

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Philadelphia

County

For Prothonotary Use Only:

Docket No:

Filed and Attested by the
Office of Judicial Records
09 APR 2020 09:46 pm

A. SILIGRINI

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SECTION A

Commencement of Action:

- Complaint
 Writ of Summons
 Petition
 Transfer from Another Jurisdiction
 Declaration of Taking

Lead Plaintiff's Name:

Josiah Knapp

Lead Defendant's Name:

Tess Wei

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
(check one) outside arbitration limits

Is this a Class Action Suit? Yes No

Is this an MDJ Appeal? Yes No

Name of Plaintiff/Appellant's Attorney: Vincent N. Barbera, White and Williams LLP

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute:
 Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other:

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations
 Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional:

WHITE AND WILLIAMS LLP

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Attorneys for Plaintiff
Josiah Knapp

JOSIAH KNAPP
100 S. Broad Street, Suite 930
Philadelphia, PA 19110,

Plaintiff,

v.

TESS WEI
132 N. 3rd St
Philadelphia, PA 19106-1814, and

PETER J. CHAU
520 Reed Street
Philadelphia, PA 19147-5858,

Defendants.

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS
:
: APRIL TERM, 2020
: NO.

JURY TRIAL DEMANDED

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you a judgment may be entered against you by the court without further notice for any money claimed in the complaint of for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**Philadelphia Bar Association Lawyer Referral and Information Service
Philadelphia, Pennsylvania 19107
(215) 238-6333/TTY (215) 451-6197**

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**Asociacion De Licenciados De Filadelfia
Servicio De Referencia E Informacion Legal
One Reading Center
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Attorneys for Plaintiff
Josiah Knapp

JOSIAH KNAPP	:	PHILADELPHIA COUNTY
100 S. Broad Street, Suite 930	:	COURT OF COMMON PLEAS
Philadelphia, PA 19110,	:	
	:	APRIL TERM, 2020
Plaintiff,	:	NO.
	:	
v.	:	JURY TRIAL DEMANDED
	:	
TESS WEI	:	
132 N. 3 rd St	:	
Philadelphia, PA 19106-1814, and	:	
	:	
PETER J. CHAU	:	
520 Reed Street	:	
Philadelphia, PA 19147-5858,	:	
	:	
Defendants.	:	

COMPLAINT

Plaintiff Josiah Knapp (“Knapp”), by and through his attorneys White and Williams LLP, for his Complaint against defendants Tess Wei (“Wei”) and Peter J. Chau (“Chau”) avers as follows:

Nature of the Action

1. Knapp commences this action:
 - a. for compensatory, consequential and punitive damages, prejudgment interest, post-judgment interest, as well as attorneys’ fees and costs to the extent authorized by law, against Wei and Chau for Defamation as codified in 42 Pa. C.S. § 8341, *et seq.*,

- b. for compensatory, consequential and punitive damages, prejudgment interest, post-judgment interest, as well as attorneys' fees and costs to the extent authorized by law, against Wei and Chau for False Light; and
- c. for a mandatory permanent injunction against Wei and Chau, requiring each to take all reasonable steps to remove, permanently delete, and correct the offending statements made about Knapp in social media.

The Parties

2. Knapp is an adult individual and a citizen of the Commonwealth of Pennsylvania who maintains an address at 100 S. Broad Street, Suite 930, Philadelphia, Pa 19110.

3. Wei is an adult individual and a citizen of the Commonwealth of Pennsylvania who resides at 132 N. 3rd Street, Philadelphia, PA 19106-1814.

4. Chau is an adult individual and a citizen of the Commonwealth of Pennsylvania who resides at 520 Reed Street, Philadelphia, PA 19147-5858.

Jurisdiction and Venue

5. Jurisdiction and venue are proper before this Court because Knapp, Wei, and Chau each reside in the Commonwealth of Pennsylvania, County of Philadelphia, and because the transaction or occurrence giving rise to this dispute occurred within the Commonwealth of Pennsylvania, County of Philadelphia.

Facts

6. Knapp is a licensed attorney and owner of a boutique law firm located in Philadelphia focusing on business and real estate law, corporate transactions, and commercial litigation.

7. Over the years, Knapp has developed and enjoyed a positive reputation in the legal and Philadelphia communities where he resides and practices law. Knapp's reputation and

integrity is of the utmost importance to his legal practice.

8. On Tuesday, March 31, 2020, Knapp was walking east on the north side of Walnut Street in Philadelphia on his way back to his office after making a business deposit at his bank.

9. Being mindful of, and abiding by, the guidance of local, state, and federal authorities with respect to appropriate social distancing recommendations during the COVID-19 pandemic, Knapp made a practice to move to one side of the sidewalk as he saw others approaching. Knapp engaged in this practice so as to maximize the amount of space between himself and the passing individual(s) on the sidewalk.

10. At or about 1:09 p.m., as Knapp was walking in the vicinity of the Apple store on Walnut Street, he observed defendant Wei jogging towards him on the sidewalk. As was his practice, Knapp deliberately and obviously moved to the far right-hand side of the sidewalk so as to allow sufficient social distancing when Wei passed by him.

11. Much to the consternation of Knapp, Wei did not take any action to provide the recommended physical distancing and continued to jog down the same side of the sidewalk as Knapp was on, passing close within two (2) to (3) feet of Knapp, breathing heavily as she jogged. After Wei passed, Knapp remarked that Wei should move to the other side of the sidewalk to give some space.

12. Wei stopped jogging approximately twenty-five (25) to thirty (30) feet from Knapp and cursed at him. The two got into an argument, at which time Wei took a few steps towards Knapp while asking Knapp if he was afraid that she would breathe on him and then threatening to breathe on him. While the two were approximately twenty (20) to twenty-five (25) feet away from each other, Knapp turned to walk away and Wei took out her phone and ran

after Knapp to video record him.

13. On the video, Knapp continued to request that Wei move away from him.

14. Knapp continued to move away from Wei until she relented and Knapp and Wei went their separate ways.

15. The next day, an acquaintance of Knapp told him that there was an Instagram post bearing Knapp's photograph with text superimposed on it. The individual sent Knapp the image via text message. The image was a screenshot of an Instagram post by Chau, which reposted an earlier Instagram post by Wei that also had additional text superimposed on it.

16. The text of the original Instagram post by Wei contained text around Knapp's image that stated: "PHILLY! This man yelled at me and then came right up to me and **coughed in my face.** who tf is he?" (Emphasis in original).

17. The original Instagram post described in the foregoing paragraph (the "Original Offending Post") was prepared, authored, and shared/posted to Instagram by Wei using her personal Instagram account "tessie_wing."

18. The actions attributed to Knapp in the Original Offending Post, i.e. that Knapp "came right up to [Wei]" and "coughed in [Wei's] face" are categorically untrue and Wei's statements about Knapp are defamatory. Knapp did not come right up to Wei, and he did not cough in her face.

19. Wei's false statements about Knapp were intentionally and knowingly designed to imply that Knapp sought out and approached Wei based on her ethnicity as an Asian-American and further implied that Knapp engaged in offensive and racist behavior towards her – none of which is remotely true.

20. Upon information and belief, the Original Offending Post was immediately shared

with, and able to be viewed and read by, as many as 1,055 other persons who “follow” Wei’s Instagram page/account. Accordingly, Wei published the defamatory statements contained within the Original Offending Post to as many as 1,055 third parties, including but not limited to Chau.

21. Upon information and belief, Wei repeated the same and other false and defamatory statements about Knapp to Chau.

22. The second Instagram story or post that was posted by Chau contained a screenshot of the Original Offending Post by Wei, but also contained additional statements superimposed around the screenshot which were added by Chau. Specifically, the new statements by Chau read: “This shithead coughed on my cousin and told her to “go back where you came from” . . . anybody recognize this piece of shit? 😏”

23. The second Instagram post by Chau described in the foregoing paragraph (the “Second Offending Post”) was prepared, and the statements authored by, Chau. Chau shared/posted the Second Offending Post on Instagram using his personal Instagram account “pjchau.”

24. Both the action and the statement attributed to Knapp by Chau in the Second Offending Post, i.e., that Knapp “coughed on [Wei]” and “told her to ‘go back to where you came from’” are categorically untrue and Chau’s statements about Knapp are defamatory. Knapp did not cough on Wei, and did not tell her to “go back to where you came from.”

25. Chau’s false statements about Knapp were intentionally and knowingly designed to imply that Knapp sought out and approached Wei based on her ethnicity as an Asian-American and further implied that Knapp engaged in offensive and racist behavior towards her – none of which is remotely true.

26. Upon information and belief, the Second Offending Post was immediately shared with, and able to be viewed by and read by, as many as 398 other persons who “follow” Chau’s Instagram page/account. Accordingly, Chau published the defamatory statements contained within the Second Offending Post to as many as 398 third parties, including but not limited to Wei.

27. Upon information and belief, Wei and/or Chau also published the Original Offending Post and/or the Second Offending Post to numerous other third-parties on Facebook. The Second Offending Post (which contains the Original Offending Post) “went viral” on Facebook. That is, the Second Offending Post (containing the Original Offending Post) became popular through a “viral” process of Internet sharing on social media.

28. The Second Offending Post (which contains the Original Offending Post) was posted on various Facebook pages for groups associated with the local community in Philadelphia, including but not limited to Facebook pages entitled “Old Cilly” and “South Silly 2.0/2.0.”

29. The “South Silly 2.0/2.0” Facebook page has 12,328 members, all of which had immediate access to and the ability to view and read the statements made in the Second Offending Post and the Original Offending Post.

30. The “Old Cilly” Facebook page has 375 members, all of which had immediate access to and the ability to view and read the statements made in the Second Offending Post and the Original Offending Post.

31. At least one third-party “shared” the Second Offending Post (which contains the Original Offending Post) on his personal Facebook page on March 31, 2020. That individual’s post of the Second Offending Post was subsequently shared thirty-eight (38) additional times on

Facebook by still other third-parties, which made the Second Offending Post (containing the Original Offending Post) immediately visible to innumerable other third-parties through those persons' Facebook accounts.

32. Upon information and belief, other third-parties also "shared" the Second Offending Post (containing the Original Offending Post) on Facebook, such that the defamatory statements therein were read by countless other third-parties on social media.

33. The defamatory statements attributed to Knapp by Wei and Chau in the Second Offending Post and the Original Offending Post subjected Knapp to personal and professional ridicule and even overt threats to his person. In addition, Knapp was identified by name in comments that followed posts of the Second Offending Post, and the name and webpage of his Philadelphia-based law firm were also identified and posted on Facebook.

34. In the days that followed, Knapp received multiple telephone calls and text messages from friends and clients of his law practice who reported that they viewed the Second Offending Post and the Original Offending Post and read the defamatory statements attributed to him therein.

35. As a result of Wei's and Chau's false and defamatory statements, Knapp was forced to defend his previously esteemed reputation in both his personal and professional community and among his friends, business associates, and clients.

36. Knapp suffered great embarrassment and emotional distress as a result of Wei's and Chau's false and defamatory statements about him.

37. Knapp is not a bigot; he did not engage in the highly offensive behavior of which he is accused by Wei and Chau; and he did not utter the racially-charged and offensive statement attributed to him by Chau.

38. The Second Offending Post, which contains the Original Offending Post, continues to be visible on social media and continues to cause Knapp to suffer reputational harm and emotional distress.

COUNT I- DEFAMATION

39. Knapp incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth at length herein.

40. Wei's and Chau's statements imputed conduct to Knapp that would be punishable in a Court of Law.

41. Wei's and Chau's statements about Knapp were defamatory *per se*.

42. The statements published by Wei and Chau in the Original Offending Post and/or in the Second Offending Post were and are false and defamatory, and were published with vicious and malicious intent to harm Knapp without regard for the consequences of publishing such statements.

43. Upon information and belief, Wei and Chau knowingly chose to publish the false and defamatory statements about Knapp on social media with the intention and expectation that the offending statements would be read and further circulated by innumerable other persons.

44. Wei made the defamatory statements about Knapp in the Original Offending Post.

45. Chau made the defamatory statements about Knapp in the Second Offending Post.

46. Wei communicated and published the defamatory statements in the Original Offending Post, and, upon information and belief, in the Second Offending Post, to third parties.

47. Chau communicated and published the defamatory statements in the Second Offending Post and in the Original Offending Post to third parties.

48. The recipients of the false and defamatory statements in the Original Offending Post and in the Second Offending Post understood the defamatory meaning of the statements

about Knapp.

49. Knapp suffered special harm as a result of Wei's and Chau's defamatory statements in that they have harmed Knapp's reputation by lowering him in the estimation of his community, business associates, and clients.

50. As a result of Wei's and Chau's false and defamatory statements, Knapp has suffered reputational harm, emotional distress, and damages in an amount not yet known but believed to be in excess of \$50,000.

51. Neither Wei's nor Chau's statements were privileged in any way.

52. The Second Offending Post, which contains the Original Offending Post, continues to be visible on the internet through social media, and the ongoing presence of the highly offensive, malicious, and false statements made by Wei and Chau therein caused, and unless enjoined will continue to cause, Knapp further and additional reputational harm, emotional distress and injury.

53. The reputational harm injury that Knapp continues to sustain while the Second Offending Post and the Original Offending Post continue to be visible and circulate on social media cannot be adequately compensated by money damages alone due to its ongoing nature and the possibility of continued publication and viewing by innumerable other persons.

54. Greater harm will result to Knapp than will befall Wei and Chau if they are not required to take all reasonable steps to remove the Second Offending Post and Original Offending Post from social media and take affirmative steps to correct the record.

55. Knapp's right to relief is clear, and the Court should enter a mandatory, permanent injunction requiring Wei and Chau to remove the Second Offending Post and Original Offending Post from social media and take affirmative steps to correct the record.

WHEREFORE, Knapp demands judgment in his favor and against defendants Wei and Chau for (a) money damages in an amount not presently known but believed to be in excess of \$50,000, together with punitive damages, costs, pre and post-judgment interest, attorneys' fees to the extent appropriate or authorized under applicable law, and (b) a mandatory permanent injunction, requiring Wei and Chau to exercise all reasonable efforts to delete and permanently remove the Original Offending Post and the Second Offending Post from the internet, including but not limited to social media sites Instagram and Facebook, and take affirmative steps to correct the record in the eye of the public, as well as such further relief as the Court deems just and proper.

COUNT II- FALSE LIGHT

56. Knapp incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth at length herein.

57. The statements published by Wei and Chau to third-parties about Knapp in the Original Offending Post and in the Second Offending Post are highly offensive and false.

58. The offending statements were knowingly and intentionally designed to imply that Knapp took racially offensive actions towards, and made a racially offensive statement to, Wei because of her ethnicity as an Asian-American during the ongoing COVID-19 pandemic.

59. The statements by Wei and Chau placed Knapp in a false light and constituted a serious misrepresentation of Knapp's character and beliefs that could reasonably be expected to cause a reasonable person to take serious offense, because the statements falsely portrayed Knapp as a racist.

60. Wei and Chau each knew that the statements he or she made about Knapp were false and/or he or she acted in reckless disregard to their falsity and without regard to the false light Knapp would be placed in as a result of their publication and dissemination.

61. Wei and Chau each deliberately and intentionally publicized his or her false statements about Knapp on social media, which immediately made the statements available for viewing by hundreds, if not thousands, of persons within the community where Knapp lives and works. As a result, the false statements “went viral” and can reasonably be said to be public knowledge.

62. Wei’s and Chau’s false and offensive portrayal of Knapp has needlessly caused him to suffer embarrassment, anxiety, and other emotional injuries.

63. Wei’s and Chau’s individual actions were so malicious, intentional, wanton, and/or reckless that the imposition of punitive damages is warranted.

WHEREFORE, Knapp demands judgment in his favor and against defendants Wei and Chau for (a) money damages in an amount not presently known but believed to be in excess of \$50,000, together with punitive damages, costs, pre and post-judgment interest, attorneys’ fees to the extent appropriate or authorized under applicable law, and (b) a mandatory permanent injunction, requiring Wei and Chau to exercise all reasonable efforts to delete and permanently remove the Original Offending Post and the Second Offending Post from the internet, including but not limited to social media sites Instagram and Facebook, and take affirmative steps to correct the record in the eye of the public, as well as such further relief as the Court deems just and proper.

WHITE AND WILLIAMS LLP

BY: /s/Vincent N. Barbera
Vincent N. Barbera, Esquire
Attorneys for Plaintiff
Josiah Knapp

Dated: April 9, 2020

VERIFICATION

I, Josiah Knapp, hereby verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements made therein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

BY: Josiah Knapp
Josiah Knapp

Date: 4/9/20