

NORTH CAROLINA  
HAYWOOD COUNTY

FILED

2018 AUG 27 PM 2:57

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 18-CVS-116

DEBORAH KING,

HAYWOOD COUNTY, C.S.C.

BY  
Plaintiff,

RT

vs.

**ANSWER AND  
MOTION FOR JUDGMENT  
ON THE PLEADINGS**

HAYWOOD REPUBLICAN  
ALLIANCE, a Non-Incorporated  
Political Action Committee by and  
through, RICHARD OWEN WEST,  
Individually and as Treasurer of the  
HAYWOOD REPUBLICAN  
ALLIANCE, JEREMY DAVIS,  
Individually and as Member of the  
HAYWOOD REPUBLICAN  
ALLIANCE, and EDDIE CABE,  
Individually and as Member of the  
HAYWOOD REPUBLICAN  
ALLIANCE, and JOHN DOE 1  
THROUGH 6,

**AUG 29 2018**

Defendants.

Defendant Richard Owen West, through undersigned counsel and pursuant to Rules 7, 8, 9, and 10 of the North Carolina Rules of Civil Procedure, responds as follows to the plaintiff's complaint.

**First Defense**

The constitutional protections afforded the press by the First Amendment to the Constitution of the United States and by Article I, Section 14 of the North Carolina Constitution do not depend on the legal theory asserted by the plaintiff; therefore, because plaintiff has no justiciable claim for defamation against the defendant, he likewise has no justiciable claims under other theories of law.

## Second Defense

Defendant specifically denies that plaintiff incurred any recoverable damages of any kind because of the defendant's actions.

## Third Defense

The Complaint contains no specific allegation regarding any action taken or not taken by defendant Richard West that resulted in any damage to plaintiff.

## Fourth Defense

To the degree defendant West undertook any actions in connection with the claims alleged by plaintiff, those actions were expressions of First Amendment-protected opinions. They were not part of an advertisement or other commercial enterprise.

## Fifth Defense

It is denied that the plaintiff's name or likeness have any commercial value whatsoever.

## Sixth Defense

The injunctive relief sought by plaintiff would constitute an unconstitutional prior restraint.

## Seventh Defense

Defendant answers the numbered paragraphs of the complaint as follows:

1. Upon information and belief, admitted. It is further admitted that the plaintiff has been very active in local politics, including serving as the vice chair of the Haywood County Republican Party. It is further admitted that the Haywood

County Republican Party has been embroiled in significant controversy, specifically related to the manner of election of party leaders.

2. Admitted.

3. Admitted. It is further stated that Mr. Davis died on August 4, 2018.

4. Upon information and belief, admitted.

5. Defendant is without sufficient information to admit or deny the allegations of paragraph 5, but upon information and belief, it is denied that anyone has engaged in any activities that give rise to liability to plaintiff.

6. Upon information and belief, admitted.

7. Paragraph 7 contains no independent allegation. To the degree paragraph 7 contains any independent allegations, they are denied.

8. Admitted.

9. Admitted. It is further stated that Mr. Davis died on August 4, 2018.

10. It is admitted that Mr. Davis ordered twelve buttons at the cost of 25 cents each as documented in Exhibit A to this Answer. It is denied that defendant West participated in any way whatsoever in the creation or posting online of images or videos regarding plaintiff. Defendant West denies that he participated in any way whatsoever in the creation of the buttons identified by plaintiff. It is denied that anyone "sold" the buttons at issue, and it is denied that defendant West participated in any way whatsoever in their distribution. It is further admitted that the buttons were given away. It is stated that the purpose of the buttons was political speech, poking fun at the leadership of the local Republican party.

Defendant West denies that he received any money or any other benefit whatsoever or any other benefit related to the buttons identified by the plaintiff.

11. It is denied that anyone sold the buttons identified by the plaintiff. It is further denied that defendant West participated in any way whatsoever in the distribution of the buttons. Defendant West denies that he received any money or any other benefit whatsoever related to the buttons identified by the plaintiff.

12. It is denied that defendant West participated in any way whatsoever in the creation, posting or distribution of the materials posted online that are identified in paragraph 12.

13. Denied. It is denied that defendant West participated in any way whatsoever in the creation or posting online of images or videos regarding plaintiff. Defendant West denies that he participated in any way whatsoever in the creation of the buttons identified by plaintiff. It is denied that anyone "sold" the buttons at issue, and it is denied that defendant West participated in any way whatsoever in their distribution. It is further admitted that the buttons were given away. It is admitted that many of the individuals who received the buttons made voluntary donations to the Haywood County Republican Alliance. It is stated that the purpose of the buttons was political speech, poking fun at the leadership of the local Republican party. Defendant West denies that he received any money or any other benefit whatsoever related to the buttons identified by the plaintiff.

14. It is denied that defendant West received any income at all from sales of buttons or donations made related to the buttons. It is admitted that the Alliance

paid \$3.00 for the creation of 12 buttons. A copy of the receipt for the button order is attached hereto as Exhibit A. It is further admitted that the Alliance receives donations and may have received some donations from individuals who took a button.

15. It is denied that plaintiff's name or likeness were used for the commercial or other benefit of the Alliance. Any remaining allegations of paragraph 15 are denied.

16. Denied.

17. Denied.

18. Denied.

19. It is specifically denied that defendant West received any monies at all related to the buttons. It is further denied that any defendant (or non-defendant) engaged in any commercial exploitation of the plaintiff's name or image.

20. Paragraph 20 contains no independent allegation. To the degree paragraph 20 contains any independent allegations, they are denied.

21. Denied.

22. Denied.

23. Denied.

24. Paragraph 24 contains no independent allegation. To the degree paragraph 24 contains any independent allegations, they are denied. Moreover, plaintiff's claims for infliction of emotional distress have been dismissed by Order of the court on August 6, 2018.

25. Denied. Moreover, plaintiff's claims for infliction of emotional distress have been dismissed by Order of the court on August 6, 2018.

26. Paragraph 26 contains no independent allegation. To the degree paragraph 26 contains any independent allegations, they are denied.

27. Denied.

28. Denied.

29. Denied.

30. Paragraph 30 contains no independent allegation but only legal conclusions. To the degree paragraph 30 contains any independent allegations, they are denied.

#### Eighth Defense: Motion for Judgment on the Pleadings

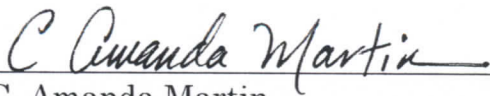
Defendant West moves for judgment on the pleadings, pursuant to Rule 12(c) of the North Carolina Rules of Civil Procedure.

WHEREFORE, having answered the plaintiff's complaint, defendant respectfully prays:

1. That the complaint be dismissed, and that the plaintiff take nothing of the defendant;
2. That judgment be entered in favor of defendant West;
2. That the costs of this action be taxed against the plaintiff; and,
3. For such other and further relief as the court may deem just and proper.

Respectfully submitted this the 24<sup>th</sup> day of August 2018.

**STEVENS MARTIN VAUGHN & TADYCH, LLP**

  
\_\_\_\_\_

C. Amanda Martin

N.C. Bar No. 21186

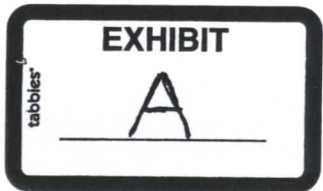
Attorneys for Defendants

1101 Haynes St., Suite 100

Raleigh, North Carolina 27604

Telephone: (919) 582-2300

Facsimile: (866) 593-7695



GIFTS AND NOVELTY  
610 648 7344

835540

**Invoice**

SOLD TO		SHIP TO	
ADDRESS		ADDRESS	
CITY, STATE, ZIP		CITY, STATE, ZIP	
CUSTOMER ORDER NO.	SOLD BY	TERMS	DATE

Will pick up @ show  
Customer needs receipt

HRA  
377 Walnut Street  
Waynesville, NC, 28786

JBY  
COD  
4/29/17

ORDERED	SHIPPED	DESCRIPTION	PRICE	UNIT	AMOUNT
12		JIB JAB BUTTONS	-25		3



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VERIFICATION

HAYWOOD COUNTY, C.S.C.

STATE OF NORTH CAROLINA  
HAYWOOD COUNTY

BY \_\_\_\_\_

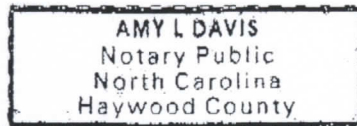
Comes now RICHARD WEST, a defendant in the forgoing action, being first duly sworn, deposes and verifies the contents thereof to his own knowledge of those facts known to him and believes truthfully upon information and belief of the contents of those matters.

This the 24 day of August 2018.

Richard West

RICHARD WEST

Sworn to and subscribed before me this the 24 day of August 2018.



Amy L. Davis

(Notary Public)

My Commission Expires: May, 16, 2021

CERTIFICATE OF SERVICE

FILED

I hereby certify that I served the foregoing upon plaintiff by depositing a copy with the United States Postal Service, first-class postage prepaid, addressed to:

2018 AUG 27 PM 2:57  
WAYWOOD COUNTY, C.S.C.

Russell L. McLean, III  
P.O. Box 4  
Waynesville, NC 28786

BY \_\_\_\_\_

Arnold E. Cabe  
13 Haven Place  
Canton, NC 28716

Haywood Republican Alliance  
561 Westwood Circle  
Waynesville, NC 28786

This the 24<sup>th</sup> day of August 2018.

C Amanda Martin

C. Amanda Martin