

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

ERIC DIBARTOLO,

Plaintiff/Petitioner,

- against -

Index No. 50706/2012

WILLIAM LAPIERRE and FRED GULITZ,

Defendant/Respondent.

**NOTICE OF COMMENCEMENT OF ACTION
SUBJECT TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above, which has been commenced by filing of the accompanying documents with the County Clerk, is subject to mandatory electronic filing pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts. This notice is being served as required by Subdivision (b) (3) of that Section.

The New York State Courts Electronic Filing System ("NYSCEF") is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and self-represented parties. Counsel and/or parties who do not notify the court of a claimed exemption (see below) as required by Section 202.5-bb(e) must immediately record their representation within the e-filed matter on the Consent page in NYSCEF. Failure to do so may result in an inability to receive electronic notice of document filings.

Exemptions from mandatory e-filing are limited to: 1) attorneys who certify in good faith that they lack the computer equipment and (along with all employees) the requisite knowledge to comply; and 2) self-represented parties who choose not to participate in e-filing. For additional information about electronic filing, including access to Section 202.5-bb, consult the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Dated: 1/25/2012

 (Signature)

Amy L. Bellantoni, Esq.

(Name)

The Bellantoni Law Firm, LLP

(Firm Name)

2 Overhill Road, Suite 400 (Address)
Scarsdale, New York 10583

914.367.0090 (Phone)

abell@bellantoni-law.com (E-Mail)

To: William LaPierre
1223 McKeel Street
Yorktown Heights, NY
Fred Gulitz
2117 Laurel Court
Yorktown Heights, NY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

ERIC DIBARTOLO,

Plaintiff,

-against-

WILLIAM LaPIERRE and FRED GULITZ,

Defendants.

To the above named Defendants:

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of new York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: Scarsdale, New York
January 18, 2012

Defendants' address:

William LaPierre
1223 McKeel Street
Yorktown Heights, NY

Fred Gulitz
2117 Laurel Court
Yorktown Heights, New York

Index No.: 50706/2012

Plaintiff designates

Westchester

County as the place of trial

*The basis of venue is Plaintiff's
And Defendants' Residences*

Summons

County of Westchester

THE BELLANTONI LAW FIRM, LLP
Attorneys for Plaintiff

By: 

AMY J. BELLANTONI
2 Overhill Road, Suite 400
Scarsdale, New York 10583
(914) 367-0090
abell@bellantoni-law.com

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
ERIC DIBARTOLO,

Plaintiff,

-against-

WILLIAM LaPIERRE and FRED GULITZ,

Defendants.
-----X

Index No.: 2012/ 50706

COMPLAINT

Jury Trial Demanded

Plaintiff ERIC DIBARTOLO, through his attorneys The Bellantoni Law Firm, LLP, for his complaint respectfully states:

NATURE OF THE ACTION

1. This is an action for compensatory and punitive damages, proximately resulting from the defendants' *per se* defamatory statements.

THE PARTIES

2. Plaintiff ERIC DIBARTOLO (hereinafter "Plaintiff") at all times relevant to this complaint was employed by the Town of Yorktown, New York as the Yorktown Highway Superintendent. Plaintiff is a resident of the Town of Yorktown, County of Westchester, New York.

3. Defendant WILLIAM LaPIERRE (hereinafter "LaPierre") at all times relevant to this complaint was an owner of the Clark Funeral Home, a competitor of the Yorktown Funeral Home. LaPierre resides in the Town of Yorktown, County of Westchester, New York.

4. Defendant FRED GULITZ, New York (hereinafter "Gulitz") at all times relevant to this complaint was a friend and co-conspirator of LaPierre. Gulitz resides in the Town of Yorktown, County of Westchester, New York.

MATERIAL FACTS

5. Plaintiff has been the Yorktown Highway Superintendent since 1996.

6. Plaintiff is a partner in the Yorktown Funeral Home, located in the Town of Yorktown, New York (the "Town").

7. The Yorktown Funeral Home opened for business on January 25, 2011.

8. Until the opening of the Yorktown Funeral Home, Clark Funeral Home, was the only funeral home in Yorktown.

9. Clark Funeral Home at all times relevant herein was owned by LaPierre.

10. Yorktown Funeral Home is a more modern, renovated and updated funeral home than Clark Funeral Home.

11. Yorktown Funeral Home is more easily accessible to customers than Clark Funeral Home, and is located in very close proximity to the Taconic Parkway.

12. Yorktown Funeral Home is more spacious than Clark Funeral Home.

13. LaPierre's profits are now threatened by the presence of Yorktown Funeral Home because Clark Funeral Home is no longer the sole funeral home in Yorktown.

14. In order to harm Plaintiff's reputation, and also harm the only direct competition for Clark Funeral Home, LaPierre publicly and falsely accused Plaintiff of using Town resources for his own personal gain.

15. Gulitz has also publicly accused Plaintiff of using Town resources for his own personal gain and for the benefit of the Yorktown Funeral Home.

16. In a January 25, 2011 article published in the Yorktown Examiner, published on the same day that the Yorktown Funeral Home opened, LaPierre publicly alleged that the only reason that Plaintiff opened the Yorktown Funeral Home was to “get back” at LaPierre.

17. On the same day that Yorktown Funeral Home opened for business, and on January 25, 2011, The Yorktown Examiner published an article wherein LaPierre falsely accused Plaintiff of “us[ing] a Town salt truck in the Yorktown Funeral Home parking lot.”

18. On February 3, 2011, at a televised Town of Yorktown Board meeting, Gulitz stated publicly that Plaintiff was violating the law by having one of his Town employees plow and salt the parking lot of the Yorktown Funeral Home, inappropriately using tax payer funds to do so.

19. A recording of the comments made by Gulitz during the February 3, 2011 Town of Yorktown Board meeting continues to be published on the Town of Yorktown website.

20. On Thursday, February 17, 2011, The Westchester Guardian published an article wherein LaPierre and Gulitz falsely and publicly accused Plaintiff of “us[ing] town trucks and employees to complete the new funeral home.”

21. Approximately one month prior to the opening of the Yorktown Funeral Home, LaPierre purchased a two-page advertisement in the Yorktown Examiner falsely accusing Plaintiff for engaging in fraud as Highway Superintendent.

22. Gulitz and LaPierre have followed Plaintiff around in public while taking pictures of Plaintiff with the hopes of “catching” him improperly using Town resources.

23. Plaintiff filed a complaint with the Yorktown Police Department against LaPierre for harassing him by following him around and taking pictures.

24. Gulitz has no pictures of Plaintiff improperly using Town resources for his own personal advantage.

25. Gulitz has no credible evidence that Plaintiff improperly used Town resources for his own personal advantage.

26. LaPierre has no pictures of Plaintiff improperly using Town resources for his own personal advantage.

27. LaPierre has no credible evidence that Plaintiff improperly used Town resources for his own personal advantage.

28. Each of the statements made about Plaintiff by LaPierre and Gulitz was and continues to be:

- i) absolutely, completely and in every respect materially and knowingly false;
- ii) knowingly and intentionally uttered by LaPierre and Gulitz in bad faith, with actual malice and in calculated and/or reckless disregard of the truth;
- iii) published by LaPierre and Gulitz without benefit of any privilege/authorization;
- iv) intended by LaPierre and Gulitz to impute to Plaintiff unfitness to engage in his professional activities as the Yorktown Highway Superintendent;
- v) intended by LaPierre and Gulitz to malign Plaintiff's personal and business reputation as Highway Superintendent and partner in Yorktown Funeral Home;
- vi) intended by LaPierre and Gulitz to expose Plaintiff to public contempt, ridicule, aversion, disgrace and/or to induce an evil opinion of Plaintiff in the minds of right-thinking persons and to deprive Plaintiff of their friendly intercourse in society;

vii) intended by LaPierre and Gulitz to harm Plaintiff's business as related to the Yorktown Funeral Home; and

viii) intended by Gulitz and LaPierre to publicly accuse Plaintiff of engaging in criminal activity.

29. As a proximate result of Defendant's conduct, Plaintiff has been caused to suffer: *per se* defamation; irreparable injury to his professional reputation; emotional upset; anxiety; stress, public humiliation and public embarrassment.

AS AND FOR PLAINTIFF'S CLAIMS

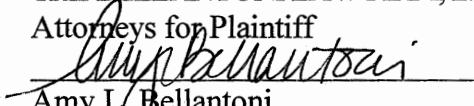
30. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "29", inclusive.

31. Each of Defendants' published utterances constitutes *per se* defamation and are actionable for damages under the common law of the State of New York.

WHEREFORE a judgment is respectfully demanded:

- a. Awarding such compensatory and punitive damages against LaPierre, but not less than \$500,000, respectively, as the jury may determine;
- b. Awarding such compensatory and punitive damages against Gulitz, but not less than \$500,000, respectively, as the jury may determine;
- c. Granting such other and further relief as to the Court seems just and proper.

Dated: Scarsdale, New York
January 18, 2012

By: 
THE BELLANTONI LAW FIRM, LLP
Attorneys for Plaintiff
Amy L. Bellantoni
2 Overhill Road, Suite 400
Scarsdale, New York 10583
(914) 367-0090

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

ERIC DIBARTOLO,

Plaintiff,

-against-

WILLIAM LAPIERRE and FRED GULTZ,

**SUMMONS, COMPLAINT AND NOTICE OF COMMENCEMENT OF ACTION
SUBJECT TO MANDATORY E-FILEING**

THE BELLANTONI LAW FIRM, LLP
Attorneys for PLAINTIFF
2 OVERHILL ROAD, SUITE 400
SCARSDALE, NEW YORK 10583
(914) 367-0090

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF
ENTRY

that the within is a true copy of a
entered in the office of the clerk of the within named Court on

20

NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon.
one of the judges of the within named Court, on 2005, at m.

Dated:

THE BELLANTONI LAW FIRM, LLP

Attorneys for PLAINTIFF

2 OVERHILL ROAD, SUITE 400
SCARSDALE, NEW YORK 10583
914.367.0090

To:

Attorney(s) for