

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

SEVERKO HRYWNAK)

Plaintiff,)

v.)

DANIEL BAREITHER)

Defendant.)

Case No.

FILED LAW DIVISION
2013 MAY 17 PM 3:52
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

2013LOG0483
CALENDAR/ROOM A
TIME 00:00
Libel/Slander

COMPLAINT

Plaintiff, Severko Hrywnak, by and through his attorneys, Robbins, Salomon & Patt, Ltd., files his Complaint against Defendant, Daniel Bareither, and states as follows:

PARTIES

1. Plaintiff Severko Hrywnak ("Plaintiff") is an individual and a resident of Chicago, Cook County, Illinois.
2. Upon information and belief, Defendant Daniel Bareither ("Defendant") is an individual and a resident of Palos Park, Cook County, Illinois.

FACTUAL BACKGROUND

3. Plaintiff is a licensed Podiatric Physician in the State of Illinois and has been an assistant professor in the Department of Podiatric Medicine and Radiology at the Dr. William M. Scholl College of Podiatric Medicine Scholl (the "College") for over 25 years. Plaintiff is also the Chair of the Academic Assembly of the College, made up of all College faculty members.
4. Defendant is a full-time faculty member at the College, a member of the Academic Assembly, and is a Senior Associate Dean of Educational Affairs, amongst other roles.

5. On February 7, 2013, the Dean of the College, Dr. Nancy L. Parsley, issued a Notice of Non-Renewal to all part-time faculty members of the College, abruptly relieving them of their teaching privileges at the College after April 6, 2013, during the middle of the teaching semester, and notifying all part-time faculty that effective February 7, 2014, their teaching positions at the College would be eliminated.

6. The Dean of the College claims in her Notice of Non-Renewal that the action was taken as a part of a planned restructuring of the College faculty.

7. The abrupt and disruptive timing of issuance of the Notices of Non-Renewal, the suspension of teaching privileges of part-time faculty mid-term, the fact that the alleged “restructuring” was not contemplated by the College’s strategic plan, and the fact that it followed complaints that members of the part-time faculty were informing students that the recently enacted Patient Protection and Affordable Care Act was going to have a negative financial impact on the practice of podiatric medicine, called into question the legitimacy and propriety of the Dean’s Notices of Non-Renewal.

8. The Defendant and the Secretary of the Academic Assembly, each of whom are aligned with the Dean of the College, had previously complained to Plaintiff that it is not the job of educators to inform the students of changing economic realities affecting podiatric medicine because disclosing such information might dissuade students from seeking a degree in podiatric medicine.

9. On February 28, 2013, the Academic Assembly, after proper notice duly given in accordance with its By-Laws, convened a Special Meeting for the purpose of discussing the propriety and effect of the Dean’s Notices of Non-Renewal and faculty “restructuring.” The meeting was attended by members of the Academic Assembly, students, and Defendant.

10. Approximately two (2) minutes into the meeting, the Secretary of the Academic Assembly walked out of the meeting and did not return, and approximately three (3) minutes later, the Defendant voluntarily walked out of the meeting and did not return. Upon request from the Plaintiff as Chair of the Academic Assembly, another member of the Academic Assembly volunteered to serve as recording secretary for the meeting and fulfilled that role.

11. On March 28, 2013, Plaintiff, as Chair of the Academic Assembly, distributed minutes of the meeting reporting the substance of discussions and actions taken at the February 28, 2013 meeting of the Academic Assembly, and requesting approval of the minutes as an accurate depiction of what transpired at the meeting. The minutes reflected, among other matters, the substance of discussions that occurred at the meeting, that the Academic Assembly overwhelmingly opposed, by a vote of 11 to 2, the action of the Dean of the College in issuing the Notices of Non-Renewal and alleged restructuring, and that the Academic Assembly resolved, by a vote of 11 to 2, to seek revocation and reversal of the Dean's non-renewal of part-time faculty.

12. The Defendant expressed his objection to the minutes being approved, not because of any first-hand knowledge or belief that the minutes did not accurately report what transpired at the meeting – which the Defendant could not have known first-hand, because the Defendant voluntarily departed the meeting promptly after it was called to order – but because the Defendant disagreed with the substance of the actions reported in the minutes.

13. On April 3, 2013, Defendant published to over 35 fellow colleagues and faculty members at the College, including Plaintiff, an email message alleging that Plaintiff, as Chair of the Academic Assembly, had acted in an “*unethical and unprofessional manner*” in producing

minutes from the Academic Assembly. A copy of the email transmission (with email addresses redacted) is attached hereto as *Exhibit 1*.

14. Defendant's statement that Plaintiff acted unethically and unprofessionally in his preparation and distribution of the Academic Assembly meeting minutes are false.

15. Defendant published these false statements by distributing them via email to faculty throughout Illinois, including in Cook County, Illinois.

16. Defendant's false statements defamed Plaintiff by falsely communicating the email recipients that Plaintiff acted unethically and unprofessionally and by falsely imputing to Plaintiff an inability to perform and want of integrity in the discharge of his duties as the Chair of the Academic Assembly and his employment at the College.

17. Defendant's false statements damage and disparage the professional reputation and standing of Plaintiff in the community as a teacher, podiatric physician, business person, and philanthropist by impugning the Plaintiff's personal and professional integrity.

18. Defendant's false statements were intentional and malicious, and were made solely for the purpose of discrediting the Plaintiff and diminishing the reputation of the Plaintiff in the eyes of other faculty.

19. Defendant's statements impugning Plaintiff's integrity were false and unjustified.

20. Defendant's false statements have proximately and directly injured Plaintiff.

**COUNT I
(DEFAMATION)**

21. Plaintiff realleges paragraphs 1-20 above as paragraph 21 of Count I.

22. Defendant made one or more false statements as set forth above about Plaintiff.

23. The false statements made by Defendant were published to third parties without any applicable privilege to do so.

24. The publication of the false statements have proximately and directly damaged Plaintiff.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendant, awarding him compensatory damages in excess of fifty thousand dollars (\$50,000.00), together with punitive damages in an amount in excess of two hundred fifty thousand dollars (\$250,000.00), in an amount to be determined by the Court , plus costs of suit and all additional relief deemed just and proper.

**COUNT II
(FALSE LIGHT)**

25. Plaintiff realleges paragraphs 1-24 above as paragraph 25 of Count II.

26. As a result of Defendant's statements that Plaintiff was unethical and unprofessional in the performance of his employment and professional duties as Chair of the Academic Assembly and a faculty member at the College, Plaintiff was placed in a false light before the public.

27. Being portrayed as an unethical and unprofessional faculty member of a medical college, as well as a licensed physician in particular, is highly offensive to a reasonable person.

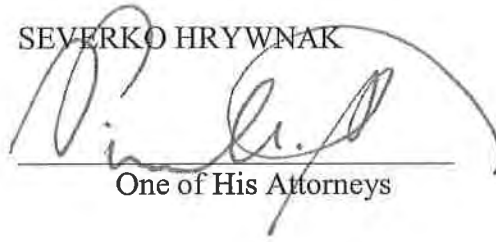
28. Defendant acted with actual malice in publishing the false statements, with the intent to damage the personal and professional reputation and good standing of Plaintiff as a twenty-seven (27) year veteran faculty member at the College.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendant, awarding him compensatory damages in excess of fifty thousand dollars (\$50,000.00), together with punitive damages in an amount in excess of two hundred fifty thousand dollars (\$250,000.00), in an amount to be determined by the Court , plus costs of suit and all additional relief deemed just and proper.

Respectfully submitted,

SEVERKO HRYWNAK

By:



One of His Attorneys

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-----Original Message-----

From: Daniel Bareither [REDACTED]
Sent: Wednesday, April 03, 2013 1:29 PM
To: Birute Balciunas; John Becker; [REDACTED]; Barry Brandes; Ryan Crews;
Daniel Evans; Adam Fleischer; Philip Gianfortune; [REDACTED];
[REDACTED]; Neil Horsley; Dr. Sev Hrywnak; Robert Intine; Beth Jarrett;
Robert Joseph; David Kibrit; Steve Kim; Ann Snyder; Bruce Manion; Carrie Nelson; Charles
Witt; Darrell Latva; Debra Levinthal; Karona Mason; erin klein; Fred Rahimi; Martin Yorath;
Melissa Skratsky; Michael Fennewald; Nancy Parsley; [REDACTED]; Qeena Woodard; Ruth
Songco-Chi; Stephanie Wu; [REDACTED]; Sai Yalla; Michael Oster
Subject: Faculty of Scholl college of Podiatric Medicine

Dear Faculty:

In all of my years as a faculty member of Scholl College of Podiatric Medicine I have never observed a Chair of the Faculty Assembly act in such an unethical and unprofessional manner. To produce minutes for a meeting which include the personal comments and opinions of the Chair and exclude whatever the Chair decides should be excluded is absolutely unacceptable, unethical, and unprofessional. To limit comment on these same minutes and to establish a vote for the approval of the minutes from a selected group of faculty is also unacceptable, unethical, and unprofessional. As a faculty member of Scholl College of Podiatric Medicine I demand an explanation for the actions of the Chair and would hope that other faculty do the same.

Dr. Daniel Bareither

