

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

SUGAR CREEK CARRIAGES,
JOHNNY SMITH, and BRENDA
SMITH,
Plaintiffs,

v.

MELODY ROBINSON,
AMERICAN MELODY CARRIAGES,
CLINTON LEMOINE,
MICHAEL “PAUL” MORRISON
SOUTHERN COMFORT CARRIAGES
STACEY RENEE ROMINES,
CHELSEA COLEMAN HARPER,
CHARLOTTE CLAWSON,
SHEILA DAVIS,
TIM BRADLEY,
SHELLY CASH a/k/a SHELLY C.
WALLACE,
CLARA “ANN” ROBERTS,
THE ANONYMOUS USER OF
FACEBOOK PAGE “THE TRUTH
ABOUT SUGAR CREEK
CARRIAGES,”
JOHN DOE #1, and JANE DOE #1,
Defendants.

COMPLAINT

Plaintiffs, Sugar Creek Carriages, Johnny Smith, and Brenda Smith, for their cause of action against the Defendants Melody Robinson, American Melody Carriages, Clinton LeMoine, Michael “Paul” Morrison, Southern Comfort Carriages, Stacey Renee Romines, Chelsea Coleman Harper, Charlotte Clawson, Sheila Davis, Tim Bradley, Shelly Cash a/k/a Shelly C. Wallace, Clara “Ann” Roberts, Anonymous User of Facebook Page “The Truth About Sugar Creek Carriages,” John Doe #1 and Jane Doe #1, state and allege as follows:

PARTIES

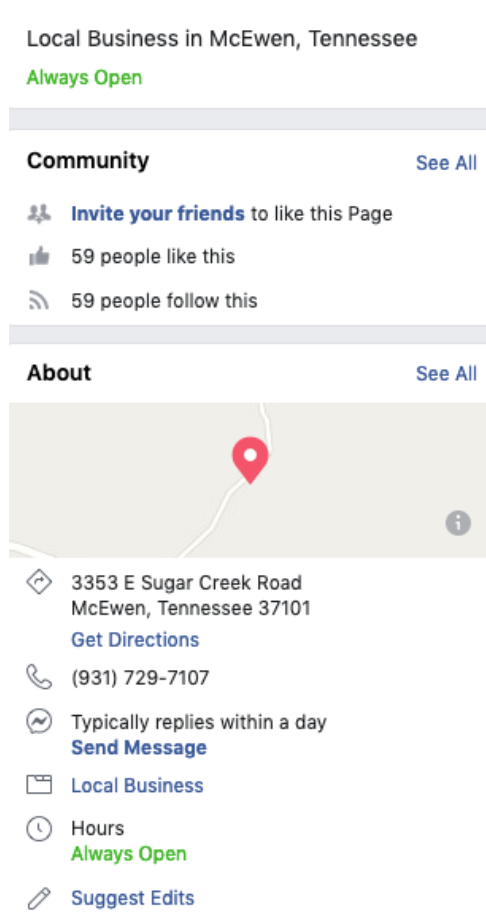
1. Plaintiff Sugar Creek Carriages is a business which operates horse-drawn carriages in Middle Tennessee, with its principal place of business located in Hickman County, Tennessee. Sugar Creek Carriages conducts a substantial amount of its operations in Davidson County, Tennessee. Sugar Creek Carriages is owned by Plaintiff Brenda Smith.
2. Plaintiff Johnny Smith is a resident of Hickman County.
3. Plaintiff Brenda Smith is a resident of Hickman County.
4. Defendant Melody Robinson is the owner of a competing horse-drawn carriages company doing business as American Melody Carriages. She is a resident of Davidson County, Tennessee.
5. Defendant American Melody Carriages is a horse-drawn carriage company and competitor of Plaintiff Sugar Creek Carriages. Upon information and belief, its principal place of business is located in White House, Tennessee.
6. Defendant Clint LeMoine is a carriage driver for Southern Comfort, a carriage company that competes with Sugar Creek Carriages. Mr. LeMoine is a resident of Hickman County, Tennessee.
7. Defendant Michael “Paul” Morrison is the owner of Southern Comfort Carriages. He is a resident of Davidson County, Tennessee.
8. Defendant Southern Comfort Carriages’ principal place of business is Davidson County, Tennessee. Southern Comfort Carriages operates carriage tours in Nashville, Tennessee.
9. Defendant Stacey Renee Romines is a carriage driver for Southern Comfort Carriages. She is a resident of Macon County, Tennessee.

10. Defendant Shelly Cash a/k/a Shelly C. Wallace is a ranch hand for Southern Comfort Carriages. She is a resident of Davidson County, Tennessee.
11. Defendant Chelsea Coleman Harper is associated with Melody Robinson and is or was an employee of Michael Paul Morrison and Southern Comfort Carriages.
12. Defendant Clara “Ann” Roberts is a resident of Wilson County, Tennessee. She is affiliated with Southern Comfort Carriages.
13. Defendant Tim Bradley is or was an employee of Southern Comfort Carriages. He is a resident of Nashville, Tennessee.
14. Defendant Charlotte Clawson works for Southern Comfort Carriages and American Melody Carriages. She is a resident of Dickson County, Tennessee.
15. The Defendant User of Facebook Page “The Truth About Sugar Creek Carriages” (hereafter “The Truth About Sugar Creek Carriages” and/or the “Facebook page”) was is utilized by competitors of Sugar Creek Carriages who created a Facebook Page with an intentionally misleading username that is operated by the Defendants herein, and Defendant John Doe #1 and/or Jane Doe #1. The page was created on January 19, 2019.
16. The Defendant John Doe #1 is, upon information and belief, the unnamed owner or creator of the Facebook Page “The Truth About Sugar Creek Carriages”. Discovery is needed to ascertain the residency of this anonymous individual, which will be supplemented in a subsequent pleading.
17. The Defendant John Doe #2 is, upon information and belief, the unnamed owner or creator of the Facebook Page “The Truth About Sugar Creek Carriages.” Discovery is needed to ascertain the residency of this anonymous individual, which will be supplemented in an subsequent pleading.

18. The acts or omissions alleged of herein were conducted in and directed toward the Plaintiffs' operations in Davidson County, Tennessee.

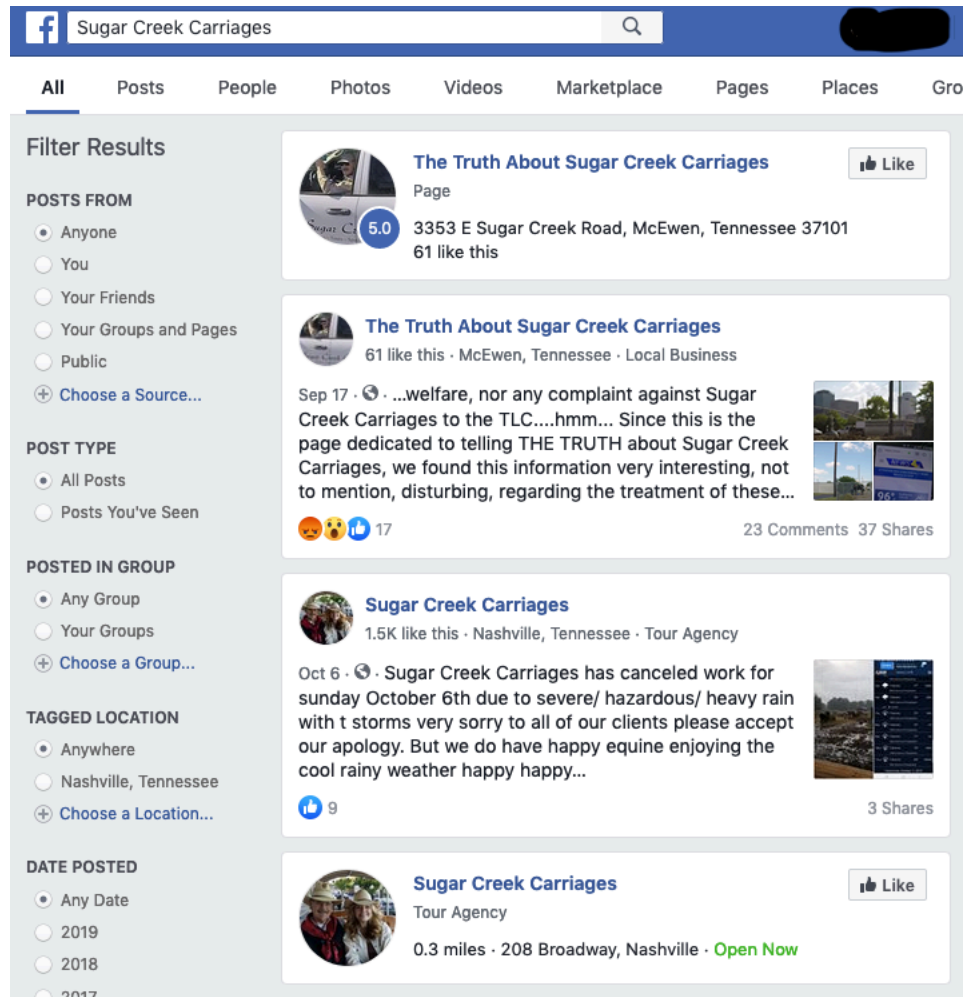
ALLEGATIONS OF FACT

19. On or about January 19, 2019, a competitor or former competitor of Sugar Creek Carriages created a misleading Facebook page titled, "The Truth About Sugar Creek Carriages":



20. The Facebook page utilizes a picture of Johnny Smith, pictures of his employees, provides the Plaintiffs' address and contact information, and intentionally misleads individuals into believing the page was created by or affiliated with the Plaintiffs and their business.

21. The Defendants know that Plaintiffs' potential customers who seek the services of Sugar Creek Carriages will find and/or be directed to the Defendants' defamatory page, "The Truth About Sugar Creek Carriages":



22. On March 5, 2019, Defendant Melody Robinson publicly posted a threat and vowed revenge against Plaintiffs on her Facebook page. The message addressed the Plaintiffs by name and stated:

"This one's for you. May these words hit home, and may these words hit hard. YOU can not withstand MY storm, and you haven't even felt the wind yet. You should have left this girl alone, and I gave you every change to be in peace, as far as it is up to me. You refused,

and now, you will see in due time and at the appointed season, that MY storm is the Lion of Judah, and EVERY knee will bow. Deuteronomy 32:35; Hebrews 10:30; Romans 12:19.” The Defendant Robinson cited Bible passages regarding revenge as an explicit threat to Plaintiffs. Those Bible passages are as follows:

- a. Deuteronomy 32:35: “It is mine to avenge; I will repay. In due time their foot will slip; their day of disaster is near and their doom rushes upon them.”
- b. Hebrews 10:30: “For we know him who said, ‘it is mine to avenge; I will repay,’ and again, ‘the Lord will judge his people.’”
- c. Romans 12:19: “Do not take revenge, my dear friends, but leave room for God’s wrath, for it is written, ‘Vengeance is mine, I will repay, says the Lord.’”

23. Defendant Robinson, knowing that her comments are viewable to the public and that commenting on a Facebook post results in the republication of the post from The Truth About Sugar Creek Carriages, posted the following comment about the Plaintiffs:

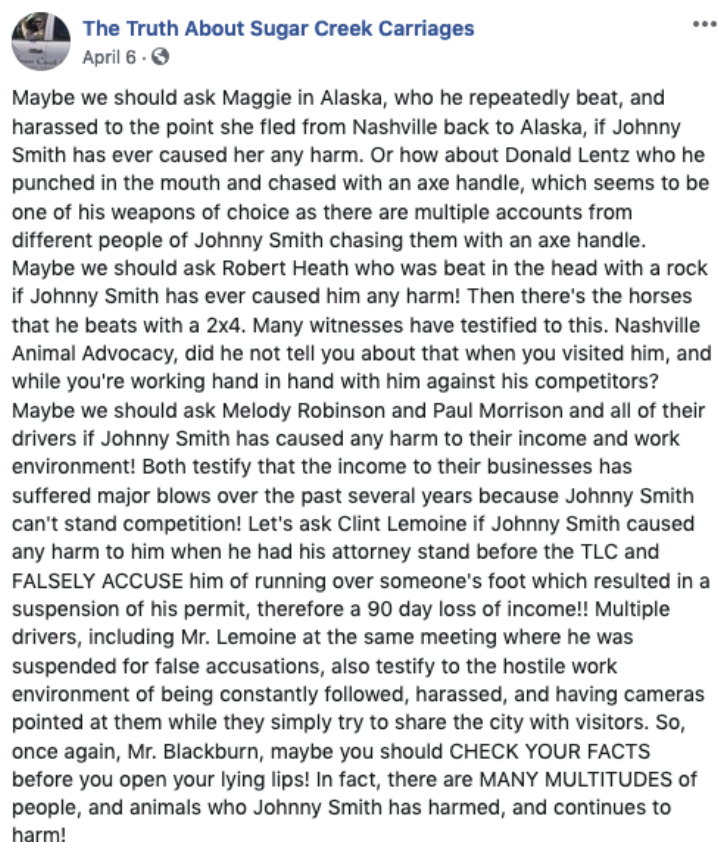
“I bet if you would live right and act right, and not be doing everything you can think of to try and destroy other people and their businesses, probably people would have left you alone in spite of whether you were a total piece of crap in the years past! Stupid idiots think they can keep getting away with BS because they have for years and years, and apparently you have pissed off the wrong person who has decided to expose all of your DIRT while you try to look innocent as you lie to the board over and over again. You are all disgusting individuals, and as a group, you are REPULSIVE! Maybe you should have learned to LEAVE PEOPLE ALONE!!! Although it looks a little to (sic) late now!”

24. By “liking” or commenting on The Truth About Sugar Creek Carriages’ post, the information from The Truth About Sugar Creek Carriages page is shared to the individual’s own Facebook friends and therefore constitutes a republishing of the defamatory material, rendering the individuals liable for the original defamatory publication.

25. In order to incite anger and interfere with the Plaintiffs' business, on or about January 19, 2019, The Truth About Sugar Creek Carriages posted, "Hey Animal Advocacy, while you're busy working in conjunction with this company against other Nashville carriage companies, I strongly encourage you to investigate where the horses on this list are, only 2 years later. Specifically Max, and Chip!" The Defendant falsely insinuated that the Plaintiffs had mistreated their horses and that the horses had died from the abuse. In fact, the Defendant knew that both Max and Chip were alive and well and that Sugar Creek Carriages still used the same horses for carriage rides downtown and had publicly posted pictures of the horses demonstrating that they were alive and well.
26. The Defendants also posted a statement accusing Johnny Smith of abusing homeless people and treating his ranch hands "like slaves literally," which is false and defamatory.
27. On January 26, 2019, The Truth About Sugar Creek Carriages posted another false accusation that Brenda Smith had been intoxicated from alcohol and hit a parked vehicle. The Defendant also accused the Plaintiffs of being "corrupt." The post was commented upon, and therefore republished, by Defendant Tim Bradley. On January 27, 2019, the post was shared by Defendant Clinton Le Moine and therefore republished.
28. On January 26, 2019, The Truth About Sugar Creek Carriages published a post that accused Plaintiffs of falsely accusing Clinton Le Moine of running over the foot of Plaintiffs' ranch hand. Defendant Le Moine then shared and republished the self-serving narrative, which he knew was false. In fact, Defendant Le Moine admitted during the TLC hearing that he had run over the man's foot.
29. On or about February 27, 2019, Defendant The Truth About Sugar Creek Carriages falsely stated that Sugar Creek Carriages "has MULTIPLE instances of their Carriages hitting

parked vehicles. One was because his wife Brenda Smith was driving a carriage DRUNK!!! She also on the same night, drove the carriage while intoxicated, WITH PASSENGERS!” In fact, Mrs. Smith never drove the carriage while under the influence of alcohol and there have never been multiple instances of the Plaintiffs hitting parked vehicles. The Defendant knew that the allegations were false and defamatory and published the comments with the intent of damaging the Plaintiffs and their business.

30. On April 6, 2019, the Defendant The Truth About Sugar Creek Carriages falsely accused Johnny Smith of, *inter alia*, repeatedly assaulting and harassing a woman named Maggie “to the point she fled from Nashville back to Alaska,” falsely accusing Mr. Smith of beating his horses, and of falsely accusing Clinton Lemoine of running over Mr. Smith’s ranch hand’s foot:



31. The April 6, 2019 post was “liked” by the following Defendants which not only constitutes an endorsement of the message, it also renders them liable for republishing the defamatory material: Paul Morrison, Shelly Cash, Sheila Davis, Clinton Le Moine, Sue Robinson, and Lil-Bit Ann Roberts.

32. On or about August 5, 2019, Defendant The Truth About Sugar Creek Carriages posted a screenshot of a complaint submitted to a government agency’s fraud reporting website. The Defendant submitted the false complaint to the Office of the Inspector General and, upon information and belief, additional government agencies. The post contained numerous, false, defamatory statements:

- a. The Defendant falsely reported to the government that Plaintiff Johnny Smith was committing Social Security Disability fraud.
- b. The Defendant falsely stated that Johnny Smith had invited a young homeless man, James Lynch, to live on his property for additional social security fraud.
- c. The Defendant falsely stated and implied that Johnny Smith had beaten Mr. Lynch to death, and that Mr. Smith “preys upon the homeless and downtrodden and brings them to his backwoods property where he serves out much verbal, and very physical abuse.”
- d. The Defendant falsely stated Mr. Lynch “disappeared several years ago, and even his family was unable to find him.” In fact, the Defendants knew that Mr. Lynch is alive and well and is active on Facebook.
- e. The Defendant falsely stated: “based on the known abuse of Johnny Smith, many suspect the poor young boy was beaten to death and buried on the property.” In

fact, Mr. Smith has never had a reputation for abuse, and the Defendants knew that Mr. Lynch was not beaten to death and buried on Mr. Smith's property. The Defendants had no basis whatsoever to suspect this false allegation.

- f. The Defendant falsely stated that Johnny Smith "has a long and ongoing record of assault and domestic violence, and is known to beat his workers with either his fist to the face, chasing them with an axe handle, or hitting them in the head with a rock. He also beats his horses with a 2x4 according to MANY witnesses. I strongly believe that if he did help James get disability, maybe he's not the only one as he also takes many homeless to live with him in the woods. And I wouldn't doubt he's still getting their check, even when they're gone. Please look into this!"

33. In fact, the Defendants knew that James Lynch was not only alive and well, he was also active on Facebook at the time of the defamatory post. The Defendants had no basis for the belief that Mr. Lynch and Mr. Smith were not involved in any act to defraud the federal government and posted the defamatory material with knowledge that it was false or with reckless disregard for the truth.

34. On August 7, 2019, the Defendant The Truth About Sugar Creek carriages published a post accusing the Plaintiffs accusing them of tax fraud. The Defendant knew that the accusation was false, or acted with reckless disregard for the truth.

- a. The post was republished by Defendants Ann Roberts, Clinton Le Moine, Sheila Davis, Melody Robinson, Charlotte Clawson who "liked" the post and was also "shared" by Clinton Le Moine.
- b. Defendant Chelsea Coleman Harper commented on the post and therefore republished the same. Defendant Harper falsely accused Plaintiff Brenda Smith

operating her carriage while drunk. Defendant Melody Robinson falsely accused Plaintiff Brenda Smith of operating a carriage while drunk and also accused Plaintiff Johnny Smith of income tax fraud

35. On August 13, 2019, the Defendant The Truth About Sugar Creek Carriages published a post that falsely stated that Johnny Smith was guilty of a “multitude of assault charges.” The Defendant then called upon the public and various government officials to “DO SOMETHING BEFORE IT IS TOO LATE!!!” The Defendant published the post with knowledge that it was false and for the purpose of interfering and causing others to interfere in Plaintiffs’ business. The post was republished in its entirety by Defendant Clinton Le Moine sharing the article, and was also “liked” by Defendants Clinton Le Moine, Ann Roberts, Tim Bradley, Melody Robinson, Shelly Cash, and Stacey Renee Romines, who are likewise liable for republishing the defamatory material.
36. In the same Facebook post thread, Defendant Harper admitted to being an administrator for The Truth About Sugar Creek Carriages and admitted that she was acting in concert with Defendant Melody Robinson. By virtue Defendant Harper’s comments, upon information and belief, the Defendants herein jointly operate and/or administer The Truth About Sugar Creek Carriages Facebook page.
37. Defendant Clinton LeMoine falsely accused Johnny Smith of renting his cabins illegally. Defendant LeMoine falsely stated that Johnny Smith did not have a business license.
38. On September 17, 2019, the Defendants published the following Defamatory post:

**The Truth About Sugar Creek Carriages**

September 17 at 7:28 PM · 🌐

Nashville Animal Advocacy may want to rethink their alliance with this company. If word gets out about this, I would hope the general public would not feel so inclined to support them in any way, especially financially, as it appears they are a fraud of an organization. Seemingly, they are biased as they've never brought an actual complaint about horse welfare, nor any complaint against Sugar Creek Carriages to the TLC....hmm...

Since this is the page dedicated to telling THE TRUTH about Sugar Creek Carriages, we found this information very interesting, not to mention, disturbing, regarding the treatment of these hard working animals...

Horse trailer arrived at their lot 3:01 pm. 96 degrees. Tied to fence until 5:30 in the sun, no shade. At no time was water accessible or offered to tied equine, left lot at 5:40 and arrived on Broadway at 6:05. Over three hours in 95+ temp and put to work. Not given water until Broadway. Equine remained working until 11:45 pm return to their lot. Trailered horses left their lot at 12:40 am. Trailered horses exited at Bucksport at 1:44 am and reached sugar creek road at 1:52 am. Horses went over 13 hours without eating. No food, and very little water during horse workday in extreme weather conditions. Only company to err on the side of profit not caution.



6

20 Comments 16 Shares



Like



Comment



Share



Oldest ▾

**Sheila Davis** I wish they would get shut down!

Like · Reply · 1w



4

**Tim Bradley** I agree

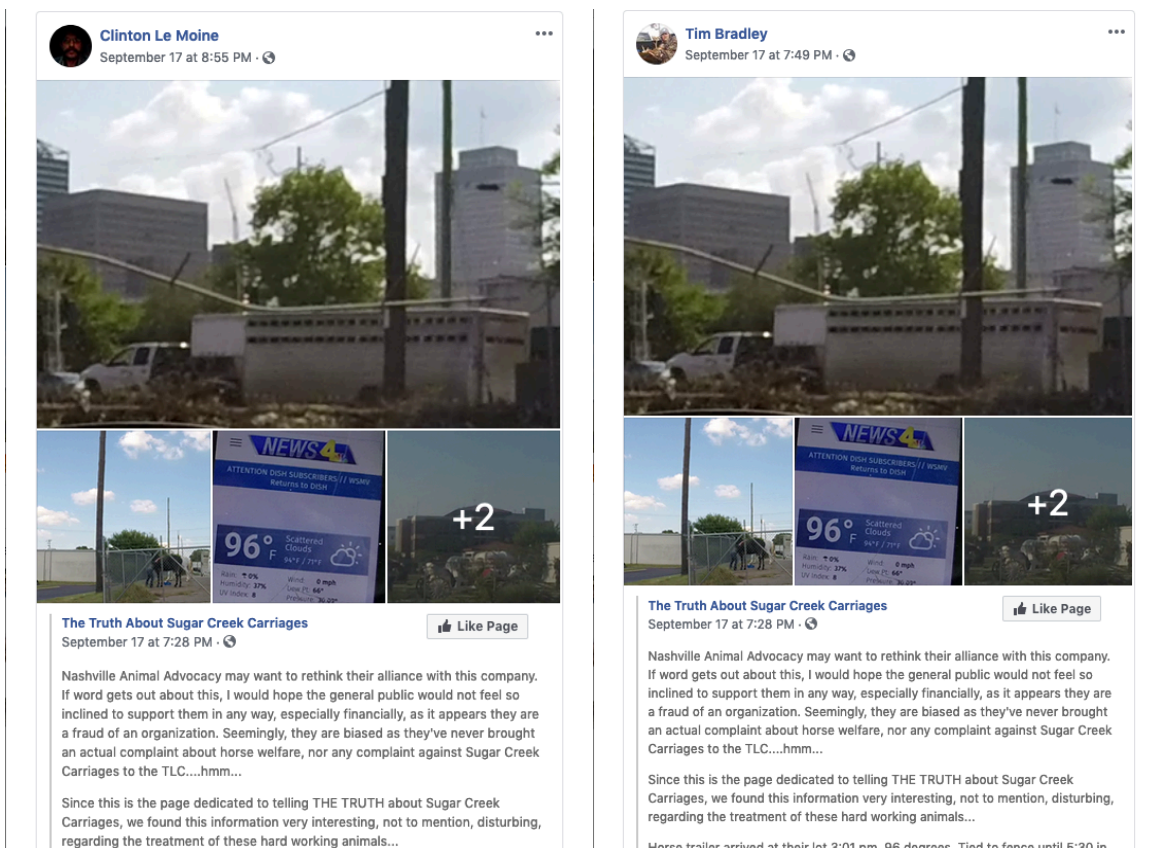
Like · Reply · 1w



2

**Melody Robinson** This on the heels of an email from Billy Fields on Sunday morning advising all company owners to "Please take added precautions to protect the welfare of the animals and..."

39. The Defendants' September 17, 2019 accusations that the Plaintiffs did not provide their horses with food or water is a malicious lie, and the Defendants knew the posting was false or that it was made in reckless disregard for the truth. The post, which called for the Animal Advocacy group to "rethink their alliance" with the Plaintiffs, was made for the purpose of defaming Plaintiffs and intentionally interfering with their business.
40. The September 17, 2019 post was "shared" by Clinton Le Moine and Tim Bradley, which constitutes a republication and renders them liable for the original defamatory post:



41. On September 19, 2019, the Defendant The Truth About Sugar Creek Carriages published another post falsely accusing the Plaintiffs of animal cruelty by leaving their horses "standing tied in the sun and heat with no water available for hours and then put them to work for hours." In order to interfere with the Plaintiffs' business, the Defendant incited

Nashville Animal Advocacy by concluding the post with “Nashville Animal Advocacy, what are you really advocating for?” The post was “liked” by Defendants Clinton Le Moine and Melody Robinson, who therefore republished the material knowing that the content of the post was false and defamatory.

42. The Defendants, and those acting in concert with them, have mislead Plaintiffs’ customers who have searched for Plaintiffs’ legitimate business contact information into believing that The Truth About Sugar Creek Carriages is affiliated with Plaintiffs’ business.

43. By virtue of the Defendants’ unlawful conduct and concerted actions alleged herein, the Plaintiffs’ prospective customers have refused to purchase Plaintiffs’ services and/or have purchased the Defendants’ services by virtue of the Defendants false, misleading, and defamatory publications on, and republications of, The Truth About Sugar Creek Carriages postings.

CAUSES OF ACTION

COUNT I: VIOLATION OF THE TENNESSEE CONSUMER PROTECTION ACT

T.C.A. § 47-18-104 *et seq.*

44. Pursuant to T.C.A. § 47-18-104(b)(8), disparaging the goods, services or business of another by false or misleading representations of fact constitutes an unfair or deceptive act or practice, in violation of the Tennessee Consumer Protection Act (“TCPA”).

45. Upon information and belief, Defendant Melody Robinson created the Facebook page, “The Truth About Sugar Creek Carriages.”

46. Because The Truth About Sugar Creek Carriages utilizes the Plaintiffs’ names and business name, business address, contact information, photographs and images, it causes a likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or

certification of goods or services for Plaintiffs' customers, in violation of T.C.A. § 47-18-104(b)(2).

47. Because The Truth About Sugar Creek Carriages utilizes the Plaintiffs' names and business name, business address, contact information, photographs and images, it causes a likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another, in violation of T.C.A. § 47-18-104(b)(3).

48. Defendant Melody Robinson created and/or utilizes the Facebook Page "The Truth About Sugar Creek Carriages" for the express purpose of disparaging the goods, services and/or business of the Plaintiffs, in violation of T.C.A. § 47-18-104(b)(8).

49. Defendant Melody Robinson and Defendant User of Facebook Page "The Truth of Sugar Creek Carriages," made numerous false and/or misleading representations of fact of and concerning the Plaintiffs through repeated posts and messages on the defamatory Facebook Page of their creation.

50. Defendant Clint Lemoine "shared" and "liked" the Facebook posts of "The Truth of Sugar Creek Carriages." By sharing the page, Defendant Lemoine republished the content of the original post and reached a new audience. By repeating and republishing the defamatory content to a new forum, Mr. Lemoine is therefore liable.

51. Because the Defendants' use of unfair or deceptive acts or practices was done willfully and knowingly, the Defendants are liable to Plaintiffs for an award of treble damages pursuant to T.C.A. § 47-18-109(1)(3).

52. Because of the Defendants' violation of the TCPA, they are liable for the Plaintiffs' attorney's fees and costs pursuant to T.C.A. § 47-18-109(e)(1).

**COUNT II: VIOLATION OF SECTION 43(A) OF LANHAM ACT –
FALSE DESIGNATION OF ORIGIN**

53. The Defendant Truth About Sugar Creek Carriages, and the Defendants acting in concert with it, have used Plaintiff Sugar Creek Carriages' name by advertising and representing that the fake account – The Truth About Sugar Creek Carriages – belonged to Mr. and Mrs. Smith, when in fact, it did not. The fake account was set up as a Facebook business account and uses Mr. Smith's photograph, his business address, and contact information. The fake account provides the hours of operation and invites visitors to communicate with it via Facebook Messenger. Such use has caused confusion to the origin, sponsorship and approval of the fake account by the general public.
54. The Defendant has used in connection with trade the false designation of origin or false description of representation. By posting on Facebook, the Defendant's false designation and services have entered into commerce.
55. The Defendant's actions as described herein are in direct violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125).
56. As a direct and proximate result of the Defendant's conduct, Plaintiffs have been damaged and are likely to be damaged in the future.

**COUNT III: VIOLATION OF SECTION 43(A) OF LANHAM ACT –
FALSE ADVERTISING**

57. When consumers are searching for Sugar Creek Carriages, the Defendant's fake account – The Truth About Sugar Creek Carriages – is included at the top of the search.
58. The Defendant's posts are public and promote other carriages companies in Davidson County as having lower prices than Sugar Creek Carriages.

59. The Defendant's posts therefore constitute advertising. Because the posts are accessed via the Internet, they have entered interstate commerce. The Defendant's posts and advertisements are false and misleading, and are actually or likely to deceive a substantial segment of their audience that is material in their effects on purchasing decisions for services.

60. As a direct and proximate result, the Defendant's actions are actually or likely to injure the Plaintiffs, and the Defendants are therefore liable.

COUNT IV: DEFAMATION

61. The Defendants have published or republished defamatory statements to numerous others on the Truth About Sugar Creek Carriages' Facebook page, with knowledge that the statements contained therein were false and defaming at the time they were made, and the Defendants did so with actual malice and with the intent to cause harm to Plaintiffs' reputation. At a minimum, the Defendant made his statements with reckless disregard for the truth and with negligence in failing to ascertain the truth of the statement.

62. The import of the defamatory Facebook Page and the defamatory postings contained therein was to portray the Plaintiffs as, *inter alia*, running a dishonest business, engaging in fraudulent and illegal acts, committing animal cruelty, operating carriages while intoxicated, committing assaults, being responsible for numerous traffic violations, and conducting their business in an unsafe manner, all which holds Plaintiffs up to public hatred, contempt, ridicule, and disgrace.

63. The Defendants knew that these accusations were false and defaming at the time they were made, and they did so with actual malice and with the intent to cause harm to Plaintiffs' reputations.

64. The Defendant's false accusations prejudice Plaintiffs in their reputation in the community, as well as in their trade, business, and means of livelihood.

65. Because the Defendants' false allegations were published online, they constitute libel.

66. As a direct and proximate result of the Defendants' actions, Plaintiffs have sustained damages, impairment of reputation and standing in the community, personal humiliation, mental anguish, and suffering.

COUNT V: DEFAMATION BY IMPLICATION

67. Because the Defendants omitted facts which, if accurately presented, would not have created a negative impression of the Plaintiffs, the Defendants are guilty of defamation by implication or innuendo.

68. As a direct and proximate result of the Defendants' omissions, Plaintiffs have sustained damages, impairment of reputation and standing in the community, personal humiliation, mental anguish, and suffering.

COUNT VI: FALSE LIGHT

69. The Defendants' defamatory Facebook page, the false accusations contained therein, and the numerous false statements he has published to others presented publicity to private matters concerning the Plaintiffs and placed the Plaintiffs before the public in a false light. The false light in which the Plaintiffs were placed would be highly offensive to a reasonable person. The Defendants had actual knowledge of or acted in reckless disregard to the falsity of the published matter and the false light in which the Plaintiffs would be placed.

COUNT VII: INTENTIONAL INTERFERENCE WITH A BUSINESS RELATIONSHIP

70. Plaintiffs had business relationships and prospective business relationships with customers and third parties.

71. The Defendants were aware of the relationships between the Plaintiffs, their customers, and third parties, and that customers and prospective customers were likely to utilize the Internet to purchase the Plaintiffs' services.

72. The Defendants maliciously intended to induce the termination of the business relationships and prospective business relationships;

73. As a proximate result of the Defendants' actions, the business relationship were terminated, and the Plaintiffs were damaged.

COUNT VIII: INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

74. The Defendants intentionally intruded upon the Plaintiffs' private affairs or concerns by posting, *inter alia*, a Tennessee Online Crime Portal (TnCOP) Group B police report, which is a document restricted to law enforcement personnel only, on The Truth About Sugar Creek Carriages. Upon information and belief, the Defendants obtained the TnCOP Group B report unlawfully, in violation of the Tennessee Bureau of Investigation's rules and procedures, and for the purpose of invading the Plaintiffs' private affairs.

75. Upon information and belief, the TnCOP report was edited by one or more of the Defendants, acting in concert, for the unlawful purpose of defaming the Plaintiffs.

76. The Defendants intentionally intruded upon the Plaintiffs private affairs by posting about their private lives, as alleged herein.

77. The Defendants knew that the information was not open to public inspection and, with regard to the TnCOP report, was restricted to law enforcement officers.

78. The Defendants' intrusions upon the Plaintiffs' private affairs or concerns are highly offensive to a reasonable person and as a result, the Plaintiffs have been damaged. The Defendants are therefore liable for invasion of privacy by intrusion upon seclusion.

COUNT VIII: INVASION OF PRIVACY**BY GIVING UNREASONABLE PUBLICITY TO PLAINTIFFS' PRIVATE LIVES**

79. The Defendants gave publicity to a matter concerning the private lives of Plaintiffs Johnny and Brenda Smith by publicizing the following matters:

- a. Details about Johnny Smith's disability and/or his use of Social Security Disability benefits;
- b. Activities involving Mr. Smith's ranch and the employees and former employees who have lived there;
- c. A purported old arrest involving Mr. Smith's which the Defendants selectively posted from reports, involving charges which the Defendants knew were dismissed. Upon information and belief, the report had been edited prior to being posted on the Defendants' Facebook page.
- d. Posting a photograph of Mr. Smith that was taken without his consent, in which Mr. Smith is resting his hand on the A-pillar of his vehicle and adding a caption implying that he was extending his middle finger in a vulgar manner, which was false.

80. The publicity of the foregoing private matters are highly offensive to a reasonable person and are not of legitimate concern to the public, and the Defendants are therefore liable.

COUNT IX: INVASION OF PRIVACY**BY APPROPRIATION OF PLAINTIFFS' LIKENESSES**

81. The Defendants have taken numerous photographs of Plaintiffs and posted them to The Truth About Sugar Creek Carriages.

82. Plaintiffs are entitled to the exclusive use of their own identities and their business or trade name.

83. The Defendants, who work or worked for competing horse-drawn carriage companies, created the Facebook page The Truth About Sugar Creek Carriages, utilized it, or shared its content for the purpose of appropriating Plaintiff Sugar Creek Carriages' trade name and diverting potential customers to the page. The Defendants drive Internet traffic to the page by their concerted action, which is visible and one of the top hits when potential customers search for Sugar Creek Carriages.

84. The Defendants have utilized the Plaintiffs likenesses on The Truth About Sugar Creek Carriages for their own use and benefit. Because the Defendants promote their own businesses on the Facebook page, the Defendants' have utilized the Plaintiffs' likenesses and business for a commercial purpose and for advertising.

85. The Defendants are therefore liable for unlawful appropriation and commercial appropriation.

86. By virtue of the foregoing, Plaintiffs assert a claim for misappropriation in violation of T.C.A. § 47-25-1101 *et seq.*

COUNT X: OUTRAGEOUS CONDUCT

87. The Defendants conduct was intentional or, at a minimum, reckless and is so outrageous that it is not tolerated by civilized society, constitute heartless and flagrant misconduct, and their acts and omissions have resulted in serious mental and emotional distress to Plaintiffs Johnny and Brenda Smith. The Defendants are therefore liable for intentional infliction of emotional distress.

COUNT XI: CIVIL CONSPIRACY

88. The Defendants engaged in a common design to defame and disparage the Plaintiffs and to interfere with their business, as alleged herein.

89. The Defendants formed the intent to commit the unlawful conduct herein, which conduct constitutes an overt act in furtherance of the conspiracy to defame, disparage, and commit the unlawful acts alleged herein, which resulted in Plaintiffs' injury.

90. By virtue of the foregoing, the Defendants are jointly and severally liable for Plaintiffs' damages and are guilty of conspiracy.

DAMAGES

91. The Plaintiffs have suffered loss of their reputations in the community as a direct and proximate result of the Defendants' defamatory Facebook page and the false statements contained therein. Plaintiffs have been subjected to humiliation and emotional distress, and have experienced business losses, including lost income and good will.

92. The conduct of the Defendants was intentional, malicious, and reckless, and consequently, they must answer in both compensatory and punitive damages.

WHEREFORE, Premises Considered, Plaintiffs pray:

1. That process issue, requiring the Defendants to answer in the time prescribed by law.
2. That Plaintiffs be awarded a judgment from and against the Defendants, jointly and severally, for actual and compensatory damages in the amount of 2 Million dollars (\$2,000,000.00);
3. For an award of treble damages, attorney's fees, and costs due to the Defendant's violations of the Tennessee Consumer Protection Act, Personal Rights Protection Act of 1984, and the Lanham Act, as alleged herein;

4. For an award of punitive damages in the amount of 10 Million dollars(\$10,000,000.00) for the Defendants' fraudulent, intentional, reckless, and/or malicious acts;
5. For such other, general relief to which the Plaintiffs are entitled.

Plaintiffs demand a jury to try all issues so triable.

Respectfully submitted,

THE BLACKBURN FIRM, PLLC

/s/ Bryant Kroll

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