

FILED
FIFTH JUDICIAL DISTRICT

DEC 29 2017

Nye County Clerk
Juanita Torres Deputy

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9 *Attorney for Plaintiffs*

10 The undersigned does hereby affirm that this
11 document does not contain the social security
12 number of any person.

13 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE**
14 **COUNTY OF NYE, STATE OF NEVADA**

15 DENNIS HOF, DONALD COX and JOSEPH
16 BURDZINSKI,

17 Plaintiffs,

18 vs.

19 ANDREW "BUTCH" BORASKY, DOES I-X
20 and CORPORATE ROWES I-X
21 Defendants.

Case No: CV 38944
Dept. 2

AMENDED COMPLAINT

22 Plaintiffs DENNIS HOF, DONALD COX and JOSEPH BURDZINSKI (collectively referred
23 to as "Plaintiffs") by and through their attorney of record, Thomas J. Gibson, Esq., of GIBSON
24 LAW GROUP, PLLC, for causes of actions against Defendants ANDREW "BUTCH"
25 BORASKY, DOES I-X and CORPORATE ROES I-X inclusive (collectively referred to as
26 "Defendants") complains and for causes of action alleges as follows:

27 **FIRST CAUSE OF ACTION**

28 **DEFAMATION OF CHARACTER-SLANDER**

1. Plaintiffs are individuals and are now, and at all times mentioned in this complaint were, residents of Nye County, Nevada
2. Plaintiff Hof is a business owner and has resided in The State of Nevada for 42 years. Plaintiff Hof has during all this time enjoyed a good reputation, both generally and in

1 occupation. Plaintiff Hof ran for State Assembly in the 36th District in year 2016 and
2 intends to do the same in the next election cycle in 2018. Plaintiff Hoff is also an author
3 and has starred in nationally televised programs which include HBO and Cinemax.

- 4 3. Plaintiff Cox is a local community activist and is married to Nye County Commissioner
5 Donna Cox. He is also occupied as retired painter. He is has resided in the State of Nevada
6 for 69 years. Plaintiff Cox has all this time enjoyed a good reputation, both generally and
7 in occupation.
- 8 4. Plaintiff Burdzinski is occupied as the Chairman of the Nye County Republican Central
9 Committee and has been so since April 2016. He is also a retired Administrator and Adjunct
10 professor. He has resided in Nevada since July, 2015. Plaintiff Burdzinski during all this
11 time has enjoyed a good reputation, both generally and in occupation.
- 12 5. Defendant Borasky, a Nye County Commissioner and is an individual and is now, and at
13 all times mentioned in this complaint was, a resident of Nye County, Nevada.
- 14 6. The true names of Defendants DOES 1 through 50, inclusive, are unknown to Plaintiffs at
15 this time. Plaintiffs sue those Defendants by such fictitious names pursuant to the Nevada
16 Rules of Civil procedure. Plaintiff is informed and believes, and based on that information
17 and belief alleges, that each of the Defendants designated as a DOE and/or ROE are legally
18 responsible for the events and happenings referred to in this complaint, and unlawfully
19 caused the injuries and damages to Plaintiff alleged in this complaint.
- 20 7. Plaintiffs are informed and believe, and based on that information and belief alleges, that
21 at all times mentioned in this complaint, Defendant Borasky was not acting in his capacity
22 as Nye County Commissioner but rather, was acting in his individual capacity as a private
23 citizen.
- 24 8. On or about November 28, 2017, defendant published a defamatory statement regarding
25 each of the named Plaintiffs to wit: By making an unsubstantiated statement about his "Gut
26 Feeling" at the close of business of a regular meeting of the Nye County Commission, that
27 "three persons had his number." If my life is taken away from me" it would have been one
28 of the three named Plaintiffs.
9. The Defendant Borasky also said he was going to inform all the Sheriffs' and other
authorities of his gut feeling that someone was going to murder him. All the above was
stated by Defendant Borasky in a recorded public forum.

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10. The entire statement of Defendant Borasky's gut feeling that he would be murdered and it would be done by one of the three named Plaintiffs, is false as it pertains to Plaintiffs, and each of them. To make matters worse, a regularly scheduled meeting of the Commission is not the proper forum to air personal grievances, especially by a Commissioner.
11. Defendant Borasky's public and defamatory statement is slanderous on its face. It clearly exposes Plaintiffs to hatred, contempt, ridicule and obloquy because accusing persons of planning to murder another human, without proof and based on obvious paranoia, which was admittedly a "Gut Feeling" shows a statement that is slanderous on its face, and was made with reckless disregard of the truth and with obvious malice.
12. Defendant Borasky's unwarranted public statement was additionally seen on or about November 30, 2017 by members of the general public when a video of Defendant Borasky's delusional statement was aired by local news channel KPVM, and was additionally posted on YouTube which makes it available worldwide with the touch of a button.
13. Defendant Borasky told persons in the community that he made the above-referenced statement against the Plaintiffs for political purposes.
14. As a proximate result of the above-described publication, Plaintiffs, and each and every one of them, has suffered loss of their reputations, shame, mortification, and injury to their feelings, all to their individual damages in the total amount of over \$10,000.00 (Ten Thousand Dollars) the exact damage amount to be determined at trial.
15. The above-described publication was not privileged because it was published by Defendant Borasky with malice, hatred and ill will toward Plaintiffs and the desire to injure Plaintiffs and each and every one, in that Defendant Borasky had expressed that any one of the Plaintiffs are capable of and are likely to murder the Defendant. Because of Defendants malice in publishing said statement in a public forum, with the intent of damaging the Plaintiffs reputations, Plaintiffs seek punitive damages in the total amount of \$100,000.00 or, if the action is brought in District Court, a total amount to be established by proof at trial.

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SECOND CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

16. Plaintiffs incorporate by reference all allegations contained in paragraphs 1-15 as stated above.
17. Defendant Borasky as a Nye County Commissioner owes a duty of due care to Plaintiffs and each of them.
18. Defendant Borasky breached his duty of due care by publishing his statement in a public and recorded forum is said statement accused Plaintiffs of planning his demise.
19. Defendant Borasky's public, recorded and slanderous statement was made to embarrass, humiliate and disparage the character of each of the Plaintiffs.
20. Defendant Borasky is believed to be associated with Plaintiff Hoff's opponent in the prior election for State Assembly and was motivated to harm Plaintiff Hoff's chances in the 2018 election.
21. Defendant Borasky harbors a grudge against Plaintiff Burdzinski for his support of Plaintiff Hof in his election bid.
22. Defendant Borasky harbors a grudge against Plaintiff Cox mainly because Mr. Cox's wife is also a Nye County Commissioner and he apparently dislikes Commissioner Cox and apparently intends to damage Ms. Cox's political career through an attempted "Guilt by Association."
23. It is alleged and upon information and belief that Defendant Borasky told others that he made the above disparaging statement about the Plaintiffs for political purposes.
24. As a proximate result of the above-described publication, plaintiffs, and each and every one of them, has suffered loss of their reputations, shame, mortification, and injury to their emotional wellbeing, all to their individual damages in the total amount of over \$10,000.00 (Ten Thousand Dollars) the exact damage amount to be determined at trial.
25. The above-described publication was not privileged because it was published by Defendant Borasky with malice, hatred and ill will toward Plaintiffs and the desire to injure Plaintiffs and each and every one, in that Defendant Borasky had expressed that any one of the Plaintiffs are capable of and are likely to murder the Defendant. Because of Defendant Borasky's malice in publishing said statement in a public forum, with the intent of damaging the Plaintiffs reputations, Plaintiffs seek punitive damages in the total amount of

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1 \$100,000.00 or, if the action is brought in District Court, a total amount to be established
2 by proof at trial.

3 **THIRD CAUSE OF ACTION**

4 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

5 26. Plaintiffs incorporate by reference all allegations contained in paragraphs 1-25 as stated
6 above.

7 27. Plaintiff Hof has a prospective political contractual relationship with the electorate as he
8 has run a campaign and intends to continue his efforts to be elected to the State Assembly
9 and Defendant Borasky having knowledge of the prospective contract, intentionally
10 interfered with said relationship.

11 28. Defendant Borasky has knowledge of the prospective contract between Plaintiffs and the
12 local electorate.

13 29. Defendant Borasky intended to harm the relationship the Plaintiffs have with the Nye
14 County electorate.

15 30. While Defendant Borasky enjoys a limited privilege for actions taken as a member of the
16 Nye County Commission, he is not privileged from making willful reckless and politically,
17 economic and personal attacks, while using the Nye County Commission chambers as his
18 bully pulpit. Defendant Borasky has no legal justification for publishing his disparaging
19 statements against the Plaintiffs and each of them.

20 31. The Plaintiffs and each of them have been damaged in that their character has been
21 maligned and assailed for apparent political purposes and have suffered damage to their
22 reputations in the community as a result.

23 32. As a proximate result of the above-described publication, Plaintiffs, and each and every
24 one of them, has suffered loss of their reputations, shame, mortification, and injury to their
25 emotional wellbeing and business and political careers, all to their individual damages in
26 the total amount of over \$10,000.00 (Ten Thousand Dollars) the exact damage amount to
27 be determined at trial.

28 33. The above-described publication was not privileged because it was published by defendant
with malice, hatred and ill will toward Plaintiffs and the desire to injure Plaintiffs and each
and every one, in that Defendant Borasky had expressed that any one of the Plaintiffs are

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1 capable of and are likely to murder the Defendant. Because of Defendant Boraskys' malice
2 in publishing said statement in a public forum, with the intent of damaging the Plaintiffs
3 reputations, Plaintiffs seek punitive damages in the total amount of \$100,000.00 or, if the
4 action is brought in District Court, a total amount to be established by proof at trial.


5 **FOURTH CAUSE OF ACTION**
6 **NEGLIGENCE**

- 7 34. Plaintiffs incorporate by reference all allegations contained in paragraphs 1-33 as stated
8 above.
9 35. Defendant Borasky has a legal duty of due care to the Plaintiffs and each of them.
10 36. Defendant Borasky breached his duty of due care to the Plaintiffs and each of them by
11 publishing his defamatory statement in a public forum.
12 37. Defendant Borasky's defamatory statements against the Plaintiffs caused immediate
13 damage to them as said defamatory statement was done in a public forum and was
14 recorded and archived at the Nye County website.
15 38. Plaintiffs and each of them were damaged in reputation and to their pecuniary interests
16 and continue to be damaged in an amount over \$10,000.00.

17 **WHEREFORE**, Plaintiff demands judgment against Defendants, and each of them, for:

- 18 1. Compensatory damages according to proof;
19 2. Punitive damages;
20 3. Interest as allowed by law;
21 4. Costs of suit; and
22 5. Such other and further relief as this court may deem just and proper.

23 DATED this 29 day of December, 2017.

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25 _____
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