

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
13th DIVISION

RICHARD J. PELTZ

PLAINTIFF

v.

Case No. CV 2008-2530

VALERIE D. NATION,
CHRISHAUNA L. CLARK,
ERIC S. BUCHANAN,
as an individual and representative
of THE W. HAROLD FLOWERS
LAW SOCIETY; and
THE W. HAROLD FLOWERS LAW SOCIETY

FILED 06/09/08 14:26:23
Pat O'Brien Pulaski Circuit Clerk

DEFENDANTS

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Richard J. Peltz ("Peltz"), for his First Amended Complaint against the Defendants Valerie D. Nation ("Nation"), Chrishauna L. Clark ("Clark"), Eric S. Buchanan ("Buchanan"), as an individual and representative of the W. Harold Flowers Law Society, and the W. Harold Flowers Law Society ("the WHFLS") (collectively "Defendants"), states:

PARTIES

1. Peltz is an individual resident and citizen of Little Rock, Pulaski County, Arkansas.
2. Upon information and belief, Nation is an individual resident and citizen of Little Rock, Pulaski County, Arkansas.
3. Upon information and belief, Clark is an individual resident and citizen of Little Rock, Pulaski County, Arkansas.
4. Upon information and belief, Mr. Buchanan is an individual resident and citizen of Little Rock, Pulaski County, Arkansas. At all times relevant to the allegations in this

Complaint, upon information and belief, Mr. Buchanan was a member and officer of the WHFLS.

5. Upon information and belief, the WHFLS is a non-profit corporation registered in Arkansas and whose principal place of operation is in Little Rock, Pulaski County, Arkansas. The WHFLS is an affiliate chapter of the National Bar Association.

VENUE AND JURISDICTION

6. This Court has jurisdiction over the parties to and subject matter of this litigation under Ark. Code Ann. §§ 16-13-201, 16-4-201, and 16-58-201.

7. Venue is proper in this county pursuant to Ark. Code Ann. §§ 16-60-104 and 16-60-116.

FACTS

8. Peltz joined the faculty at the University of Arkansas at Little Rock, William H. Bowen School of Law ("Bowen School of Law") in 1998 and is now a tenured Professor of Law with an exemplary record teaching Torts, Constitutional Law, Communications Law, First Amendment Law, and Freedom of Information Law.

9. Because he is tenured, Peltz has a valid contractual relationship with the University of Arkansas System. A copy of University of Arkansas Board of Trustee's Policy on Appointments, Promotions, Tenure, Non-Reappointment, and Dismissal of Faculty is attached hereto and incorporated herein as Exhibit 1.

10. Nation was a student at the Bowen School of Law during the 2004 to 2008 academic years.

11. Clark was a student at the Bowen School of Law during the 2005 to 2008 academic years.

12. Buchanan is an attorney in Little Rock, Arkansas, and at all times relevant to the allegations in this Complaint was the president of the WHFLS.

13. The WHFLS is an African-American Bar Association located in Arkansas and is an affiliate chapter of the National Bar Association.

14. In the fall semester of the 2005-2006 academic year, and at the request of the Bowen School of Law's chapter of the Black Law Student Association ("BLSA"), Peltz participated in a BLSA-sponsored debate regarding affirmative action. In the debate, the BLSA requested that Peltz explain and defend the views opposing the policy of affirmative action.

15. Later in the same fall semester, members of the BLSA who were in Peltz's Constitutional Law class lodged complaints against Peltz for teaching affirmative action in an allegedly "racist" manner.

16. In the spring of 2006, Peltz was a visiting professor at the Catholic University of America's Columbus School of Law. Although Peltz was on and off the Bowen School of Law's campus during the fall of 2006, he was considered to be on a sabbatical from his professorship at the Bowen School of Law.

17. Peltz returned to the Bowen School of Law to fulfill his obligations as a Professor of Law in the spring of 2007.

18. On or about February 15, 2007, Peltz attended a meeting, at the request of the then Editor-in-Chief of the *University of Arkansas at Little Rock Law Review* ("the *Law Review*"), amid false accusations that she and the *Law Review*'s Editorial Board were purportedly "racist" for failing to appoint black law students to the *Law Review*'s next Editorial Board (hereinafter referred to as "the *Law Review* meeting").

19. Upon information and belief, after the *Law Review* meeting, the BLSA, including Nation and Clark, as well as other unknown members of BLSA, continued to falsely accuse Peltz, the *Law Review*, and its Editorial Board of racism.

20. On or about February 22, 2007, Peltz received an evaluation entitled "Annual Performance Review" from the Dean of the Bowen School of Law, Charles "Chuck" Goldner ("Dean Goldner"). In the evaluation, Dean Goldner commented on Peltz's "exceptional record of scholarship" and his "substantial and impressive amount of discipline-related service." Peltz's accomplishments and performance led Dean Goldner to conclude that Peltz's "outstanding work" supported an evaluation of "satisfactory." A copy of Peltz's February 22, 2007 Annual Performance Review is attached hereto and incorporated herein as Exhibit 2.

21. Upon information and belief, on or about March 2, 2007, Nation and Clark, and/or other unknown members of BLSA, published a six-page memorandum entitled "Request for Redress" to Dean Goldner. The "Request for Redress" requested that the administration reprimand Peltz for his "Affirmative Action Rant," which included stripping Peltz of his required courses, *i.e.*, Constitutional Law and Torts. Likewise, the memorandum communicated and republished false defamatory accusations of racism that were made against Peltz in the fall of 2005 concerning his Constitutional Law class. In addition to restating the false accusations, the memorandum implicitly labeled Peltz a racist. A redacted version of the Request for Redress is attached hereto and incorporated herein as Exhibit 3.

22. Upon information and belief, on or about March 2, 2007, Nation and Clark, and/or other unknown members of BLSA, published an email entitled "Racial Tension Grows At UALR's Law School," to members of the WFHLS requesting that members of the WFHLS attend a meeting scheduled for March 3, 2007 between the BLSA and Dean Goldner. Although

the purpose of the March 3, 2007, meeting was to discuss diversity at the Bowen School of Law, the BLSA, including Nation, Clark, and/or other unknown members of BLSA, felt it important to have the WHFLS at the meeting "as a show of support" so that the Bowen School of Law's administration and faculty did not "once again sweep pressing issues under the rug." Further, Nation and Clark, and/or other unknown members of BLSA, attached BLSA's "Request for Redress" to the email sent to the WHFLS. A redacted version of the March 2, 2007, email is attached hereto and incorporated herein as Exhibit 4. In addition to republishing defamatory statements, the email implied that Peltz was a racist.

23. Upon information and belief, the WHFLS complied with Nation's and Clark's request, and the WHFLS's president, Buchanan, attended the March 3, 2007 meeting between BLSA's members and Dean Goldner. During the meeting, upon information and belief, Buchanan confronted Dean Goldner for not firing Peltz due to his allegedly "racist" remarks. Upon information and belief, Clark and Nation likewise made allegations that Peltz was a "racist" in the meeting with Dean Goldner.

24. Upon information and belief, on or about March 9, 2007, Dean Goldner held a meeting involving student leaders, faculty, and administrators, including persons who had not previously heard Nation's, Clark's, and/or other unknown BLSA members' false accusations against Peltz. In this meeting, Nation was given a platform to communicate and/or publish false accusations of racism against Peltz stating that she became concerned about Peltz's participation in situations involving African-Americans students because of his racial views. In addition to being defamatory on their face, the statements of Nation implied that Peltz was a racist. These false accusations damaged Peltz, his reputation, his character, and his integrity.

25. On or about April 16, 2007, the WHFLS and Buchanan continued their false defamatory accusations against Peltz. In a letter to Dean Goldner, which carbon-copied the Office of the Chancellor, the Office of the Provost and Vice Chancellor for Academic Affairs, and members of the Bowen School of Law's faculty, Buchanan communicated and/or published that WHFLS was "appalled by the racist remarks made by [Peltz]" which Dean Goldner knew about as a result of the BLSA's "Request for Redress." The Letter from Buchanan to Dean Goldner is attached hereto and incorporated herein as Exhibit 5.

26. Upon information and belief, in June of 2007, Dean Goldner attended a meeting with the WHFLS where Buchanan again requested that Peltz be fired because of his allegedly "racist" remarks. In response, Dean Goldner stated that he felt the issue with Peltz was resolved and that no further action would be taken against Peltz.

27. Upon information and belief, since the *Law Review* meeting and to the present, Defendants have continued to accuse Peltz of racism and of being a racist in the Bowen School of Law community and the Arkansas legal community.

28. Upon information and belief, Defendants knew that Peltz was a tenured professor who could only be discharged or disciplined for good cause.

29. Upon information and belief, Defendants knew that the charge of racism and of being a racist against Peltz would constitute the good cause needed for the school to discharge or discipline Peltz.

30. Upon information and belief, Defendants made the charge of racism against Peltz, even though palpably false, in order to interfere with Peltz's contractual relationship with the University of Arkansas System.

31. Upon information and belief, Defendants made the charge of racism against Peltz, even though palpably false, in order to force Peltz's resignation and/or to induce the University of Arkansas System to discharge or discipline Peltz.

32. Peltz filed his initial Complaint in this matter on March 7, 2008.

33. Since filing his initial Complaint in this matter, Defendants have induced the University of Arkansas System to strip Peltz of his teaching duties in connection with certain required courses for the Fall of 2008.

COUNT I – DEFAMATION

34. Plaintiff reasserts and restates paragraphs 1 to 33 set forth above.

35. Nation as an individual stated false statements of fact and used defamatory language of and concerning Peltz, his reputation, his character, and his integrity. Upon information and belief, Nation was one of the authors of the March 2, 2007, six page memorandum and March 2, 2007, email. In addition, Nation made slanderous statements accusing Peltz of being a racist in gatherings, including the March 9, 2007 meeting called by Dean Goldner.

36. Clark as an individual stated false statements of fact and used defamatory language of and concerning Peltz, his reputation, his character, and his integrity. Upon information and belief, Clark was one of the authors of the March 2, 2007, six page memorandum and March 2, 2007, email. In addition, upon information and belief, Clark made slanderous statements accusing Peltz of being a racist in gatherings, including the March 3, 2007 meeting with Dean Goldner.

37. Buchanan was a member of and held the office of president in the WHFLS. Buchanan spoke as an individual and representative of the WHFLS when he stated false

statements of fact and used defamatory language of and concerning Peltz, his reputation, his character, and his integrity.

38. Peltz is a "private individual" for purposes of the Arkansas law of defamation.

39. Defendants' false accusations of racism against Peltz as set forth above, were defamatory and reasonably calculated to cause harm to Peltz, his reputation, his character, and his integrity.

40. The defamatory language that Defendants used has negatively affected Peltz's reputation, character, and integrity.

41. Defendants' false accusations of racism of and concerning Peltz were communicated and/or published to third-parties at the Bowen School of Law and within the Arkansas legal community.

42. Defendants' communications and/or publications of and concerning Peltz and his alleged racism were made negligently, intentionally, and/or with actual malice and conscious indifference to the rights of Peltz and the consequences the communications and/or publications may have on Peltz's reputation, character, and integrity.

43. Defendants' false accusations of racism damaged Peltz's reputation, character, and integrity among the community at the Bowen School of Law and Peltz's reputation, character, and integrity in the Arkansas legal community.

44. The extent of Peltz's damages caused by Defendants' defamation is not fully known at this time. He has suffered actual damages and losses, as well as physical and mental anguish and suffering, brought about by Defendants' false accusations of racism against Peltz. As discovery in this case develops, it will be possible to predict with greater accuracy what plaintiff's full damages will be, but it may be estimated that his reasonable actual losses,

diminished earning capacity, and diminished other sources of income, along with his mental anguish and suffering, will exceed the jurisdictional limits for diversity jurisdiction in Federal district court.

COUNT II – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

45. Plaintiff reasserts and restates paragraphs 1 to 44 as set forth above.

46. As a tenured professor at the Bowen School of Law, Peltz possesses a contractual relationship with the University of Arkansas System. *See* Ex. 1.

47. Defendants knew that, as a tenured professor at the Bowen School of Law, Peltz possesses a contractual relationship with the University of Arkansas System.

48. With knowledge of Peltz's contractual relationship with the University of Arkansas System, Defendants intentionally and improperly interfered with the relationship thereby inducing and causing an interruption of the contractual expectancies between Peltz and the University of Arkansas System.

49. Defendants' intentional and improper interference with Peltz's contractual relationship with the University of Arkansas System included, but is not limited to, the willful, wanton, and intentional inducement of the University of Arkansas System to strip Peltz of his teaching duties in connection with certain required courses for the Fall of 2008.

50. Defendants' intentional and improper interference with the contractual relationship between Peltz and the University of Arkansas System has caused Peltz to suffer damage.

51. The extent of Peltz's damages caused by Defendants' intentional and improper interference with Peltz's contractual relationship with the University of Arkansas System is not fully known at this time. He has suffered actual damages and losses, as well as physical and

mental anguish and suffering, brought about by Defendants' intentional and improper interference with Peltz's contractual relationship with the University of Arkansas System. As discovery in this case develops, it will be possible to predict with greater accuracy what Peltz's full losses will be, but it may be estimated that his reasonable actual losses, diminished earning capacity, and diminished other sources of income, along with his mental anguish and suffering, will exceed the jurisdictional limits for diversity jurisdiction in Federal district court.

COUNT III – CIVIL CONSPIRACY

52. Plaintiff reasserts and restates paragraphs 1 to 51 as set forth above.

53. Defendants did combine together with the specific intent to accomplish a campaign of defamation against Peltz, damaging Peltz's reputation, character, and integrity among the community at the Bowen School of Law and the Arkansas Legal community.

54. Defendants did combine together with the specific intent to accomplish an intentional and improper interference with Peltz's contractual relationship with the University of Arkansas System.

55. Defendants did combine together with the specific intent to force Peltz to resign and/or to induce the University of Arkansas System to terminate Peltz's employment.

56. The purposes that Defendants combined to accomplish were unlawful, immoral, and oppressive.

57. The purposes that Defendants combined to accomplish were unlawful, immoral, and oppressive.

58. Defendants caused injury and damage to Peltz, and Peltz is entitled to judgment against Defendants for conspiracy to commit defamation, conspiracy to interfere with Peltz's and

the University of Arkansas System's contractual relationship, and conspiracy to force Peltz to resign and/or to induce the University of Arkansas System to terminate Peltz's employment.

59. The extent of Peltz's damages caused by Defendants' conspiracy to commit defamation and Defendants' conspiracy to interfere with Peltz's and the University of Arkansas System's contractual relationship and conspiracy to force Peltz to resign and/or induce the University of Arkansas System to terminate Peltz's employment is not fully known at this time. He has suffered actual damages and losses, as well as physical and mental anguish and suffering, brought about by Defendants' conspiracy. As discovery in this case develops, it will be possible to predict with greater accuracy what Peltz's full losses will be, but it may be estimated that his reasonable actual losses, diminished earning capacity, and diminished other sources of income, along with his mental anguish and suffering, will exceed the jurisdictional limits for diversity jurisdiction in Federal district court.

COUNT IV – PUNITIVE DAMAGES

60. Plaintiff reasserts and restates paragraphs 1 to 59 as set forth above.

61. Peltz should be awarded punitive damages sufficient to punish Defendants for their reckless, malicious, intentional, and wanton conduct.

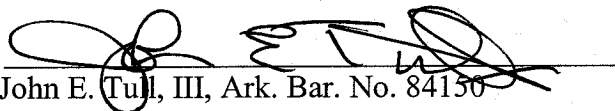
62. Peltz should be awarded punitive damages sufficient to set an example and to discourage Defendants from engaging in future conduct of a similar nature.

63. Peltz requests a jury trial on all appropriate issues.

WHEREFORE, Plaintiff Richard J. Peltz prays that this Court enter judgment in his favor and against Valerie D. Nation; Chrishauna L. Clark; Eric S. Buchanan; and the W. Harold Flowers Law Society, individually, jointly, and severally, on this First Amended Complaint; award Plaintiff compensatory and punitive damages each in an amount exceeding the

jurisdictional limits for diversity cases in Federal district court; award Plaintiff attorney's fees, costs, prejudgment and post-judgment interest; and award all other proper relief to which Plaintiff is entitled.

QUATTLEBAUM, GROOMS,
TULL & BURROW PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
(501) 379-1700

By: 
John E. Tull, III, Ark. Bar. No. 84150

Attorneys for Richard J. Peltz

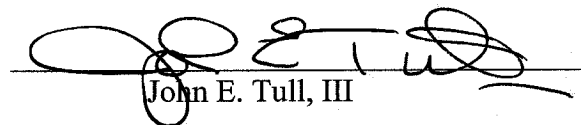
CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2008, a copy of the foregoing was served by United States mail with postage prepaid upon:

Leigh Anne Yeargan, Esq.
MITCHELL WILLIAMS
425 W. Capitol Avenue
Suite 1800
Little Rock, AR 72201

Clayborne S. Stone, Esq.
WILLIAMS & ANDERSON PLC
111 Center Street
Suite 2200
Little Rock, AR 72201

Troy A. Price, Esq.
WRIGHT, LINDSEY & JENNINGS
200 West Capitol, Suite 2300
Little Rock, AR 72201


John E. Tull, III