

1 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
FILED

2 (Milwaukee Division)

2016 FEB -4 P 12: 57

JON W. SANFILIPPO
CLERK

3
4 William M. Schmalfeldt, Sr.

) Case No. 15-C-1516

5 Plaintiff pro se,

) FIRST AMENDED COMPLAINT

6 v.

- 1. Defamation per se
- 2. False Light Invasion of Privacy
- 3. Misappropriation of Plaintiff's name and likeness on a commercial website

7 Eric P. Johnson

8 Defendant

) JURY DEMAND

9 Sarah Palmer

10 Defendant

11 Numerous John Does and Jane Roes

12 Defendants

13
14
15 Now comes pro se Plaintiff William M. Schmalfeldt, Sr. with his first Amended Complaint against the
16 above-named Defendants, and in support thereof alleges the following:

17 **PARTIES**

18 1. Pro se Plaintiff, William M. Schmalfeldt, Sr., (hereinafter "Plaintiff") is and was at all relevant times a
19 resident of Howard County, Maryland, in the city of Elkridge, until August 22, 2015 at which time he became a
20 resident of Milwaukee County in the city of Saint Francis, Wisconsin. He is a retired Federal Civil Servant, a
21 widower whose wife died on June 17, 2015, a man suffering from Parkinson's disease since 2000.

22 2. Defendant Eric Johnson, (hereinafter "Defendant Johnson) to the best of Plaintiff's knowledge, is and
23 was at all relevant times a resident of Henry County, Tennessee. His employment situation is unknown to Plaintiff.
24 Defendant Johnson has tweeted and left comments on other blogs as "EPWJ" and "BusPassOffice".

25 3. Defendant Sarah Palmer, (hereinafter Defendant Palmer) to the best of Plaintiff's knowledge, was a
26 resident of Inyokern, California until late 2015, when she abandoned her husband and one of her two daughters to
27 move to Reidsville, NC. Her employment situation is unknown to Plaintiff.
28

1 being heaped on the family was probably at least partially responsible for kickstarting her long-dormant chronic
2 condition, causing her death on June 17, 2015.

3 11. When Plaintiff moved from Maryland to Wisconsin in August 2015, largely to make himself less
4 “available” to the head of this gang of right wing bloggers who lives in Westminster, Maryland, the cabal leader’s
5 associates picked up the slack by adopting a tactic of contacting Plaintiff. Plaintiff would respond. The cabal
6 members would then file for a “restraining order” claiming Plaintiff had contacted them without their permission,
7 putting them in fear of their lives and safety.

8 12. As Plaintiff has suffered from Parkinson’s disease for 16 years, these members of the right wing
9 blogger gang were full aware of the challenges facing Plaintiff. Since he had lost his primary caregiver in June, they
10 were full aware that traveling unaccompanied and unassisted was difficult for Plaintiff.

11 13. Plaintiff contends that the reason for these restraining orders in far flung areas like Massachusetts,
12 North Carolina, Arizona and elsewhere resulted from a calculated decision by the cabal to hang the albatross of
13 “adjudicated cyberstalker” around Plaintiff’s neck, making his charges of being the victim of stalking and
14 harassment less credible.

15 14. Another tactic adopted by the cabal was to portray Plaintiff as a child pornographer. This allegation
16 comes from three self-produced audio comedy bits, voiced and recorded by Plaintiff in 2013. (Transcripts of these
17 comedy sketches are enclosed as Exhibits 1, 2 and 3.)

18 15. Defendant Johnson made several written and telephoned contacts with the management of the
19 apartment complex where Plaintiff dwells to “warn” them about the “child pornographer” in their midst. (Exhibit 4)

20 16. Defendant Johnson also posted the names, home addresses, phone numbers and e-mail addresses of the
21 board members of Cardinal Capital Management, the company that manages the property for the Catholic Sisters of
22 Saint Francis of Assisi.

23 17. This action is brought for the purpose of holding Defendants responsible for the defamation per se,
24 false light invasion of privacy, and misappropriation of Plaintiff’s name and likeness to draw viewers to a
25 commercial website.

26 JURISDICTION AND VENUE

27 18. Plaintiff asserts the same argument for jurisdiction and venue as filed in his original complaint.

28 **FIRST CAUSE OF ACTION**

1 **LIBEL PER SE**

2 (Wisconsin Statutes § 942-01, Restatement (Second) of Torts § 570 (2013))

3 (All Defendants)

4 19. Plaintiff hereby incorporates by reference all paragraphs above.

5 20. Historically, courts have recognized that certain types of false statements, whether made orally or in
6 print, so readily cause harm that damages may be presumed without additional proof; ergo defamation per se. The
7 Restatement (Second) of Torts¹ defines traditional defamation per se as follows:

8 **One who publishes matter defamatory to another in such a manner as to make the publication a
9 slander is subject to liability to the other although no special harm results in the publication
10 imputes to the other:**

- 11 **1. A criminal offense**
12 **2. A loathsome disease**
13 **3. Matter incompatible with his business, trade, profession or office**
14 **4. Serious sexual misconduct.**

15 21. Defendant Johnson made several online statements in comments on the blogs of other people in which
16 he accused Plaintiff of the manufacture and sale of child pornography which is a criminal offense and serious sexual
17 misconduct. It is untrue and a ludicrous allegation. (Exhibit 4)

18 22. On September 28, using his "BusPassOffice" handle, Defendant Johnson made the following
19 allegation² accusing Plaintiff) of boy scout rape fantasies, promising to send this information to Vanderbilt
20 University Medical Center (where plaintiff took part in groundbreaking experimental deep brain stimulation surgery
21 as part of a clinical trial [Exhibit 5] and the management of the apartment complex in which Plaintiff lives:

22 **It maybe the guy who tied up those boy scouts and raped them repeatedly as described in his last
23 unsold album that no one except a judge and a jury are going to listen too.**

24 **Nice touch about peeing on them, classy and pornographic kiddie rape fantasies.**

25 **wonder how that's going to play in court with three raping boyscout fantasies now produced?**

26 **It has been sent to Vanderbilt, the NHS and will soon be sent to a senior rent assisted apartment
27 complex management and their Milwaukee law firm.**

28 23. On September 29, Defendant Johnson made the following allegation³ about Plaintiff:

¹ Restatement (Second) of Torts § 570 (2013)

² <http://thinkingmanszombie.com/2015/09/28/good-morning-dumbfuck-96/>

1 our favorite “above it all” is raping more boy scouts in audio fantasies, thank goodness he
2 actually admits it. Oh and he’s harassing [redacted] from his rent assisted senior home and
3 everone (sp)sent this to the management:
4 @dirtyschnitzel ⁴

4 24. On October 19, 2015, Defendant Johnson made the following allegation about an e-mail allegedly sent
5 by Plaintiff:⁵

6 **If he really sent that email, then he confessed to sending material that can be considered
7 child porn audio, if he didn’t send the email, he demonstrated that it is or can be considered
8 child porn**

8 25. On October 28, 2015, Defendant Johnson made the following allegation on a blog post regarding
9 Plaintiff. All the allegations are untrue.⁶

9 **Do you know this guy: He is a creepy staking harassing child porn producer:**

10 **He violated the hatch act hundreds of times He lied to people on XMfan who threatened to
11 report it saying he had extra super secret permission to do so He threatened to sue them He
12 graphically described the sex acts of his own daughter He while his nephew was possibly in
13 military service said his nephew was giving oral sex to men He graphically described how he
14 would rape a kid for calling him a blue pill popping old man He insinuated that he was a
15 “federal official” with some kind of arrest authority He threatened to ruin people by filing
16 false charges with “his friends at Justice” – that is a crime BTW He made a fake amazon
17 account and wrote a review in my name He has blatantly used my name in a fake review
18 where he talks about digging up a dead baby and assaulting the father with it, in front of the
19 screaming mother in the most gruesome of fashions He most likely filed false papers with
20 the federal courts It can be shown that he lied in a court filing under perjury in both State
21 and Federal Court that he never created child porn He filed knowingly false charges against
22 Lee Stranahan, John, Me, and a host of others He claimed that he was going to own all our
23 property He made sexual comments about an underage girl sitting on her uncles lap which
24 is waiting for a complaint by the Racine Police Department. He made false claims of abuse
25 of Library Griffon’s daughter He threatened to send people to rape Lee’s wife He made sex
26 tapes of boy scouts soliciting the rape of children by his sick friends who would be aroused
27 by the content He made a sex tape trying to sell underage girls and someone’s wife into sex
28 acts He falsely accused Lee’s wife of prostitution He threatened and abused women on
DailyKos He took the pictures of a wonderful child in Alaska and made totally
inappropriate comments He harassed and put a picture of a skull over a copyrighted picture
of a unrelated family in Arizona and then harassed both parents getting not one but two
restraining orders He falsely accused me of leaving false reviews of his so called “books” He
harassed and had unwanted contact with wife of a commentator gaining him yet another**

25 ³ <http://hogewash.com/2015/09/29/team-kimberlin-post-of-the-day-933/>

26 ⁴ @dirtyschnitzel was Plaintiff’s Twitter handle at the time

27 ⁵ <https://billysez.wordpress.com/2015/10/14/so-lemmie-get-this-straight-here>

28 ⁶ <http://thinkingmanszombie.com/2015/10/28/please-welcome-our-not-so-new-staff-contributor/>

1 restraining order He was fired from the examiner, and probably every other online
2 periodical for his twisted degenerate behavior outside of this forum community He admitted
3 to using illegal drugs with his stepson He wrote that he colluded with his superior at the
4 NIH to illegally try to get a full disability pension by falsifying his performance
5 evaluations..... He deleted thousands upon thousands of pages of evidence to avoid
6 prosecution and or civil suits.

7
8 26. On November 2, 2015, Defendant Johnson posted this on Defendant Palmer's website⁷, listing the
9 names, addresses, phone numbers and e-mail addresses of the board members of Cardinal Capital
10 Management, the company that manages my apartment complex for the Sisters of St. Francis of Assisi,
11 who own the complex:

12 **Wondering if any of these people know that one of the properties they manage has child
13 porn broadcasting from its premises?**

14 **Canticle & Juniper Courts are managed by Cardinal Capital Logo
15 Cardinal Capital Management, Inc.**

16 **You may call our on-site manager at 414-744-5878.**

17 **Contact Us**

18 **Cardinal Capital Management
19 901 S. 70th Street
20 West Allis, WI 53214
21 1 (414) 727-9902**

22 **Erich Schwenker – President
23 Phone: 414-727-9902
24 Email: eschwenker@cardinalcapital.us**

25 **Carol Keen, CPM® – Asset Manager**

26 **Phone: 414-727-9902
27 Email: ckeen@cardinalcapital.us**

28 **Chris Geiger, CPM® – Asset Manager**

**Phone: 414-727-9902
 Email: cgeiger@cardinalcapital.us**

Joe Thomae, CPM® – Asset Manager

**Specialities: Technology and Property Insurance
 Phone: 414-727-9902
 Email: jthomae@cardinalcapital.us**

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

⁷ <https://billysez.wordpress.com/2015/11/02/insane-behavior-is-insane-and-possibly-actionable-who-knows/>

1 Peter Young – Asset Manager

2 Phone: 414-727-9902
3 Email: pyoung@cardinalcapital.us

4 Peggy Attwood – Property Manager/Asset Manager

5 Phone: 414-395-4472
6 Email: pattwood@cardinalcapital.us

7 27. On December 10, 2015, Defendant Johnson quoted a Tweet made by the Plaintiff and added his own
8 commentary⁸:

9 **Bill Schmalfeldt @DeepBrainRadio · 33s34 seconds ago Gail is gone. She's not coming back. I am what she would want me to be, a jovial lad trying to make other people smile. It's what I do.**

10 **What raping little boy scouts sex audio recordings? Really? "Fingernail reeking of Poo" was**
11 **written when she was very ill – was that a gift of love to her?**

12 **FOCUS answer the question #derp**

13
14 28. On January 9, 2016, Defendant Johnson made the following allegation about Plaintiff, again

15 threatening to share his thoughts with the management of the apartment complex where Plaintiff lives⁹:
16 **Cardinal Management has been forwarded these tweets – I'm sure they are approving of this horrid use of their name and images for his pornographic tweets**

17 29. Defendant Palmer is the founder and proprietor of a blog completely devoted to Plaintiff's personal
18 destruction¹⁰. She claims that she uses the Plaintiff's own words. What she does not tell her readers is that she takes
19 the words out of context and twists them to fit her mold.

20 29. On January 16, 2016, Defendant Palmer wrote a blog post containing the following¹¹:

21 **If Bill Schmalfeldt wants us/the world at large to believe that [redacted] and his "cult of**
22 **personality" are responsible for his wife's death, then Bill Schmalfeldt needs to take**
23 **responsibility for his obsession with [redacted] that caused his wife's death. I would submit**
24 **that if Bill Schmalfeldt had not been a creepy cyberstalker cry-bully, there would not have**
25 **developed anything that Bill Schmalfeldt would decide was a "cult of personality" that**
26 **would then be responsible for the death of his wife. His wife who BEGGED him to stop**

26 ⁸ <http://thinkingmanszombie.com/2015/12/10/no-such-luck-dumbfuck/>

27 ⁹ <http://thinkingmanszombie.com/2016/01/08/its-really-ok-dumbfuck/>

28 ¹⁰ <http://billysez.wordpress.com>

¹¹ <https://billysez.wordpress.com/2016/01/16/i-just-cant-even-3/>

1 harassing [redacted] and to let it go. **BEGGED HIM! AND HE REFUSED TO! Husband of**
2 **the year right here, folks!**

3 **If what Bill Schmalfeldt says is true about his wife, then Bill Schmalfeldt ALSO needs to take**
4 **responsibility for the death of [redacted]. Because reasons. That Bill Schmalfeldt decided**
5 **were so. Goose, gander, sauce and all that.**

6 **Bill Schmalfeldt just forfeited the last scrap of his humanity card. Well done, DUMBFUCK!**
7 **Well done!**

8 30. Plaintiff's wife, in fact, never "begged" Plaintiff to "stop harassing" anyone. In fact, after years of
9 asking Plaintiff to take no legal action, Mrs. Schmalfeldt was an enthusiastic supporter of a lawsuit Plaintiff filed in
10 the spring of 2015.

11 30. In a blog post on December 11, 2015¹², Defendant Palmer admitted that she takes words written by
12 Plaintiff out of context to make them more entertaining for her readership:

13 **Bill, you seem to think that anything that makes you mad is defamation. You said the words.**
14 **YOU SAID THEM. And I usually try my best to keep them in a reasonable amount of**
15 **context, although some things just need to be pull-quoted to stand on their own because they**
16 **are just that LULZY.**

17 **In no meaning of the word is quoting your words defamation. Neither is making up hilarious**
18 **riffs on them. Neither is twisting them, although we really don't need to do that with you,**
19 **now do we? You do it well enough yourself. And having my own opinion of your words and**
20 **expressing it isn't defamation either.**

21 31. Because of the actions of these named defendants and others, Plaintiff's online reputation has been
22 permanently scarred. Due to the extensive nature of the harm caused to Plaintiff he asks for \$100,000 from each
23 Defendant in assumed damages and \$500,000 from each Defendant in Punitive Damages.

24 **SECOND CAUSE OF ACTION**

25 **FALSE LIGHT INVASION OF PRIVACY**

26 (Restatement (Second) of Torts, §652E)

27 (All defendants)

28 32. Plaintiff hereby incorporates by reference all paragraphs above.

29 ¹² [https://billysez.wordpress.com/2015/12/11/bill-thinks-threats-are-reasonable-and-is-then-bewildered-with-the-](https://billysez.wordpress.com/2015/12/11/bill-thinks-threats-are-reasonable-and-is-then-bewildered-with-the-response-in-return/)
30 [response-in-return/](https://billysez.wordpress.com/2015/12/11/bill-thinks-threats-are-reasonable-and-is-then-bewildered-with-the-response-in-return/)

1 33. To prove a claim of false light invasion of privacy, a plaintiff must prove the defendant(s)
2 published the information widely, the publication identifies the plaintiff, it places the plaintiff in a false light that
3 would be highly-offensive to a reasonable person, and the defendant was at fault in publishing the information.

4 34. Plaintiff easily meets these burdens of proof. Defendant Johnson is entitled to his opinions
5 regarding the comedy sketches written and produced by Plaintiff. He is not free to publicly label Plaintiff as a child
6 pornographer, as child pornography is a specific crime that can be proven or disproven.

7 35. 18 USC § 2256 provides a very specific definition of what constitutes “child pornography”.

8 (8) “child pornography” means any visual depiction, including any photograph, film,
9 video, picture, or computer or computer-generated image or picture, whether made or
produced by electronic, mechanical, or other means, of sexually explicit conduct,
where—

10 (A) the production of such visual depiction involves the use of a minor
engaging in sexually explicit conduct;

11 (B) such visual depiction is a digital image, computer image, or computer-
12 generated image that is, or is indistinguishable from, that of a minor engaging
in sexually explicit conduct; or

13 (C) such visual depiction has been created, adapted, or modified to appear that
an identifiable minor is engaging in sexually explicit conduct. (Emphasis
14 added)

15 36. While claiming some skill as a voice artist, Plaintiff avers that he is not so talented as to
convincingly imitate the voice of a minor.

16 35. The statute is clear that the alleged pornography must be visual in nature. Defendant Johnson
17 claims that the three comedy sketches transcribed in Exhibits 1, 2, and 3, are “audio child pornography.”

18 36. Even in nations that have laws against “audio child pornography,” the material must be produced
19 “to elicit sexual gratification in the listener.” Listening to Plaintiff imitating former Texas Gov. Rick Perry
20 discussing his sexual history in the Boy Scouts could hardly be called “sexually gratifying.” If Defendant Johnson
21 finds such recordings “sexually gratifying,” Plaintiff suggests the problem is Defendant Johnson’s, not the
22 Plaintiff’s.

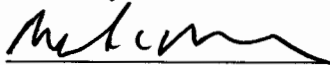
23 37. As these allegations were widely published on at least three different blogs, Defendant Johnson
24 clearly fits the definition for “false light invasion of privacy.”

25 37. Defendant Palmer’s website defines the Plaintiff as “the fevered ravings of lying, cry-bully Bill
26 Schmalfeldt.” This casts the Plaintiff in a false light as he is neither fevered or raving, nor does he lie or cry or
27 “bully” Defendant Palmer.

JURY DEMAND

Plaintiff hereby requests a jury trial on all issues raised in this complaint

Dated this 3rd day of February, 2016


William M. Schmalfeldt, Sr.
3209 S. Lake Dr., Apt. 108
Saint Francis, WI 53235
414-249-4379
bschmalfeldt@twc.com
Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Amended Complaint and Exhibits have on this day been sent by mail to Defendants Johnson and Palmer.


William M. Schmalfeldt, Sr.
Pro Se Plaintiff