoked his pro hac vice status, and/or admonished him for his behavior. Two district courts have taken the remarkable step of banning Mr. Klayman from their courtrooms for life.

15. The District Court for the District of Nevada recently rejected Mr. Klayman's application to appear pro hac vice and the Ninth Circuit upheld that

¹ <https://thehill.com/business-a-lobbying/lobbyist-profiles/316986-a-crusader-for-justice>

² <https://www.splcenter.org/fighting-hate/extremist-files/individual/larry-klayman>

decision, finding that “[j]udges have sanctioned, chastised, and rebuked Klayman repeatedly over the past twenty years: in 1997, 1999, 2001, 2003, 2009, 2011, and twice in 2015... ‘[T]his approach to litigation is the norm and not the exception for [Klayman].’

16. In at least fourteen cases, courts have sanctioned Mr. Klayman, criticized his behavior, and/or revoked his pro hac vice admission. Among those cases are two courts which have banned Mr. Klayman for life. See *MacDraw, Inc. v. CIT Grp. Equip. Fin., Inc.*, 157 F.3d 956, 963 (2d Cir. 1998) (affirming Southern District of New York court’s ruling that barred Mr. Klayman from appearing pro hac vice in perpetuity and sanctioned him for “undignified [and] discourteous conduct that is degrading to [the district court]” by, among other things, making accusations of racial and political bias); *Baldwin Hardware Corp. v. FrankSu Enter. Corp.*, 78 F.3d 550, 555 (Fed. Cir. 1996) (affirming Central District of California court’s ruling that revoked Mr. Klayman’s ability to appear pro hac vice in perpetuity and sanctioned him for accusing the trial judge of anti-Asian bias and “unreasonably and vexatiously multiplying the proceedings”).

17. A court denied Mr. Klayman’s pro hac vice application because his “record demonstrates more than an occasional lapse of judgment; it evinces a total disregard for the judicial process.” *Stern v. Burkle*, No. 0103916/2007, 2007 WL 2815139 (Sup. Ct. N.Y. Cnty. Sept. 6, 2007).

18. Mr. Klayman was sanctioned for filing an untimely complaint and opposing the government's motion with "frivolous filings" that "wasted time and resources of defendant as well as of the court." *Wire Rope Importers' Ass'n v. United States*, Nos. 93-04-00221, 93-04-00236, 1994 WL 235620, at *7 (Ct. Int'l. Trade May 26, 1994).
19. A court criticized Mr. Klayman's behavior as "often highly inappropriate" and his argument was "blighted by rude and unprofessional behavior which was directed toward the presiding judge and opposing counsel." *Material Supply Int'l, Inc. v. Sunmatch Indus., Co.*, No. Civ. A. 94-1184, 1997 WL 243223, at *8, *10, n.7 (D.D.C. May 7, 1997).
20. Mr. Klayman "apparently misread (or never read) [the local rule]" and the court threatened sanctions for any future failures to comply with the local rules. *Alexander v. FBI*, 186 F.R.D. 197, 199 (D.D.C. 1999).
21. Mr. Klayman responded to the district court's orders with a "forked tongue" and made arguments with "malicious glee." *Judicial Watch of Fla., Inc. v. U.S. Dep't of Justice*, 159 F. Supp. 2d 763, 764 (D.D.C. 2001).
22. Mr. Klayman's arguments regarding the conduct of the district court were criticized by the court as "bizarre" and "beyond far-fetched." *Daly v. Far E. Shipping Co.*, 238 F. Supp. 2d 1231, 1241 (W.D. Wash. 2003).

23. Mr. Klayman was sanctioned for failure “to comply with even the most basic of discovery requirements” and the court noted that Mr. Klayman’s behavior was “not simply an unexplained hiccup in an otherwise diligently prosecuted case.” *Klayman v. Barmack*, No. 08-1005 (JDB), 2009 WL 4722803, at *1 (D.D.C. Dec. 4, 2009).

24. Mr. Klayman was sanctioned on multiple occasions because, “[h]is failures to comply with [the] Court’s orders have been repeated, flagrant, and unrepentant” and his “conduct rises to a level and pattern of intransigence and disrespect for the Court’s authority that is not often witnessed.” *Klayman v. Judicial Watch, Inc.*, 802 F. Supp. 2d 137, 150 (D.D.C. 2011).

25. A court noted it had “become quite frustrated with [Mr. Klayman’s] various tactics to avoid Court rules throughout the course of [the] litigation” and that Mr. Klayman had “routinely shown a disregard for this Court’s Local Rules.” *Klayman v. City Pages*, No. 5:13-cv-143-Oc-22PRL, 2015 WL 1546173, at *8 n.7 (M.D. Fla. Apr. 3, 2015).

26. A court threatened sanctions after Mr. Klayman repeatedly did not “attempt to comply” with local rules. *Montgomery v. Risen*, No. 15-cv-02035-AJB-JLB, 2015 WL 12672703, at *1 (S.D. Cal. Oct. 2, 2015).

27. The Ninth Circuit stated that “[Mr.] Klayman has shown such a casual acquaintance with the facts that he is guilty of at least gross negligence in

his representations to this court." *In re Bundy*, 852 F.3d 945, 951 (9th Cir. 2017).

28. Judge Sam Lindsay of the Northern District of Texas stated that Mr. Klayman's "shenanigans are degrading to the legal profession" and threatened him with sanctions. *Klayman v. Obama*, 3:16-CV-02010-L (N.D. Tex.) at ECF 54, 133. That most recent admonishment – the latest in a long-running history of reprimands from the courts – did not stop Mr. Klayman from filing yet another frivolous case in the Central District of California and then twice voluntarily dismissing it when it was assigned to a judge that Mr. Klayman did not like. *Klayman v. Obama*, No. 2:17-cv-00836-JAK-JEM, at ECF 10; *Klayman v. ACLU*, No. 2:17-cv-01703-JAK-JEM, ECF 74.

29. Of his three law licenses, his DC license is likely to be suspended, his Pennsylvania license is under suspension and his Florida license shows a history of discipline.

III. Motion to Dismiss or to Compel Separate Statements Based on the Failure to State a Cause of Action Due to Procedurally Improper Complaint:

30. Per Florida Rule of Civil Procedure 1.110(f), "Separate Statements. All averments of claim or defense shall be made in consecutively numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all subsequent pleadings.

Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense when a separation facilitates the clear presentation of the matter set forth."

31. Courts of Florida have repeatedly ridiculed "shotgun pleading," where each and every paragraph stacks into the next and the next.

32. Stated by the courts, "A party should plead each distinct claim in a separate count of the complaint, rather than plead the various claims against all of the defendants together." *K.R. Exchange Services, Inc. v. Fuerst, Humphrey, Ittleman*, PL, 48 So.3d 889 (Fla 3d DCA 2010).

33. This Complaint conflates all allegations.

34. This Complaint conflates all defendants.

35. This Complaint conflates all causes of actions.

36. Defendant conflates and confuses a list of allegedly aggrieving statements and forces them all into each cause of action, even when they do not fit.

IV. Motion to Dismiss for Failure to State a Cause of Action as Plaintiff is

Admittedly a Public Figure

37. Under Florida state law, defamation is comprised of five elements: "(1) publication; (2) falsity; (3) actor must act with knowledge or reckless

disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) statement must be defamatory." *Jews For Jesus, Inc. v. Rapp*, 997 So.2d 1098, 1106 (Fla.2008).

38. The First Amendment particularly governs plaintiffs who are public figures, which Klayman most certainly is.³ It also governs media entities such as defendants.

39. Mr. Klayman's admitted and braggadocious status as a public figure prevents the very Complaint he has filed.

40. In addition to the absolutely conflated and confusing "shotgun" pleading, where editors, authors, publishers and publications are all simplified to one person and all causes of action stack upon one another, Mr. Klayman has a more serious issue as he has not, and cannot, state causes of action on state and federal law, as the First Amendment protects the subject speech.

41. To properly state a cause of action requires Mr. Klayman to allege and establish that the Defendants acted with actual malice in the constitutional sense. See *Curtis Publishing Company v. Butts*, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed.2d 1094 (1967).

³ "Court considers Klayman a public figure." *Klayman v. Judicial Watch, Inc.*, 802 F. Supp. 2d 137, 150 (D.D.C. 2011), see also *Klayman v. City Pages*, No. 5:13-cv-143-Oc-22PRL, 2015 WL 1546173, at *8 n.7 (M.D. Fla. Apr. 3, 2015).

42. At no point does Mr. Klayman allege the publication was deliberately falsified or published recklessly despite the publisher's awareness of probable falsity. See *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964)
43. Moreover, “[a]n intention to portray a public figure in a negative light, even when motivated by ill will or evil intent, is not sufficient to show actual malice unless the publisher intended to inflict harm through knowing or reckless falsehood.” *Don King Prod. Inc. v. Walt Disney Co.*, 40 So.3d 40, 45(Fla. 4th DCA 2010).
44. Even viewing the evidence most favorable to the Mr. Klayman, he did not, and cannot, allege the defendants knew that the information published was incorrect or that the defendants had any degree, much less a high degree, of awareness of the probable falsity of this information. See *Long v. Arcell*, 618 F.2d 1145 (5th Cir. 1980).
45. The Complaint is beyond confusing and fails to meet Constitutional muster, much less allege facts necessary to state a cause of action given he is so “prominent” in his own allegations.

V. Motion to Remand to County Court or to Dismiss for Clarification of Damages Claimed

46. Plaintiff's error is twofold and severely prejudices Defendant, such that Defendant cannot adequately respond.
47. First off, the Complaint alleges a jurisdictional amount which belongs in county court.
48. County court jurisdictional thresholds increased to \$30,000 on January 1, 2020. See Section **34.01, Florida Statutes, entitled, "Jurisdiction of county court."** **As such, the complaint does not alleged the proper threshold for the subject court.**
49. According to Florida Rule of Civil Procedure 1.060, "If it should appear at any time that an action is pending in the wrong court of any county, it may be transferred to the proper court within said county by the same method as provided in rule 1.170(j)." The Complaint is deficient on its face.
50. Secondly, the Complaint seeks to limit damages to \$75,000, so as to apparently avoid the Defendant's rights to remove the matter to federal court. Even the "Civil Cover Sheet" estimates damages at \$75,000.
51. However, in his "prayer for relief," Mr. Klayman additionally seeks an award of "attorneys' fees and costs." This would lead one to believe that damages exceed \$75,000, thus qualify it for removal. However, it is confusing and in need of clarification.

VI. Motion to Strike "Attorneys' Fees"

52. First off, the subject complaint was filed “pro se,” “as a citizen and resident of Boca Raton, Florida.”

53. No lawyer has filed the subject complaint and no Bar number has been inserted on it.

54. The term “attorneys’ fees” is plural and refers to multiple attorneys yet, none are indicated.

55. Finally, attorneys’ fees are not available in this case and such a claim is due to be stricken on its face.

VII. Motion to Strike Injunctive Relief

56. In the very last line of his “prayer for relief,” Plaintiff makes the first ever mention of “preliminary and permanent injunctive relief.”

57. A claim for possible injunctive relief is also mentioned in the “civil cover sheet.”

58. However, there is no claim, no mention nor allegations related to any injunctive relief.

59. As such, such a claim is due to be stricken.

VIII. Motion to Strike Irrelevant, Immaterial and Scandalous Allegations:

60. Per Florida Rule of Civil Procedure 1.110(b), “Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim,

crossclaim, or third-party claim, must state a cause of action and shall contain... (2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief.”

61. Much of the Complaint suffers from sensational allegations and improper pleading.

62. It is in no way, “short and plain.”

63. Per Florida Rule of Civil Procedure 1.140(f), “Motion to Strike. A party may move to strike or the court may strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time.”

64. Much of the Complaint contains boastful exaggeration, which in no way furthers the Complaint. See paragraphs 3, 35, 36 and 37.

65. Much of the Complaint contains irrelevant references to and character assassination of Defendant. See paragraphs 52, 53, 54, 55 and 56.

66. Paragraph 51 is not even remotely relevant information.

IX. Motion to Dismiss Claims Generally

67. Of course, “the function of a motion to dismiss a complaint is to raise a question of law as to the sufficiency of the facts alleged to state a cause of action.” *Hitt v. North Broward Hospital District*, 387 So. 2d 482, 483 (Fla.

4th DCA 1980). "The motion admits as true all well pleaded facts as well as all reasonable inferences arising from those facts." *Id.*

68. However, Defendants' principal arguments are that the statements alleged to be defamatory are, as a matter of law, not defamatory.

69. Under Florida law, "[w]here the court finds that a communication could not possibly have a defamatory or harmful effect, the court is justified in either dismissing the complaint for failure to state a cause of action or in granting a directed verdict at the proof stage." *Wolfson v. Kirk*, 273 So 2d 774, 778 (Fla 4th DCA 1973).

70. "Words are defamatory when they 'tend to subject one to hatred, distrust, ridicule, contempt or disgrace or tend to injure one in one's business or profession.' " *American Airlines, Inc. v. Geddes*, 960 So 2d 830, 833 (Fla. 3d DCA 2007) (quoting *Seropian v Forman*, 652 So. 2d 490, 495 (Fla 4th DCA 1995) (citing *Adams v. News-Journal Corp.*, 84 So 2d 549 (Fla 1955))).

71. Statements of opinion are not capable of being proven true or false, and therefore, not actionable for defamation. See *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1999).

72. Under Florida state law, where, as in this case, a defendant provides commentary or opinion based on facts which are set forth in article or

which are otherwise known or available to reader or listener as member of public, in non-actionable "pure opinion." See *From v. Tallahassee Democrat, Inc.*, 400 So. 2d 52, 57 (Fla. 1st DCA 1981)

73. There are multiple instances of alleged defamation identified in the "First Defamatory Publication". We will take each in turn.

74. On or about October 24, 2019, "Defendants published" an article, entitled "You Know When You Wake up Mad at Your Wife for Something She Did in Your Dream?" Mr. Klayman cites the statement, "Empaneling fake grand juries is one of Klayman's favorite hobbies, after sexual harassment and filling bullshit lawsuits." He adds bold emphasis to "sexual harassment," thus indicating that to be the problem phrase.

75. The Plaintiff repeatedly references the source document: A District of Columbia Report. This has repeatedly been an issue for Mr. Klayman. Judges have revoked his ability to practice over what is in these findings and reports. The subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

76. Mr. Klayman claims Defendants say things that constitute "effectively publishing that Mr. Klayman is racist," as he did not "sue all black people." This is clearly hyperbole and parody, as it would be impossible to sue every person of any particular race. As such, the subject comment

is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

77. Klayman objects that he “tried to subpoena Bill Clinton's penis,” and claims the statement is “objectively false.” One cannot actually subpoena a body part. However, Mr. Klayman has sued Bill Clinton numerous times, including representing those who claim sexual harassment or impropriety by Mr. Clinton. This is clearly hyperbole and parody, as it would be impossible to obtain the attached body part of another by subpoena. As such, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

78. The next allegedly offensive statement Klayman notes is, “Klayman is a grifter who screams his bigoted conspiracy theories at his computer to try to make money off other white supremacists.” Once again, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

79. Further, the subject article references and relies on various court orders. In *Robles v. ANTIFA, et al*, Case Number: 4:2017cv04864, in the California Northern District Court, a Judge issued an Order, denying Pro Hac Vice status, stating, “For example, the Second Circuit affirmed a Southern District of New York court's revocation of Klayman's pro hac vice status,

denial of any future application to appear before the district court on a pro hac vice basis, and order to provide a copy of the district court's opinion imposing sanctions when applying for pro hac vice admission before any other judge in the Southern District of New York. *MacDraw, Inc. v. CIT Grp. Equip. Fin., Inc.*, 157 F.3d 956, 960 n.3 (2d Cir. 1998). The Second Circuit noted that Klayman made "claims of partisan and racial basis with no factual basis," which were "discourteous, degrading to the court, and prejudicial to the administration of justice." *Id.* at 960."

80. The next allegedly offensive statement Klayman notes, references him "posting incoherent rants to Youtube..." Once again, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

81. The next allegedly offensive statement Klayman notes, references his "conspiracy fantasies." Once again, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

82. The next allegedly offensive statement Klayman notes, references he is "batshit." He claims this means "batshit crazy" and is false. Once again, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

83. On or about June 26, 2019, "Defendants published" an article, entitled, "Imagine if Your Stalker was Larry Klayman." In it, Klayman claims Defendants misconstrued or improperly alleged facts from his DC Bar investigation. Once again, the subject comment is not defamation of a public figure as a matter of law as to the sufficiency of the facts alleged to state a cause of action.

84. The Court needs to take judicial notice of the misbehavior and illicit conduct of this lawyer and realize these frivolous lawsuits are the basis of his career.

X. Motion to Dismiss – SLAPP

85. Florida Statute Section 768.295, is entitled, "Strategic Lawsuits Against Public Participation (SLAPP) prohibited."

86. It defines "Free speech in connection with public issues," as "any written or oral statement that is protected under applicable law and... is made in or in connection with a play, movie, television program, radio broadcast, audiovisual work, book, magazine article, musical work, news report, or other similar work."

87. It holds, "A person or entity sued by... another person in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section."

88. "A person or entity may move the court for an order dismissing the action or granting final judgment in favor of that person or entity."

89. The court shall award the prevailing party reasonable attorney fees and costs incurred in connection with a claim that an action was filed in violation of this section.

Wherefore Defendants through counsel, file this motion to dismiss for failure to state a claim upon which relief can be granted, motion to strike Plaintiff's claims and transfer the cause of action to county court pursuant to Fla. R. Civ. Pro 1.060. Defendants further request fees, costs and other relief this honorable court deems proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished by e-service email to Larry Klayman through the e-filing portal.

Law Office of Phillips & Hunt, LLC

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