

NO. **15 CI 02624**

JEFFERSON CIRCUIT COURT
DIVISION _____

JUDGE _____

ROGER DERMODY
1902 Evergreen Road
Anchorage, KY 40223

FILED IN CLERK'S OFFICE PLAINTIFF
DAVID L. NICHOLSON, CLERK
MAY 29 2015
BY DEPUTY CLERK

COPY

v.

VERIFIED COMPLAINT

PRESBYTERIAN CHURCH (U.S.A.), A CORPORATION
100 Witherspoon Street
Louisville, KY 40202

DEFENDANT

Serve: Martha E. Clark, Registered Agent
100 Witherspoon Street
Louisville, KY 40202

* * * * *

The Plaintiff, Roger Dermody ("Dermody"), states his verified complaint against the Defendant, Presbyterian Church (U.S.A.), A Corporation ("PCUSA"), as follows:

Preliminary Statement

1. This is a defamation case. Dermody alleges that PCUSA, by itself or through its directors, officers, and/or employees, acting within the scope of their employment, repeatedly and falsely published that Dermody had engaged in "unethical" conduct while an employee of PCUSA. To the contrary, all that can reasonably be said of Dermody's alleged conduct is that he failed to perceive or comprehend (but reported to PCUSA when he did so perceive or comprehend) that certain other PCUSA employees had improperly created, incorporated, and funded a separate non-profit corporation to perform PCUSA-approved ministry work, rather than to perform that work through authorized PCUSA corporations and bank accounts. Dermody did not know of those

employees' actions beforehand, had no part in the creation or incorporation of the non-profit corporation, and had no part in the funding of that non-profit corporation. ¹ Upon identification of the existence of the non-profit, Dermody, and the aforementioned PCUSA employees, acknowledged the employees' procedural error in establishing a non-profit to perform the PCUSA-authorized mission work. Thereafter, the entire transaction was unwound and all funds were properly accounted for. Despite this, the PCUSA has spent or will have spent in excess of \$500,000 investigating the matter even though PCUSA does not claim that any person took or attempted to take or in any way misused PCUSA funds (other than use them for legitimate PCUSA purposes through an improper corporation and bank account). The PCUSA lost none of the \$100,000 deposited in the non-profit's account; and all other aspects of the matter involved performance of PCUSA-approved ministry work. PCUSA went so far as to employ three attorneys from a private law firm in North Carolina to interview a single witness. Such interviews lasted for days and occurred on multiple occasions in California and Kentucky. However, PCUSA's investigation uncovered nothing to dispute any of the facts described by Dermody immediately after his discovery of the facts, and nothing to suggest that Dermody did anything "unethical." Nevertheless, throughout its investigation, the PCUSA repeatedly published false statements about Dermody's alleged misconduct, and failed and refused to correct those statements after PCUSA found no support for them, all of which caused Dermody great injury.² The PCUSA's statements were false and

¹ This claim does not concern an internal church discipline, faith or organization and is not governed by ecclesiastical rule.

² Following the PCUSA's investigation, and after several months of publishing the defamatory statements regarding Dermody, the PCUSA did direct that the defamatory statements about Dermody be removed from PCUSA controlled publications. However, many of PCUSA's defamatory statements continued to be published and re-published on the internet through common search engines like Google.

defamatory, have caused Dermody substantial public embarrassment and shame, and have substantially compromised Dermody's future employment and financial prospects. Dermody seeks compensatory damages for those injuries. In addition, because PCUSA's false and defamatory statements have exposed Dermody to public hatred, ridicule, contempt or disgrace, or induce an evil opinion of him in the minds of right-thinking people, its statements constitute defamation *per se*, entitling Dermody to compensatory and punitive damages without further proof.

Jurisdiction and Venue

2. The Court has jurisdiction over PCUSA because it is authorized to do business in Kentucky, does business in Kentucky, and many of the events at issue in the case took place in Kentucky, and the amount in controversy is in excess of the minimum jurisdictional amount of the circuit court.

3. Venue is proper because (a) PCUSA maintains its offices in Louisville, Jefferson County, Kentucky, (b) PCUSA, and its directors, officers, and/or employees published the statements at issue, and took or failed to take the actions at issue, in or from Louisville, Jefferson County, Kentucky, and (c) PCUSA's wrongful acts caused damage to Dermody in Jefferson County, Kentucky.

Parties

4. Plaintiff, Roger Dermody, is an adult living in Jefferson County, Kentucky. He came to Kentucky after PCUSA recruited him to be Deputy Executive Director for Missions for PCUSA, a job he has held throughout the events described below.

5. Defendant, Presbyterian Church (U.S.A.), A Corporation, is a Pennsylvania corporation authorized to do business in Kentucky. It transacts business in Jefferson County, Kentucky, maintains its offices in Jefferson County, Kentucky, and its directors, officers, and/or employees published the statements at issue here in or from Jefferson County, Kentucky.

Facts

A. Background Facts: PCUSA

6. PCUSA is the corporate and organizational structure for the Presbyterian Church's operations in the United States and is governed by the PCUSA Board.

7. The Presbyterian Ministry Agency ("PMA") is one of six PCUSA agencies. The PMA functions as the PCUSA's ministry and mission agency and is governed by the PMA Board. Linda Valentine serves as the PMA's Executive Director. Its headquarters are in Louisville, Jefferson County, Kentucky.

8. The PMA consists of five ministry areas of missional work. Those areas are: Compassion, Peace, and Justice; Evangelism and Church Growth; Racial, Ethnic and Women's Ministries; Theology, Worship, and Education; and World Mission.

B. Background Facts: Dermody

9. Dermody is a PCUSA executive and an ordained Presbyterian minister. He has been continuously employed by PCUSA for almost 25 years with a completely unblemished record.³ He was ordained by the Presbyterian Church in October, 1997 as a Minister of the Word and Sacrament, and has Master of Divinity and Doctor of Ministry

³ Dermody has been informed and believes that his employment with PCUSA will be terminated unless he resigns. Dermody has not resigned.

degrees from Fuller Theological Seminary in Pasadena, California. He has been a Presbyterian pastor for almost twenty years.

10. Prior to assuming his position at PCUSA, Dermody worked for Bel Air Presbyterian Church in Los Angeles, California, from 1991 to 2010, first as the Director of College Ministries, then as Associate Pastor of Students & Mission, and finally as Executive Pastor. Bel Air has about 3,000 members, employs about 65 people, and has an annual budget nearing \$10 million.

11. In June, 2010, PCUSA hired Dermody to serve as its Deputy Executive Director of Mission. Dermody moved to Louisville with his family, including three newly adopted children, to perform that role and has lived in the Louisville area ever since. Dermody has always received exceptional performance evaluations for his work at PCUSA.

12. Dermody's job as Deputy Executive Director for Mission placed him atop the PMA in PCUSA's organizational structure. He had general oversight of PMA's five ministry areas of missional work and of their respective Directors, including the Director of Evangelism and Church Growth who oversaw PCUSA's new denomination-wide church-planting initiative, called "1001 New Worshiping Communities."

C. Facts Respecting The 1001 Movement

13. One of the PMA's missional projects was called the "1001 New Worshiping Communities," and was more commonly known as the "1001 Movement."

14. The 1001 Movement was supervised by the Director of Evangelism and Church Growth, who reported to Dermody.

15. PMA and PCUSA fully supported the 1001 Movement's mission and vision.

16. In or about December, 2013, a California-based PMA staff member, and one or more other PMA staff members, acting without notice to Dermody, created and incorporated a separate non-profit corporation, the Presbyterian Centers for New Church Innovation, Inc. ("PCNCI"). The sole purpose of the PCNCI was to facilitate the 1001 Movement. Upon information and belief, that staff member did not have authority from PCUSA to create or incorporate PCNCI.

17. In or about March, 2014 the staff members referenced in Paragraph 16 transferred a \$100,000 PCUSA grant allocated for the 1001 Movement from an authorized PCUSA bank account into the unauthorized PCNCI account.

18. Upon information and belief, the staff members intended to facilitate and streamline payment of expenditures for the California-based aspects of the 1001 Movement.

19. The staff members did not receive, take, divert to personal use, or otherwise misuse any of the funds that they transferred from the PCUSA account to the PCNCI account.

20. PCUSA did not lose any of the funds transferred from the PCUSA account to the non-profit PCNCI account. On the contrary, all funds were recovered and have been fully accounted for.

21. Until March, 2014 Dermody did not know that the California-based staff member (or any staff member) had created PCNCI, a non-profit entity. Dermody did not approve the staff member's creation or incorporation of PCNCI.

22. Until March, 2014 Dermody did not know that the California-based staff member (or any staff member) had transferred funds from the PCUSA account to the unauthorized non-profit PCNCI account. Dermody never approved the staff member's transfer of funds from the PCUSA account to the non-profit PCNCI account.

23. In his position at PCUSA, Dermody received dozens and sometimes hundreds of emails each day. Two January 2014 emails to Dermody from two evangelism and church growth staff members referred to the unauthorized corporation's existence. However, neither email dealt specifically with that topic – that is, the creation of the non-profit PCNCI. He did not read the two January, 2014 emails in their entirety, and therefore did not realize the significance of the particular phrases.

24. At no time did Dermody give permission for any PMA staff member to create the non-profit PCNCI nor did any PMA staff member seek permission from him through formal PCUSA channels.

25. Dermody first learned that these staff members had created and incorporated the non-profit PCNCI, and that the grant funds were transferred to the non-profit PCUSA account, when PMA internal control procedures revealed these facts.

26. Dermody immediately joined with PCUSA's legal counsel and human resources staff to recover all transferred funds, terminate the non-profit PCNCI's unauthorized existence, and block a second transfer of grant funds.

D. The Internal Audit and External Investigation

27. In the course of preparing for an internal audit about the matter, PMA Executive Director Linda Valentine ("Valentine") made a report to the board.

28. Upon information and belief, Valentine reported that neither she nor Dermody knew of non-profit PCNCI's existence before March 2014, and that neither she nor Dermody had approved the non-profit PCNCI's creation or incorporation.

29. Upon information and belief, Valentine reported that neither she nor Dermody knew of the transfer of funds from a PCUSA account to the non-profit PCNCI account before March 2014, and that neither she nor Dermody approved that transfer.

30. PCUSA conducted a months-long investigation into PCNCI, the transfer of funds, and each employee's role in these events (the external investigation). Upon information and belief, PCUSA spent in excess of \$500,000 on its months-long investigation. It did so even though PCUSA had recovered all \$100,000 in transferred funds; and it did so even though no PCUSA staff member had sought to benefit financially from, or otherwise to divert money for other causes through, the transfer of funds into the non-profit PCNCI account.

31. Upon information and belief, the external investigation found no evidence that Dermody knew of, or played any part in, the creation of the non-profit PCNCI.

32. Upon information and belief, the external investigation found no evidence that Dermody knew of, or played any part in, the incorporation of the non-profit PCNCI.

33. Upon information and belief, the external investigation uncovered no evidence that Dermody knew of, or played any part in, the transfer of funds from a PCUSA account into the non-profit PCNCI account. Rather, the check that actually transferred funds to the inappropriate non-profit PCNCI account had been written to PCNCI and had been approved by the PMA Finance Department under the supervision of the PMA's CEO.

E. Publication of Defamatory Statements

34. As detailed above, and as Linda Valentine conveyed to the PMA Board, and as the external investigation found, Dermody had no prior knowledge of non-profit PCNCI's creation, incorporation, or funding, and Dermody did not approve the California-based staff member or other staff members' creation, incorporation, or funding of the non-profit PCNCI.

35. The *Presbyterian Outlook* is a regularly published newsletter reporting on items of interest to the PCUSA community. Upon information and belief, the *Presbyterian Outlook* obtains much of its information from PCUSA, its directors, its officers, and its employees.

36. In November 2014, a *Presbyterian Outlook* headline stated that an “[i]nvestigation finds that four PC[USA] employees committed ethics violations.” The story identified four PCUSA employees — Dermody, the Director of Evangelism and Church Growth and two PMA staff members including the California-based staff member who created, incorporated, and sought funds from the PCUSA for the non-profit PCNCI — as being the employees who had committed the alleged ethics violations.

37. Upon information and belief, PCUSA, or PCUSA's directors, officers, and/or employees, acting within the scope of their employment, told the *Presbyterian Outlook* that Dermody, as the PMA's Deputy Executive Director of Missions, had committed unspecified “ethics violations.” Those statements were published and made known to the PCUSA community.

38. As a result of the publication of those statements, a Louisville-based PCUSA minister preached a sermon to his congregation referring to the alleged ethics violations and the “four men who set up the [PCNCI] corporation.”

39. In addition, in late 2014, Dermody learned that — in response to an inquiry from a colleague seeking to contact him — a PCUSA employee had sent Dermody’s colleague unsolicited links to two publications detailing Dermody’s alleged ethical violations.

40. In December, 2014, Dermody requested that the PCUSA cease and desist from making statements accusing him of ethics violations, and asked the PCUSA and PMA to take steps to remedy the false impression of him which it had conveyed to the public. The PCUSA and PMA failed and refused to take any action whatsoever until April, 2015 when, following the completion of its investigation, PCUSA directed that all references to Dermody’s alleged ethics violation be removed from PCUSA publications. However, by that time the PCUSA’s false statements regarding Dermody had been published for over six months.

41. Every statement from PCUSA, its directors, officers, and/or employees, acting within the scope of their employment, to the *Presbyterian Outlook*, that Dermody had committed ethical violations was the publication of a false and defamatory statement.

42. Every statement from the Louisville-based PMA employee, whether delivered by or through information obtained directly or indirectly from PCUSA, its directors, officers, and/or employees, alleging that Dermody had set up the non-profit PCNCI corporation, was the publication of a false and defamatory statement.

43. The “statement” to Dermody’s colleague, delivered by sending two unsolicited links to publications detailing Dermody’s supposed ethical violations, was the publication of false and defamatory statements.

44. Upon information and belief, each of the forgoing publications of false and defamatory statements was written and produced and publicly disseminated by the PMA or as a direct result of the PMA’s actions.

F. How Dermody Has Been Injured

45. Each of the PCUSA’s statements described above is false and defamatory. Each statement was published to others.

46. Giving each published statement its most natural meaning, and construing each statement in the sense in which it would be understood by those to whom it was published, each statement caused injury to Dermody’s reputation by stating or insinuating that Dermody had participated in creating, incorporating, or funding the unauthorized, non-profit PCNCI corporation.

47. Giving each published statement its most natural meaning, and construing each statement in the sense that it would be understood by those to whom it was published, each statement caused injury to Dermody’s reputation by alleging or insinuating that he had engaged in unethical behavior.

48. As a result of PCUSA’s conduct as alleged herein, Dermody has been exposed to public ridicule and humiliation, thereby causing injury to his reputation.

49. The injury to Dermody’s reputation will adversely affect his future employment prospects and career.

50. The injury to Dermody's reputation will adversely affect his future earnings and financial stability.

51. The nature of the false and defamatory statements also tends to expose Dermody to public hatred, ridicule, contempt or disgrace, or to induce an evil opinion of him in the minds of right-thinking people.

Claims for Relief

First Cause of Action: Defamation

52. Dermody realleges and incorporates by reference the allegations contained in paragraphs 1 through 51.

53. PCUSA's false statements, and those of its directors, officers and/or employees, acting within the scope of their employment, are defamatory and actionable under the laws of Kentucky.

54. PCUSA's false and defamatory statements were not privileged.

55. Dermody is entitled to recover compensatory and punitive damages for the injuries described above, in amounts to be proven at trial.

Second Cause of Action: Defamation *Per Se*

56. Dermody realleges and incorporates by reference the allegations contained in paragraphs 1 through 51.

57. Because they tend to expose Dermody to public hatred, ridicule, contempt or disgrace, or to induce an evil opinion of him in the minds of right-thinking people, PCUSA's false and defamatory statements, and those of its directors, officers and/or employees, acting within the scope of their position, are defamatory *per se*, and they are actionable under the laws of Kentucky.

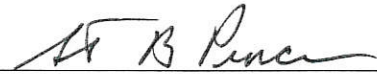
58. PCUSA's false and defamatory statements were not privileged.

59. Dermody is entitled to recover damages, including punitive damages, without additional proof of actual loss.

REQUEST FOR RELIEF

THEREFORE, Dermody requests the following:

1. Trial by jury on all issues so triable;
2. Judgment against PCUSA for defamation and for defamation *per se*;
3. An award of compensatory damages in an amount, to be proven at trial, that will compensate him for public embarrassment and humiliation, compensate him for the adverse effects on his future employment prospects and career, and compensate him for the adverse effect on his future earnings and financial stability;
4. An award of punitive damages sufficient to punish PCUSA and to deter it and others from engaging in similar conduct, for exposing Dermody to public hatred, ridicule, contempt or disgrace, or inducing an evil opinion of him in the minds of right-thinking people.
5. Recovery of his litigation costs; and
6. All other relief to which he is entitled.


STEPHEN B. PENCE
PENCE & OGBURN, PLLC
9300 Shelbyville Road, Suite 1205
Louisville, KY 40223
(502) 736-6200
steve.pence@penceogburn.com

Attorneys for Plaintiff

