

No. C2010648

FILED FOR RECORD
HOOD COUNTY, TEXAS
2010 SEP 30 P 12:50
CLERK OF COURT
HOOD COUNTY TEXAS

LYNDA W. TOMLINSON and husband
DAVID TOMLINSON
v.

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IN THE DISTRICT COURT

HOOD COUNTY, TEXAS

355TH JUDICIAL DISTRICT

JOHN McCOMAS, CYNTHIA "CISSY"
WILSON, MARVIN JENSEN, TOM
ROMAN and MIKE ROBINIUS

PLAINTIFFS' ORIGINAL PETITION

TO THIS HONORABLE COURT:

Plaintiffs, LYNDA W. TOMLINSON and husband DAVID TOMLINSON, file this petition complaining of Defendants, JOHN McCOMAS, CYNTHIA "CISSY" WILSON, MARVIN JENSEN, TOM ROMAN and MIKE ROBINIUS, and say:

1.

As required by Rule 190.1 of the Texas Rules of Civil Procedure, plaintiffs intend to conduct discovery pursuant to Rule 190.3, Texas Rules of Civil Procedure, which is Level 2.

2.

Plaintiffs, Lynda W. Tomlinson, hereafter "Lynda," whose last three numbers of her Social Security number are 276 and whose last three numbers of her Texas driver's license number are 656, and her husband David Tomlinson, hereafter "David," whose last three numbers of his Social Security number are 850 and the last three numbers of his Texas driver's license number are 931, are residents of Hood County, Texas.

Defendant, John McComas, hereafter "McComas," is an individual residing at 5403 East Localizer Court, Airpark Section of Pecan Plantation, Hood County, Texas and may be served with process at that address.

Defendant Cynthia "Sissy" Wilson is an individual residing at 7000 Eagle Bluff Court, Pecan Plantation, Hood County, Texas and may be served with process at that address.

Defendant Marvin Jensen is an individual residing at 5501 Flagstick Drive, Airpark Section of Pecan Plantation, Hood County, Texas and may be served with process at that address.

Defendant Tom Roman is an individual residing at 9508 Bellechase Road, Pecan Plantation, Hood County, Texas and may be served with process at that address.

Defendant Mike Robinius is an individual residing at 6504 Westover Drive, Pecan Plantation, Hood County, Texas and may be served with process at that address.

3.

This Court has jurisdiction over this suit for defamation and loss of consortium because the amount of damages exceeds the minimum jurisdictional limit of the Court.

4.

Venue is proper in Hood County, Texas, because the defamation was published in Hood County, Texas.

5.

On October 5, 2009, defendants with McComas as their spokesperson, published to approximately 400 members of Pecan Plantation Owners' Association, hereafter "PPOA," and on a live closed circuit television channel on local cable television every few hours over the next

three days the knowingly false statement that Lynda's "single-minded rejection" of all requests made to her concerning a negotiated settlement of a lawsuit by the board of PPOA of which Lynda was only one of nine members who voted with six other members to two to accept the settlement, "not only caused PPOA serious money, thousands and possibly millions of dollars," but it eliminated the board's "ability to limit Anthony Groups' weight limits unless they are specifically working a (sic) on single family dwelling."

5.

This statement is defamatory because it has injured Lynda's reputation, exposing her to public hatred, contempt and ridicule impeaching her honesty, integrity and reputation.

6.

This statement was published with actual malice because it was knowingly false when published. Actual malice is further demonstrated because McComas, acting on behalf of the other defendants, published on that occasion other knowingly false statements in the written statement from which he read.

7.

Lynda has been damaged by this defamatory statement because she has been caused mental anguish requiring professional treatment, which has caused her to limit her public activities in the community where she lives where others having heard the publication have responded negatively to her since the publication who did not do so prior to its publication.

8.

As a result of the mental anguish caused Lynda, she and David have suffered loss of consortium.

9.

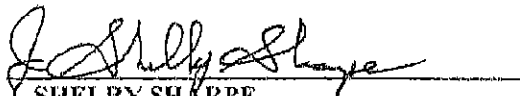
The damages they have suffered for a loss of consortium exceed the minimum jurisdiction of the Court.

10.

Because the defamation that was published by defendants was knowingly false, Lynda is entitled to recover exemplary damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Lynda W. Tomlinson and her husband, David Tomlinson, pray that Defendants John McComas, Cynthia "Cissy" Wilson, Marvin Jensen, Tom Roman and Mike Robinius be cited to appear and answer herein; that upon a final hearing hereof, they recover from defendants, jointly and severally, for actual damages plus Lynda recover exemplary damages with the total of all damages being not less than \$250,000.00, and for such other and further relief authorized by law.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

THE STATE OF TEXAS

TO: MCCOMAS, JOHN
5403 E. LOCALIZER CT.
AIRPARK SECT. OF PP
GRANBURY, TX. 76049

EMERGENCY SERVICE

YOU ARE HEREBY COMMANDED TO APPEAR BY FILING A WRITTEN ANSWER TO THE PLAINTIFF'S PETITION WITH THE DISTRICT CLERK, WHO IS THE CLERK FOR THE 355TH JUDICIAL DISTRICT COURT IN AND FOR HOOD COUNTY, LOCATED IN THE JUSTICE CENTER, 1200 W. PEARL ST. CITY OF GRANBURY, TEXAS.

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU.

THIS SUIT IS NUMBERED C2010648, WAS FILED IN THE 355TH JUDICIAL DISTRICT COURT ON September 30th, 2010, AND IS STYLED:

TOMLINSON, LYNDA W, ET AL PETITIONER
AND
MCCOMAS, JOHN, ET AL RESPONDENT

WHO ARE THE PARTIES IN THIS SUIT, AND THE NATURE OF THE SUIT IS SHOWN IN THE COPY OF THE PETITION, ATTACHED HERETO.

NAME & ADDRESS OF PLAINTIFF'S ATTORNEY:
J. SHELBY SHARPE
6100 WESTERN PLACE SUITE 1000
FORT WORTH, TEXAS 76107

WITNESS: TONNA TRUMBLE HITT
CLERK OF THE DISTRICT COURT,
HOOD COUNTY, TEXAS.
ISSUED AND GIVEN UNDER MY HAND
AND SEAL OF SAID COURT, AT
OFFICE IN GRANBURY, TEXAS, THIS
6th DAY OF October, 2010

TONNA TRUMBLE HITT
DISTRICT CLERK
JUSTICE CENTER, 1200 W. PEARL ST.
GRANBURY, TEXAS 76048

BY [Signature] DEPUTY

OFFICER'S OR AUTHORIZED PERSON'S RETURN

RECEIVED THIS CITATION ON THE 14 DAY OF Oct, 2010,
AT 1:56 O'CLOCK P.M. AND EXECUTED AT 5403 Localizer
WITHIN THE COUNTY OF Hood STATE OF TX ON THE
19 DAY OF Oct, 2010 BY DELIVERING TO THE WITHIN NAMED

[Signature]
A TRUE COPY OF THIS CITATION TOGETHER WITH THE ACCOMPANYING COPY OF PLAINTIFF'S PETITION, HAVING FIRST ENDORSED ON SAME THE DATE OF DELIVERY. THE METHOD OF SERVICE WAS THE UNDERSIGNED UPON OATH SAYS THAT HE/SHE IS A DISINTERESTED PERSON AND THAT HE/SHE IS OVER THE AGE OF 18 YEARS.

FEE \$

[Signature]
SHERIFF/CONSTABLE/AUTHORIZED PERSON
COUNTY OF STATE OF
BY DEPUTY

(MUST BE VERIFIED IF SERVED OUTSIDE THE STATE OF TEXAS OR SERVED BY A PERSON AUTHORIZED BY THE COURT.)

STATE OF COUNTY OF SIGNED AND SWORN
TO BY THE SAID
BEFORE ME ON THIS THE DAY OF, 20

NOTARY PUBLIC
COMMISSION EXPIRES:
PRINTED NAME:

(SEAL)