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

CATHERINE M STARK ET AL
Plaintiff

Case No: CV-22-969917

Judge: BRENDAN J SHEEHAN

WILLIAM EASTON HORNER ET AL
Defendant

JOURNAL ENTRY

OPINION AND JUDGMENT ENTRY. O.S.J.

Judge Signature

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CATHERINE M. STARK, <i>et al.</i> ,	)	CASE NO. CV 22 969917
	)	
Plaintiffs,	)	JUDGE BRENDAN J. SHEEHAN
	)	
v.	)	
	)	
WILLIAM EASTON HORNER, <i>et al.</i> ,	)	OPINION AND JUDGMENT
	)	ENTRY
	)	
Defendants.	)	
	)	

I. ISSUES PRESENTED.

On October 12, 2022, Plaintiffs Catherine M. Stark and Allison M. Stark filed their action against Defendant William Easton Horner and various internet sites and services alleging that Defendant has engaged in vexatious litigation, defamed Plaintiffs, invaded their privacy, presented Plaintiffs in a false light and intentionally inflicted emotional distress upon them. A hearing on Plaintiffs' request for injunctive relief was set for October 31, 2022 via Zoom. The hearing was reset and held on November 2, 2022. The only issue that was ripe for review by the Court was Plaintiffs' claim of defamation.

At issue are various postings by Defendant where Defendant states, among other things, that Plaintiffs: "kidnapped" his children, have "been working with corrupted government agents ...to fabricate/obfuscate evidence to deny me access to my children in the Courts," and engaged in cell phone hacking and other forms of cyberterrorism.

Plaintiffs seek an Order directing that the pages and/or sites containing these statements be taken down.

II. LAW AND ANALYSIS.

A. Requirements for Injunctive Relief.

The party seeking a preliminary injunction must show, by clear and convincing evidence:

1) a substantial likelihood of success on the merits of the underlying claim; 2) irreparable harm will be suffered if the injunction is not granted; 3) issuing the injunction will not harm third parties; and 4) the public interest would be served by issuing the injunction. *Clifton Steel Co. v. Trinity Equip. Co.*, 2018-Ohio-2186, Para. 35 (8th).

B. Plaintiffs' Defamation Claim.

To prevail on a defamation claim, a plaintiff must prove five elements:

- 1) a false statement;
- 2) about the plaintiff;
- 3) published to a third party;
- 4) with the required degree of fault by the defendant publisher; and
- 5) defamatory *per se* or defamatory *per quod*, causing special harm to the plaintiff."

Garofolo v. Fairview Park, 8th Dist. Cuyahoga Nos. 92283 and 93021, 2009-Ohio-6456, ¶ 17.

Defamation *per se* means that the defamation is accomplished by the very words spoken. It consists of words which "import an indictable criminal offense involving moral turpitude or infamous punishment, imputes some loathsome or contagious disease which excludes one from society or tends to injure one in his trade or occupation." *Kanjuka v. Metrohealth Med. Ctr.*, 2002-Ohio-6803, ¶ 16, 151 Ohio App. 3d 183, 191-92, 783 N.E.2d 920, 927. Damages and actual malice are presumed with defamation *per se*. Defamation *per quod* is a statement with an apparently innocent meaning that becomes defamatory through interpretation or innuendo. The plaintiff must plead and prove special damages resulting from the defamatory statements with defamation *per quod*.

The statements at issue in this matter concern statements of criminal activity: kidnapping, collusion to fabricate or destroy evidence, and hacking cell phones or computers. Plaintiffs deny having engaged in the alleged criminal activity and neither of them have been charged by any enforcement agency with the alleged crimes. Defendant did not offer any evidence supporting his statements. It is clear that Defendant feels that he was grievously harmed during divorce proceedings between him and Plaintiff Allison Stark. It is clear that Defendant is expressing his frustration, anger, and pain at losing parental rights to his children by stating that Plaintiff "kidnapped" his children. However, Defendant's words are more than hyperbole; he has chosen to use words imputing criminal activity where none has been shown. Defendant received very unfavorable decisions from the court overseeing his divorce proceedings. There are lawful and effective means to seek modifications to the Orders from that court. Posting accusations of criminal conduct is not one of those means.

Defendant's statements have been published on various sites on the Internet including YouTube, LinkedIn, and GoFundMe. This publication constitutes publication to a third party as an element of Plaintiffs' defamation claim.

Plaintiffs are private individuals so the required degree of fault by Defendant is negligent publication. *Dale v. Ohio Civil Serv. Emps. Ass'n*, 57 Ohio St. 3d 112, 114, 567 N.E.2d 253, 255 (1991). Defendant purposely and intentionally posted the statements about Plaintiffs and resolutely refuses to remove or alter them.

Finally, because the statements at issue accuse Plaintiffs of engaging in various criminal activity, the statements would constitute defamation *per se* upon proof at trial. For purposes of injunctive relief, however, the Court finds that Plaintiffs have demonstrated a substantial likelihood of success on the merits concerning their defamation claim.

C. Injunctions Concerning Speech.

Plaintiffs seek an injunction barring Defendant's current and future statements concerning them. As a general matter, "the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 573, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002), quoting *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 65, 103 S.Ct. 2875, 77 L.Ed.2d 469 (1983), quoting *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 95, 92 S. Ct. 2286, 33 L. Ed. 2d 212 (1972); *Bey v. Rasaweher*, 2020-Ohio-3301, ¶ 20, 161 Ohio St. 3d 79, 84, 161 N.E.3d 529, 535-36.

However, the right to free speech under the First Amendment is not absolute and the government may regulate it in a manner that is consistent with the Constitution. See *Virginia v. Black*, 538 U.S. 343, 358, 123 S.Ct. 1536, 155 L.Ed.2d 535 (2003). The Ohio Supreme Court has authorized issuance of an injunction to prohibit continuing reiteration of defamatory speech. *O'Brien v. Univ. Cmty. Tenants Union, Inc.*, 42 Ohio St. 2d 242, 245, 327 N.E.2d 753 (Ohio 1975).

Once speech has judicially been found libelous, if all the requirements for injunctive relief are met, an injunction for restraint of continued publication of that same speech may be proper. *Bey v. Rasaweher*, 161 Ohio St. 3d 79, ¶43 (Ohio 2020).

In the matter at bar, Defendant has stated that he will continue to publish statements about Plaintiffs, with or without judicial action.

III. CONCLUSION.

Based upon the testimony and evidence before it, the Court finds that Plaintiff has a substantial likelihood of success on the merits of their defamation claim, they will suffer irreparable harm if statements about their alleged but unsubstantiated criminal activity continues

to be published, ceasing publication of the statements will not harm third parties; and the public interest would be served by issuing the injunction.

Accordingly, the Court orders as follows:

1. Pending a full hearing on the merits of this matter and further orders of this Court, Plaintiffs are entitled to a restraining order against Defendant William Easton Horner directing him to remove all content created and/or posted by him on any website that accuses the Plaintiffs of criminal conduct, including but not limited to the following:

a. The Website identified as "Rights 4 Fathers" with the URL of www.rights4fathers.com.

b. Defendant Horner's GoFundMe page identified as a "[REDACTED] and [REDACTED] Trust Fund. . . . Repost2" with a URL of [www.gofundme.com/\[REDACTED\]-trust-fundrepost2](http://www.gofundme.com/[REDACTED]-trust-fundrepost2) and posted under the name of John Baptist.

c. Defendant Horner's LinkedIn profile under the name of "Easton Horner" with a URL of www.linkedin.com/in/easton-horner-58903949.

d. Defendant Horner's YouTube channel with the URL of <https://www.youtube.com/channel/UCsEFfiLsvxPRVOj3mS6-Ynw>

2. Pending a full hearing on the merits of this matter and further orders of this Court, BlueHost Inc. d/b/a JustHost shall remove the website known as "Rights 4 Fathers" with the URL of www.rights4fathers.com to prevent publication of defamatory statements about Plaintiffs.

3. Pending a full hearing on the merits of this matter and further orders of this Court, GoFundMe Corporation shall remove, deactivate and/or otherwise make inaccessible the website identified as a "[REDACTED] and [REDACTED] Trust Fund. . . . Repost2" with a URL of [www.gofundme.com/\[REDACTED\]-trust-fundrepost2](http://www.gofundme.com/[REDACTED]-trust-fundrepost2) and posted under the name of John Baptist to prevent publication of defamatory statements about Plaintiffs.

4. Pending a full hearing on the merits of this matter and further orders of this Court, LinkedIn Corporation shall remove, deactivate and/or otherwise make inaccessible any and all content posted by Defendant Horner under the name of "Easton Horner" and with a URL of www.linkedin.com/in/easton-horner-58903949 that contain content posted from Easton Horner's YouTube account or the website "Rights 4 Fathers" or states that either Plaintiff Catherine M. Stark or Allison Marie Stark engaged in criminal activity to prevent publication of defamatory statements about Plaintiffs.

5. Pending a full hearing on the merits of this matter and further orders of this Court, YouTube Corporation shall remove, deactivate and/or otherwise make inaccessible the creator's account and/or channel associated with Defendant Horner and under the name of "Easton Horner" with the URL of <https://www.youtube.com/channel/UCsEFfiLsvxPRVOj3mS6-Ynw> to prevent publication of defamatory statements about Plaintiffs.

IT IS SO ORDERED.

Dated: 12/27/22


JUDGE BRENDAN J. SHEEHAN