

FILED

NORTH CAROLINA
HAYWOOD COUNTY

2018 SEP -4 AM 11:41
HAYWOOD COUNTY, C.S.C.

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

DEBORAH KING,

BY _____
Plaintiff,

vs.

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,

Defendants.

SEP 24 2018

NOTICE OF HEARING

PLEASE TAKE NOTICE that Defendant Richard Owen West will bring on for hearing his Motion for Judgment on the Pleadings at the November 13, 2018 session of the Civil Superior Court for Haywood County, North Carolina, in Courtroom 3A, Haywood County Justice Center, 285 N. Main Street, Waynesville, NC 28786. This motion shall be heard at 10:00 a.m. or as soon thereafter as the Court may reach this matter.

This the 30th day of August, 2018

STEVENS MARTIN VAUGHN & TADYCH, LLP

C. Amanda Martin

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

CERTIFICATE OF SERVICE

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

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

Arnold E. Cabe
13 Haven Place
Canton, NC 28716

Haywood Republican Alliance
Richard Owen West
561 Westwood Circle
Waynesville, NC 28786

This the 30th day of August, 2018.

C. Amanda Martin
C. Amanda Martin

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HAYWOOD COUNTY, C.S.C.
RY _____



SEP 24 2018

stevens martin vaughn & tadych, PLLC
attorneys at law

Hugh Stevens
C. Amanda Martin
K. Matthew Vaughn
Michael J. Tadych

Patricia A. Pritchard
pat@smvt.com

August 30, 2018

VIA U.S. MAIL

Clerk of Superior Court
Haywood County Justice Center
285 N. Main Street, Suite 1500
Waynesville, NC 28786

Re: *King v. Haywood Republican Alliance*, Haywood County File No. 18 CVS 116

Dear Clerk:

Enclosed for filing please find the **original** and one (1) copy of Defendant Richard Owen West's Verification of the Answer and Motion for Judgment on the Pleadings we recently filed with regard to the above-referenced matter. Please return a date-stamped copy to me in the self-addressed and stamped envelope provided.

By copy of this letter, I am also serving defense counsel with a copy of the document.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Patricia A. Pritchard
Paralegal

/pap
Enclosure
C: R. McLean
A. Cabe
Haywood Republican Alliance

VERIFICATION

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

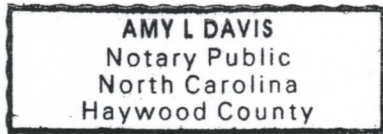
Comes now RICHARD WEST, a defendant in the forgoing action, being first duly sworn, deposes and verifies the contents thereof to his own knowledge of those facts known to him and believes truthfully upon information and belief of the contents of those matters.

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

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HAYWOOD COUNTY, C.S.C.
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CERTIFICATE OF SERVICE

SEP 24 2018

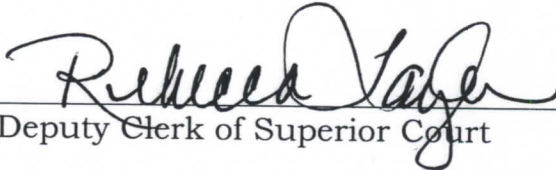
The undersigned certifies that the attached Order was served upon the party(s) to this action by depositing a copy of the same, enclosed in a first class, postpaid wrapper properly addressed to the attorney(s) of record or pro se party(s), in a post office or official depository under the exclusive care and custody of the United States Postal Service, on this the 4th day of September, 2018.

Russell L. McLean, III
PO Box 4
Waynesville, NC 28786

Arnold E. Cabe
13 Haven Place
Canton, NC 28716

Haywood Republican Alliance
Richard Owen West
561 Westwood Cir.
Waynesville NC 28786

C. Amanda Martin
1101 Haynes St., Suite 100
Raleigh NC 27604


Deputy Clerk of Superior Court

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

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

DEBORAH KING,
Plaintiff,

v.

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

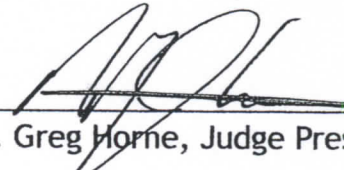
ORDER: RULE 12(b)(6) as to
DEFENDANTS WEST and DAVIS

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2018 AUG -6 PM 1:14
HAYWOOD COUNTY, C.S.C.

FILED

THIS MATTER heard at the June 11, 2018 term on the Rule 12(b)(6) motion to dismiss filed by Defendants West and Davis. C. Amanda Martin, Esq. appeared on behalf of Defendants West and Davis. Plaintiff was present in court represented by Russell L. McLean, III, Esq. "The function of a motion to dismiss under Rule 12(b)(6) is to test the law of a claim and not the facts which support the claim. The allegations of the complaint are taken as true for the limited purpose of testing its sufficiency. A claim for relief should not be dismissed unless it affirmatively appears that the plaintiff is entitled to no relief under any state of facts which could be presented in support of the claim." Renick v. News and Observer Publ'g Co., 310 N.C. 312 (1984) (internal citations omitted). Applying this standard and based upon a review of the complaint, arguments of counsel, and review of applicable law, the court grants the Rule 12(b)(6) motion as to the intentional infliction of emotional distress claim. The motion to dismiss the invasion of privacy by appropriation of name or likeness claim is denied.

This the 31 day of July 2018.


R. Greg Horne, Judge Presiding

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF HAYWOOD

SUPERIOR COURT DIVISION

FILE NO. 18 CVS 116

DEBORAH KING,
Plaintiff,

v.

ORDER: Pro Se Motions and
Protective Order

HAYWOOD REPUBLICAN ALLIANCE,
RICHARD WEST, OWEN DAVIS,
JEREMY CABE, and JOHN DOE,
Defendants.

FILED
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HAYWOOD COUNTY, C.S.C.
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BT

THIS MATTER was heard on June 15, 2018 pursuant to the Notice of Hearing filed by Plaintiff's counsel, Russel McLean. The Notice of Hearing requested that the court hear and consider all pending motions filed by Mr. Cabe, a self-represented litigant, and the Plaintiff's motion seeking entry of a protective order regarding Mr. Cabe's outstanding discovery requests. The plaintiff was present in court represented by Mr. Russell McLean. Mr. Cabe was present appearing *pro se*. Defendants West and Davis were present in court as observers only, but their retained counsel, C. Amanda Martin was not present. The court allowed Mr. Cabe to be heard in support of each of his motions filed of record and then afforded Mr. McLean an opportunity to be heard as well. Based upon a careful review of the court file, consideration of each individual motion, and arguments tendered, the court enters the following ruling as to each pending motion:

- 1) "Motion on Exhibits" - The court believes this is, in essence, a motion to strike exhibits attached to the complaint and has treated it as such. This motion is denied as there is no legal basis to strike the attached exhibits;
- 2) "Motion in Limine #1" - The court again believes that this is a motion to strike the exhibits attached to the complaint and has treated it as such for purposes of the present hearing. To the extent that it is a motion to strike, the same is denied. To the extent the motion seeks a ruling regarding evidentiary and admissibility issues, the court finds that these issues are not yet ripe for determination. These issues are reserved for consideration by the trial judge;
- 3) "Motion in Limine #2" - This motion is treated as a motion to strike and the same is denied;

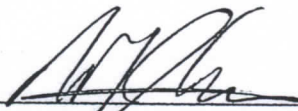
- 4) "Motion for Specificity" - The court finds that the complaint is sufficient as a notice pleading. Factual development will take place during the discovery process. This motion is denied;
- 5) "Motion to Designate Plaintiff as a Limited Purpose Public Figure" - This motion is not ripe for consideration by the court. Therefore, no ruling is entered;
- 6) "Motion in Limine #3" - The court again treated this as a motion to strike the exhibits attached to the complaint. This motion is denied;
- 7) "Amendment to Answer and Motion to Dismiss" - This motion seeks to incorporate defenses raised by counsel representing co-defendants. This motion is denied, but the court notes that the *pro se* answer already asserted a motion to dismiss and that motion remains before the court;
- 8) "Amendment to Answer and Motion to Dismiss II" - Again, attempts to adopt and incorporate arguments and defenses asserted by Ms. Martin who represents co-defendants. The motion is, therefore, denied;
- 9) "Motion to Make More Definite Statement" - This motion is denied;
- 10) "Motion for Order for Psychiatric Examination" - This motion is denied;
- 11) "Request 'UP' Rules 34 and 26, NC Rules of Civil Procedure" - This motion seeks an order granting Mr. Cabe permission to enter Plaintiff's home and to inspect her personal computer for information possibly relevant to the case. This motion is denied;
- 12) "Motion for Dismissal of Defendant" - Defendant Cabe's answer includes a motion to dismiss. The present motion is duplicative and is stricken;
- 13) "Motion to Strike Application for Preliminary Injunction" - This motion is denied;
- 14) "Motion to Sever 'UP' Article 21, N.C. Rules of Civil Procedure" - This motion does not require a response or action by the court;
- 15) "Motion to Permit Counterclaim 'UP' Rule 12(e), N.C. Rules of Civil Procedure" - This motion is denied;
- 16) "Motion to Add Affidavits to Motion for Psychiatric Exam" - The affidavits referenced were reviewed by the court in ruling upon the motion for psychiatric exam. As set out, this motion requires no ruling by the court;
- 17) "Motion for Sanctions 'UP' Rules 37 and 33 N.C. Rules of Civil Procedure" - This motion is denied. Plaintiff filed a motion for protective order thereby tolling the statutory response time pending ruling by the court on Plaintiff's motion;

- 18) "Motion 'UP' NCRCIVIL Procedure Rule 37(A)2 Failure to Answer Interrogatories" - This motion is denied due to pending motion for protective order;
- 19) "Motion to Strike All of Plaintiff's Requested Protective Order" - This motion is denied;
- 20) "Amendment to Defendant's Motion to Strike Plaintiff's Motion for Protection Order" - This motion is denied;
- 21) "Motion for Sanctions" - This motion is denied. Further, the court reviewed Rule 11 with Defendant Cabe and cautioned him against inappropriate and unfounded use of Rule 11;
- 22) "Motion for Separate Findings of Fact, Injunction Hearing" - The court interprets this motion to be a request that the court enter written findings of fact to support any later order regarding Plaintiff's prayer for injunctive relief. This motion is granted;
- 23) "Defendant Cabe's Objection to Plaintiff's Motion for Protective Order, Motion to Make More Definite and Motion to Dismiss" - As written, this motion requires no response or action by the court;
- 24) "Amendment to Defendant's Counterclaim Against Plaintiff" - This motion is denied;
- 25) "Motion to Dismiss 'UP' NCGS 41(B), Rule 37 and 11" - There is no basis for a dismissal pursuant to Rule 41. Accordingly, this motion is denied. As to Rule 37 and 11, the Plaintiff filed a motion seeking entry of a protective order. This motion is denied;
- 26) "Motion to Apply De Minimis Non Curat Lex" - The court treated this as a motion to dismiss. This motion is denied;
- 27) "Amendment to Motion to Deny Plaintiff's Motion for Preliminary Injunction" - Plaintiff is not proceeding with the motion for preliminary injunction at the present hearing. Therefore, this issue is presently not before the court;
- 28) "Motion to Compel Discovery" - Plaintiff has filed a motion seeking entry of a protective order. As such, the court will enter an order with regard to both the motion to compel and the protective order below;
- 29) The Court has also heard from the parties at the present hearing regarding Plaintiff's motion for a protective order against Defendant Cabe's discovery requests. Specifically, Plaintiff requests that the court enter an order sealing all discovery responses or otherwise entering an order prohibiting Defendant Cabe from sharing the discovery responses received. In support of the motion, Mr. McLean alleges that certain persons have repeatedly published information

regarding the action on the internet. Mr. McLean alleges that this subjects the Plaintiff to harassment and ridicule;

- 30) The court finds that the protective order requested by Plaintiff is too broad and restrictive in scope. This is particularly true since the action names "John Doe" as a Defendant and Plaintiff's counsel stated in open court that he had identified this person or persons and that he intended to amend his lawsuit to specifically name and add this person or persons. The court does, however, acknowledge that based upon the multitude of motions filed by Defendant Cabe, a self-represented litigant, oversight of any alleged discovery violations to include baseless or abusive inquiries is necessary;
- 31) As to the Motion for Protective Order, the court denies the request that all discovery responses be placed under seal. The court does, however, order that any specific discovery requests that Plaintiff's counsel believes is baseless, abusive or requires answers that involve highly sensitive or personal information for which there is an overriding privacy interest be brought to the attention of the then presiding superior court judge for review by motion. This motion for review shall be presented to the presiding judge by motion and shall be at the first available civil session of Haywood County Superior Court. The presiding judge shall then have opportunity to review the query or response set out in the motion and rule as to the specific discovery issue. Except for queries or responses to be reviewed by motion as set out above, the Plaintiff is ordered to fully comply with all outstanding discovery within ten (10) business days of recordation of this written order with the Haywood County Clerk of Superior Court.

This the 12 day of July 2018.



R. Greg Horne, Judge Presiding