

No. 2016-4369-3

TOM HILL	{	IN THE DISTRICT COURT OF
PLAINTIFF	{	
	{	
VS.	{	MCLENNAN COUNTY, TEXAS
PEPPER HAMILTON, LLP, ET AL	{	<u>74TH</u> JUDICIAL DISTRICT
DEFENDANTS	{	

PLAINTIFF'S ORIGINAL PETITION

TOM HILL, hereinafter called Plaintiff, files this suit against PEPPER HAMILTON, LLP, LESLIE M. GOMEZ and GINA MAISTO SMITH, hereinafter called Defendants, and would respectfully show the Court the following:

1. Discovery for this suit is intended to be conducted pursuant to Rule 190.3 of the Texas Rules of Civil Procedure (Level 2).
2. The District Clerk of McLennan County is respectfully requested to prepare Citations for each of the three Defendants, including the Deposition *duces tecum* Notices contained in Exhibit A hereto, and to return them to the undersigned Plaintiff's attorney who will forward them to the Secretary of State of Texas for perfection of service.
3. This claim for compensation for damages sustained by the Plaintiff is for an amount in excess of TEN THOUSAND DOLLARS (\$10,000) and thus this Court has jurisdiction of this case. Venue lies in McLennan County because the events of negligence and defamation alleged all occurred in McLennan County, Texas.
4. Plaintiff is an individual who resides in McLennan County, Texas.
5. Defendant Pepper Hamilton, LLP is a partnership of attorneys who practice their profession in every state in the United States of America; they claim their primary and "home offices" to be in Philadelphia, Pennsylvania. The partnership is a non-resident of the State of Texas; it may be served with process by serving the Secretary of State of Texas, Service of Process, P.O. Box 12079, Austin, TX., 78711. The Secretary of State may forward copies of the process papers to Pepper Hamilton, LLP, attorneys at law, Two Logan Square, 18th & Arch St., Philadelphia, Pennsylvania, 19103.
6. Defendant Leslie M. Gomez is an individual attorney who practices law as a partner of the Pepper Hamilton partnership. Said Defendant is a non-resident of the State of Texas; said Defendant may be served with process by serving the Secretary of State of Texas Service of Process, P.O. Box 12079, Austin, TX., 78711. The Secretary of State may forward copies of the process papers to Ms. Leslie M. Gomez, c/o Pepper Hamilton, LLP, attorneys at law, Two Logan Square, 18th & Arch St., Philadelphia, Pennsylvania, 19103.
7. Defendant Gina Maisto Smith is an individual attorney who practices law as a partner of the Pepper Hamilton partnership. Said Defendant is a non-resident of the State of Texas; said Defendant may be served with process by serving the Secretary of State of Texas Service of

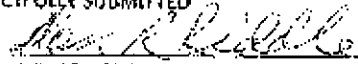
Process, P.O. Box 12079, Austin, TX., 78711. The Secretary of State may forward copies of the process papers to Ms. Gina Maisto Smith, c/o Pepper Hamilton, LLP, attorneys at law, Two Logan Square, 18th & Arch St., Philadelphia, Pennsylvania, 19103.

8. All three Defendants engage, and have engaged in business in Texas, but none of the three Defendants maintain a regular place of business in Texas; none of the Defendants maintains a designated agent for service of process in Texas. The claims in this lawsuit arise out of, and because of the business that has been done and conducted in Texas by the Defendants. Jurisdiction over the three Defendants therefore, exists because all the necessary requirements of Section 17.044 of the Texas Civil Practice and Remedies Code apply. Service as specified above is compliant with Section 17.045 of the Texas Civil Practice and Remedies Code.
9. This lawsuit is necessary for Plaintiff to be compensated for damages he has sustained which were proximately caused by the negligence of the Defendants. The Defendant partnership is liable under Texas law as the *respondent superior* of the two individual defendants. In the fall season of 2015, the partnership Defendant and the individual Defendants were hired by Baylor University to independently and objectively investigate certain reported events of sexual assaults involving students at the University, and to objectively report their investigative findings of facts to the University, and to give their opinions and recommendations to the University in an objective and unbiased manner.
10. Defendants were paid handsomely for their agreement to do these things; there were other duties to which they agreed, and which they failed to perform. Defendants did not fully, faithfully, or objectively perform their contracted duties. Defendants were negligent in the performance of the duties they undertook for the benefit of the University, and this negligence was a proximate cause of damages sustained by Plaintiff.
11. Defendants did not fully obtain all the pertinent and important facts from the witnesses whom they confronted and interrogated. Defendants did not interview nor interrogate several important witnesses. Defendants did not perform their duties objectively and with an open mind. Defendants did not give an appropriate, accurate, complete, and unbiased report of all facts necessary for the University to properly understand the true nature of any potentially inappropriate culture or social environment at the University. As a direct result of the negligence of the Defendants in carrying out their contractual obligations, serious collateral damage was done to several University employees, including Plaintiff.
12. At the time the Defendants were hired as specialty investigators, Plaintiff was an employee of the University in the athletic department. Plaintiff had been an effective, loyal and crucially important employee of the University for 28 years; he was widely known to have an impeccable performance record with the University. As a direct and proximate result of the Defendants' negligence in their investigation and report, Plaintiff was slandered and libeled by Defendants. Moreover, because of Defendants' negligence and the University's reliance upon a flawed and incomplete investigation and report by the Defendants, Plaintiff's employment at the University was abruptly and improvidently terminated. Now, Plaintiff is unemployed, and is unable to obtain employment which is necessary to support himself, his wife and three children.
13. Plaintiff's damages flow from his defamation, as well as his loss of employment and are in the amount of SIXTY THOUSAND DOLLARS (\$60,000), for which amount he now sues these Defendants.

14. At all times material hereto, the two individual Defendants were the agents Pepper Hamilton, LLP and the individuals' conduct which gives rise to this suit was within the course and scope of their agency and representation of Pepper Hamilton, LLP.
15. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendants are put on Notice that all documents produced by Defendants during discovery of this case, shall be deemed authentic when offered as evidence in the trial.
16. Pursuant to Rule 194 Texas Rules of Civil Procedure, Defendants are hereby put on Notice to comply with said rule by making Disclosure to the Plaintiff.

WHEREFORE, because of the negligence of the Defendants which proximately caused damages to Plaintiff, and because of the defamation that Defendants perpetrated upon Plaintiff and which proximately caused his damages, TOM HILL sues these defendants for compensation for his damages in the amount of SIXTY THOUSAND DOLLARS (\$60,000). Further, Plaintiff prays that Defendants be served with proper Citation and Notice of this suit, and that upon a fair and impartial trial of all the relevant facts, he have Judgment against the Defendants, jointly and severally for SIXTY THOUSAND DOLLARS (\$60,000).

RESPECTFULLY SUBMITTED



DON R. RIDDLE, ATTORNEY FOR PLAINTIFF

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