

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

Russell J. Harlan and Malgorzata-Natasza Cimoszewicz,
Plaintiffs,
v.
Wprost, Agencja Wydawniczo-Reklamowa "Wprost" Sp. z o.o., Marek Krol, Fijor Publishing, Jan M. Fijor, Maciej Rybinski, and Lowell International Co.,
Defendants.

Case No. 2006L004317
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JURY TRIAL DEMANDED
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COMPLAINT

Plaintiffs Russel J. Harlan ("Harlan") and Malgorzata-Natasza Cimoszewicz ("Cimoszewicz") (collectively, "Plaintiffs"), for their Complaint against Defendants Wprost, Agencja Wydawniczo-Reklamowa "Wprost" SP. z o.o., Marek Krol ("Krol"), Fijor Publishing, Jan M. Fijor ("Fijor"), Maciej Rybinski ("Rybinski"), and Lowell International Co. ("Lowell"), state as follows:

NATURE OF COMPLAINT

This is an action alleging written statements published by Defendants defamed the character and reputation of Plaintiffs and amounted to defamation. Actual and punitive damages as well as injunctive relief are requested.

THE PARTIES

1. Harlan is a citizen and resident of the state of South Carolina, residing in Spartanburg, South Carolina. Mr. Harlan is not a public official or public figure.

2. Cimoszewicz is the wife of Russell J. Harlan and is a permanent resident of the state of South Carolina. Ms. Cimoszewicz is not a public official or public figure.

3. Plaintiffs reside with their two children in Spartanburg, South Carolina.

4. Defendant Wprost is the largest weekly magazine published in Poland. The magazine is published and distributed throughout Poland, Europe, the United States, and its publications are sold and available in Illinois.

5. Defendant Marek Krol is the principal owner and editor of Wprost magazine, which is distributed in Europe, the United States, and in Illinois.

6. Defendant Agencja Wydawniczo-Reklamowa "Wprost" Sp. z o.o. is the publishing house responsible for publishing and distributing the magazine Wprost and, as such, Agencja Wydawniczo-Reklamowa "Wprost" sp. z.o.o. has made publication of its magazine Wprost available in Illinois.

7. Defendant Jan M. Fijor is the author of certain articles published by Wprost magazine and made available within Illinois.

8. Defendant Fijor Publishing is the entity responsible for initially publishing the articles written by Jan M. Fijor on the world wide web.

9. Defendant Maciej Rybinski is the author of a certain article published by Wprost magazine and made available within Illinois.

10. Defendant Lowell is the exclusive distributor and publisher of Wprost magazine in the United States, is incorporated and holds its principal place of business in Cook County, Illinois, and sells and makes its publication of Wprost magazine available to Illinois subscribers and throughout the United States. Lowell also has an affiliated office in Warsaw, Poland, through which it sells and makes its publication of Wprost magazine available to Polish

residents. Lowell also has an interactive website – LowellInternational.com – through which it sells, and the general public may purchase – magazines and other products distributed by Lowell.

FACTUAL ALLEGATIONS

11. This action arises out of a series of magazine articles accusing Mr. Harlan and Ms. Cimoszewicz of engaging in criminal and other wrongful activities in Spartanburg County, South Carolina and the United States. As of the date of this filing, three defamatory articles have been written, published, and distributed by the various defendants. These three articles are part of a general pattern of character assassination aimed at the Plaintiffs. The accusations of illegal and wrongful conduct made in these articles are detailed below, and as will be shown, none of the accusations have any basis in law or fact. They are all untrue.

The First Defamatory Article

12. Jan M. Fijor authored the first defamatory article (the “First Article”). The article was initially published on the website of Fijor Publishing. A few days later, on or about August 30, 2005, the article was published by Wprost magazine and Agencja Wydawniczo-Reklamowa “Wprost” Sp. z o.o. and distributed throughout the United States by Lowell International Company. A copy of the article (printed in Polish) along with an English translation is attached to this complaint as Exhibit A and incorporated herein by reference.

13. This article leveled accusations of serious illegal conduct and other wrongdoing against the Plaintiffs, including claims that Plaintiffs violated various federal money laundering laws and IRS laws and regulations. The accusations of illegal and wrongful conduct made in the article are all false and were made maliciously with the intent to injure the Plaintiffs.

14. The article first accused Plaintiffs of making an “illegal loan.” Specifically, the article asserted Plaintiffs violated United States laws concerning the transfer of money from U.S. citizens to citizens of foreign countries. The article claims Plaintiffs failed to inform the IRS and

the immigration authorities of this transfer, and that this activity amounted to money laundering. This allegation against the Plaintiffs is false and was made maliciously with the intent to injure the Plaintiffs.

15. In particular, the article claims the Plaintiffs were required to report this transfer to the IRS and immigration authorities using certain forms and documents that Plaintiffs allegedly failed to submit. This claim is unfounded. Indeed, reference to the correct United States Treasury Department form for reporting international transportation of currency or monetary instruments (FinCEN Form 105) and accompanying instructions reveal that this form applies to a narrow subset of international financial transactions, and the report need not be filed for transfer of funds made through normal banking procedures. Such normal banking procedures were utilized by Plaintiffs in the transactions discussed in the article. Therefore, the allegations in the article that Plaintiffs failed to properly report an international financial transaction are wholly incorrect. A copy of FinCEN Form 105 is attached to this complaint as Exhibit B. The Defendants, with the exercise of minimal diligence could have discovered this fact, but they published the article with a willful disregard for its truthfulness and solely for the purpose of injuring the Plaintiffs.

16. The article also alleged Plaintiffs purposefully failed to report income to the IRS in order to avoid paying certain taxes. The article further implies that an investigation of Plaintiffs by the IRS and other agencies of the United States government is in the offing. This allegation against the Plaintiffs is false and was made maliciously with the intent to injure the Plaintiffs.

17. More broadly, without citation to any supporting fact, the article claimed these allegedly illegal financial activities were part of a conspiracy to commit crimes between

Plaintiffs and Ms. Cimoszewicz's father, Wlodzimierz Cimoszewicz. In this vein, the article further avers that this "conspiracy" involving money laundering could be prosecuted as a terrorist activity. This allegation against the Plaintiffs is false and was made maliciously with the intent to injure the Plaintiffs.

18. These reports of criminal activity are all completely false and were published with malice and intentional and wanton disregard for the truth. The transfer of any funds by Mrs. Cimoszewicz and Mr. Harlan were performed in strict accordance with the laws of the United States of America. Furthermore, Plaintiffs are not aware of any charges or investigations initiated by any arm of the United States government.

19. The article contains other equally baseless and false assertions of fact and accusations of wrongdoing. For example, it accused Mr. Harlan of engaging in criminal conduct sufficient to bar him from the practice of law in the state of South Carolina. In fact, Mr. Harlan is not a lawyer. This fact could have been determined by simple inquiry with the South Carolina Bar to determine that he is not a lawyer, further evidence of Defendants' reckless and willful disregard for the truth.

20. In addition, without any citation to any fact, the article asserts that the execution of certain IRS forms and reports would immediately trigger an IRS investigation. However, the form numbers cited for these reports are simply wrong.

21. These unfounded accusations and misstatements of readily discoverable facts reveal Fijor undertook no investigation to determine the veracity of the allegations of crimes and wrongdoing he leveled at the Plaintiffs in his article. Moreover, Wprost, along with the magazine's owner, Marek Krol, its publisher, Agencja Wydawniczo-Reklamowa "Wprost" Sp. z o.o., and its United States distributor, Lowell International Company, made no effort to conduct

any investigation or independently confirm the allegations and facts set out in the article. It is therefore clear the allegations were made without the slightest concern for the truth, and the article was written, published, and distributed with the intent to harm Mrs. Cimoszewicz and Mr. Harlan.

The Second Defamatory Article

22. On or about September 9, 2005, Defendant Jan M. Fijor wrote, and Defendants Wprost, Krol, Agencja Wydawniczo-Reklamowa "Wprost" Sp. z o.o., and Lowell International published and distributed, another article maliciously defaming Plaintiffs (the "Second Article"). A copy of the article (printed in Polish) along with an English translation is attached to this complaint as Exhibit C and incorporated herein by reference.

23. Like the First Article, the Second Article accused Mr. Harlan and Ms. Cimoszewicz of crimes and other wrongdoing without any basis in fact.

24. The Second Article again impugns Plaintiffs with false and baseless accusations of "insider trading," and avers Plaintiffs will be embroiled in a contentious lawsuit with the United States Securities and Exchange Commission—even directly comparing Plaintiffs to prominent figures convicted of securities fraud and lying to government officials in sensational, well-publicized cases, including Ivan Boesky, Michael Milken, and Martha Stewart. These allegations and insinuations against the Plaintiffs are false and were made maliciously with the intent to injure the Plaintiffs.

25. The article also reasserts the accusations contained in the First Article alleging Plaintiffs failed to properly report income to the IRS. Again, this accusation is false and was made maliciously with the intent to injure the Plaintiffs.

26. The Second Article also asserts that Plaintiffs are "public persons." This, too, is false. As noted above, Plaintiffs have not involved themselves in public life. They have guarded

their privacy closely in the United States and have consequently suffered severe injury to their reputation by the scurrilous articles written, published, and distributed by Defendants.

The Third Defamatory Article

27. On or about September 18, 2005, Defendants Wprost, Krol, Agencja Wydawniczo-Reklamowa "Wprost" Sp. z o.o., and Lowell International published a third article maliciously defaming Plaintiffs (the "Third Article"). This article was written by Defendant Maciej Rybinski. A copy of the article (printed in Polish) along with an English translation is attached to this complaint as Exhibit D and incorporated herein by reference.

28. The Third Article is essentially a response to the allegations set out in the present action. It begins by accusing Plaintiffs of bringing the present suit in an effort secure the benefits of their family's allegedly corrupt political associations in Poland. Indeed, the article goes so far as to equate Plaintiffs with the sinister "Corleone family" made famous in the *Godfather* books and movies. This allegation against the Plaintiffs is baseless and false and was made maliciously with the intent to injure the Plaintiffs.

29. Most tellingly, however, the article admits the accusations contained in the First Article were, in fact, "untruthful" and "sensational," accusations later repeated in the Second Article.

30. In fact, Rybinski writes in the article that he warned Marek Krol "don't publish untruthful accusations, because it might end badly." This statement is undeniable evidence that Defendants published defamatory statements against Plaintiffs knowingly, willfully, and with malicious intent to injure Plaintiffs.

31. Defendants' wrongful conduct in writing, publishing, and distributing these articles reveals a continuous course of intentional, malicious conduct purposefully designed to injure Plaintiffs in a transparent effort to scandalize Plaintiffs' father, who has devoted his career

to public service in Poland. Defendants' manipulation of public opinion against Plaintiffs' father by way of publishing these false accusations and blatant misstatements of fact concerning Mr. Harlan and Ms. Cimoszewicz has resulted in grievous injury to Plaintiffs, private individuals living in the United States who have in no way involved themselves in politics or public life here or abroad.

32. For example, a number of friends and acquaintances of Ms. Cimoszewicz residing in Illinois and across the United States, as well as in Poland, contacted and questioned Ms. Cimoszewicz and her family regarding the accusations of illegal conduct written and published by Defendants, causing Plaintiffs to suffer substantial mental anguish and harm to their reputation in the United States and abroad. Additionally, leading Polish-language newspapers and magazines (other than Wprost) and television programs in Illinois and Poland reported the scandalous accusations made by Defendants, further subjecting Plaintiffs to mental pain and suffering and damaging their reputation.

33. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered embarrassment, humiliation, mental anguish, and their reputation has been severely injured. Consequently, plaintiffs are entitled to actual and punitive damages.

COUNT I
(Defamation *Per Se*)

34. Plaintiffs reincorporate their previous allegations as if fully set forth hereunder.

35. As shown by the facts outlined above, the conduct of Defendants in knowingly publishing written statements falsely asserting Plaintiffs committed crimes and other wrongdoing amounted to defamation.

36. These statements are susceptible to only one meaning and of such nature that it may be presumed that they tend to disgrace and degrade Plaintiffs and are designed to hold them

up to public hatred, contempt, or ridicule. As such, these statements—made in writing—amounted to defamation *per se*.

37. Defendants' conduct was committed with actual malice.

38. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered embarrassment, humiliation, mental anguish, and their reputation has been severely injured. Consequently, plaintiffs are entitled to actual and punitive damages.

WHEREFORE, Plaintiffs request the Court to enter judgment against Defendants, jointly and severally, award Plaintiffs damages in an amount to be proven at trial, enter preliminary and permanent injunctions against Defendants from publishing any further defamatory articles regarding Plaintiffs, and award any and all other appropriate relief.

COUNT II
(Defamation)

39. Plaintiffs reincorporate their previous allegations as if fully set forth hereunder.

40. As shown by the facts outlined above, the conduct of Defendants in knowingly publishing written statements falsely asserting Plaintiffs committed crimes and other wrongdoing amounted to libel.

41. Defendants' conduct was committed with actual malice. These statements were written, published, and distributed by Defendants with the intent to disgrace and degrade Plaintiffs and were designed to hold them up to public hatred, contempt, or ridicule.

42. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered embarrassment, humiliation, mental anguish, and their reputation has been severely injured. Consequently, plaintiffs are entitled to actual and punitive damages.

WHEREFORE, Plaintiffs request the Court to enter judgment against Defendants, jointly and severally, award Plaintiffs damages in an amount to be proven at trial, enter preliminary and


permanent injunctions against Defendants from publishing any further defamatory articles regarding Plaintiffs, and award any and all other appropriate relief.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted,

Russell J. Harlan and Malgorzata-Natasza
Cimoszewicz

By: 

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